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

Governor—appointments, executive orders, and proclamations

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

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

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings—notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

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The Governor

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

Appointments Made October 4, 1989

To be a member of the Lamar University System Board of Regents for a term to expire October 4, 1995: E. Linn Draper, Jr., 1190 Dowlen, Beaumont, Texas 77706. Dr. Draper will be replacing Lloyd Hayes of Port Arthur, whose term expired.

To be a member of the Lamar University System Board of Regents for a term to expire October 4, 1995: Carroll W. Conn, Jr., 1240 Wilchester Circle, Beaumont, Texas 77706. Mr. Conn will be replacing H. D. Pate of Bridge City whose term expired.

Appointment Made October 3, 1989

To be Judge of the 377th Judicial District Court, Victoria County until the next general election and until his successor shall be duly elected and qualified: Robert C. Cheshire, 1102 Plantation, Victoria, Texas 77904. Mr. Cheshire is being appointed to a new position pursuant to Senate Bill 1379, 71st Legislature, Regular Session.

Issued in Austin, Texas on October 4, 1989.

TRD-8909357

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.

Letter Opinions

LO-89-49 (RQ-1713). June 14, 1989, To: Honorable Jerry Cobb, Criminal District Attorney, Denton County Courthouse, Denton. This LO considers whether the county or the city must maintain a road that is in an area that has been disannexed by the city.

LO-89-50 (RQ-1735). June 19, 1989, To: Honorable Patrick Hardy, Criminal District Attorney, 100 Courthouse, Room 106, Woodville. This LO considers whether the wife of the Tyler County Judge may be employed by the Tyler County Hospital.

LO-89-51 (RQ-1706). June 20, 1989, To: Honorable Charles W. Chapman, Criminal District Attorney, Hays County Courthouse, Suite 208, San Marcos. This LO considers who is responsible for serving a summons issued by a justice of the peace in a criminal case.

LO-89-52 (ID#-6403). June 27, 1989, To: Honorable Irma Rangel, State Representative, District 37, P.O. Box 2910, Austin. This opinion considers the prior continuous service provision of the nepotism law.

LO-89-53 (ID#s-6722, 6587 and 6734). June 29, 1989, To: Honorable David S. Barron, District Attorney, 12th Judicial District, Grimes-Madison-Leon, P.O. Box 599, Anderson. This LO considers whether the nepotism law prevents the continued employment of a deputy district attorney after the district attorney marries the deputy's sister.

LO-89-54 (RQ-1699). To: Honorable Wilhelmina Delco, Chairman, Higher Education Committee, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether a judge may order the confiscation of a vehicle upon a first conviction for driving while intoxicated.

LO-89-55 (RQ-1743). To: Honorable Bob McFarland, Chairman, Criminal Justice Committee, Texas State Senate, P.O. Box 2068, Austin. This LO considers whether Texas Civil Statutes, Article 6701d-11, §5(b), applies to grain that has been processed for storage, stored in a bin, and then transported to a purchaser.

LO-89-56 (RQ-1712). To: Honorable Patrick S. Dohoney, County Attorney, Hill

County Courthouse, P.O. Box 253, Hillboro. This LO considers whether the Brookwood Community School is a public school within the meaning of the Alcoholic Beverage Code, §109.33(a).

TRD-8909392

LO-89-57 (ID#-6983). To: Honorable Chet Edwards, Chairman, Nominations Committee, Texas State Senate, P.O. Box 12068, Austin. This LO considers whether the chairperson of the Public Utility Commission may be appointed acting director of the commission.

LO-89-58 (ID#-6861). To: Honorable Patrick J. Ridley, Bell County Attorney, P.O. Box 1127, Belton. This LO considers whether an assistant county attorney by serve as city attorney of a city within the county.

LO-89-59 (RQ-1695). To: Honorable Ted Lyon, Chairman, Elections Committee, Texas State Senate, P.O. Box 12068, Austin. This LO considers the proper method for calculating school district tax rate after a successful rollback election.

LO-89-60 (ID#-6979). To: Honorable Allen Ross Hightower, Chairman, Committee on Corrections, Texas House of Representatives, P. O. Box 2910, Austin. This LO considers whether penalties and interest may be imposed for failure to pay ad valorem taxes when tax assessor failed to send a bill.

LO-89-61 (RQ-1707). To: Honorable Charles W. Chapman, Criminal District Attorney, Hays County Courthouse, Suite 208, San Marcos. This LO considers the authority of an election recount supervisor to disregard voted ballots in an election recount.

TRD-8909390

LO-89-62 (RQ-1745). To: Honorable Wanda Kubecka, Criminal District Attorney, Jackson County, 115 West Main-Courthouse, Room 205, Edna. This LO considers whether an increase in salary for a justice of the peace recommended by the salary grievance committee may become effective before the annual budget

hearing.

LO-89-63 (ID#-6960). To: Honorable David Counts, State Representative, P.O. Box 2910, Austin. This LO considers the determination of reasonableness in regard to calculating net proceeds for purposes of the Bingo Enabling Act.

LO-89-64 (RQ-1781). To: Honorable Chet Edwards, Chairman, Nominations Senate, Texas State Senate, P.O. Box 12068, Austin. This LO explains that the attorney general's office does not issue opinions on matters that are in litigation.

LO-89-65 (RQ-1750). To: Honorable Anna L. Cavazos Ramirez, Webb County Attorney, 1104 Victoria, Laredo. This LO considers the construction of cattle guards on a county road.

LO-89-66 (RQ-1694). To: Honorable Al Luna, Chairman, Committee on Science and Technology, Texas House of Representatives, P. O. Box 2910, Austin. This LO considers whether the Texas National Guard has authority to cooperate with federal customs agents in spot inspections of cargo along the border between Texas and Mexico.

LO-89-67 (ID#-7325). To: Honorable Chet Brooks, Chairman, Health and Human Services Committee, Texas State Senate, P.O. Box 12068, Austin. This LO considers the legality of dual employment by an employee of the legislature.

LO-89-68 (RQ-1772). To: Honorable Jesusa Sanchez-Verà, Jim Wells County Attorney, P.O. Drawer 2080, Alice. This LO considers whether a county must comply with the competitive bidding statute when purchasing used equipment.

LO-89-69 (RQ-1790). To: Honorable Ed C. Jones, Angelina County Attorney, P.O. Box 1845, Lufkin. This LO considers whether the compensation paid to the county court at law judge for service on the Angelina County Juvenile Board is to be considered in determining the salary or compensation of the county attorney.

TRD-8909393

LO-89-70 (ID#-7115). August 30, 1989, To: Mr. James M. Kuboviak, County Attor-

ney, Brazos County, Texas, 300 East 26th Street, Suite 325, Bryan. This LO considers whether Attorney General Opinion JM-1060 has been modified; JM-1060 considered whether a private attorney who is a director of an appraisal district may contract to collect delinquent taxes for a taxing unit that participates in the appraisal district.

LO-89-71 (RQ-1791). September 7, 1989, To: Mr. L. Richard Emerson, Chairman, Texas Aeronautics Commission, P.O. Box 12607, Austin. This LO considers the effective date of a bill establishing the Texas Department of Aviation.

LO-89-72 (ID#-7134 and #7444). September, 11, 1989, To: Honorable Frank Collazo, Jr., Representative, District 23, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether a business may contract with the state if a state legislator owns stock in the company.

LO-89-73 (RQ-1733). September 11, 1989, To: Honorable David M. McCoy, District Attorney, 100th Judicial District, P.O. Box 730, Childress. This LO considers whether the nepotism law prevents a city from hiring an individual as a police officer if his father is a member of the city council.

LO-89-74 (RQ-1798). September 20, 1989, To: Honorable Bob McFarland, State Senator, Texas State Senate, P.O. Box 12068, Austin. This LO considers whether an statute regarding criminal history information applies to a junior college.

TRD-8909389

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 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners

Chapter 71. Application and Applicants

• 22 TAC §71.1

The Texas Board of Chiropractic Examiners adopts on an emergency basis an amendment to §71.1, concerning application and applicants. The reason for the emergency amendment is that the board feels there is an imminent peril to the public health and welfare because without these definitions, the scope of practice is vague and unclear to both the doctor and the public.

The amendment is adopted under Article 4512b, Texas Civil Statutes, and Senate Bill 109, Acts of the 67th Legislature, 1981, §5, which provides the procedural rules as deemed necessary.

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

Licensee—An individual who has been granted a license to practice chiropractic by the Texas Board of Chiropractic Examiners and whose license is active and not under suspension.

Biomechanical condition of the musculoskeletal system—The structural and functional state of support and motor components of the musculoskeletal system under bio-static and bio-dynamic conditions.

Subluxation—Subluxation is an aberrant relationship between two adjacent articular structures that may have functional or pathological sequelae, causing an alteration in the biomechanical and/or neuro-physiological reflections of these articular structures, their proximal structures, and/or other body systems that may be directly or indirectly affected by them.

Surgery—The use of any procedure which involves incision, excision, amputation, cauterization and hot laser, or the use of sutures to close a wound.

Issued in Austin, Texas on October 4, 1989.

TRD-8909439

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: October 6, 1989

Expiration date: February 3, 1990

For further information, please call: (512)
343-1895

Chapter 76. Delegation of Authority

• 22 TAC §76.1

The Texas Board of Chiropractic Examiners adopts on an emergency basis new §76.1, concerning delegation of authority. The reason for emergency action on this section is that the board feels there is an imminent peril to the public health and welfare because there are no guidelines concerning delegation of authority to non-licensed individuals. In the absence of regulation, any procedure could be delegated and this in turn allows non-qualified individuals to perform procedures on patients or the public.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 4512b, and Senate Bill 109, Acts of the 67th Legislature, 1981, §5, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

§76.1. Delegation of Authority.

(a) A licensee shall not delegate, to a non-licensee, authority to perform chiropractic adjustments.

(b) This chapter does not prohibit a licensee from delegating authority to perform chiropractic adjustments to a student actually enrolled in an accredited chiropractic college if the following conditions are met:

(1) the chiropractic adjustment is performed as part of a regular curriculum; and

(2) the chiropractic adjustment is performed under the supervision of a licensee who is physically present at the time of adjustment.

Issued in Austin, Texas on October 4, 1989.

TRD-8909435

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: October 6, 1989

Expiration date: February 3, 1990

For further information, please call: (512)
343-1895

TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 1. General Administration

Subchapter H. Cease and Desist Orders

• 28 TAC §§1.901-1.911

The State Board of Insurance adopts on an emergency basis new §§1.901-1.911, concerning procedures for the entry of emergency cease and desist orders by the commissioner of insurance. An imminent peril to the public welfare requires adoption of the new sections on an emergency basis to facilitate the entry of emergency cease and desist orders as authorized by the Insurance Code, Article 1, 10A, which was enacted by the 71st Legislature under Senate Bill 255, and to protect the insurance consuming public of this state from unfair or deceptive acts or practices by insurers or related entities. The new sections are necessary to inform persons affected by emergency cease and desist orders of the procedures available to contest such orders. New §§1.901-1.911 set specifications for the circumstances under which the commissioner of insurance may enter an emergency cease and desist order, for the contents of such an order, and for the procedures by which a person against whom such an order is entered may contest the order in a hearing and the procedures for holding such a hearing.

The new sections are adopted on an emergency basis 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, and under the Insurance Code, Article 1.10A, which authorizes the commissioner of insurance to issue emergency cease and desist orders.

§1.901. Issuance of Emergency Cease and Desist Orders. The commissioner of insurance may issue an emergency cease and desist order, ex parte, upon verified application by the staff of the State Board of Insurance.

§1.902. Criteria for Issuance of Emergency Cease and Desist Orders. The commissioner of insurance may issue an emergency cease and desist order, ex parte, based upon the verified application by the staff of the State Board of Insurance if:

(1) the commissioner believes;

(A) an authorized person, as defined in the Insurance Code, Article 1.10A, engaging in the business of insurance is committing an unfair method of competition or an unfair or deceptive act or practice in violation of the Insurance Code, Article 21.21 or Article 21.21-2, or in violation of a rule or regulation promulgated under the Insurance Code, Article 21.21 or Article 21.21-2;

(B) an unauthorized person, as defined in the Insurance Code, Article 1.10A, is engaging in the business of insurance in violation of the Insurance Code, Article 1.14-1, or in violation of a rule or regulation promulgated under the Insurance Code, Article 1.14-1; or

(C) an unauthorized person engaged in the business of insurance acting in violation of the Insurance Code, Article 1.14-1, is committing an unfair method of competition or an unfair or deceptive act or practice in violation of the Insurance Code, Article 21.21 or Article 21.21-2, or in violation of any rule or regulation promulgated under the Insurance Code, Article 21.21 or Article 21.21-2; and

(2) it appears to the commissioner that the alleged conduct is fraudulent, or creates an immediate danger to the public safety, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury as these various terms are defined in the Insurance Code, Article 1.10A.

§1.903. Contents of the Order. The order must contain the following information:

(1) the name and last known address of the person against whom the order is entered;

(2) a short and plain statement of the immediate danger to the public safety, or of the alleged conduct which is causing or which is reasonably expected to cause significant, imminent, and irreparable public injury justifying the issuance of the order, and of the factual bases of the order;

(3) a statement of the rights of the person against whom the order is entered with regard to requesting a hearing to show that the cease and desist order should not be affirmed this statement must include a reference to the specific statutes or rules found to have been violated, a statement of the legal authority and jurisdiction under which the order is issued, specific reference to the time limit for requesting a hearing to review the order, and reference to the statute or statutes in which the time limit is contained. This statement must include the fact that the burden of requesting the hearing is on the person against whom the order was entered;

(4) a statement of the penalties which may be assessed against the person against whom the order was entered in the event of violation of the order; and

(5) a requirement that the person against whom the order is entered immediately cease and desist from the acts, methods, or practices stated.

§1.904. Service of Emergency Cease and Desist Orders. The cease and desist order shall be served on the adversely affected party in accordance with the Insurance Code, Article 1.10A.

§1.905. Request for Hearing on Emergency Cease and Desist Orders. A person who is adversely affected by the issuance of a cease and desist order and who desires a hearing regarding such order must file a written request for hearing with the docket clerk of the hearings section of the State Board of Insurance no later than the 30th day after the date on which the person receives the order. The person filing the written request for hearing must send copies of the request for hearing to the commissioner of insurance, to the attention of docket clerk of the hearings section, with copies sent to the staff of the State Board of Insurance, if known.

§1.906. When the Hearing Must Be Held. The hearing to show cause why the cease and desist order should not be affirmed or modified shall be held not later than the 10th day after the date the commissioner of insurance receives the request for a hearing unless the parties mutually agree to a later hearing date.

§1.907. Agreements to Hold the Hearing at a Later Date. Agreements to hold the hearing at a later date must be in writing, in accordance with §1.31 of this title (relating to Agreements to Be in Writing). A person who is adversely affected by the issuance of a cease and desist order and who desires a hearing regarding such order must file any such agreement with the docket clerk of the hearings section of the State Board of Insurance before the expiration of the 10th day after the date the request for hearing is received.

§1.908. Notice of Hearing on Emergency Cease and Desist Orders. When the person against whom the order is entered requests a hearing on the cease and desist order, the hearings section of the State Board of Insurance shall issue notice to all parties of the date, time, and place of hearing.

§1.909. Burden of Proof. The burden of proof in this hearing shall be on the party requesting the hearing to show cause why the cease and desist order issued by the

commissioner should be set aside. Based upon the evidence presented, the cease and desist order may be affirmed, modified, or set aside in whole or in part.

§1.910. Motion for Stay. If the person against whom the order was entered files a motion for stay of the cease and desist order, the motion for stay shall be heard on or before the date of the show cause hearing. If the parties agree to a later show cause hearing date pursuant to §1.907 of this title (relating to Agreements to Hold the Hearing at a Later Date), the motion for stay may be heard before the date of the show cause hearing upon written motion by any party to the hearing.

§1.911. Appeal to the Board. An application for appeal to the board by a party aggrieved by the affirmation or modification of a cease and desist order shall be in accordance with the Insurance Code, Article 1.04(d), and §1.51 and §1.68 of this title (relating to Appeal from Commissioner's or Fire Marshal's Final Decision or Order; and Initiating Proceedings before the Board).

Issued in Austin, Texas on October 4, 1989.

TRD-8906346

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: October 4, 1989

Expiration date: February 1, 1990

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part III. Texas Commission on Alcohol and Drug Abuse
Chapter 151. Licensure

Licensure Procedures
• 40 TAC §§151.31, 151.33, 151.34

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis amendments to §§151.31, 151.33, and 151.34, concerning licensure procedures. The emergency amendments clarify changes in those procedures regarding licensure periods or time frames and licensure fees. The emergency amendments will help insure that correct application forms and other pertinent documents are received by applicants correctly, in a timely manner, and that they are properly processed by the commission as a result of recent legislation.

The amendments are adopted on an emergency basis under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 484, which provides the commission with the authority to establish a procedure by which the Commission on Alcohol and Drug Abuse is to license chemical dependency treatment facilities.

§151.31. License Application. An applicant for a license or for relicensure to operate a chemical dependency treatment facility must file a written application with a \$50 non-refundable [annual] application fee and comply with time frames established by the commission.

§151.33. Licensure Fees. All applicants for licensure or relicensure are subject to a \$90 non-refundable [annual] application fee. Any license issued remains the property of the commission. One half of the total licensure fee may be paid each year of the two-year licensure period. The schedule for licensure fees is:

- (1) \$1,000 [\$500] base fee;
- (2) \$30 [\$15] per bed;
- (3) \$2,000 [\$1,000] maximum fee per facility.

§151.34. Licensure Renewal. A license granted under this Act expires two [one] years [year] from the date of issue. A license may be renewed according to procedures established by the commission.

Issued in Austin, Texas on October 6, 1989.

TRD-8909420

Bob Dickson
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: October 6, 1989

Expiration date: February 3, 1990

For further information, please call: (512) 463-5510



Proposed Sections

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

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

TITLE 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners

Chapter 71. Application and Applicants

• 22 TAC §71.1

(Editor's Note: The Texas Board of Chiropractic Examiners 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 Board of Chiropractic Examiners proposes an amendment to §71.1, concerning definitions. The amendment will add the definition of several terms which will aid the doctors and the public in more clearly defining the scope of practice.

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

Ms. Smetana, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the addition of definitions which will aid the public and the doctors in more clearly defining the scope of practice. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 MoPac Expressway North, Suite 301, Austin, Texas 78759.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

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 October 4, 1989.

TRD-8909440

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 343-1895

Chapter 76. Delegation of Authority

• 22 TAC §76.1

(Editor's Note: The Texas Board of Chiropractic Examiners 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 Board of Chiropractic Examiners proposes the new §76.1, concerning delegation of authority. The new section will stipulate what procedures can be delegated to a non-licensed authority.

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

Ms. Smetana also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that all procedures will be performed by qualified individuals. Guidelines will be adopted showing what procedures licensed chiropractors may delegate to non-licensed authorities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 MoPac Expressway North, Suite 301, Austin, Texas 78759.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

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 October 4, 1989.

TRD-8909434

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 343-1895

Part X. Texas Funeral Service Commission

Chapter 201. Licensing and Enforcement-Practice and Procedure

• 22 TAC §201.12

The Texas Funeral Service Commission proposes new §201.12, concerning retired licenses, to set procedures to apply for retired active or retired inactive licenses as provided by Texas Civil Statutes, Article 4582b.

Larry A. Farrow, executive director, 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. Farrow, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that it sets the procedures to allow senior citizens aged 65 or older to apply for a retired license. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Larry A. Farrow, Executive Director, Texas Funeral Service Commission, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753.

The new section is proposed under Texas Civil Statutes, Article 4582b, §5, which provide the Texas Funeral Service Commission with the authority to promulgate rules and regulations.

§201.12. Retired Licenses.

(a) Upon written application to the commission, any licensee aged 65 or older will be placed in a retired active or retired inactive status. Such application will be accepted only at the time of that individual's regularly scheduled license renewal.

(b) Any individual, 65 or older, who has formerly held a license which has lapsed, may apply for a retired inactive status license so long as the original license was in good standing at the time it was allowed to lapse. This individual may not

convert to a retired active status without payment of all back fees and penalties or if the license has been lapsed for more than five years, the individual must also pass the appropriate written and/or practical examination before converting to retired active status.

(c) Subject to the limitations in subsection (b) of this section, any individual holding a retired inactive status license may convert at any time to a retired active status license upon written notification to the commission and the payment of 50% of the current registration fee charged licensees not in a retired status.

(d) An individual may not convert from a retired active status to a retired inactive status until his regular license renewal period.

(e) Any individual holding a retired inactive status license will be subject to disciplinary action if he performs, for compensation, any act of funeral directing and/or embalming.

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 October 5, 1989.

TRD-8909414 Larry A. Farrow
Executive Director
Texas Funeral Service
Commission

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 834-9992

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**Part XVI. Texas State
Board of Physical
Therapy Examiners**

Chapter 321. Definitions

• 22 TAC §321.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §321.1, concerning definitions. The amendment allows the board to define those terms used in the Act in order to clarify the intent of the Physical Therapy Practice Act.

La Verne Birdwell, acting executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Birdwell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of the Physical Therapy Practice Act. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendment is proposed under Texas Civil Statutes, Article 4512a, §3(e), which provides the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act; and to carry out its duties in administering the Act.

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

Physical therapy—The evaluation, examination, and utilization of exercises, rehabilitative procedures, massage, manipulations and physical agents including, but not limited to, mechanical devices, heat, cold, air, light, water, electricity, and sound in the aid of diagnosis or treatment.

Physical therapy aide—All rules governing the direction of the physical therapist assistant are further modified for the physical therapy aide.

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

(C) The physical therapy aide may not:

(i) evaluate, assess, and/or initiate physical therapy treatment including exercise instruction; or

(ii) (No change.)

Supervision—The delegation and continuing direction by a person or persons responsible for the practice of the physical therapist, physical therapist assistant, or physical therapy aide, as specified in the Physical Therapy Practice Act [The person or persons responsible for the practice of the physical therapist, physical therapist assistant, or physical therapy aide].

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 29, 1989.

TRD-8909485 La Verne Birdwell
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

◆ ◆ ◆
**Chapter 323. Powers and
Duties of the Board**

• 22 TAC §323.2, §323.3

The Texas State Board of Physical Therapy Examiners proposes amendments to §323.2, §323.3, concerning investigation procedure,

adoption of rules. The amendments will further clarify the board's duties and powers to adopt rules, and to establish fees for recently mandated programs.

La Verne Birdwell, acting executive director, has determined that there will be fiscal implications as a result of enforcing or administering the sections. Effect on state government for the first five-year period the section is in effect will be an estimated increase in revenue of \$52,800 in 1990, and \$58,080 in 1991. The effect on revenue for the years 1992-1995 has not been determined. There will also be minimum fee of \$40 assessed to associations, universities, etc. There will be no effect on local government.

Ms. Birdwell 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 in the rules adopted by the board.

There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendments are proposed under Texas Civil Statutes, Article 4512a, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act; and to carry out its duties in administering the Act.

§323.2. *Investigation Procedure.*

(a) (No change.)

(b) The complaint will be forwarded to the chairman of the Investigation Committee. [This committee is composed of two members appointed by the board chairman with the approval of the board.]

(c) (No change.)

§323.3. *Adoption of Rules.*

(a) **Physical Therapy Practice Act.** The board may adopt rules consistent with the Physical Therapy Practice Act to carry out its duties in administering the Act. Rule revisions, other than emergency rules, may be adopted once a year.

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

(b) **Continuing education.** The board may adopt rules relating to the approval of continuing education courses. The board may establish reasonable and necessary fees for the administration of the approval of continuing education programs at a minimum of \$40 and not to exceed \$200 per course submitted to the board for approval.

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

issued in Austin, Texas, on September 29, 1989.

TRD-8909468

La Verne Birdwell
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

Chapter 329. Physical Therapist License

• 22 TAC §329.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §329.1, concerning physical therapist license. The amendment amends the procedural directions specified by the board in this rule, relating to license application requirements for foreign trained applicants, examination score requirements, and examination guidelines.

La Verne Birdwell, acting executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Birdwell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of procedural directions specified by the board.

There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendment is proposed under Texas Civil Statutes, Article 4521e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act; and to carry out its duties in administering the Act.

§329.1. Physical Therapist License.

(a) (No change.)

(b) Foreign-trained.

(1) (No change.)

(2) Following approval of all application materials, the foreign-trained applicant will be notified in writing that he or she has fulfilled all requirements for licensure by examination in Texas. Upon arrival in the United States and submission of the issuance fee and temporary license fee, the applicant will be issued a temporary license and scheduled for the next licensure [Professional Examination Service (PES)] examination.

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

(e) Examination score requirements. All written examinations will be prepared by a board-approved examination service [the professional]. Any score on that testing date 1.0 standard deviation below the nationwide mean or higher on each part will be considered passing. The applicant will be notified in writing of the scores and the pass or fail status on each part of the examination. If an applicant fails one or more parts, the applicant will be required to repeat each part failed. This must be done at the next scheduled examination for a second temporary license to be considered. Upon receipt of notification of failure, the applicant is immediately ineligible to practice. A second temporary license may be issued if score results meet requirements under §333.1 of this title (relating to Second Temporary License). (Board rule IX, A.)

(f)-(h) (No change.)

(i) Examination guidelines.

(1) (No change.)

(2) If a candidate holds a temporary license awaiting Texas examination, and takes a board-approved licensure [PES] examination in another state, the candidate will then be considered under the Act, §10. If the candidate does not attend his or her scheduled Texas examination, the Texas temporary license shall be revoked the next working day following the Texas examination date. The revoked license must then be immediately returned to the board office. [If the scores are not available to the Texas Board 30 days prior to the next Texas exam, the temporary license shall be revoked the next working day following the Texas examination. If scores are available and any part(s) have been failed, the candidate must, on the scheduled date, repeat these parts failed. The board will consider this as the second examination.]

(3)-(4) (No change.)

(5) If the examinee fails the examination in Texas and takes a board-approved licensure [the PES] examination in another state, the examinee may apply under the Act, §10.

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

Issued in Austin, Texas, on September 29, 1989.

TRD-8909468

La Verne Birdwell
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

Chapter 331. Endorsement Licensure

• 22 TAC §331.1, §333.2

The Texas State Board of Physical Therapy Examiners proposes amendments to §331.1 and §331.2, concerning interstate reporting service and license by endorsement. The amendments will specify and clarify how persons licensed in other states must meet Texas exam standards in order to become licensed in Texas.

La Verne Birdwell, acting executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Birdwell 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 the public is relatively unaffected by these particular proposed sections.

There will be no effect on small businesses as a result of enforcing the sections. 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 La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act; and to carry out its duties in administering the Act.

§331.1. [Interstate] Reporting of Test Scores. [Service.] Licensure examination [Professional Examination Service] scores must be reported through a board-approved reporting [the Interstate Reporting] service. If the scores are 1.0 standard deviation below the nationwide mean or higher on all parts, the individual will be licensed by endorsement. If the applicant fails to meet the standards in one or more parts, the applicant will repeat the parts failed and will then be licensed according to the Act, §§8, or 9, and 11.

§331.2. License by Endorsement. Persons having taken a board-approved licensure [the PES] examination or who are licensed in another state and whose examination [PES exam] scores meet Texas standards, must apply for licensure by endorsement.

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 29, 1989.

TRD-8909464

La Verne Birdwell
Acting Executive Director
Texas State Board of
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Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

Chapter 333. Temporary License

• 22 TAC §§333.1-333.3

The Texas State Board of Physical Therapy Examiners proposes amendments to §§333.1-333.3, concerning second temporary license, temporary license for endorsement applicants, previous examination takes.

These amendments reflect and clarify the board's adopted procedures relating to the statutory issuance of temporary licenses.

La Verne Birdwell, acting executive director has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Birdwell 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 clarification of procedures relating to statutory issuance of temporary licenses.

There will be no effect on small businesses as a result of enforcing the sections. 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 La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act; and to carry out its duties in administering the Act.

§333.1. Second Temporary License. The examination is not complete until scores have been reported to the candidate. In the event of failure of a part or parts on the first examination, a candidate may be issued, at the discretion of the board, a second temporary license, if the candidate has not more than a combined total of a nine raw points score deficit on the part or parts of the examination failed. A candidate who fails any part of the examination or falls below minimum standard as set out under this section, will not be issued a second temporary license. The revoked temporary license must be returned immediately to the board office upon notification of failure of part or parts of the examination [The candidate will be notified of failure by certified mail, return receipt requested].

§333.2. Temporary License for Endorsement Applicants. When an applicant meets the qualifications in the Act, §10, a temporary license may be issued for a period of

two months until scores are received from a board-approved [the Interstate] reporting service.

§333.3. Previous Examination Takes. All previous takes of physical therapy licensure [the PES] examinations, [examination] regardless of location, are counted toward the total number of takes for Texas licensure.

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 29, 1989.

TRD-8909462

La Verne Birdwell
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

Chapter 339. Fees

• 22 TAC §339.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §339.1, concerning fees. Due to rising cost of examination fees by the board-approved examination service, the board passed a motion to raise the following fees and thereby deposit additional excess of monies to the general revenue.

La Verne Birdwell, acting executive director, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. Effect on state government for the first five-year period the section will be in effect will be an estimated increase of \$6,010 in 1990 and \$7,270 in 1990. For the years 1992-1995, the effect on state government has not yet been determined. There will be no effect on local employment.

Ms. Birdwell also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be the additional revenue to the general revenue fund, due to the increase in fees. The possible economic cost to persons who are required to comply with the section as proposed will be an estimated additional cost of \$10 per application per person/PT 4670 5090; \$5 per application per person/PTA 1340 2190; in the years 1990-1991. The estimated additional cost for the years 1992-1995 has not yet been determined.

Comments on the proposal may be submitted to La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendment is proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physi-

cal Therapy Act; and to carry out its duties in administering the Act.

§339.1. Examination.

(a) Physical therapist—\$90. [\$80].

(b) Physical therapist assistant—\$80 [\$75].

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 29, 1989.

TRD-8909463

La Verne Birdwell
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

Chapter 341. License Renewal

• 22 TAC §§341.1-341.4

The Texas State Board of Physical Therapy Examiners proposes amendments to §§341.1-341.4, concerning physical therapist, physical therapist assistant, qualifying continuing education units, licensees failing to comply. These amendments will simplify the mandated continuing education units reporting process.

La Verne Birdwell, acting executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Birdwell 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 the public is relatively unaffected by these proposed sections.

There will be no effect on small businesses as a result of enforcing these sections. 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 La Verne Birdwell, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(c), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act; and to carry out its duties in administering the Act.

§341.1. Physical Therapist.

(a) (No change.)

(b) CEU requirements must be completed in the biennium preceding the licensee's odd-numbered year renewal. Those individuals who obtain Texas li-

censure within a biennium, will not be required to submit evidence of CEU's until their following odd-numbered year renewal.

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

§341.2. Physical Therapist Assistant.

(a) (No change.)

(b) CEU requirements must be completed in the biennium preceding the licensee's [licensees'] odd-numbered year renewal. Those individuals who obtain Texas licensure within a biennium, will not be required to submit evidence of CEU's until their following odd-numbered year renewal.

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

§341.3. Qualifying Continuing Education Units.

(a) (No change.)

(b) Program content and CEU's accreditation must be approved by the board or a board-approved [accredited by a board-approved] organization [or institution must be received by the board 10 days prior to the beginning date of program].

(c) College or university courses in the area of clinical application, clinical management, behavioral science, science, or scientific research will be accepted. Courses will be credited at one CEU for each satisfactorily (grade of C or higher) completed credit hour. An official transcript must be submitted to the board office [with the renewal application.]

(d) A publication or publications may be submitted to the board for consideration of up to one-half of the biennium CEU requirement. This request, along with the publication, must be presented to the board office 30 [90] days prior to licensure renewal anniversary date. Submissions after this date will not be considered.

(e) The board may retroactively approve continuing education units (CEU's) for courses or workshops commenced on or after September 1, 1987, and completed prior to January 13, 1988, the effective date of this chapter concerning: physical therapist; physical therapist assistant; qualifying continuing education units; licensees failing to comply. The courses must meet the requirements for CEU's as outlined in this chapter and board-approved procedures. This section will be in effect until September 1, 1991.]

§341.4. Licensees Failing to Comply. Licensees failing to comply with the CEU requirement may [will] not receive licensure renewal. Further licensure will be as per the Texas Physical Therapy Practice Act, Section 15(c), (d), or (e), whichever is applicable plus submission of all required CEU's. [CEU requirement will continue to accrue.]

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 29, 1989.

TRD-8909467

La Verne Birdwell
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 835-1846

◆ ◆ ◆
**Part XVII. Texas State
Board of Plumbing
Examiners**

Chapter 361. Administration

General Provisions

• 22 TAC §361.6

The Texas State Board of Plumbing Examiners proposes an amendment to §361.6, concerning change in license fees.

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

Ms. Brown 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 savings to licensees and indirectly to the public.

There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Lynn Brown, Administrator, Texas State Board of Plumbing Examiners, 929 East 41st Street, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, §5(a), which provide the board with the authority to prescribe, amend, and enforce all rules and regulations necessary to carry out the Act.

§361.6. Fees.

(a) The board has established the following fees.

(1) Licenses.

(A) Master license—\$75.

(B) Journeyman license —\$12 [\$24].

(C) Plumbing inspector license—\$50.

(2) Examinations.

(A) Master examination—\$75.

(B) Journeyman examination—\$25 [\$50].

(C) Plumbing inspector examination—\$25.

(3) Renewals.

(A) Renewal of master license—\$75.

(B) Renewal of journeyman license \$12 [\$24].

(C) Renewal of plumbing inspector license—\$50.

(4) Other fees.

(A) Late renewal.

(i) Master—less than 90 days—one-half examination fee—\$37.50; more than 90 days—examination fee—\$75.

(ii) Journeyman—less than 90 days—one-half examination fee—\$12.50; more than 90 days—examination fee—\$25 [\$20].

(B) Duplicate license or new license with change of name—\$10.

(C) Copies—\$.50 for the first page, \$.15 for each additional copy.

(D) Returned check—\$10.

(b) A person may [shall] pay any appropriate fees by cashier's check or money order, or by cash if the fee is paid at the office of the agency.

(c) A person shall pay any appropriate fees before taking the examination or receiving the license, license renewal, or service.

(d) The board may waive any requirements concerning the method of timing of payment of any fee, refund any fee, or waive the payment of any fee not required by statute, under any special circumstances it finds appropriate.

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 October 5, 1989.

TRD-8909419

Lynn Brown
Administrator
Texas State Board of
Plumbing Examiners

Earliest possible date of adoption: November 13, 1989

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 97. Communicable Diseases

Control of Communicable Diseases

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

• 25 TAC §§97.1-97.5, 97.7, 97.10, 97.11, 97.15

The Texas Department of Health proposes amendments to §§97.1-97.5, 97.7, 97.10, 97.11, and new §97.15, concerning communicable diseases. The sections cover definitions; who shall report; reportable diseases and health conditions; where to report a communicable disease; reporting and other duties of local health authorities and regional directors; general control measures for reportable diseases; notification of emergency medical service employee, peace officer, or firefighter of possible exposure to a disease; death of a person with certain communicable diseases; and mandatory testing of persons suspected of exposing certain other persons to reportable diseases, including HIV infection.

The amendments will update and clarify the existing sections and implement requirements in Senate Bill 959, §23, 71st Legislature, 1989, concerning the inclusion of education and prevention as control measures for communicable diseases. The new section implements requirements of Senate Bill 959, §22, concerning the establishment of criteria that constitute exposure to reportable diseases, including HIV infection, and establishes minimum training qualifications for the department's designee who will judge whether an exposure has occurred.

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

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that control measures for communicable diseases will be expanded to include education and prevention, and that criteria will be established concerning exposure to reportable diseases, including HIV infection. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Diane M. Simpson, Chief, Bureau of Disease Control and Epidemiology, Texas De-

partment of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

The amendments and new section are proposed under the Communicable Disease Prevention and Control Act, Texas Civil Statutes, Article 4419b-1, §3.12, as added by Senate Bill 959, 71st Legislature, 1989, which provides the Board of Health with the authority to adopt rules concerning the criteria that constitute exposure to reportable diseases, including HIV infection; the Health and Safety Code, §81.082, as amended by Senate Bill 959, which expands communicable disease control measures to include prevention and education; the Health and Safety Code, §81.004, which provides the Board of Health with the authority to adopt rules to implement the Act; and the Health and Safety Code, §12.001, which provides the Board of Health with the authority to adopt rules to implement department programs.

§97.1. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

HIV infection—Initial or first time diagnosis by a physician or under the standing orders of a physician supported by evidence from one of the following laboratory procedures [Diagnosed by a physician with supporting laboratory evidence of one of the following]:

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

§97.2. Who Shall Report.

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

(c) The medical director or other physician responsible for medical oversight of an HIV counseling and testing service shall appoint one reporting officer who shall be responsible for reporting each patient who meets the criteria of an HIV infection as defined in §97.1 of this title (relating to Definitions).

(d)[(c)] Except as provided in subsections [subsection] (b) and (c) of this section for a hospital laboratory or HIV counseling and testing service, any person who is in charge of a clinical laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological, or other evidence of a reportable disease or health condition shall report as required by these sections.

(e)[(d)] School authorities, including a superintendent, principal, teacher, school health official, or counselor of a public or private school, and the administrator or health official of a public or private institution of higher learning should report as required by these sections those students attending school who are suspected of having a reportable disease. School administrators who are not also medical

directors meeting the criteria in subsections (a), (b), or (c) of this section are hereby specifically exempt from reporting HIV infections.

(f)[(e)] Any person having knowledge that a person is suspected of having a reportable disease or health condition should notify the local health authority or the department and provide all information known to them concerning the illness and physical condition of such person or persons.

§97.3. Reportable Diseases and Health Conditions.

(a) (No change.)

(b) The following diseases are reportable: acquired immune deficiency syndrome; anebiasis; anthrax; botulism—adult and infant; brucellosis; campylobacteriosis; chickenpox; *Chlamydia trachomatis infection*; cholera; coccidioidomycosis; dengue; diphtheria; encephalitis (specify etiology); gonorrhoea; Hansen's disease (leprosy); *Haemophilus influenzae* infections; hepatitis, viral—Type A, Type B, Type D (delta agent), Type non-A/non-B, and unspecified types; histoplasmosis; HIV infection (initial diagnosis only); influenza and flu-like illness; legionellosis; leptospirosis; listeria infections; Lyme disease; malaria; measles; meningitis—bacterial, aseptic/viral, fungal, and other (specify etiology, all types); meningococcal infections; mumps; pertussis; plague; poliomyelitis, paralytic; psittacosis; Q fever; rabies in man; Reye syndrome; Rocky Mountain spotted fever; rubella; rubella[,] congenital syndrome; salmonellosis; shigellosis; syphilis; tetanus; toxic shock syndrome; trichinosis; tuberculosis; tularemia; typhoid fever; typhus fever—endemic (murine) and epidemic; vibrio infections; viral hemorrhagic fevers [fever]; and yellow fever.

(c) (No change.)

§97.4. Where to Report A Communicable Disease.

(a) This section is intended to describe where a person is required to report a disease. The minimal information that should be reported for each disease is as follows:

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

(3) date of birth, race/ethnicity, sex, county of residence, date tested (date blood drawn) [numerical totals by age and sex]—HIV infection;

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

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

§97.5. Reporting and Other Duties of Local Health Authorities and Regional Directors.

(a) (No change.)

(b) The local health authority or regional director shall collect reports of disease and transmit the following information at weekly intervals as directed by the department:

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

(3) date of birth, race/ethnicity, sex, county of residence, date tested (date blood drawn) [Numerical totals by age and sex]-HIV infection;

(4) (No change.)

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

§97.7. General Control Measures for Reportable Diseases. Except for diseases for which equivalent measure of investigation and control are specifically provided in other sections of these sections, the commissioner, a local health authority, or a duly authorized representative of the commissioner, or a local health authority may proceed as follows.

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

(3) control techniques, including disinfection, environmental sanitation, immunization, chemoprophylaxis, isolation, preventive therapy, quarantine, education, prevention, and other accepted measures shall be instituted as necessary to reduce morbidity and mortality. In establishing quarantine or isolation, the local health authority shall designate and define the limits of the areas in which the persons are quarantined or isolated. No person may be quarantined or isolated by a local health authority without his or her consent unless the person is subject to court orders under the Act, Article 8.

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

§97.10. Notification of Emergency Medical Service Employee, Peace Officer, or Firefighter of Possible Exposure to a Disease.

(a) The Act, §3.08, requires a licensed hospital to notify a local health authority in certain instances when an emergency medical service employee, a peace officer, or a firefighter may have been exposed to a communicable disease during the course of duty from a person delivered to the hospital under conditions that were favorable for transmission. The following guidelines are issued to designate diseases and conditions that constitute a possible exposure to the disease for the purposes of the Act, §3.08:

(1) diphtheria, [measles,] meningococcal infections, pertussis, [plague,] polio, rabies, rubella, tuberculosis [, viral hemorrhagic fever] if there has been an examination of the throat, oral or tracheal intubation, suctioning, or mouth-to-mouth resuscitation;

(2) acquired immune deficiency syndrome, HIV infection, malaria, plague,

syphilis, viral hepatitis if there has been a needlestick or other penetrating puncture of the skin with a used needle or other contaminated item; or either a splatter or aerosol into the eye, nose, or mouth or any significant contamination of an open wound or non-intact skin with blood or body fluids; [.]

(3) measles, pneumonic plague, and viral hemorrhagic fevers if in the same room, vehicle, ambulance, or other enclosed space.

(b) (No change.)

§97.11. Death of a Person with Certain Communicable Diseases.

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

(c) Diseases that shall require tagging are acquired immune deficiency syndrome, anthrax, brucellosis, Creutzfeldt-Jakob disease, viral hepatitis (Types A, B, D, and non-A, non-B), HIV infection, plague, Q fever, rabies, Rocky Mountain spotted fever, syphilis, tuberculosis, tularemia, and viral hemorrhagic fevers [fever].

(d) (No change.)

§97.15. Mandatory Testing of Persons Suspected of Exposing Certain Other Persons to Reportable Diseases, Including HIV Infection.

(a) The Act, §3.12, provides a mechanism by which a law enforcement officer, fire fighter, emergency medical service employee, paramedic, or a correctional officer who receives a bona fide exposure to a reportable disease, including HIV infection, in the course of employment or volunteer service may request the department or the department's designee to order testing of the person who may have exposed the worker. This section establishes guidelines to designate the criteria that constitute exposure to a reportable disease, including HIV infection. The guidelines also prescribe minimum training requirements of the department's designee who will judge if the request meets criteria establishing risk of infection with a reportable disease, including HIV infection.

(b) For the purposes of the Act, §3.12, the following guidelines are issued to designate conditions that constitute exposure to a reportable disease, including HIV infection:

(1) chickenpox, diphtheria, *Haemophilus influenzae* infections, influenza and flu-like illnesses, meningitis (aseptic/viral, bacterial), meningococcal infections, mumps, pertussis, polio, psittacosis, Q fever (pneumonia), rabies, rubella, and tuberculosis if there has been an examination of the throat, intubation, oral or tracheal suctioning, or mouth-to-mouth resuscitation;

(2) anthrax, acquired immune deficiency syndrome, brucellosis, dengue,

hepatitis (viral, Types A, B, D, non-A/non-B), HIV infection, malaria, plague, syphilis, tularemia, epidemic typhus, viral hemorrhagic fevers, and yellow fever if there has been a needlestick or other penetrating puncture of the skin with a used needle or other contaminated item; or either a splatter or aerosol into the eye, nose, or mouth or any significant contamination of an open wound or non-intact skin with blood or body fluids;

(3) amebiasis, campylobacteriosis, cholera, hepatitis (viral, Type A), salmonellosis, shigellosis, and vibrio infections, if fecal material is ingested;

(4) measles, pneumonic plague, and viral hemorrhagic fevers if the worker is in the same room, vehicle, ambulance, or other enclosed space.

(c) For the purposes of the Act, §3.12, the following guidelines prescribe minimum training requirements of the department's designee who will judge if the request meets criteria establishing risk of infection with a reportable disease, including HIV infection.

(1) The health authority for the jurisdiction in which the law enforcement officer, fire fighter, emergency medical services employee, paramedic, or correctional officer is employed with or volunteers shall review the request, presented as a sworn affidavit, and determine whether the request meets the criteria set out in subsection (b) of this section. If an exposure is judged to have occurred, the health authority will then determine whether that exposure constitutes a reasonable risk of infection to the requester. In determining risk of infection, the health authority shall follow guidance given in the current edition of the report titled "Control of Communicable Diseases in Man," published as an official report by the American Public Health Association.

(2) If the correctional officer is employed by the Texas Department of Corrections, the deputy director for health services of that agency shall review the request, presented as a sworn affidavit, and determine whether the request meets the criteria set out in subsection (b) of this section. If an exposure is judged to have occurred, the deputy director for health services shall determine whether that exposure constitutes a reasonable risk of infection to the requestor. In determining risk of infection, the deputy director for health services, shall follow guidance given in the current edition of the report titled "Control of Communicable Diseases in Man," published as an official report by the American Public Health Association.

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 21, 1989.

Earliest possible date of adoption: December 9, 1989.

For further information, please call: (512) 458-7456

◆ ◆ ◆
**TITLE 37. PUBLIC
SAFETY AND
CORRECTION**
**Part IX. Texas
Commission on Jail
Standards**

**Chapter 260. County
Correctional Centers**

General

• 37 TAC §§260.1-260.8

The Texas Commission on Jail Standards proposes new §§260.1-260.8, concerning county correctional centers. The new sections will set the general rules for establishment and operation of a county correctional center as authorized by the 71st Legislature.

Jack E. Crump, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the section. Effect on state government for the first five-year period the sections will be in effect will be an estimated additional cost of \$14 million for the year 1991. For the years 1992-1993 there will be an estimated additional cost of \$5 million. Effect on local government for the first five-year period the sections will be in effect will be an estimated additional cost of \$1.4 million for the year 1991. For the years 1992-1993 there will be an estimated additional cost of \$1 million.

Mr. Crump 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 the public is relatively unaffected by these particular proposed sections. There will be no effect on small businesses as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jack E. Crump, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The new sections are proposed under the Government Code, Title 4 Chapter 511, Texas Civil Statutes, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the operation of county jails.

§260.1. Establishment of County Correctional Centers. County Correctional Centers (CCC) are authorized by the Acts of the 71st Legislature House Bill 2335, which amends the Local Government Code, Chap-

ter 351, by adding Subchapter H, concerning county correctional centers.

§260.2. Memorandum of Understanding. The Community Justice Assistance Division of the Texas Department of Criminal Justice and the Texas Commission on Jail Standards, adopts by reference a memorandum of understanding, which establishes the respective responsibilities in the certification of a County Correctional Center (CCC) and the adoption of minimum standards for structural and life safety and operational requirements of a CCC. Copies of the memorandum of understanding may be obtained from the Texas Commission on Jail Standards, 611 South Congress Avenue, Austin, Texas 78704.

§260.3. Operational Concept. County correctional centers, if provided, shall be operated as an integral part of the community justice plan endorsed by the Community Justice Council and approved by the district judges, who manage the community supervision and corrections department and determined to be acceptable by the Community Justice Assistance Division of the Texas Department of Criminal Justice. The County Correctional Centers (CCC) shall be designed and operated for a specific target population of offenders. Offenders housed in the center shall be male or female offenders placed in the center by order of the court. Management of the facility should be proactive rather than reactive and should rely on an enhanced ability to supervise offenders rather than structural barriers or electronic security devices.

§260.4. New Construction Rules. A County Correctional Center (CCC) shall be designed and constructed to meet the requirements of this chapter, concerning county correctional centers, adopted by the Texas Commission on Jail Standards.

§260.5. Life Safety Rules. A County Correctional Center (CCC) shall be designed and constructed to meet the requirements of Chapter 263 of this title (relating to Life Safety) adopted by the Texas Commission on Jail Standards.

§260.6. Operational Requirements. A County Correctional Center (CCC) shall be operated in compliance with the Residential Services rules adopted by the Community Justice Assistance Division of the Texas Department of Criminal Justice.

§260.7. Design Concept. Innovative architectural concepts are encouraged to enhance the ability to operate a County Correctional Center (CCC) with a pro-active management style and to reduce problems of security and maintenance while creating a safe and sanitary environment for staff and offenders. The CCC shall be structurally

sound, fire-resistant, and appropriately separated from other occupancies. Selection of housing arrangements, including single or multiple-occupancy cells or dormitories shall be based on the risk/needs of the target population. Facility design should provide for support functions and equipment to insure safe, sanitary, and efficient operations.

§260.8. Construction Approval Rules. The owner and sheriff shall comply with Chapter 257 of this title (relating to Construction Approval Rules) adopted by the Texas Commission on Jail Standards when planning a county correctional center.

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

Issued in Austin, Texas on November 15, 1989.

TRD-8909424

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 463-5505

◆ ◆ ◆
**CCC Design, Construction, and
Furnishing Requirements**

• 37 TAC §§260.20-260.95

The Texas Commission on Jail Standards proposes new §§260.20-260.95, concerning CCC design, construction, and furnishings. In compliance with the 71st Legislature, the new sections will establish the design, construction, and furnishings of a county correctional center.

Jack E. Crump, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the section. Effect on state government for the first five-year period the sections will be in effect will be an estimated additional cost of \$14 million in the year 1991; and an estimated additional cost of \$5 million in the years 1992 and 1993. Effect on local government for the first five-year period the sections will be in effect will be an estimated additional cost of \$1.4 million in the year 1991; and an estimated additional cost of \$1 million in the years 1992 and 1993.

Mr. Crump 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 the public is relatively unaffected by these particular proposed sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jack E. Crump, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The new sections are proposed under the Texas Government Code, Title 4 Chapter 511, Texas Civil Statutes, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§260.20. Security Requirements. The County Correctional Center (CCC) security should be planned to protect offenders from one another, protect custodial personnel from offenders and deter or prevent escapes. The level of security shall be commensurate with the risk level of the target population.

§260.21. Program Requirements. Programs provided for offenders should be commensurate with the needs of the target population and in consultation with the director of the Community Supervision and Corrections Department.

§260.22. Site Requirements. The site should be of sufficient size to provide for the immediate County Correctional Center (CCC) and a reasonable projected expansion. A buffer zone around the building is desirable.

§260.23. Special Security. A County Correctional Center (CCC) should be designed as a special security unit. When built in conjunction with jail or lockup functions, the integrity of each facility shall not be compromised.

§260.24. Public Building. A County Correctional Center (CCC) shall not be located under, in, or on top of another building which has not been designed for the security level desired.

§260.25. Offender Movement Into and Out of County Correctional Centers (CCC). Construction should provide for movement of an offender into and out of the center without unduly exposing the individual to contact with the public.

§260.26. Segregation. The County Correctional Centers (CCC) design shall provide adequate male-female segregation facilities. Additional segregation should be provided for offenders of different risk/needs classifications.

§260.27. Audible Communication. Provision shall be made for voice communication between offenders and corrections officers at all times.

§260.28. Monitoring System. An electronic monitoring system may be built in to assist in offender supervision and so an offender can advise the officer of emergency needs.

§260.29. Television Monitoring. Closed-circuit television monitoring may be provided to assist in control functions.

§260.30. Control Areas. Facilities should be designed to provide a means for:

- (1) control and supervision of offenders;
- (2) inspection of housing areas;
- (3) control and protection of heating and ventilating equipment;
- (4) control and protection of lighting;
- (5) control and protection of fire-fighting equipment;

§260.31. Construction Materials. Offender living areas shall be constructed of durable building materials commensurate with the risk level of the target population.

§260.32. Functional Spaces.

(a) A County Correctional Center (CCC) shall consist of offender living areas, activity areas, support areas, and control areas of sufficient size and quantity to accommodate the needs of its daily operation. Space shall be provided for, but not limited to, the following functions:

- (1) offender reception;
- (2) offender processing;
- (3) offender housing;
- (4) food service;
- (5) laundry;
- (6) administration;
- (7) storage;
- (8) visiting;
- (9) public areas;
- (10) control and supervision;
- (11) offender programs and activities;
- (12) counseling and interviews;
- (13) medical examination;
- (14) recreation and exercise.

(b) It is permissible to use the same rooms or space allocation for more than one function where such use will not deny any constitutional right of offenders, custodial personnel, or general public and where such use will not impair the safety, security, or sanitation of the facility.

§260.33. Offender Entrance. The offender entrance should be from a vehicular sally port through a safety vestibule into the offender reception area. The entrance shall be designed and constructed to allow observation and identification of a person ap-

proaching the entrance. Electronic surveillance equipment may be used.

§260.34. Offender Reception. The County Correctional Centers (CCC) shall have an offender receiving area which shall be designed to readily permit the administrative processing of offenders. Receiving areas should be provided with drinking fountains and water closets. Panels or partitions may be provided in the receiving area to insure privacy and increase separation of males and females during multiple processing operations.

§260.35. Kitchen. If food is to be prepared in the County Correctional Center (CCC), a kitchen shall be provided. The kitchen shall be planned for efficient food preparation, and receipt of supplies and storage.

§260.36. Kitchen Location. The kitchen shall be designed and located in the facility so it will not be used as a passageway for non-food handling staff, persons not associated with kitchen or food handling assignments, or the public.

§260.37. Kitchen Operations. In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided.

(1) Issue areas. Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.

(2) Floor. The kitchen floor shall be properly pitched to one or more floor drains. The junction between doors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(3) Ordinances. Kitchens shall comply with all state and local health ordinances.

(4) Light. Adequate natural and artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(5) Ventilation. Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(6) Water. Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and shall be consistent with public health standards.

(7) Storage. Adequate storage requirements for all kitchen operations and needs shall be provided.

§260.38. Dining Space. Provisions may be made for group dining. Consideration should be given to the number of offenders congregated in any one dining area. Dining space may be provided in dayrooms.

§260.39. Commissary. Space appropriate to the capacity of the facility should be provided for commissary storage, or a written program should be established.

§260.40. Storage Area Capacities. Storage areas based upon facility capacity shall be provided as follows.

- (1) For offender property storage: four cubic feet per person.
- (2) For offender uniforms, towels, bedding and linen: three cubic feet per person.
- (3) For mattresses: off-floor storage in the amount of 5 1/4 cubic feet per mattress for 25% of total beds.

§260.41. Janitorial Storage Space. Adequate secured storage for janitorial and other supplies and adequate storage for equipment necessary to the sanitation of the facility, shall be provided. Sufficient broom and mop racks shall be provided.

§260.42. Sinks. Sufficient mop sinks with hot and cold water shall be located throughout the facility. Janitor closets and similar areas shall be provided with a lockable door.

§260.43. Faucets. Cold water faucets with standard hose connections shall be provided in plumbing access space or corridors.

§260.44. Visiting Areas. Visitor accommodations shall be designed to provide the degree of physical security and supervision commensurate with the risk level of the target population. Means shall be provided for audible communication between visitors and offenders. Visiting areas should be designed to prevent passage of contraband. Contact visiting may be appropriate. Provision shall be made for handicapped visitors. The provision of lockers in the visitation lobby or other convenient area for storage of handbags or other articles which cannot be taken into the visiting area, should be considered.

§260.45. Public Areas. Public access to the County Correctional Centers (CCC) shall be through a main entrance. The public shall not have uncontrolled access to enter offender occupied areas. A public lobby or waiting area with appropriate in-

formation signs should be provided for the comfort and convenience of the public, including sufficient seating, drinking fountains and public telephones. Water closets and lavatories shall be provided. The rest rooms shall be provided with drain and hose bibb. Provisions shall be made for handicapped visitors. The public lobby location shall be so situated that it does not interfere with general office routine.

§260.46. Guard or Control Stations. A guard or control station shall be provided on each floor of the facility where 10 or more offenders will be housed overnight.

§260.47. Laundry Facilities. A laundry shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with offender capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. A water closet/lavatory should be available at all times.

§260.48. Exercise Area. An exercise area shall be provided. This may be a rooftop exercise area, an outside exercise area, or one included inside the facility. Outdoor exercise areas should be covered with some type of security netting to prevent introduction of weapons/contraband. A water closet and drinking fountain should be readily available. This area should contain at least 1,500 square feet of space. Exercise areas, provided for direct supervision housing areas should be directly accessible from the dayroom area.

§260.49. Emergency First Aid Storage. Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times. Commercial or cabinet-type first aid kits, approved by a consulting physician, meet the requirements of this standards.

§260.50. Medical Space and Equipment. Space and equipment for medical examination, treatment, and convalescent care shall be provided in each medical care comparable to that available to the community where the facility is located.

§260.51. Medical Supply Storage. Adequate secure storage for medical supplies and drugs shall be provided.

§260.52. Infirmary.

(a) An infirmary is desirable and should be considered for a County Correctional Center (CCC) having a capacity of 50 or more whenever the following is anticipated.

(1) Emergency services may have to be rendered frequently.

(2) There is a high frequency of cases requiring recuperative or convalescent care.

(3) Convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) When an infirmary is constructed, the following minimum components shall be included:

- (1) nurses station;
- (2) locked medication station with storage for individually filled prescriptions;
- (3) utility room with sink and storage for nourishments, linen, and equipment;
- (4) utility room with double tub sink and clinical service sink with flushing rim;
- (5) 80 square feet of floor space per bed;
- (6) at least one single occupancy room or cell with 80 square feet of floor space;
- (7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;
- (8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;
- (9) janitor closet; and
- (10) water closet, lavatory, and shower for use of offenders in the infirmary.

§260.53. Administrative Space. The facility shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the offender occupied areas.

§260.54. Multi-Purpose Rooms. A County Correctional Center (CCC) shall have, in addition to any activity or day room area, one or more multi-purpose rooms for group assembly of offenders. The multi-purpose room may be used for conferences, contact visits, religious services, education, group counseling, or other special uses.

§260.55. Squad Rooms. Locker space, water closets, lavatories, showers, and dressing rooms should be provided for custodial personnel.

§260.56. Weapon Storage. Separate secure storage space shall be provided for

disposition of weapons at all entrances to the security perimeter. Weapons shall not be permitted beyond the security perimeter except when required to meet emergencies. Competent authority shall specifically authorize weapons entry when deemed appropriate.

§260.57. Single Cells. Single cells, if used, shall not be less than 8' 0" high from finished floor to ceiling and not less than 5'6" wide from wall to wall. They shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, water closet, lavatory capable of providing drinking water to the offender, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell.

§260.58. Multiple-Occupancy Cells. Multiple-occupancy cells shall be constructed to accommodate two to eight offenders and shall contain not less than 40 square feet of clear floor space for one offender, plus 18 square feet of clear floor space per each additional offender. Each multiple-occupancy cell shall have a bunk for each offender and a water closet and lavatory (capable of providing drinking water) for each group of eight offenders.

§260.59. Dormitories. Dormitories shall be designed to accommodate nine to 24 offenders and shall contain not less than 40 square feet of clear floor space for one offender, plus 18 square feet of clear floor space per each additional offender. Dormitories shall have a bunk for each offender and a water closet and lavatory (capable of providing drinking water) for each group of eight offenders or increment thereof to be confined therein. Dormitories may be designed to accommodate up to 48 offenders when operated in a direct supervision mode.

§260.60. Dayrooms. All offender living areas shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight offenders, but shall not be designed to accommodate more than 24 offenders except when operated in a direct supervision mode dayrooms may be designed to accommodate 48 offenders. Dayrooms shall contain 40 square feet of clear floor space for one offender plus 18 square feet of clear floor space for each additional offender. Day rooms shall have a water closet and lavatory capable of providing drinking water available at all times for each group of eight offenders, or increment thereof, to be confined therein. A shower shall be available at all times for each group of 12 offenders or increment thereof, to be confined therein. Each dayroom shall otherwise be suitably furnished with, but not limited to, the following: seating and tables to accommodate the number of offenders to be confined therein, and may provide for visiting facilities, dining facilities and other

activities. A utility sink should be provided. Sufficient lighting shall be provided for reading, shaving, recreation, and other similar activities. Day rooms may be contiguous with offender sleeping areas. Convenient electrical receptacles shall be provided.

§260.61. Remote Controls. Sliding doors, if used, shall be so arranged as to be locked, unlocked, opened to full open position, and closed by control means located remote from the offender area.

§260.62. Safety Vestibules. Safety vestibules should be provided for sleeping areas and day rooms where appropriate for the security level desired. Where used, safety vestibule doors shall be so arranged to be locked and unlocked by control means located outside the living area and safety vestibule doors shall be arranged to provide passage of emergency medical evacuation equipment.

§260.63. Emergency Operation of Doors. For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of offenders in the event of interruption of primary and emergency power sources, fire, smoke, or other emergency, reliable means shall be provided for unlocking all cell doors. The reliable means should also provide for completely opening sliding cells doors.

§260.64. Dimensions. All offender accommodation to include single cells, multiple-occupancy cells, dormitories, and dayrooms shall be not less than 8' 0" from finished floor to ceiling and shall be not less than 5'6" from wall to wall. Corridors shall be not less than 4'0".

§260.65. Furnishings for Offender Housing Areas.

(a) Bunks. A fire-resistive bunk not less than 2' 3" wide and 6' 3" long shall be provided for each offender confined. Bunks should have clothes hooks and shelves located nearby.

(b) Water closets and lavatories. Water closets and lavatories should be constructed in such manner and of such material so as to resist vandalism.

(c) Showers. Shower areas shall be not less than 2' 6" square per showerhead and not less than 7' 0" high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than 2'6" square sloped to a drain should be provided adjoining the shower entrance.

(d) Additional furnishings. Additional furnishings for single cells, multiple-occupancy cells, and dormitories may in-

clude tables and seating (mandatory for single cells), lockers, mirrors, light fixtures, and showers.

(e) Tables and seating. Tables and seating should be constructed of materials which will reduce maintenance. They shall be ignition resistive. Benches shall be not less than 12" wide, and linear seating dimensions shall be not less than 18" per person to be seated at any one time. Stools shall not be less than 12" in diameter.

(f) Shields. Toilet and shower privacy shields should be provided.

§260.66. Holding Rooms. One or more holding rooms should be provided to detain offenders during processing, release, or transfer to other facilities. Holding rooms shall include the following features and equipment.

(1) Floor area. Minimum floor area of a holding room shall be 40 square feet for single occupancy. For occupancy of more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned.

(2) Seating. Seating shall be sufficient to provide not less than 24 linear inches per person at capacity and be at a normal seating height elevation.

(3) Plumbing. A water closet, lavatory, and drinking bubbler shall be provided for each eight offenders or increment thereof. Plumbing fixtures shall have outside water shutoffs and controlled individually per room. Permanent privacy screens shall be provided.

(4) Floor drains. A holding room shall have adequate floor drains.

§260.67. Separation Cells. One or more single occupancy separation cells should be provided to house selected offenders. Separation cells shall include the following features and equipment.

(1) Floor area. Minimum floor area shall be 80 square feet of clear floor space.

(2) Plumbing. Separation cells shall contain vandal resistive water closet, lavatory, drinking fountain, and shower with outside shut offs and controls.

(3) Furnishings. Each separation cell shall have a table, seating, mirror, bunk, and sufficient lighting to permit reading and shaving in the cell. A shelf and clothes hook should be provided.

§260.68. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the offender living area. An illumination level of 20 footcandles at the task surface shall be used as a guideline for adequate lighting. Light fixtures should be commensurate with the

level of security desired. Electrical conduits shall be out of reach of offenders. Light controls shall be located outside the living area, except that lights used for reading, shaving etc. may be controlled by offenders. Living areas shall be provided with variable lighting levels to allow observation of offenders and to permit custodial personnel to perform necessary functions in day and night settings. Exterior of buildings shall be lighted at night sufficiently to observe a person approaching the County Correctional Centers (CCC).

§260.69. Doors. Doors should be of a material commensurate with the degree of security sought. Doors shall be equipped with appropriate hardware and accessories to achieve the degree of security sought. All cell doors shall be at least 28 inches in clear width.

§260.70. Power-Operated Locks. Power-operated locks, where used, shall be motor, solenoid, or pneumatic type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of doors upon closing. A door position switch and door position indicator shall be provided for all doors equipped with power-operated locks. Door closers should be provided on all swinging doors equipped with power-operated locks.

§260.71. Manual Locks. Manual locks shall be commensurate with the level of security sought. Where used, detention type locks shall be manufactured specifically for that purpose. Manual locks shall be key type operation.

§260.72. Keys. Keys for detention type locks shall be heavy duty and of sufficient size to prevent easy concealment and unauthorized duplication. Control of facility keys shall be maintained by custodial personnel at all times.

§260.73. Key Cabinets. Secured key cabinets should be provided at suitable locations.

§260.74. Hinges. Hinges for doors shall be adequate for the weight of the door.

§260.75. Hand Pulls. Hand pulls shall be securely anchored to the door.

§260.76. Door Stops. Door stops shall be provided for doors so as to prevent accidental or purposeful injury to offenders or custodial personnel.

§260.77. Door Closers. Where used, door closers for all swinging doors shall be appropriate to the weight of the door.

§260.78. Windows and Screens. Operable windows shall be equipped with insect screens. Windows and/or skylight should be provided. Window area security shall be commensurate with the risk level of the target population.

§260.79. Vision Into Offender Areas. Architectural design shall preclude direct vision into offender occupied areas from the outside public.

§260.80. Walls. Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved.

§260.81. Floors. Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. In all instances, where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

§260.82. Ceilings. Ceilings should be constructed of material not easily damaged by vandalism.

§260.83. Paint. Washable paint may be used for untiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be a Class A type finish.

§260.84. Emergency Access. Multi-story facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment.

§260.85. Extension Cords. Extension cords shall not be permitted within the facility. Appliances shall plug directly into a fixed wall receptacle.

§260.86. Vent Grilles. Vent grilles in walls and ceilings of cells, dormitories, and dayrooms shall be commensurate with security application.

§260.87. Observation Panels. When used, observation panels shall provide a clear opening of sufficient size to view the area and be glazed with appropriate thickness security glass or equivalent.

§260.88. Electrical Power. Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. The

facility shall have sufficient electrical outlets for heated food carts, if heated food carts are to be used in food service. If electrical appliances will be permitted in cells and dayrooms, fixed wall receptacles shall be furnished.

§260.89. Emergency Electrical Power. An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the life safety requirements. Such system shall be tested operationally weekly and a record kept of this testing.

§260.90. Temperature Level. All mechanical equipment for heating, cooling or air movement shall be designed to provide a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

§260.91. Air Flow. Ventilation shall be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

§260.92. Plumbing and Drainage. Plumbing work shall meet the requirements of the Southern Standard Building Code, or equivalent. Cold tap water shall be provided for drinking in living areas. Warm water shall be provided in living areas at each lavatory and shower. Water shall not exceed 100 degrees Fahrenheit as its outlet in these areas. All plumbing to living areas shall have a quick shutoff valve or other approved means to prevent flooding.

§260.93. Access Doors. Plumbing space, or any other mechanical space, shall have a lockable access door.

§260.94. Maintenance. Maintenance of detention and life safety equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by the manufacturer or vendor of such equipment.

§260.95. Maintenance Prohibited. Maintenance of locks, locking systems, and other security devices shall not be performed by offenders.

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

Issued in Austin, Texas on November 15, 1989.

TRD-8909423

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 463-5505

Part X. Texas Adult Probation Commission

Chapter 321. Standards

• 37 TAC §§321.1-321.6

The Texas Adult Probation Commission proposes amendments to §§321.1-321.6, concerning administration, probation officers, supervision, caseloads, programs and facilities, in order to establish minimum standards for and administration of caseloads, programs, facilities, and equipment for effective probation services.

Edmond J. Peterson, CPA, director of fiscal 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 as a result of enforcing or administering the sections.

Mr. Peterson 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 the public is relatively unaffected by this particular proposed section.

There will be no effect on small businesses as result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Virginia Grote, Texas Adult Probation Commission, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753.

The amendments are proposed under Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

§321.1 Administration.

(a) Public protection. Community supervision and corrections departments [probation departments] should recognize their responsibility to the community by rehabilitation of the offender, and by initiating action to remove promptly from the community those probationers who through their conduct have indicated their inability to follow the rules of probation imposed by the court.

(b) Community education. Community supervision and corrections de-

partments [probation departments] should recognize their position as a public agency, always responsive to the needs of the community, making every reasonable effort to educate the community to the duties, responsibilities and accomplishments of the probation system.

(c) Professional competence. Community supervision and corrections departments [probation departments] should be impartial, non-political, professionally competent, and should devote the necessary time for full consideration of each case.

(d) Administrative manual. Community supervision and corrections departments [probation departments] should develop an administrative manual defining general purpose and functional objectives, incorporating all written policies and procedures, assuring that they are distributed to all staff members. These policies and procedures should be reviewed annually and revised as necessary.

(e) Job description. Community supervision and corrections departments [probation departments] should write job descriptions for all positions. Probation officers should be released from routine clerical and record keeping responsibilities which may be performed by clerical personnel. Job descriptions should be reviewed and revised at least annually.

(f) Training officer. Community supervision and corrections departments [probation departments] should designate one officer to monitor the skill levels and training needs of individual staff members and develop a plan for meeting those needs. To facilitate the training function, the officer may conduct internal audits of direct supervision cases to check for technical compliance, for utilization of case classification, and for supervision planning.

(g) Entry level salary. Community supervision and corrections departments [probation departments] should establish the entry level salary of probation officers based upon educational requirements as provided by law, experience, levels of responsibility and the prevailing wage structure for comparable positions at the local level. Salaries for probation officers, solely responsible for supervision of probationers, shall be no more than the salary for parole officers in the State Classification Plan.

(h) Automobile allowance. (Texas Code of Criminal Procedure, Article 42.12, §10(f) and (i)). Community supervision and corrections departments [probation departments] should establish an automobile allowance for the use of personal automobiles on official business by authorized department personnel to be paid from judicial district funds. Personal automobile allowance should not be less than the state allowance per mile. Flat rate monthly payment based on approximate mileage computed at not less than the current state rate per mile is not

prohibited. Departments paying flat rate monthly allowances should maintain written documentation within the probation department of business mileage. This documentation should include the officer's name, month, and officer's signature. The form should also contain the date, beginning odometer reading, ending odometer reading total miles driven, and purpose of trips for each business day. These forms should be available for review by the Texas Adult Probation Commission (TAPC) auditors.

(i) Per diem. (Texas Code of Criminal Procedure, Article 42.12, §10(i)). Community supervision and corrections departments [probation departments] should establish per diem allowances for employee expenses at a rate not less than the rate allowed state employees.

(j) Records. (Texas Code of Criminal Procedure, Article 42.121, §§3.02, 4.03, 4.04). Community supervision and corrections departments [probation departments] should provide fiscal records and statistical data consistent with the statutes.

(k) Audits. (Texas Code of Criminal Procedure, Article 42.121, §4.03 and §4.04). TAPC shall conduct a fiscal audit of each Community supervision and corrections departments [probation department] at least once every two years. Outside audits are not required unless requested by TAPC.

(l) Budget. (Texas Code of Criminal Procedure, Article 42.121, §4.03 and §4.04). Community supervision and corrections departments [probation departments] should prepare and operate from an annual budget developed in a form consistent with good accounting practices and approved by the judge or judges of their judicial district. A copy of the budget should be provided to the TAPC.

(m) Annual report. (Texas Code of Criminal Procedure, Article 42.121, §3.02). Community supervision and corrections departments [probation departments] should publish an annual report to the judge or judges of the judicial district covering its operations and the condition of probation services in its judicial district during the previous year making whatever recommendations it considers necessary. A copy of this report should be provided to TAPC.

(n) Presentence capability. Community supervision and corrections departments [probation departments] should have the necessary staff and resources to permit a presentence investigation and written reports of its results.

(o) Equal employment opportunity. Community supervision and corrections departments [probation departments] should comply with the Equal Employment Opportunity Act.

(p) Ethics. Community supervision and corrections department [proba-

tion departments) should provide each probation officer with a copy of the Code of Ethics adopted by the TAPC and a copy of the procedure developed by the department to be used in investigating and reviewing any alleged violation. Probation departments shall see that the Code of Ethics is complied with and take disciplinary action for non-compliance.

(q) Multi-department districts.

(1) Judicial districts composed of more than one county may apply to the TAPC for authorization to establish more than one community supervision and corrections department [probation department] within that judicial district. The application should explain how the creation of more than one department will promote:

(A) administrative convenience;

(B) economy; or

(C) improved probation services, and other reasons if any.

(2) The application should indicate the financial impact and the approval of all district judges hearing criminal cases of the judicial district or districts affected by the change.

(r) Automobile liability insurance. Community supervision and corrections departments [probation departments] should require probation officers to provide documentation of liability insurance coverage or fiscal responsibility, as required by law for personal motor vehicles used in conduct of official business.

(s) Automobiles purchased or leased by judicial districts. Community supervision and corrections departments [probation departments] should insure that economical use of judicial district adult probation funds is considered if the judicial district purchases automobiles to be used by adult probation personnel. Automobiles with four or six cylinder engines and high EPA mileage estimates should be given strong consideration.

(t) Expenses for training. Community supervision and corrections departments [probation departments] may use judicial district funds to pay the expenses of training for employees. The training must be related to adult probation or to the employee's particular function or Professional advancement within the department. Departments may also use judicial district funds to pay the expenses of training for judges trying criminal cases. Training for judges must be related to adult probation or to the judge's function as an administrator of the department.

(u) Department management. Departments should use the publication *Guidelines for the Organization, Man-*

agement, and Operation of Local Adult Probation Departments in Texas, as an outline in the development of its administrative, personnel, and operational manuals.

§321.2. Probation Officers.

(a) Eligibility. (Texas Code of Criminal Procedure, Article 42.12, §10(c),(d),(e)). All probation officers should meet the statutory requirements. Judicial districts may apply to the Texas Adult Probation Commission (TAPC) for exemption of the one year of experience required in Texas Code of Criminal Procedure, Article 42.12, §10(c)(B). The application should document that reasonable efforts were made to employ a probation officer with one year experience and state why, in their opinion, the efforts were unsuccessful. Probation officers requiring a waiver under their rule should be hired at a salary lower than the entry level salary of probation officers with experience.

(b) Training. Probation officers should be provided not less than 40 [20] hours professional training annually.

(c) Certification. A probation officer who is first employed by a probation department in this state after September 1, 1987, is required to complete the certification coursework and obtain a passing grade on the certification examination within one year of the beginning date of employment as an adult probation officer. A probation officer who was employed by any probation department in this state on or at any time before September 1, 1987, is exempt from the requirements of the certification program. A probation officer who is subject to the certification requirement and who leaves the field of probation work for more than one year is required to be recertified within one year after resuming employment as an adult probation officer. [Professional membership. Probation departments should encourage membership in the appropriate professional organizations and maintain a current library of professional journals and publications available to all personnel. Departments may secure one organizational membership in professional organizations for use by the probation staff. Departments are not permitted to secure individual memberships for employees.]

(d) Costs of certification. Local probation departments may use judicial district adult probation funds to pay the costs of certification coursework and examination. [Conference. Probation departments should encourage continual professional development and the exchange of information and concepts. Departments should encourage as many of their personnel as practically possible to attend regional, state and national training and professional conferences. These opportunities should be made available to all professional staff on a rotating basis.]

(e) Exempt non-officers certification. Effective September 1, 1989, individuals who are not employed by the local probation department may attend the TAPC certification coursework and examination if they meet the minimum statutory qualifications to be an adult probation officer, are nominated and sponsored by the local adult probation department participating in the state system, pay the certification training fees out of their own financial resources and there is space available in a coursework session so as not to exclude any probation officer required to be certified.

(f) Exempt officers certification. Certification coursework and examination will be available to probation officers appointed prior to September 2, 1987. Such an officer who wishes to be certified will be given two opportunities to pass the certification examination in order to be certified. If the officer fails both attempts to pass the examination, the officer must complete the certification coursework before attempting to pass the examination again.

(g) Certification examination. If a new probation officer, hired on or after September 2, 1987, completes the certification coursework but fails the examination, the officer will be allowed to attempt to pass the examination one more time. If the officer fails the examination a second time, the officer will be required to complete the certification coursework again before being allowed to attempt to pass the examination a third time.

(h) Revocation or suspension of certification. If the commission proposes to revoke or suspend a probation officer's certification, the officer is entitled to a hearing before the action is taken. The commission may conduct the hearing or appoint a hearings officer to conduct the hearing and report the results to the commission. The hearing shall be conducted in accordance with Texas Code of Criminal Procedure, Article 42.121, §3.14. (The Adult Probation Commission Act) and Texas Civil Statutes, Article 6252-13a, (The Administrative Procedures and Texas Register Act).

(i) Re-certification. Once an officer has been certified the officer will be required to document attendance at and successful completion of 40 hours of TAPC approved skill-based training per fiscal year directly related to adult probation work to maintain the officer's status of current certification. If the officer fails to maintain certification, re-certification will be required by successful completion of the certification examination. If the officer fails the examination, the certification coursework and examination must be completed for re-certification.

(j) **Employment and certification.** The commission recognizes the right of local probation departments to determine their own minimum requirements for hiring as long as the individual hired meets the minimum statutory requirements.

(k) **Residential services training.** The adult probation department shall require that departmentally operated Community Corrections Facilities (CCF) personnel participate in residential services training offered by the TAPC. Probation departments contracting with private contractors for CCF services shall ensure that services offered by the private contractors include a case management system equivalent to the residential training modules offered by TAPC training division.

(l) **Residential officer, certification.** A residential probation officer, hired on or after September 2, 1989, shall satisfactorily complete the certification coursework and examination for residential officers offered by the TAPC not later than the first anniversary of the date on which the officer begins employment with the department. Provisions of Subsections f, q, h, and i, of this section, shall also apply to residential probation officers.

(m) **Professional membership.** Community supervision and corrections departments should encourage membership in the appropriate professional organizations and maintain a current library of professional journals and publications available to all personnel. Departments may secure one organizational membership in professional organizations for use by the probation staff. Departments are not permitted to secure individual memberships for employees.

(n) **Conference.** Community supervision and corrections departments should encourage continual professional development and the exchange of information and concepts. Departments should encourage as many of their personnel as practically possible to attend regional, state and national training and professional conferences. These opportunities should be made available to all professional staff on a rotating basis.

§321.3. Supervision.

(a) **Pre-sentence investigation reports (PSIR).** The probation officer, at the direction of the court, should prepare a PSIR on offenders prior to disposition. The PSIR should provide the court with the following: [Probation departments should, at the direction of the court, prepare a PSIR on felony cases prior to disposition. The purposes of the PSIR are to provide the court with accurate, objective, and relevant information that will assist the court in determining the appropriate disposition and

assist all correctional personnel with effective supervision of the offender. The PSIR should include the name of the officer preparing the report and should endeavor to provide verification of objective and subjective information. The PSIR should indicate the information that is not verified.]

(i) **accurate, objective, and relevant information concerning the circumstances of the offense, offender's criminal and social histories, victim impact statement, and supervision plan;** [Presentence investigation report funds. Probation departments that receive PSIR funds from the Texas Adult Probation Commission (TAPC) should use the TAPC approved coversheet and format.]

(2) **a psychological evaluation on felony offenders, when a suggestion of mental retardation, mental illness, or developmental disability exists. The evaluation will include, at minimum, the offender's IQ and adaptive behavior score.** [PSIR audits. The probation department should make copies of the PSIR available to the TAPC as requested for the purpose of audits of compliance with TAPC standards. The TAPC will require periodic reports giving information on PSIR's conducted.]

(b) **Confidentiality of presentence investigation reports.** Department policy should clearly state the circumstances under which PSIR or case records, including criminal history information, may be released. Medical and psychiatric records obtained by court order shall be kept separate from the offender's probation file and may be released only by order of the court.

(c)[(b)] **Sentencing.** Sentencing evaluations, when requested, should be based upon the circumstances of the particular offense, the needs of the community, social history and prior criminal conduct of the individual offender and all available resources.

(d)[(c)] **Initial interview.** An initial supervisory interview with the probationer should be conducted immediately following the court placing the defendant on probation. This interview with the probationer should include a thorough discussion of the conditions of probation, assuring that the probationer clearly understands his responsibilities. The probation officer should determine that the probationer has received a copy of the conditions of probation ordered by the court as provided by law.

(e)[(d)] **Case records.** Community supervision and corrections departments [probation departments] should develop written administrative policies and procedures regarding case record management, assuring that each case record should contain a chronological recording of all significant actions, decisions, services rendered, and periodic evaluations. The case record of each person placed on probation after De-

ember 31, 1986, should contain a written criminal history record or summary issued by a law enforcement agency. If the probationer has no previous record or if the record has not been received, the case record should contain a copy of the request showing the agency from which it was requested and the date of the request.

[(e) **Confidentiality.** Presentence investigation reports and case records, including criminal history, should remain confidential and departmental policy should clearly state the circumstances under which information may be released.]

(f) **Violations.** Community supervision and corrections departments [probation departments] should develop standards setting forth the conditions upon which violations may be handled administratively. Standards should clearly state the conditions under which violation reports are to be submitted to the court.

(g) **Incarceration reports.** (Texas Code of Criminal Procedure, Article 42.12, §4). Available presentence investigation reports together with a summary of rehabilitative efforts that appear successful and those that failed, projected efforts that were deemed appropriate but not reached, rehabilitative efforts interrupted by incarceration, and suggestions that might be helpful to a parole officer as supervisor, should be sent to the receiving institution on every offender incarcerated.

[(h) **Courtesy supervision.** Departments providing direct supervision to probationers transferred from other jurisdictions should extend the same level of services afforded persons placed under supervision within the local jurisdiction. Separate caseloads for courtesy supervision to probationers is not prohibited, however the size of these caseloads should not differ substantially from caseloads of local probationers.]

(h)[(i)] **Probation transfer.** (Texas Code of Criminal Procedure, Article 42.12, §5 and §9). Probation departments should notify other jurisdictions when probationers will be working or residing in that jurisdiction temporarily. If the probationer will be in another jurisdiction more than 30 days, courtesy supervision should be requested.

(i)[(j)] **Courtesy supervision.** Departments providing direct supervision to probationers transferred from other jurisdictions within Texas should monitor payments of court ordered fees, costs, and restitution, and cooperate with the department of original jurisdiction in enforcing all conditions of probation.

(j)[(k)] **Intrastate transfer.** Probation department should utilize uniform transfer procedures approved by the TAPC.

(k)[(l)] **Extradition.** Probation officers should not transport prisoners.

§321A. Caseloads.

(a) **Case.** A case is defined as an adult assigned to a probation officer for supervision. Included are felony and misdemeanor probationers.

(b) **Supervision.** The supervision levels represent part of the continuum of sanctions in a community based corrections system. Its implementation will afford departments sufficient time to effectively and economically plan and manage resources. Usage of the supervision levels as a case management strategy will allow probation officers to assist offenders in developing law-abiding behavior, complying with conditions of probation, making restitution, and provide for the public safety. [Supervision is a relationship that exists between a probation officer and an adult as ordered by the court.]

(c) **Direct supervision.** The direct supervision classification applies to those individuals receiving probation officer contact, a minimum of one face-to-face every three months and who work and/or reside in the jurisdiction. Quality direct supervision occurs when a probation officer performs the following: [Case classification. Case Classification is defined as a system of evaluating the degree of supervision needed by each individual based on needs and/or risk. As ordered by the court, the probation department, subsequent to evaluation of each case, should classify each case taking into consideration the needs of the individual and the protection of the community.]

(1) determines a level of supervision based on an offender's risks and needs; [Direct supervision is defined as supervision which includes regular personal contact between the probation officer and the probationer who resides and/or works in the jurisdiction.

(A) **Maximum.** Cases in need of a high level of supervision who report in person to the probation officer once each month (more often if required by the court) and are seen by the probation officer not less than once each month outside the probation office and more often if circumstances of the case indicate.

(B) **Medium.** Cases in need of average supervision who report in person to the probation officer each month and are contacted by the probation officer outside the probation office not less than once each three months.

(C) **Minimum.** Cases which have demonstrated responsible behavior and report to the probation officer in person not less than once each three months and submit written reports by mail monthly.]

(2) develops and/or re-

evaluates a written individualized supervision plan. The plan should address the factors which led to the offender's criminal behavior and incorporate the learning of new law-abiding behavior; [Indirect supervision is defined as the maintenance of a file and/or record of an adult under supervision who is not being seen personally by the probation officer: on a regularly scheduled basis. Included are the following:

(A) probationers who neither reside nor work within the jurisdiction of the judicial district probation department and receive supervision in other jurisdictions;

(B) probationers who neither reside nor work within the jurisdiction but continue to submit written reports on a monthly basis because they are ineligible or unacceptable for supervision in another jurisdiction;

(C) probationers who have absconded or with whom there has been no contact with the probation officer in person within three months; and,

(D) probationers who reside and/or work in the jurisdiction, but who with the permission of the court, do not meet the criteria for direct supervision.]

(3) documents the offender's status, in the case file, regarding compliance with the conditions of probation, progress with supervision plan, and response to intervention;

(4) makes contact with the offender, family, community, or other persons pursuant to an assessed classification level and consistent with a supervision plan; and

(5) requests specialized assessments for offenders when alcohol or drug abuse contributed to the offense. Also, pursues specialized evaluations when they would significantly assist in the development of appropriate supervision plans for special need offenders.

(d) **Workload distribution.** Department administrators should distribute cases in such a manner as to promote public protection through offender supervision and the attainment of a 100 point workload. Departments will utilize the Community Justice Assistance Division's (CJAD) case classification system to determine a level of supervision. Caseloads with a mixture of levels should average 100 points. Departments will use the following weights in computing workloads:

(1) Level I-4;

(2) Level II-2.5;

(3) Level III-1.33;

(4) Level IV-1; and

(5) Level V-Value determined as appropriate for the jurisdiction's probation population. [Caseload. A caseload average within a department should be calculated by dividing the number of cases under direct supervision by the number of officers within the department devoting 80% or more of their time to direct case supervision. The average caseload of a probation officer in a department should not exceed 100 cases. If the department structures caseloads on a workload formula approved by the Texas Adult Probation Commission (TAPC), the average department caseload size may be waived if the workload of a probation officer permits sufficient time for proper evaluation and supervision.]

(e) **Workload limits.** Probation administrators should not assign additional workloads to probation officers carrying 100 points. Additional workloads would include but not be limited to presentence investigations, community resource development, misdemeanor, and indirect supervision cases. If the department assigns additional workload to an officer carrying 100 points, the probation administrator should document in the administrative manual the appropriateness of such assignments and the outcome of this additional workload on quality supervision and revocations. [Case classification system. Probation departments should implement the TAPC Uniform Case Classification and Case Management System for all felony cases admitted to probation supervision. This system should be implemented no later than August 31, 1985.]

(f) **Misdemeanor supervision.** Departments will use CJAD's case classification to determine a level of supervision for misdemeanor offenders. An exclusively misdemeanor caseload may exceed the 100 point workload. Departments should, however, strive to provide misdemeanor offenders the same level of supervision extended felony probationers. [Case supervision plan. Based on probationer needs and risk factors, the probation officer should write an individualized case supervision plan designed to address problem areas needing resolution and the appropriate methods of achieving responsible behavior of the probationer while under supervision.]

(g) **Tier supervision levels.** All probation officer contact should occur pursuant to an assessment of risk and needs and because such contact supports the offender supervision plan. Departments will make a good faith effort to implement these supervision levels. The tier levels represent strategies for minimum supervision requirements. Each department should establish its supervision contact and casework standards at a

higher level, appropriate for its jurisdiction. [Re-evaluation of supervision plan. Supervision plans should be re-evaluated periodically, necessary modification of the supervision plan and level of supervision should be indicated in writing in the case file.]

(h) Levels of supervision.

(1) Level I. This level of classification extends the most restrictive non-residential supervision to those offenders who match the jurisdiction's profile of individuals historically sentenced to prison, or high risk/need offenders, and/or individuals who regressed from a less restrictive level of supervision. An offender may enter this level of supervision with or without a specific court order.

(2) Level II. Those offenders who match the jurisdiction's profile of individuals historically sentenced to prison, or high risk/need offenders, or individuals who regressed from a less restrictive level of supervision, and/or those who progressed from a more restrictive level of community control. An offender may enter this level of supervision with or without a specific court order.

(3) Level III. Offenders in high need of supervision, or individuals who regressed from a less restrictive level of supervision, or those who progressed from a more restrictive level of community control. An offender may enter this level of supervision with or without a specific court order.

(4) Level IV. Offenders in need of moderate supervision, or individuals who regressed from a less restrictive level of supervision, or those who progressed from a more restrictive level of community control. An offender may enter this level of supervision with or without a specific court order.

(5) Level V. Offenders who demonstrated responsible behavior or those who progressed from a more restrictive level of community control. An offender may enter this level of supervision with or without a specific court order.

(i) Contact definitions.

(1) Face-to-face. A probation officer visits and communicates in person with the offender.

(2) Collateral field visit. A probation officer visits outside the office with a family member, community resource, or other relevant individuals pursuant to a supervision plan.

(3) Collateral. A probation officer telephones or visits, in the office, any person providing information on the offender.

(4) Telephone personal. A probation officer makes a telephone contact with the offender.

(5) Field visit. A probation officer visits the offender at place of residence or at a location outside the office.

(j) Case classification. Case classification is defined as a system of evaluating the degree of supervision needed by each individual based on needs and/or risk. As ordered by the court, the community supervision and corrections departments, subsequent to evaluation of each case, should classify each case, taking into consideration the needs of the individual and the protection of the community.

(k) Indirect supervision is defined as the maintenance of a file and/or record of an adult under supervision who is not being seen personally by the probation officer on a regularly scheduled basis. Included are the following:

(1) probationers who neither reside nor work within the jurisdiction of the judicial district probation department and receive supervision in other jurisdictions;

(2) probationers who neither reside nor work within the jurisdiction but continue to submit written reports on a monthly basis because they are ineligible or unacceptable for supervision in other jurisdictions;

(3) probationers who have absconded or with whom there has been no contact with the probation officer in person within three months; and

(4) probationers who reside and/or work in the jurisdiction, but who with the permission of the court, do not meet the criteria for direct supervision.

(l) Case classification system. Community supervision and corrections departments should implement the TAPC Uniform Case Classification and Case Management System for all felony cases admitted to probation supervision. This system should be implemented no later than August 31, 1985.

(m) Case supervision plan. Based on probationer needs and risk factors, the probation officer should write an individualized case supervision plan designed to address problem areas needing resolution and the appropriate methods of achieving responsible behavior of the probationer while under supervision.

(n) Re-evaluation of supervision plan. Supervision plans should be re-evaluated periodically, necessary modification of the supervision plan and level of supervision should be indicated in writing in the case file.

§321.5. Programs.

(a) Case work orientation. Emphasis should be placed on the responsibilities of a probation officer to be a case work

manager, utilizing all the available resources within the community.

(b) Community resources. Community supervision and corrections departments [probation departments] should establish a close liaison with all city, county, state, and federal agencies in order to utilize all available resources in the criminal justice and social services field.

(c) Referral procedures. Referral procedures should be clearly defined and whenever possible, contracts which specify the responsibilities of both the providing and receiving agencies should be negotiated with cooperating agencies.

(d) Information for probationer. Community supervision and corrections departments [probation departments] should develop in written form information describing purposes functions and services to be made available to each probationer and to the public.

(e) Services for probationers. All programs should be designed for the benefit of the probationer and every effort should be made to make these programs available and applicable to the needs of the probationer. Participation by the probationer may be ordered as a condition of probation; however efforts should be made to present the services at a time, place and in a manner which assists successful adjustment.

(f) Cooperative efforts. The community supervision and corrections departments [probation departments] contracting together should provide programs to meet the needs of probationers not available from other sources including, but not limited to, employment placement, academic and vocational education, physical and mental health treatment, and counseling.

(g) Local regional planning. Community supervision and corrections departments [probation departments] should participate in local and regional planning and cooperate in the providing of information and data to official agencies and universities doing research.

(h) Program planning. Program planning in community supervision and corrections departments [probation departments] should take into account information regarding broad cultural, social and political change, relationships between community supervision and corrections departments [probation departments], government and private agencies, and the community at the county, state and federal level. Planning should carefully consider changes in cultural and socio-economic conditions.

(i) Community involvement. Community supervision and corrections departments [probation departments] should encourage community education and involvement in the correctional process. Probation departments should seek opportuni-

ties to provide speakers to professional, civic, labor and other public groups.

(j) **Volunteers.** Community supervision and corrections departments [probation departments] should establish volunteer programs and provide orientation and training for citizen volunteers.

(k) **Victims.** Community supervision and corrections departments [probation departments] should recognize the rights of the victims of crime and make every effort to collect restitution in all cases applicable.

(l) **Community service restitution.** Community supervision and departments [probation departments] should make every effort to contract with governmental and/or non-profit agencies and organizations to assist probationers in complying with court-ordered community service restitution.

(m) **Literacy programs.** Departments shall establish policies to cooperate with schools and volunteer organizations to provide tutoring to teach reading to functionally illiterate probationers.

(n) **Educational skill level.** All persons placed on probation should be screened to determine if they:

(1) possess educational skills equal to or greater than the sixth grade level; and

(2) possess the intellectual capacity or learning ability to achieve sixth grade level. Programs which assist persons in attaining educational skill level of sixth grade and above should be developed and/or made available to the courts for probationer referral.

§321.6. Facilities.

(a) (No change.)

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

[(4) **Correctional facilities.** (Texas Code of Criminal Procedure, Article 42.12, §10(g)). Each probation department should promote the establishment of community-based correctional facilities other than jails and prisons.]

(b)-(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 October 6, 1989.

TRD-8909470

Todd Jermstad
General Counsel
Texas Adult Probation
Commission

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 834-8188

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 50. Day Activity and Health Services

Eligibility Requirements

• 40 TAC §50.1902

The Texas Department of Human Services (DHS) proposes an amendment to §50.1902, concerning eligibility requirements, in its Day Activity and Health Services chapter. The purpose of the amendment is to clarify the language of the section.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of some paperwork to facilitate the provision of services to day activity and health services clients. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-804, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§50.1902. Enrollment.

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

(c) Intake initiated by the facility.

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

[(c) **Notification of approval.** The department returns the appropriate forms to the facility to notify the facility to initiate services. The facility staff must respond to the referral within 14 calendar days. If the facility is operating at capacity and cannot provide service to a recipient, the facility staff notifies the department and returns all the forms to the department.]

(d)[(e)] **Effective date of placement.** The facility staff may bill for services provided to an eligible recipient beginning on the date the physician orders the service. Services provided before the date of the physician's orders are not reimbursable. Payment is made only if the applicant is financially eligible, meets the medical criteria

as determined by the department, and has physician's orders. The facility staff must send accurately completed forms to the department, postmarked within 15 days from the date of admission. If accurate forms are not postmarked within the 15-day time frame, the beginning date of coverage is the date the department receives the accurately completed forms. The 15-day time frame applies to both worker-initiated intake and facility-initiated intake. The department returns a copy of the appropriate forms to the facility to notify the facility to initiate services. If the physician forgets to enter the date of his signature on the physician's orders, the provider agency must do one of the following:

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

(e)[(f)] **Recipient appeals.** To appeal adverse decisions the recipient follows requirements in §48.3903 of this title (relating to Denial, Reduction, or Termination of Services).

(f)[(g)] **Reassessment.** The facility staff must submit documentation of medical eligibility on the physician's orders and level-of-care assessment forms in time to allow the department to reassess medical need and the appropriateness of the service plan before the end of the prior approval period. A delay may result in a gap in coverage.

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

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

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

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

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

TRD-8909480

Ron Lindsey
Commissioner
Texas Department of
Human Services

Proposed date of adoption: December 25, 1989.

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

**Part III. Texas
Commission on Alcohol
and Drug Abuse**

Chapter 151. Licensure

Licensure Procedures

• 40 TAC §§151.31, 151.33, 151.34

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse 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 Commission on Alcohol and Drug Abuse proposes amendments to §§151.31, 151.33, 151.34, concerning licensure standards. The sections clarify changes in procedures regarding licensure periods or time frames and licensure fees as a result of recent legislation which revised Article 5561cc, the commission's licensure statute. Identical emergency action has been simultaneously filed.

Larry Goodman, deputy director of operations, has determined that for the first five-

year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Goodman also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that all chemical dependency treatment programs in the state will meet certain life, health, and safety standards to ensure quality care and to safeguard the health and welfare of clients. There will be no effect on small businesses as a result of enforcing the sections. The possible economic cost to persons or small businesses who are required to comply with the sections proposed will be \$2,000 maximum licensure fee per facility in each two-year period in 1989-1993.

Comments on the proposal may be submitted to Denise Mosel, Operations Secretary, Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe, Austin, Texas 78701-1214.

The amendments are proposed under the Health and Safety Code, Title 6, Subtitle B, Chapter 464, §7, which provides the Texas

Commission on Alcohol and Drug Abuse with the authority to establish a procedure by which the commission is to license chemical dependency treatment facilities. The commission prescribes the following rules and procedures by which a person who operates a chemical dependency treatment facility that treats chemically dependent persons must obtain a license issued under this Act.

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

Issued in Austin, Texas on October 6, 1989.

TRD-8909421

Bob Dickson
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: November 13, 1989

For further information, please call: (512) 463-5510



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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 229. Food and Drug

Synthetic Narcotic Drugs in the Treatment of Drug Dependent Persons

• 25 TAC §§229.141-229.149

The Texas Department of Health has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the June 9, 1989 issue of the *Texas Register* (14 TexReg 2755). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909355

Robert A. McLean, M.D.
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: October 4, 1989

For further information, please call: (512) 458-7202

Minimum Standards for Synthetic Narcotic Drug Treatment Programs

• 25 TAC §§229.291-229.297

The Texas Department of Health has withdrawn from consideration for permanent adoption a proposed new §§229.291-229.297 which appeared in the June 9, 1989 issue of the *Texas Register* (14 TexReg 2755). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909356

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

Effective date: October 4, 1989.

For further information please call: (512) 458-7202

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part IX. Texas Commission on Jail Standards

Chapter 275. Supervision of Inmates

• 37 TAC §275.4

The Texas Commission on Jail Standards has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the August 29, 1989 issue of the *Texas Register* (14 TexReg 4408). The effective date of this withdrawal is October 5, 1989.

Issued in Austin, Texas, on October 5, 1989

TRD-8909416

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Effective date: October 5, 1989

For further information, please call: (512) 463-5505

TITLE 40. SOCIAL SERVICE AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 27. Intermediate Care Facilities for the Mentally Retarded (ICFs-MR)

Subchapter B. Criteria for ICF-MR Care

• 40 TAC §§27.101-27.108

(Editor's note: The Department of Human Services is adopting part of this chapter in the adoption section of this issue.)

The Department of Human Services has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the August 8, 1989 issue of the *Texas Register* (14 TexReg 38379). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909303

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

For further information, please call:

(512) 450-3765

Subchapter C. Eligibility for Participation in an Intermediate Care Facility

• 40 TAC §27.203

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the August 8, 1989 issue of the *Texas Register* (14 TexReg 3886). The effective date of this withdrawal is October 4, 1989.

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TRD-8909304

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter S. Utilization Review

• 40 TAC §§27.1801-27.1805

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the August 8, 1989 issue of the *Texas Register* (14 TexReg 3926). The effective date of this withdrawal is October 4, 1989.

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TRD-8909305

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter X. Housekeeping and Maintenance Services

• 40 TAC §§27.2301-27.2303

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.2301-27.2303 which appeared in the August 8, 1989 issue of the *Texas Register* (14 TexReg 3926). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8908906

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter Y. Physical
Environment**

◆ ◆ ◆
• 40 TAC §§27.2403, 27.2405

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.2403, 27.2405 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3927). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8908307

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter Z. Change in
Status of Intermediate Care
MR Sections**

◆ ◆ ◆
• 40 TAC §§27.2501-27.2507

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.2501-27.2507 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3927). The effective date of this withdrawal is October 4, 1989.

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TRD-8908308

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter AA. Standards for
Compliance of Intermediate
Care MR Facilities with
Title VI of the Civil Rights
Act of 1964**

◆ ◆ ◆
• 40 TAC §§27.2601-27.2604

The Texas Department of Human Services has withdrawn from consideration for perma-

nent adoption a proposed §§27.2601-27.2604 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3927). The effective date of this withdrawal is October 4, 1989.

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TRD-8908908

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter BB. Facilities with
More than 15 Beds**

◆ ◆ ◆
• 40 TAC §§27.2701-27.2704

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.2701-27.2704 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3927). The effective date of this withdrawal is October 4, 1989.

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TRD-8908310

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter CC. Special
Criteria for Facilities with
15 Beds or Fewer**

◆ ◆ ◆
• 40 TAC §27.2801

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §27.2801 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3927). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8908311

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter DD. Administrative
Policies and Procedures**

◆ ◆ ◆
• 40 TAC §§27.2901-27.2904,
27.2906-27.2917

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.2901-27.2904, 27.2906-27.2917 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3928). The effective date of this withdrawal is October 4, 1989.

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TRD-8908312

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter EE. Admission and
Release**

◆ ◆ ◆
• 40 TAC §§27.3001-27.3011

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3001-27.3011 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3928). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8908313

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter FF. Personnel
Policies**

◆ ◆ ◆
• 40 TAC §§27.3101-27.3106

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3101-27.3106 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3928). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8908314

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter GG. Resident
Living**

◆ ◆ ◆
• 40 TAC §§27.3201-27.3221

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3201-27.3221 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3928). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909315 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter HH. Professional and Special Program and Services

• 40 TAC §§27.3301-27.3303

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3301-27.3303 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3929). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909316 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter II. Dental Services

• 40 TAC §§27.3401-27.3406

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3401-27.3406 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3929). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909317 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter JJ. Training and Habilitation Services

• 40 TAC §§27.3501, 27.3502

The Texas Department of Human Services

has withdrawn from consideration for permanent adoption a proposed §§27.3501, 27.3502 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3929). The effective date of this withdrawal is October 4, 1989.

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TRD-8909318 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter KK. Food and Nutrition Services

• 40 TAC §§27.3601-27.3609

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3601-27.3609 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3929). The effective date of this withdrawal is October 4, 1989.

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TRD-8909319 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter LL. Medical Services

• 40 TAC §§27.3701-27.3704

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3701-27.3704 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3930). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909320 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter MM. Nursing Services

• 40 TAC §§27.3801-27.3804

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3801-27.3804 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3930). The effective date of this withdrawal is October 8, 1989.

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TRD-8909321 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter NN. Pharmacy Services

• 40 TAC §§27.3901-27.3904

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.3901-27.3904 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3930). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909322 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter OO. Physical and Occupational Therapy Services

• 40 TAC §§27.4001-27.4003

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4001-27.4003 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3930). The effective date of this withdrawal is October 4, 1989.

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TRD-8909323 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

Subchapter PP. Psychological Services

• 40 TAC §§27.4101, 27.4102

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4101, 27.4102 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3931). The effective date of this withdrawal is October 4, 1989.

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TRD-8909324

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter QQ. Recreational
Services**

◆ ◆ ◆
• 40 TAC §§27.4201-27.4203

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4201-27.4203 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3931). The effective date of this withdrawal is October 4, 1989.

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TRD-8909325

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

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

◆ ◆ ◆
Subchapter RR. Social Services

◆ ◆ ◆
• 40 TAC §§27.4301, 27.4302

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4301, 27.4302 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3931). The effective date of this withdrawal is October 4, 1989.

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TRD-8909326

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

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

◆ ◆ ◆
**Subchapter SS. Speech
Pathology and Audiology
Services**

◆ ◆ ◆
• 40 TAC §§27.4401-27.4403

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4401-27.4403 which appeared in the August 8, 1989, issue

of the *Texas Register* (14 TexReg 3931). The effective date of this withdrawal is October 4, 1989.

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TRD-8909327

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

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

◆ ◆ ◆
Subchapter TT. Records

◆ ◆ ◆
• 40 TAC §§27.4501-27.4506

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4501-27.4506 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3931). The effective date of this withdrawal is October 4, 1989.

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TRD-8909328

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter UU. Safety and
Sanitation**

◆ ◆ ◆
• 40 TAC §§27.4601-27.4603

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4601-27.4603 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3932). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909329

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter VV. Administrative
Services**

◆ ◆ ◆
• 40 TAC §§27.4701-27.4704

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4701-27.4704 which appeared in the August 8, 1989, issue

of the *Texas Register* (14 TexReg 3932). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909330

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter WW. Residents'
Personal Funds and Property**

◆ ◆ ◆
• 40 TAC §§27.4801, 27.4803,
27.4804

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §§27.4801, 27.4803, 27.4804 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3932). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909331

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

◆ ◆ ◆
**Subchapter UUUU. Support
Documents**

◆ ◆ ◆
• 40 TAC §27.9801

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed §27.9801 which appeared in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3932). The effective date of this withdrawal is October 4, 1989.

Issued in Austin, Texas, on October 4, 1989

TRD-8909332

Cathy Rosenberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: October 4, 1989

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

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 III. Texas Board of Chiropractic Examiners

Chapter 77. Advertising and Public Communication

• 22 TAC §77.2

The Texas Board of Chiropractic Examiners adopts an amendment to §77.2, without changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3783).

The amendment will broaden the scope of advertising for doctors of chiropractic and thereby broaden the public's choice of doctors advertising.

The doctors will be allowed to advertise their qualifications and their areas of expertise to the general public.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512b, and Senate Bill 109, Acts of the 67th Legislature, 1981, §5, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

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 5, 1989.

TRD-8908436

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: October 27, 1989

Proposal publication date: August 4, 1989

For further information, please call: (512) 343-1895

• 22 TAC §77.5

The Texas Board of Chiropractic Examiners adopts new §77.5, with changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3784).

The new section requires the doctor to advise the patient what they are being charged after each visit, in writing.

The patient will be shown what the charges for the daily visit are and any disputes con-

cerning charges can be discussed at that time. This should reduce the number of complaints received by this agency concerning fee disputes, which are not within the board's jurisdiction.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512b, and Senate Bill 109, Acts of the 67th Legislature, 1981, §5, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

§77.5. Miscellaneous. A licensee shall, on the date of providing goods or services to a patient, disclose to the patient in writing the full amount of the licensee's charges. Compliance with this rule may be in any written form reasonably calculated to notify the patient of the actual charges for the goods or services provided.

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 5, 1989.

TRD-8908436

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: October 27, 1989

Proposal publication date: August 4, 1989

For further information, please call: (512) 343-1895

Chapter 78. Chiropractic Radiologic Technologist

• 22 TAC §78.1

The Texas Board of Chiropractic Examiners adopts an amendment to §78.1, with changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3784).

The amendment will stipulate that procedures that have the potential to be more dangerous and hazardous should only be performed by a practitioner or a certified medical radiologic technologist.

The effect the adoption of this section will have is that only qualified individuals will be performing the more dangerous and hazardous procedures.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes Article 4512b, and Senate Bill 109, Acts of the 67th Legislature, 1981, §5, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

§78.1. Registration of Chiropractic Radiologic Technologist.

(a) Any person performing radiologic procedures under the supervision of a chiropractor must register with the Texas Board of Chiropractic Examiners. The section does not apply to registered nurses or to persons certified under the Medical Radiologic Technologists Certification Act.

(b) The fee for registration required under this section shall be \$25, annually, payable to the Texas Board of Chiropractic Examiners by cashier's check or money order upon submission of the registration application.

(c) Registration may be suspended, revoked, not renewed, or denied for the following reasons:

(1) violation of the rules of the Texas Board of Chiropractic Examiners;

(2) violation of the Medical Radiologic Technologists Certification Act;

(3) violation of the rules of the Texas Department of Health;

(4) violation of the Chiropractic Act of Texas;

(5) violation of the rules of the registrant's licensing agency; and

(6) nonpayment of registration fees.

(d) A registrant may perform only plain film procedures of the chest, spine, extremities, abdomen, and skull, unless otherwise licensed, authorized by the Texas Department of Health, or performing the procedures under standing delegation orders issued by a licensed chiropractor.

(e) All registrants must comply with the rules of the Texas Department of Health for the Control of Radiation.

(f) All registrants who perform radiologic procedures must meet the minimum training and supervision standard promulgated by the Texas Department of Health, 25 TAC, §§143.1-143.14, unless they perform said procedures under the supervision issued by a licensed chiropractor.

(g) Procedures that include cineradiography are limited to use by a doctor who has passed a course in its use, approved by the Texas Board of Chiropractic Examiners.

(h) Any non-static procedure has the potential to be more dangerous and hazardous and by definition, may only be performed by a practitioner or a certified Medical Radiologic Technologist.

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 October 4, 1989.

TRD-8909437

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: October 27, 1989

Proposal publication date: August 4, 1989

For further information, please call: (512) 343-1865

◆ ◆ ◆
**Part XV. Texas State
Board of Pharmacy
Chapter 291. Pharmacies
Community Pharmacy (Class
A)**

◆ ◆ ◆
• 22 TAC §291.32, §291.36

The Texas State Board of Pharmacy adopts amendments to §291.32 and §291.36, without changes to the proposed text as published in the August 15, 1989, issue of the *Texas Register* (14 TexReg 4040).

The amended sections will allow implementation of the provisions of an agreed settlement of a lawsuit between the Texas State Board of Pharmacy and the Texas Pharmaceutical Association.

The amendments will establish minimum operational standards for Class A pharmacies including the standards that pharmacy's employees involved in the practice of pharmacy shall meet.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4542a-1, §§5, 17, 29, and 30, which provide the Texas State Board of Pharmacy with the authority to govern the practice of pharmacy and pharmacists and the standards that each pharmacy and its employees or personnel involved in the practice of pharmacy must meet to qualify for licensing or relicensing as a pharmacy.

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 October 6, 1989.

TRD-8909458

Fred S. Brinkley, Jr., R.Ph.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Effective date: October 27, 1989

Proposal publication date: August 15, 1989

For further information, please call: (512) 832-0661

◆ ◆ ◆
**Institutional Pharmacy (Class
C)**

◆ ◆ ◆
• 22 TAC §291.72, §291.74

The Texas State Board of Pharmacy adopts amendments to §291.72 and §291.74, without changes to the proposed text as published in the July 11, 1989, issue of the *Texas Register* (14 TexReg 3338).

The amendments will provide a mechanism whereby a limited supply of dangerous drugs may be supplied from a hospital emergency room to a patient when no pharmacy services are available to the patient.

The adoption of the amendments to existing rules will add the definitions of dangerous drug and controlled substance and clarify procedures for dispensing of drugs from the emergency room of a hospital.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4542a-1, §§5, 17, 29, and 30, which provide the Texas State Board of Pharmacy with the authority to govern the practice of pharmacy in a Class C institutional pharmacy and to establish the specifications for minimum standards for the storage, recordkeeping, dispensing, provision, and delivery of prescription drugs or devices within the practice of pharmacy.

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 October 6, 1989.

TRD-8909457

Fred S. Brinkley, Jr., R.Ph.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Effective date: October 27, 1989

Proposal publication date: July 11, 1989

For further information, please call: (512) 832-0661

◆ ◆ ◆
**TITLE 37. PUBLIC
SAFETY AND
CORRECTIONS**

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**Part I. Texas Department
of Public Safety**

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**Chapter 3. Traffic Law
Enforcement**

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Traffic Supervision

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• 37 TAC §3.59

The Texas Department of Public Safety adopts an amendment to §3.59, without changes to the proposed text as published in

the August 18, 1989, issue of the *Texas Register* (14 TexReg 4112).

The amendment is adopted to ensure compliance with legislative intent to promulgate regulations governing transportation of hazardous materials.

The section title is amended and applies to regulations governing transportation of hazardous materials. Language is deleted in subsection (a) and (b)(2)(A)-(F) regarding adoption of federal motor carrier safety regulations. Subsection (b)(3) is deleted and subparagraphs (A)-(E) are renumbered as paragraphs (2)-(6) of subsection (b). Paragraphs (7) and (8) are new language to subsection (b) regarding applicability of regulations as they apply to intrastate and interstate drivers and vehicles and allowing employers to enforce more stringent requirements as they relate to safety of operation and employee safety. Subsection (b)(4) is renumbered as (b)(9) due to deletion of other subparagraphs. The amendments to this section are necessary to comply with the requirements of Senate Bill 1204, 71st Legislature, 1989. Federal motor carrier safety regulations will be proposed in a new §3.62.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6701d, §139, which provide the director of the Department of Public Safety with the authority to adopt such regulations as may be deemed necessary for the safe transportation of hazardous materials.

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 October 2, 1989.

TRD-8909417

Joe E. Milner
Director
Texas Department of
Public Safety

Effective date: October 26, 1989

Proposal publication date: August 18, 1989

For further information, please call: (512) 465-2000

◆ ◆ ◆
Traffic Supervision

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• 37 TAC §3.62

The Texas Department of Public Safety (DPS) adopts new §3.62, with changes to the proposed text as published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3875).

The adoption of this section to be effective October 1, 1989, will coincide with the federal fiscal year and thereby allow the State of Texas to be eligible for funding under the Motor Carrier Safety Assistance Program. The section will increase commercial vehicle safety to the motoring public and ensure compliance with legislative intent for enforcement of motor carrier regulations. The Public Safety Commission adopted this section September 28, 1989, to be effective October 1, 1989, pursuant to the authority of Senate Bill 1204, 71st Session, Texas Legislature, 1989.

Senate Bill 1204, 71st Legislature, 1989, requires the Public Safety Commission to adopt such regulations as may be deemed necessary for the safe operation of motor carriers. This section adopts 49 Code of Federal Regulations, Parts 390-393 and 395-397 except as amended by Senate Bill 1204, 71st Legislature, 1989. The following subsections and paragraphs are adopted with changes: language is added and deleted in subsection (c)(3) for clarification and application to vehicles operated intrastate. Language is added to subsection (c)(4) regarding when operated intrastate. Language is added to subsection (c)(5) to clarify requirements if the vehicle is operated within a 150 air mile radius. Language is deleted in subsection (d)(1) regarding vehicles used to transport seed cotton modules or solid waste and vehicle manufacturing date is amended to September 1, 1991. Language is added and deleted in subsection (d)(2)(B) regarding automatic renewal of waivers relating to vision. Subsection (d)(9) is added as new language regarding markings on commercial vehicles operated in intrastate commerce. The proposed subsection (d)(9)-(11) is renumbered as subsection (d)(10)-(12). The proposed subsection (d)(12) is deleted regarding insurance coverage.

A public hearing was conducted as required by Senate Bill 1204. Prior to and after the hearing, written comments were received by the department. Testimony was taken from twenty-six commenters. Following listed in numerical order are those comments. 1. Objections to the number of hours a person is allowed to drive and/or work in a seven-day period. Those with comments stated that a cap on the number of hours a person is permitted to drive and work creates a hardship on industries which operate on a seasonal basis. Migrant workers would not travel around the state performing labor task unless they are assured of being able to work long hours. Further, the legislative intent was for a person to be able to drive 12 hours following eight consecutive hours off duty with no regard for the total number of hours a person could work and drive in a seven-day period. 2. Objections to the requirement in the proposed regulations for vehicle rear end protection. It was pointed out that many of the vehicles could not be fitted with rear end protection and continue to operate with highway construction equipment which was their primary function. 3. Request for the DPS to produce a plain English language manual. Complainants stated that the federal regulations were written in language that is confusing and request that a plain language guide book be prepared and distributed to the transportation industry. 4. Objection to the driver records and logging requirements. It was stated that the drafters of Senate Bill 1204 intended to relieve the burden of paperwork and logging requirement if the business records of the company reflect a record of the driver's workday. 5. Request for the DPS to conduct training prior to actual enforcement of the rules. These training sessions are to be sponsored solely by DPS without charge and conducted by DPS personnel who are responsible for enforcing the rules. 6. Objections to language in the rules regarding insurance requirements. It was pointed out that the Texas Railroad Commission administers a program of registration for those carriers under its jurisdiction. 7. The validity of the cost estimates for industry to comply with the

rules was questioned. It was believed that the cost per vehicle would be considerably higher than the \$200 estimated in the proposed rules. 8. Objections to the proposed exemption of medical requirements for certain drivers. It was stated that such an exemption would negate the spirit and intent of the law. 9. Objection to language which would not allow a water or oil well drilling machine mounted on a conventional vehicle from being exempt from the regulations. Testimony said that the language which stated machines mounted on conventional vehicles are not exempt from the rules should be stricken.

Groups and associations are listed against if they opposed to any portion of the section. Those for the section as proposed were: Texas Motor Transportation Association; Andrews Transport, Inc.; and A. L. Pass and Sons. Those opposed to the proposed section were: Texas Agriculture Quality Council; Texas Water Well Drilling Contractors; Southwestern Bell Telephone Company; Rexworks; Independent Ginners Association; Association of Oil Well Servicing Contractors; Texas LP-Gas Association; Enclean, Inc.; Wagner and Sons Paving Company; SST Transport; Central Transfer and Storage; Rod Ric Corporation; GTE Southwest; Licensed Beverage Distributors Inc.; Wholesale Beer Distributors; Fruehauf Trailers; Texas Telephone Association; Texas Cotton Ginners Association; Lease-A-Driver Corp.; Sand and Gravel Motor Carriers Association; and Texas Aggregate and Concrete Association. Comment number 1. The very heart of the accident problem in Texas is centered around driver error. A fatigued driver is an unsafe driver and therefore the number of hours that a person continues to drive and work has a direct relation to the alertness and ability of that driver to function properly. In the enforcement of safety regulations there must be a balance between the economic impact of the rules and hazards created by unsafe drivers. The department feels the 70-hour cap on hours that a driver may drive and/or work in a seven-day period is an appropriate standard. Comment number 2. The objections to the section requiring certain vehicles to be equipped with rear end protection which prohibited that vehicle from functioning has merit. Therefore, the DPS will amend that section to read, "49 Code of Federal Regulations, Part 393.86 requiring rear end protection shall not be applicable provided the vehicle was manufactured prior to September 1, 1991." This should give industry ample time to redesign their vehicles, the machinery they are required to be used with, or petition the federal government for a rule change. Comment number 3. The request for a plain English version of the federal regulations cannot be accomplished. To rewrite the regulations would open up a complete new set of interpretations. Presently, the interpretation issued by the United States Department of Transportation is the standard guideline used by enforcement and industry. In making a written explanation of each of the regulations, it is felt that an even more voluminous document would be created. The DPS does make available the guidelines followed by the troopers for placing a driver or equipment out-of-service. Comment number 4. Senate Bill 1204 states that a driver operating within a 150-mile radius is not required to keep a log book on the vehicle provided the company keeps the proper documentation. That docu-

mentation must meet the requirement of Senate Bill 1204. Comment number 5. The Department of Public Safety is committed to the concept of educating the public regarding any statute they are required to enforce. The DPS has and is conducting seminars both in conjunction with industry associations, other state agencies, and solely on their own regarding the regulations promulgated by Senate Bill 1204. Comment number 6. The objection to the language requiring insurance contained in the proposed were well taken. The DPS agrees with the testimony offered and has struck that particular section from its final rule. Comment number 7. The cost estimates for vehicles coming under the safety regulations were taken from an independent entity. Any time a state agency makes such an estimate, they must rely on experts in the field of research. In absence of evidence to the contrary the estimated costs were used. Comment number 8. The exemption from the medical requirements for certain individuals is contained in Senate Bill 1204 and is not subject to rulemaking by the Department of Public Safety. Comment number 9. After review of the statute the language disallowing an exemption for machinery mounted on conventional vehicles will be deleted from the final section.

The new section is adopted under Texas Civil Statutes, Article 6701d, §139, which provide the Public Safety Commission with the authority to adopt such regulations as may be deemed necessary for the safe operation of motor carriers.

§3.62. Regulations Governing Transportation Safety.

(a) The Public Safety Commission incorporates, by reference, the Federal Motor Carrier Safety Regulations, 49 Code of Federal Regulations, Parts 390-393 and 395-397, including amendments and interpretations thereto.

(b) Certain terms when used in the federal regulations as adopted in subsection (a) of this section will be defined as follows:

(1) the definition of motor carrier will be the same as that given in Texas Civil Statutes, Article 6701d, §2(o);

(2) the definition of hazardous material shipper will be the same as that given in Texas Civil Statutes, Article 6701d, §2(o);

(3) interstate or foreign commerce will include all movements by motor vehicle, both interstate and intrastate, over the streets and highways of this state;

(4) department means the Texas Department of Public Safety;

(5) regional highway administrator means the director of the Texas Department of Public Safety;

(6) farm vehicle means any vehicle or combination of vehicles controlled and/or operated by a farmer or rancher being used to transport agriculture products, farm machinery, and farm supplies to or

from a farm or ranch; and

(7) private carrier means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle" who or which transports by motor vehicle property of which person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(c) Exceptions to the adoption in subsection (a) of this section were made by Texas Civil Statutes, Article 6701d, §139, and are adopted as follows.

(1) The regulations shall be applicable to vehicles with an actual gross weight, a registered gross weight, or a gross weight rating in excess of 26,000 pounds, except that the regulations will be applicable to farm vehicles with an actual gross weight, a registered gross weight, or vehicles with a gross weight rating of 48,000 pounds or more. Vehicles transporting 15 or more passengers and all vehicles transporting hazardous material requiring a placard are subject to the regulations.

(2) Drivers in intrastate commerce will be permitted to drive 12 hours following eight consecutive hours off duty.

(3) Such regulations shall not apply to vehicles operated intrastate used in oil or water well servicing or drilling which is constructed as a machine consisting in general of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose or purposes.

(4) Such regulations shall not apply to a mobile crane which is an unladen, self-propelled vehicle constructed as a machine used to raise, shift, or lower weights when operated intrastate.

(5) The maintenance of any type of government form, separate company form, driver's record of duty status, or a driver's daily log is not required if the vehicle is operated within a 150 air mile radius of the normal work reporting location:

(A) if owner has another method by which he keeps, as a business record, date and time of delivery of product or service, and location or delivery of product or service so that a general record of the driver's hours of service may be compiled; or

(B) if another law requires or specifies the maintenance of delivery tickets, sales invoices, or other documents which show the date of delivery and quantity of merchandise delivered, so that a general record of the driver's hours of service may be compiled; and

(C) provided that the busi-

ness records generally conform with the following:

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding seven days in accordance with 49 Code of Federal Regulations, Part 395.8 of the Federal Motor Carrier Safety Regulations for drivers used for the first time or intermittently.

(6) Drivers who are not transporting hazardous materials and were regularly employed in Texas as an intrastate motor carrier prior to the effective date of this adoption are not required to meet the medical standards contained in the federal regulations.

(A) For the purpose of enforcement of this regulation, those drivers who reached their 18th birthday after September 1, 1989, shall be required to meet all medical standards.

(B) The exceptions contained in paragraph (6) of this subsection shall not be deemed as exemption from drug testing requirements contained in Part 391.

(d) Exceptions adopted by the Public Safety Commission not specified in Texas Civil Statutes, Article 6701d, §139, are as follows.

(1) 49 Code of Federal Regulations, Part 393.86 requiring rear end protection shall not be applicable provided the vehicle was manufactured prior to September 1, 1991.

(2) Under this section, the Texas Department of Public Safety may provide a waiver for a person who is otherwise disqualified under 49 Code of Federal Regulations, Part 391.41(b)(10), provided the person meets the vision standard adopted by the Texas Department of Public Safety in §15.51 of this title (relating to Vision Tests).

(A) Applications for a waiver shall not be accepted by the Texas Department of Public Safety after January 1, 1990.

(B) Waivers granted under paragraph (2) of this subsection are automatically renewed, provided the applicant continues to meet vision standards adopted by the Texas Department of Public Safety in §15.51 of this title (relating to Vision Tests).

(3) Drivers of vehicles under

this section operating in intrastate transportation shall not be permitted to drive after having worked and/or driven for 70 hours in any consecutive seven-day period.

(4) 49 Code of Federal Regulations, Part 391.11b(1) is not adopted for intrastate drivers. The minimum age for an intrastate driver shall be 18 years of age.

(5) 49 Code of Federal Regulations, Part 391.11b(2) is not adopted for intrastate drivers. An intrastate driver must have successfully passed the examination for a Texas driver's license and be a minimum age of 18 years old.

(6) 49 Code of Federal Regulations, Part 391.51 pertaining to driver qualification files will become effective January 1, 1990.

(7) The parts of 391, 49 Code of Federal Regulations, as they pertain to drug testing requirements will become effective December 21, 1990 for intrastate drivers.

(8) Texas Civil Statutes, Article 6701d, §132(b) and (c), concerning brakes on trailers weighing 15,000 pounds gross weight or less, take precedence over the brake requirements in the federal regulations for trailers of this gross weight specification.

(9) Texas Civil Statutes, Article 6701b-1, concerning identifying markings on commercial motor vehicles shall take precedence over 49 Code of Federal Regulations, Part 390.21 for vehicles operated in intrastate commerce.

(10) Peace officers of any Texas city having a population of 300,000 or more are considered to be certified by the Texas Department of Public Safety and eligible to enforce the Federal Motor Carrier Safety Regulations, provided each officer enforcing the Federal Motor Carrier Safety Regulations must have completed a course of training of which the curriculum and instructors have been approved by the director of the Texas Department of Public Safety. Peace officers requesting certification as required in this paragraph shall submit to the Texas Department of Public Safety a schedule of the courses which have been completed, including identification of the instructor(s). Peace officers certified by the director of the Texas Department of Public Safety shall have the authority to enforce the regulations herein adopted applicable to intrastate drivers and vehicles and all regulations in 49 Code of Federal Regulations, Parts 390-393 and 395-397, applicable to interstate drivers and vehicles.

(11) Regulations and exceptions adopted herein are applicable to intrastate drivers and vehicles. All regulations contained in 49 Code of Federal Regulations, Parts 390-393 and 395-397 and all amendments thereto pertaining to interstate drivers and vehicles are adopted.

(12) Nothing in this section shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

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

Issued in Austin, Texas on September 29, 1989.

TRD-8909418

Joe E. Miner
Director
Texas Department of
Public Safety

Effective date: October 1, 1989

Proposal publication date: August 8, 1989

For further information, please call: (512) 465-2000

Chapter 13. Controlled Substances Regulations

- 37 TAC §§13.1-13.5, 13.7-13.9, 13.12-13.14, 13.16, 13.17, 13.24, 13.27-13.30, 13.32-13.36, 13.38, 13.43, 13.45-13.50, 13.52, 13.54

The Texas Department of Public Safety adopts amendments to §§13.1-13.5, 13.7-13.9, 13.12-13.14, 13.16, 13.17, 13.24, 13.27-13.30, 13.32-13.36, 13.38, 13.43, 13.45-13.50, 13.52, 13.54; without changes to the proposed text as published in the September 1, 1989, issue of the *Texas Register* (14 TexReg 4457).

The amendments will ensure the public that proper controls over the possession and/or dispensing of controlled substances will meet the requirements of legislative intent to decrease the abuse of controlled substances.

The amendments are necessary due to statutory amendments and codification of the Act which was passed by the 71st Session of the Legislature, 1989. The amendments are a compilation of all applicable rules and regulations pertaining to controlled substances in federal, state, and state health regulatory agency regulations. Definitions are added to include consultant pharmacist and long-term care facility. Amendments to other definitions are made to conform with current statutory amendments and codification. Other amendments add and delete language for clarification and for compliance with statutory provisions. These amendments relate to applications for registration providing for appropriate time periods and for notification of acceptance or denial of an application by the director, administrative actions on controlled substances or peyote registrations to include denial or revocation for rule violations, clarification for the use of DEA order forms, requiring numerical and written quantities of controlled substances on all prescriptions, excluding veterinarians from the exceptions for the use of small amounts of controlled substances, exempting the use of triplicate prescriptions for animals in wildlife parks, exotic game ranches, etc., expanding pharmacists' responsibilities when preparing prescriptions written for mixtures or compounds, and the

addition of two provisions when making dispositions of unused triplicate prescription forms. Amendments to these sections will provide the authority necessary for the Texas Department of Public Safety to administer and enforce the provisions of the Controlled Substances Act, which will be codified into the Health and Safety Code, Chapter 481.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, §481.064, which provides the Texas Department of Public Safety with the authority to promulgate rules and regulations to administer the provisions of this Act.

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

Issued in Austin, Texas, on October 5, 1989.

TRD-8909489

Joe E. Miner
Director
Texas Department of
Public Safety

Effective date: October 27, 1989

Proposal publication date: September 1, 1989

For further information, please call: (512) 465-2000.

Part IX. Texas Commission on Jail Standards

Chapter 275. Supervision of Inmates

- 37 TAC §275.2

The Texas Commission on Jail Standards adopts an amendment to §275.2, without changes to the proposed text as published in the August 29, 1989, issue of the *Texas Register* (14 TexReg 4408).

The amendment requires jailers operating a private facility to require training and licensing, thus assisting in creating a safe and suitable environment.

The amendment will require the licensing of jailers when employed by a private firm which operates a detention facility for county government.

No opposing comments were received regarding adoption of the amendment.

Commenting in favor of the amendment were Carson County Sheriff's Department; Comal County Sheriff's Department; Bexar County Sheriff's Department; and Hopkins County Sheriff's Department.

The amendment is adopted under the Government Code, Subtitle G, Chapter 511 which provides the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

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 October 4, 1989.

TRD-8909415

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Effective date: October 26, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-5505

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 27. Intermediate Care Facilities for the Mentally Retarded (ICFs-MR)

Subchapter D. Federal Regulations

The Texas Department of Human Services (DHS) is taking three actions with respect to the proposed repeals and new sections published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3879), concerning standards for participation, in the department's Intermediate Care Facilities for the Mentally Retarded (ICFs-MR) chapter.

First, DHS adopts new §27.301, concerning applicability of the Code of Federal Regulations, in a new subchapter regarding federal regulations. The new section adopts by reference a new body of federal regulations governing Title XIX services in ICFs-MR.

Second, DHS adopts the repeal of §27.4802 and adopts new §27.707, concerning expenditure of personal funds, to replace it. Because new §27.707 replaces repealed §27.4802, the department has renumbered the new section as new §27.4802 and adopts it with changes to the proposed text as published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3906). The changes consist solely in the revision of cross-references to correctly cite existing rules. In addition, the department adopts new §§27.1501-27.1563, concerning reimbursement for dental services. New §27.1501 is adopted with changes to the proposed text published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3922). The changes consist solely in the revision of cross-references to correctly cite existing rules. New §§27.1503, 27.1505, 27.1507, 27.1509, 27.1511, 27.1513, 27.1515, 27.1517, 27.1519, 27.1521, 27.1523, 27.1525, 27.1527, 27.1529, 27.1531, 27.1533, 27.1535, 27.1537, 27.1539, 27.1541, 27.1543, 27.1545, 27.1547, 27.1549, 27.1551, 27.1553, 27.1555, 27.1557, 27.1559, 27.1561, and 27.1563 are adopted without changes to the proposed text as published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 2923 and 3932) and will not be republished.

Finally, DHS has withdrawn from consideration all of the remaining proposed repeals and new sections published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3879). The withdrawn repeals consti-

tute existing §§27. 101-27.108, 27.203, 27.1801-27.1805, 27.2301-27.2303, 27.2403, 27.2405, 27. 2501-27.2507, 27.2601-27.2604, 27.2701-27.2704, 27.2801, 27.2901- 27.2904, 27. 2906-27.2917, 27.3001-27.3011, 27.3101-27.3108, 27.3201-27.3221, 27.3301-27.3303, 27.3401-27.3406, 27.3501, 27.3602, 27.3601-27.3606, 27.3701- 27.3704, 27. 3801-27.3804, 27.3901-27.3904, 27.4001-27.4003, 27.4101, 27.4102, 27.4201-27. 4203, 27.4301, 27.4302, 27.4401-27.4403, 27.4501-27.4506, 27.4601- 27.4603, 27. 4605-27.4606, 27.4701-27.4704, 27.4801, 27.4803-27.4804, and 27.9801. The withdrawn new sections consist of proposed new §§27.101, 27.103, 27.105, 27. 107, 27.109, 27.201, 27.203, 27.205, 27.207, 27.209, 27.211, 27.213, 27.215, 27. 217, 27.219, 27.301, 27.303, 27.305, 27.307, 27.309, 27.401, 27.403, 27.405, 27. 407, 27.409, 27.411, 27.413, 27.415, 27.417, 27.419, 27.501, 27.503, 27.505, 27. 601, 27.603, 27.605, 27.607, 27.609, 27.611, 27.613, 27.615, 27.617, 27.619, 27. 621, 27.623, 27.625, 27.627, 27.629, 27.701, 27.703, 27.705, 27.706, 27.711, 27. 713, 27.715, 27.801, 27.803, 27.805, 27.807, 27.809, 27.901, 27.903, 27.905, 27. 907, 27.909, 27.911, 27.913, 27.915, 27.917, 27.919, 27.1001, 27.1003, 27.1005, 27.1007, 27.1009, 27.1011, 27.1101, 27.1103, 27.1105, 27.1107, 27.1109, 27.1111, 27.1113, 27.1115, 27.1117, 27.1119, 27.1121, 27.1123, 27.1125, 27.1127, 27.1129, 27.1131, 27.1133, 27.1135, 27.1201, 27.1203, 27.1205, 27.1207, 27.1209, 27.1211, 27.1213, 27.1215, 27.1217, 27.1219, 27.1221, 27.1301, 27.1303, 27.1305, 27.1307, 27.1309, 27.1401, 27.1403, 27.1405, and 27.1407.

New §27.301 is justified to ensure compliance with new federal regulations for participating ICFs-MR. The repeal of §27.4802 and its replacement with new §27.4802 are justified to make it clear that the personal funds of ICF-MR residents may not be used to augment the benefit reimbursement rate for services that federal regulations require ICFs-MR to provide, including newly required services. New §§27.1501-27.1583 are justified to provide Medicaid dental benefits for eligible individuals in ICFs-MR.

New §27.301 will function by incorporating a new body of federal regulations entitled "Conditions for Participation for Intermediate Care Facilities for the Mentally Retarded," which were adopted in the June 3, 1988, issue of the *Federal Register*, with a federally mandated effective date of October 3, 1988. These regulations establish new federal requirements for Title XIX services in ICFs-MR. They supersede 42 Code of Federal Regulations, Part 442, Subpart G, §§442.400-442.516. The new section requires that participating ICFs-MR comply with all applicable federal and state standards for participation in the Texas Medical Assistance Program for Title XIX Recipients, including state standards that are additional to or more restrictive than federal standards. However, if any of the new federal standards contradicts or is clearly incompatible with existing state standards, ICFs-MR must comply with the federal standard.

The repeal of §27.4802 and its replacement with new §27.4802 will function by prohibiting the expenditure of residents' personal funds

for dental and other services and equipment that are now included in the Medicaid ICF-MR benefit as a result of the new federal regulations, as specified in the Health Care Financing Administration's (HCFA's) policy clarification of 42 Code of Federal Regulations §483.460(g) and §483.470(g)(2).

New §§27.1501-27.1583 will function by establishing a program for reimbursement of dental services for Medicaid recipients in ICFs-MR as required in the new federal regulations.

DHS received seven written comments on the proposed repeals and new sections during the public comment period and an additional seven spoken comments at a public hearing on August 24, 1988. The commenters included representatives of the following organizations: Advocacy, Inc.; the State Committee of Examiners for Speech-Language Pathology and Audiology; Volunteers of America; the Texas Department of Mental Health and Mental Retardation (both the central office and Lytkin State School); the Texas Department of Health; the Texas Health Care Association; the Association for Retarded Citizens; the Texas Association of Private Providers; Summer House; Community Living Centers; and ARA Living Centers. A summary of the comments and the department's responses follows.

Eight commenters opposed the department's consolidation and integration of federal and state standards for participation. The commenters argued that DHS should adopt the new federal regulations by reference as they stand, without editing them or reorganizing them for integration in state standards. They maintained that integrating federal standards with state standards would put providers in the position of having to closely compare two sets of overlapping regulations and would make it more difficult to identify state requirements that are different from or more restrictive than federal regulations. The department has accepted this comment and agreed to adopt the new federal regulations by reference. The department is simultaneously withdrawing most of the proposed repeals and new sections. However, in order to prohibit the expenditure of residents' personal funds for dental and other services and equipment that are now included in the Medicaid ICF-MR benefit as a result of the new federal regulations, and in order to establish a program for reimbursement of dental services for Medicaid recipients in ICFs-MR as the new federal regulations require, the department is proceeding to adopt the proposed sections that concern expenditure of personal funds and Medicaid reimbursement for dental services.

The department received detailed comments on many of the proposed new sections that are now being withdrawn. Because the sections are being withdrawn, DHS is not responding to those comments here. However, the department will take those comments into consideration in the future when they are pertinent to contemplated revisions of agency rules.

The department also received detailed comments on some of the sections that it is proceeding to adopt. One commenter objected to the phrase "...include, but are not limited to..." in the listing of items and services that must not be charged to a client's

personal funds in proposed new §27.707 (re-numbered for adoption as §27.4802). The commenter argued that the list should be exhaustive. DHS disagrees with this comment and is not revising the section in response to it. Given the number and variety of goods and services that are allowable charges to the ICF-MR, it is not practical to create an exhaustive list of items and services that must not be charged to the client. It is also unnecessary because the section in question includes a second list of items and services that may be charged to the client. This list is exhaustive. When used together, the two lists provide ample direction to providers about what may and what may not be charged to a client's personal funds.

One commenter recommended that the department permit reimbursement for services by dental providers who do not have a provider agreement with DHS. The department is not revising the new sections in response to this comment. Federal regulations restrict dental reimbursements to participating providers.

Another commenter recommended that the department permit ICFs-MR to report, as an allowable cost, expenses for dental services provided by nonparticipating dentists when it can be documented that no participating dentist practice in the area. The department is not revising the new sections in response to this comment. DHS believes that enough dental providers will participate to provide services throughout the state. The department plans to keep track of provider participation, however, and will reconsider this comment and amend the dental program rules if necessary in the future.

• 40 TAC §27.301

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The new section is adopted effective October 3, 1988, to comply with federal requirements.

§27.301. *Applicability of the Code of Federal Regulations.*

(a) The Texas Department of Human Services (DHS) adopts by reference federal regulations governing conditions of participation for Intermediate Care Facilities for the Mentally Retarded (ICFs-MR) as specified in *Federal Register* Document 88-12250, Volume 53, Number 107, Pages 20488-20505, which constitutes 42 Code of Federal Regulations, Part 483, Subpart D, §§483. 400-483.480, as published in the June 3, 1988, issue of the *Federal Register* with a mandated effective date of October 3, 1988.

(b) To participate in the Title XIX Texas Medical Assistance Program, each ICF-MR must comply with all applicable federal and state standards for participation, including the federal standards specified in subsection (a) of this section and including requirements set forth in this chapter that are additional to or more restrictive than the federal standards specified in subsection (a) of this section. However, if any of the federal standards specified in subsection (a) of

this section contradicts or is clearly incompatible with one or more of the provisions of this chapter, the facility must comply with the federal standard.

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 October 4, 1989.

TRD-8909209

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: October 3, 1988

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

Subchapter O. Dental Program

- §§27.1501, 27.1503, 27.1505, 27.1507, 27.1509, 27.1511, 27.1513, 27.1515, 27.1517, 27.1519, 27.1521, 27.1523, 27.1525, 27.1527, 27.1529, 27.1531, 27.1533, 27.1535, 27.1537, 27.1539, 27.1541, 27.1543, 27.1545, 27.1547, 27.1549, 27.1551, 27.1553, 27.1555, 27.1557, 27.1559, 27.1561, and 27.1563

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§27.1501. Program Basis. Intermediate Care Facilities for the Mentally Retarded (ICF-MR) must ensure that Medicaid recipients in their facilities receive comprehensive dental services, as specified in 42 Code of Federal Regulations (CFR), §483.460 and in Subchapter II of this chapter (relating to Dental Services). The Texas Department of Human Services (DHS) reimburses participating dental providers for services to ICF-MR Medicaid recipients who are 21 years old or older through the department's ICF-MR Dental Program. Services to ICF-MR recipients under 21 are reimbursed through the EPSDT Dental Program.

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

Issued in Austin, Texas, on October 4, 1989.

TRD-8909300

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: November 1, 1989.

Proposal publication date: August 8, 1989.

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

Subchapter WW. Residents' Personal Funds and Property

• 40 TAC §27.4802

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§27.4802. Personal Funds for Specialized Equipment.

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 October 4, 1989.

TRD-8909301

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: November 1, 1989.

Proposal publication date: August 8, 1989.

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

• 40 TAC §27.4802

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§27.4802. Expenditures of Personal Funds.

(a) Recipients' personal funds must not be expended for services, supplies, or equipment that are allowable costs to the facility as specified in §27.9801 of this title (relating to Reimbursement Methodology for Intermediate Care Facilities for the Mentally Retarded) or that are otherwise reimbursed by Medicaid.

(b) Items and services that are the responsibility of the facility and that must not be charged to the recipient's personal funds include, but are not limited to:

(1) personal need items, including diapers, as specified in §27.4801(f) of this title (relating to Personal Funds);

(2) non-cosmetic dental services including, but not limited to, initial and annual comprehensive intra- and extra-oral examinations, prescribed dental treatments and follow-up visits, dentures, braces, crowns, toothbrushes, mouthwash, floss, disclosing solution, and other dental supplies;

(3) transportation expenses to program, recreation, and health care services, including sheltered workshop programs;

(4) banking charges when recipients' personal fund accounts are pooled;

(5) prescriptions not covered by

other Medicaid services;

(6) prescribed laboratory services not covered by other Medicaid services;

(7) repairs to and maintenance of the facility's physical plant;

(8) meals, snacks, special diets, and sack lunches;

(9) behavioral reinforcers used in behavior modification programs, including, but not limited to, candy, cigarettes, soft drinks, cereal, coffee, toys, and magazines;

(10) purchase, repair, and maintenance of specialized equipment and adaptive devices not covered by other Medicaid services;

(11) prescribed medical equipment and supplies not covered by other Medicaid services, including, but not limited to, nasogastric tubes, feeding pumps, catheters, sheepskins, and egg crate pads;

(12) medical services and therapies not covered by other Medicaid services, including, but not limited to, initial and annual physical exams, physical therapy, occupational therapy, and nutritional, speech, audiological, psychological, social, and medical evaluations;

(13) recreational evaluation services and general recreational activities for the facility population whether provided at the facility or in the community;

(14) all training and habilitation services, including, but not limited to, vocational training, sheltered workshop services, and day activity center services, whether provided in-house or through contractual arrangements;

(15) eye exams;

(16) eyeglasses not covered by other Medicaid services, except for the difference between the Medicaid payment and the actual cost of the eyeglasses when the recipient requests a specific style or feature not provided by the facility or Medicaid;

(17) laundering of personal clothing;

(18) hygienic haircuts, shaves, and shampoos; and

(19) special activities, including, but not limited to, meals, lodging, staff supervision, registrations, and tickets.

(c) Recipients' personal funds may be expended for the following items and services:

(1) personal need items when the recipient requests a specific type or brand other than the one furnished by the facility;

(2) clothing;

(3) cosmetic dental procedures;

(4) public transportation when the recipient is travelling on his own initiative without staff supervision, and public transportation to and from home visits;

(5) banking charges if the recipient's personal funds are in an individual account;

(6) prescribed over-the-counter medications when the recipient wants another brand or type than the one furnished by the facility;

(7) damages or replacement at cost of other recipient's personal property after approval by the facility's Human Rights Committee;

(8) snacks or meals when the recipient chooses items other than those provided by the planned menu;

(9) an allowance disbursed to the recipient in accordance with the facility's policies and procedures as long as access to the recipient's personal funds is not

restricted without the written consent of the recipient or his legal guardian;

(10) recreational activities that are away from the facility and that are independently chosen by the recipient, or activities that the recipient elects which are not part of the facility's general recreation program and which are provided without on-duty staff;

(11) the difference between the Medicaid payment and the actual cost for eyeglasses when the recipient requests a specific style or feature other than the one furnished by the facility or Medicaid;

(12) dry cleaning of the recipient's personal clothing;

(13) professional barber and cosmetology services including, but not limited to, styling, hair setting, permanent waves, hair color treatments, hair rollers, hair spray, cosmetics, and perfume;

(14) bed reservation fees as long as the recipient, his legal guardian, or other responsible party gives written consent and as long as the charge does not exceed the daily Medicaid vendor rate; and

(15) school supplies, school fees, and other educational expenses.

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 October 4, 1989.

TRD-9909302

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: November 1, 1989.

Proposal publication date: August 8, 1989.

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

Open Meetings

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

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

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

Texas Department of Agriculture

Wednesday, October 18, 1989, 2 p.m. The Texas Department of Agriculture will meet in the Conference Room, 9th Floor, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the public hearing to receive comments regarding proposed changes to department regulations covering TDA promotional emblems in order to add the Texas grown emblem and a procedure for annual registration and payment of fees.

Contact: Danny Presnal, P.O. Box 12847, Austin, Texas 78711, (512) 463-7559.

Filed: October 5, 1989, 10:26 a.m.

TRD-8909386

Texas Air Control Board

Friday, October 20, 1989, 8:30 a.m. The Regulation Development Committee of the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda, the discussion of proposed urban airshed modeling project.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Filed: October 9, 1989, 9:47 a.m.

TRD-8909493

Friday, October 20, 1989, 9 a.m. The Budget and Finance Committee of the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda, the consideration of FY 1990 rebudget request; consideration of proposed urban airshed modeling project document.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Filed: October 9, 1989, 9:47 a.m.

TRD-8909494

Friday, October 20, 1989, 9:30 a.m. The Monitoring and Research Committee of the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda, the discussion of proposed urban airshed modeling project document.

According to the agenda, the staff analysis of the air quality advisory committee proposal from the Texas Chemical Council; consideration of research priorities for FY 1990.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Filed: October 9, 1989, 9:47 a.m.

TRD-8909495

Friday, October 20, 1989, 10:30 a.m. The Texas Air Control Board will meet in the TACB Auditorium, 6330 Highway 290 East, Austin. According to the agenda summary, the approval of minutes of September 15, 1989, meeting; public testimony; reports; enforcement report; agreed enforcement orders; staff reports; hearings examiner's report; new business.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Filed: October 9, 1989, 9:47 a.m.

TRD-8909496

Texas Department of Banking

Thursday, October 19, 1989, 1 p.m. The Finance Commission Orientation of the Texas Department of Banking will meet in the State Finance Building, 2601 North Lamar Boulevard, Austin. According to the agenda, the commission will discuss organization and operations; open meeting act summary, new members orientation, and other organizational matters.

Contact: Ann Graham, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: October 6, 1989, 11:12 a.m.

TRD-8909427

Friday, October 20, 1989, 9 a.m. The Finance Commission of the Texas Department of Banking will meet in the State Finance Building, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the commission will review and approve minutes of previous meeting; discuss organization and operations; summary

of new financial institution-related legislation passed by the 71st Texas Legislature; summary of Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA); proposed regulation relating to statute of frauds; report on legislative interim study charge; revised salary plan for banking department, savings and loan department, and consumer credit department; banking department; savings and loan department; consumer credit department; executive session to discuss supervisory, litigation and personnel matters.

Contact: Ann Graham, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: October 6, 1989, 11:11 a.m.

TRD-8909428

Texas Department of Community Affairs

Tuesday, October 24, 1989, 9 a.m. The National Community Volunteer Fire Prevention Program of the Texas Department of Community Affairs will meet in the Holiday Inn-Seawall Boulevard, 5002 Seawall, Galveston. According to the agenda, the department will approve minutes of previous meetings; hear the state director's report; follow-up evaluations; consider progress reports on Galveston, Beaumont, and Mansfield; and view a sprinkler demonstration.

Contact: Rudy Davila, 8317 Cross Park Drive, Austin, Texas 78754.

Filed: October 5, 1989, 10:27 a.m.

TRD-8909384

Texas Cosmetology Commission

Saturday, October 28, 1989, 1 p.m. The Texas Cosmetology Commission will meet in the Radisson Plaza Hotel, 700 San Jacinto, Austin. According to the agenda, the commission will make introductions; annual meeting with commission inspectors; pre-

sentation by Bill Wells, executive director of Sunset Commission; open session.

Contact: Laura Donges, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: October 6, 1989, 4:51 p.m.

TRD-8909478

Texas Commission for the Deaf

Monday, October 9, 1989, 9:30 a.m. The Direct Services Subcommittee of the Texas Commission for the Deaf met for an emergency meeting in Suite 300, 510 South Congress, Austin. According to the agenda, the subcommittee reviewed progress of direct services. The emergency status was necessary because this was the only time all parties could meet to prepare for the commissioner's meeting.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas 78704, (512) 469-9891.

Filed: October 5, 1989, 10:31 a.m.

TRD-8909380

Friday, October 13, 1989, 8 a.m. The Rules and Regulations Subcommittee of the Texas Commission for the Deaf will meet in Suite 300, 510 South Congress, Austin. According to the agenda, the subcommittee will discuss rules pertaining to TCD operations and other state agencies MOU's.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas 78704, (512) 469-9891.

Filed: October 5, 1989, 10:29 a.m.

TRD-8909382

Friday, October 13, 1989, 9 a.m. The Fiscal Affairs Subcommittee of the Texas Commission for the Deaf will meet in Suite 300, 510 South Congress, Austin. According to the agenda, the subcommittee will discuss TCD fiscal matters.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas 78704, (512) 469-9891.

Filed: October 5, 1989, 10:30 a.m.

TRD-8909381

Friday, October 13, 1989, 9 a.m. The Board for Evaluation of Interpreters Subcommittee of the Texas Commission for the Deaf will meet in Suite 300, 510 South Congress, Austin. According to the agenda, the subcommittee will discuss BEI rules; recommendations of certification awards, revocation, and activities and progress; BEI budget.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas 78704, (512) 469-9891.

Filed: October 5, 1989, 10:28 a.m.

TRD-8909387

Friday, October 13, 1989, 10 a.m. The Board of Commissioners of the Texas Commission for the Deaf will meet in the Conference Room, 510 South Congress, Austin. According to the agenda, the board will approve previous meeting minutes; hear subcommittee reports; chairperson's report; fiscal affairs; rules and regulations; BEI, executive director's report; direct services; old business; new business; and announcements.

Contact: Larry D. Evans, 510 South Congress, Austin, Texas 78704, (512) 469-9891.

Filed: October 5, 1989, 10:29 a.m.

TRD-8909383

East Texas State University

Thursday, October 12, 1989, 1:30 p.m. The Board of Regents, Academic Affairs Committee of the East Texas State University met in the McDowell Administration Building, East Texas State University, Commerce. According to the agenda, the committee considered the ETSU-Commerce faculty workload; undersized class report; ETSU-Commerce curriculum changes; ETSU-Texarkana faculty workload; and undersized class report.

Contact: Charles Turner, ET-Station, Commerce, Texas 75428, (214) 886-5539.

Filed: October 6, 1989, 10:11 a.m.

TRD-8909430

Thursday, October 12, 1989, 1:30 p.m. The Board of Regents, Executive Committee of the East Texas State University met in the McDowell Administration Building, East Texas State University, Commerce. According to the agenda, the committee considered grievance procedures for non-faculty employees; retirement policy; executive sessions to discuss personnel and contract matters and pending litigation with the university attorney.

Contact: Charles Turner, ET-Station, Commerce, Texas 75428, (214) 886-5539.

Filed: October 6, 1989, 10:11 a.m.

TRD-8909432

Thursday, October 12, 1989, 2:20 p.m. The Board of Regents, Campus Planning, Finance and Auditing Committee of the East Texas State University met in the McDowell Administration Building, East Texas State University, Commerce. According to the agenda, the committee considered approval of preliminary plans—instructional printing facility; re-appropriations, ETSU Commerce; re-appropriations, ETSU Texarkana; transfers—items on appropriations; progress report on campus master plan; adjustments on property inventory records; operating procedures ETSU investment pool; bank depository contracts; manage-

ment authority for ETSU financial transactions; tuition installment plan; adjustments to ETSU Commerce operating budgets; adjustments ETSU Texarkana operating budgets.

Contact: Charles Turner, ET-Station, Commerce, Texas 75428, (214) 886-5539.

Filed: October 6, 1989, 11:16 a.m.

TRD-8909433

Thursday, October 12, 1989, 3:30 p.m. Board of Regents, Student and University Advancement Committee met in the McDowell Administration Building, East Texas State University, Commerce. According to the agenda, the committee considered the report on division activities; and housing scholarships.

Contact: Charles Turner, ET-Station, Commerce, Texas 75428, (214) 886-5539.

Filed: October 6, 1989, 10:11 a.m.

TRD-8909431

Friday, October 13, 1989, 9 a.m. Board of Regents of the East Texas State University will meet in the McDowell Administration Building, East Texas State University, Commerce. According to the agenda summary, the board approved minutes of July 20, 1989, meeting; received a report from the president; considered motions from the student and university advancement committee, academic affairs committee, campus planning, finance and auditing committee and the executive committee; the board will also meet in executive session to consult with the university attorney about pending litigation, discuss personnel and contract matters.

Contact: Charles Turner, ET-Station, Commerce, Texas 75428, (214) 886-5539.

Filed: October 6, 1989, 10:11 a.m.

TRD-8909429

Friday, October 13, 1989, 9 a.m. The Board of Regents of the East Texas State University will meet in the McDowell Administrative Building, East Texas State University, Commerce. According to the revised agenda, the board will add contract with CUE Paging Corporation.

Contact: Charles Turner, ET-Station, Commerce, Texas, (214) 886-5539.

Filed: October 9, 1989, 10:31 a.m.

TRD-8909502

Texas Education Agency

Friday, October 13, 1989, 8:30 a.m. The Committee on the Permanent School Fund of the Texas Education Agency will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the committee will review PSF securities transactions and the investment portfolio;

recommended program for October and the funds available for the program; elect a member of the SBOE to serve on the board of trustees of the Texas growth fund; proposed amendments to 19 TAC Chapter 161, official advisory committees; SBOE advisory committee appointments; Sunset bill provisions concerning public testimony before SBOE.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: October 5, 1989, 4:37 p.m.

TRD-8909403

Friday, October 13, 1989, 10:30 a.m. The Committee on School Finance of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the public hearing on proposed annual update of the master plan for vocational education; discuss annual update of the master plan for vocational education; status of school finance issues; office space; SBOE operating rules, standards of conduct; official advisory committees; budgeting, accounting, and auditing; state textbook program; proprietary schools; foundation school fund; tax collections; bilingual education allotment; fees, proprietary schools; special education; guarantee program for school district bonds; authorization to enter into interagency contracts; realignment of 1989-1990 TEA operating budget; SBOE committee appointments; Sunset bill provisions concerning public testimony before the SBOE; commercial activity for competitive review internal audit function.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: October 5, 1989, 4:37 p.m.

TRD-8909402

Friday, October 13, 1989, 10:30 a.m., or upon adjournment of the Committee on Long-Range Planning and the Committee on the Permanent School Fund. The Committee on Personnel of the Texas Education Agency will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the accreditation of school districts; official advisory committees; teacher appraisal procedures; teacher appraisal instrument; scoring procedures and forms; record of certificates; requirements for issuance of Texas certificates based on certificates and college credentials from other states; teacher career ladder; master teacher examination; alternative teacher certification programs; in generic special education; trustees for Lackland ISD; and Randolph Field ISD; SBOE advisory committee appointments; Sunset bill provisions concerning public testimony before the SBOE; accreditation rule for expanded criteria and changes as amended in

Senate Bill 417; certification of teachers in general; issuance of certificates based on examination; general requirements for inservice education; requirements for assignment of school personnel.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: October 5, 1989, 4:36 p.m.

TRD-8909405

Friday, October 13, 1989, 10:30 a.m. The Committee on Students of the Texas Education Agency will meet in Room 1-100, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the public hearing on proposed annual update of the master plan for vocational education; discuss the annual update of the master plan for vocational education; status of school finance issues; office space; SBOE operating rules, standards of conduct; official advisory committees; migrant education program; grading and reporting requirements; identification and remediation of students with dyslexia and related disorders; absences; admission, review and dismissal committee; individual educational plan; compliant procedures; surrogate parents; program requirements, early childhood intervention program; assessment; curriculum; textbook adoption cycle; computer literacy; SBOE advisory committee; Sunset bill provisions concerning public testimony before the SBOE; high school equivalency examination pilot program; physical education and state graduation requirements.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: October 5, 1989, 4:36 p.m.

TRD-8909404

Saturday, October 14, 1989, 8:30 a.m. The State Board of Education of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the SBOE resolutions; executive session on pending litigation, (Texas Civil Statutes, Article 6252-17, §2(e)); permanent school fund; Texas growth fund; SBOE advisory committees; office space; budget, accounting and auditing; text book program; proprietary schools; foundation school fund; tax collections; bilingual education; proprietary school fees; special education; guarantee bond program; interagency contracts; TEA operating budget; migrant education; grading and reporting, promotion and course credit, grade level advancement, course credit; students with dyslexia and related disorders; absences; admission, review and dismissal committee, individual educational plan, notice requirements, general program requirements, surrogate parents, advisory committees and early childhood programs; assessment; curriculum; textbook adoption;

computer literacy; teacher appraisal; record of certificates; Texas teaching certificates; teacher career ladder; master teacher examination; alternative teacher certification; trustees for Lackland ISD and Randolph Field ISD; accreditation.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: October 5, 1989, 4:37 p.m.

TRD-8909401

Monday, October 16, 1989, 2 p.m. The Interagency Coordinating Council on Dropout Reduction of the Texas Education Agency will meet in Room 2301, Brown-Healy State Office Building, 4900 North Lamar, Austin. According to the agenda summary, the role of two new agencies on the council; two new members represent the TDH and TDMHMR and will briefly address the council and discuss youth issues that they deem relevant from the perspective of the agencies they represent; establish objectives, activities, and timelines for the year; council business, and elect new council chairperson.

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

Filed: October 6, 1989, 4:05 p.m.

TRD-8909492

Friday, October 20, 1989, 8:30 a.m. The Committee for Research and Evaluation of the Texas Education Agency will meet in Room 8-101, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the review and approval of June 14, 1989, meeting minutes; introduce new members; update on agency research direction; update on current activities of the division of program evaluation; presentation of findings of AISD study validating at-risk criteria for matching at-risk students to interventions; update on status of small research grants program; presentation of findings of University of North Texas study defining quality indicators; discuss report of results of college admissions testing programs for school years 1987-1988 graduates in Texas; discuss development of the research and evaluation portions of the SBOE long-range plan for public education; set time for next meeting.

Contact: Jan Spurgin, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9524.

Filed: October 6, 1989, 4:05 p.m.

TRD-8909499

Tuesday, October 24, 1989, 10:30 a.m. The Teachers' Professional Practices Commission of the Texas Education Agency will meet in Room 3-102, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the report on appeal of Pike v. Glass; consider jurisdictional appeal, Batton v.

Summers; consider jurisdictional appeal, Cottrell v. Lucich; consider jurisdictional appeal, Cottrell v. Roberts; consider jurisdictional appeal, Salinas v. Villegas; director's report; set date of next meeting.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: October 6, 1989, 4:05 p.m.

TRD-8909491

Advisory Commission on State Emergency Communications

Friday, October 13, 1989, 9 a.m. The Emergency Commission College Curriculum Committee of the Advisory Commission on State Emergency Communications will meet in Room 106, John Reagan Building, 15th and Congress, Austin. According to the agenda, the committee will recognize guests; discuss development of comprehensive fire technology course; development of advanced emergency communications course; (break) discuss recommended curriculum; (lunch); discuss and finalize curriculum.

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

Filed: October 5, 1989, 4:31 p.m.

TRD-8909398

Texas Employment Commission

Tuesday, October 17, 1989, 8 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider prior meeting notes; internal procedures of commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket No. 42; set date of next meeting.

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

Filed: October 9, 1989, 1:37 p.m.

TRD-8909507

Texas Health and Human Services Coordinating Council

Tuesday, October 10, 1989, 9 a.m. The Statewide Needs Appraisal Project Work Group of the Texas Health and Human Services Coordinating Council met for an

emergency meeting in Room 3501, Texas Rehabilitation Commission, 4900 North Lamar, Austin. According to the agenda, the work group approved minutes; discussed draft SNAP questionnaire; revised draft SNAP document; considered old business; new business. The emergency status was necessary because the follow-up meeting needed to complete October 4, 1989, meeting agenda.

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

Filed: October 5, 1989, 4:20 p.m.

TRD-8909397

Monday, November 6, 1989, 9:30 a.m. The Task Force on Statewide Case Management for Long Term Care of the Texas Health and Human Services Coordinating Council will meet in the Sergeants Committee Room, Capitol, Austin. According to the agenda, the council will approve minutes; consider Senate Bill 487, 70th Legislature—Senator Chet Brooks; report from special task force on the future of long term health care—Kathy Hutto; elect officers; approval of by-laws; discuss state and federal legislative directives on case management: TDoA, TCB TRC, TCD, TDHS, TDH, and TDMHMR; discuss future directions; develop task force work plan; old business; new business.

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

Filed: October 6, 1989, 4:42 p.m.

TRD-8909477

Texas Historical Commission

Friday, October 27, 1989, 8 a.m. The Architecture Committee of the Texas Historical Commission will meet in the Hale House, 702 South Line Street, Jefferson. According to the agenda, the committee will hear the quarterly report of activities; consider Texas Preservation Trust Fund; FY 1989 Texas Historic Preservation grant reallocations; FY 1990 Texas Historic Preservation grant allocations; governor's mansion; icons of faith symposium; update on significant projects: Stacy Reservoir, Trask House, Kelly AFB, and NASA.

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

Filed: October 5, 1989, 1:59 p.m.

TRD-8909396

Texas Department of Human Services

Monday, October 16, 1989, 10 a.m. The Child Protective Services Advisory Committee of the Texas Department of Human Services will meet in the Sheraton Dallas Hotel, 400 North Olive Street, Dallas. Ac-

ording to the agenda, the committee will have subcommittee meetings; approve minutes; subcommittee reports; and discuss policy development issues.

Contact: Pat Devin, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3313.

Filed: October 6, 1989, 1:54 p.m.

TRD-8909461

Tuesday, October 17, 1989, 1 p.m. The Vender Drug Formulary Subcommittee of the Texas Department of Human Services will meet in the Public Hearing Room, First Floor, East Tower, 710 West 51st Street, Austin. According to the agenda, the subcommittee will introduce new members, approve minutes; elect committee officers; expand role of committee; review drug production application; expensive drug products; prescription limits; DURC; introduction and comments on issue items; DESI drug audit status; squibb novolin insulin cartridge utilization; and open discussion.

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

Filed: October 6, 1989, 1:54 p.m.

TRD-8909460

October 18 and 19, 1989, 8 a.m. The Board of the Texas Department of Human Services will meet at 188 Freeman Boulevard, West Columbia. According to the agenda, the board will consider revision of the agency strategic plan; propose initiatives for presentation at public hearings which will be held prior to preparing the agency legislative appropriate request.

Contact: Bill Woods, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3047.

Filed: October 6, 1989, 1:55 p.m.

TRD-8909459

Industrial Accident Board

Tuesday, October 10, 1989, 9 a.m. The Industrial Accident Board met in Room 255, 2nd Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda summary, the board held an open meeting to discuss the following: approval of board minutes; public comments and discussion of the proposed new rules 28 TAC §53.47, payment of partial benefits for specific injuries, §53.48, payment of partial benefits for general injuries; §53.64, nonpayment of compensation based on another carrier's liability; proposed amendment to 28 TAC §53.20, notice of initiation of compensation—mode of payment of compensation; proposed new 28 TAC 42.137, utilization review; discussed 1990 operating budget; executive session, personnel, executive director; reviewed board files in closed session, Texas Civil Statutes, Article 8307, §4(b); reviewed and discussed board activities.

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

Filed: October 5, 1989, 10:44 a.m.

TRD-8909385

Department of Information Resources

Wednesday October 11, 1989, 7 p.m. The Executive Session of the Department of Information Resources met at the State Auditors, Two Commodore Plaza, 206 East 9th Street, Austin. According to the agenda, the session will consider pending business; and new business.

Contact: Lynn B. Polson, 3307 Northland Drive, Suite 300, Austin, Texas, (512) 371-1120.

Filed: October 9, 1989, 9:02 a.m.

TRD-8909485

State Board of Insurance

Tuesday, October 17, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on Docket No. 10533—to consider whether disciplinary action should be taken against Continental Lloyds Insurance Company which holds a certificate of authority issued by the state Board of Insurance, State of Texas.

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

Filed: October 9, 1989, 3:41 p.m.

TRD-8909549

Wednesday, October 18, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on Docket No. 10528—to consider whether disciplinary action should be taken against James Michael Quillan doing business as A-1 Auto Insurance Agency, formerly doing business as Mike Quillan Insurance Agency, San Antonio, Texas, who holds a local recording agent's license issued by the State Board of Insurance.

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

Filed: October 9, 1989, 3:42 p.m.

TRD-8909548

Wednesday October 18, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on

Docket No. 10521—to consider the approval of amendment to articles of agreement of Kemper Lloyds Insurance Company, Garland, Texas.

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

Filed: October 9, 1989, 3:42 p.m.

TRD-8909547

Friday, October 20, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on Docket No. 10545—to consider whether disciplinary action should be taken against Willie Livingston, Arcola/Huntsville, Texas, who holds a Group I, legal reserve life insurance agent's license and to consider the application of Willie Livingston, for a Group II insurance agent's license to be issued by the State Board of Insurance.

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

Filed: October 9, 1989, 3:42 p.m.

TRD-8909546

Friday, October 20, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on Docket No. 10563—to consider the application for amendment to the restated articles of incorporation of Legal Protective Life Insurance Company, Pasadena, Texas, regarding reduction of capital and home office change.

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

Filed: October 9, 1989, 3:42 p.m.

TRD-8909545

Monday, October 23, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on Docket No. 10442—to consider whether disciplinary action should be taken against Hugh Maxwell Roth, Plano/Dallas, Texas, who holds a Group I, legal reserve life insurance agent's license and a Group II, insurance agent's license issued by the State Board of Insurance and to consider the application of Hugh Maxwell Roth for renewal of a Group II, insurance agent's license to be issued by the State Board of Insurance and to consider the application of Hugh Maxwell Roth for a corporate Group I, legal reserve life, health and accident license under the trade style name of Marric Investment and Insurance, Inc. to be issued by the State Board of Insurance.

Contact: Earl Corbitt, 1110 San Jacinto

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

Filed: October 9, 1989, 3:42 p.m.

TRD-8909544

Monday, October 23, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing on Docket No. 10524—to consider whether disciplinary action should be taken against Robert Earle Holberg, Houston, Texas, who holds a local recording agent's license, a managing general agent's license and a surplus lines agent's license issued by the State Board of Insurance.

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

Filed: October 9, 1989, 4:40 p.m.

TRD-8909550

Lamar University System Board of Regents

Thursday, October 12, 1989, 9 a.m. The Committees and Meeting of Lamar University System Board of Regents met in the Map Room, John Gray Institute, 855 Florida, Beaumont. According to the agenda summary, the committees will take oath of office and organization of board; academic affairs committee; finance and audit committee; personnel committee; building and grounds committee; athletic committee; executive session; and board meeting.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: October 6, 1989, 3:46 p.m.

TRD-8909501

State Medical Education Board

Saturday, October 14, 1989, 10:30 a.m. The State Medical Education Board will meet in Conference Room 209, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board will meet to consider adoption of rules and regulations for the loan program operated by the board.

Contact: Mack Adams, P.O. Box 12788, Austin, Texas 78711, (512) 462-6330.

Filed: October 5, 1989, 2:58 p.m.

TRD-8909413

Texas Board of Licensure for Nursing Home Administrators

Wednesday, October 18, 1989, 10:30 a.m.
The Texas Board of Licensure for Nursing Home Administrators will meet in Suite 310, 4900 North Lamar, Austin. According to the agenda, the approval of the minutes for the July 12, 1989, meeting; education committee report; MR/MI committee report; personal appearances; ex officio reports (TDH, DHS, TDoA), executive director's reports, disciplinary actions; agreed order regarding Lilla O. Hagan, #727; regulation amendment for §245.1(f) and (g); chair's report.

Contact: Janet E. McNutt, 4800 North Lamar, Suite 355, Austin, Texas 78756, (512) 458-1955.

Filed: October 9, 1989, 12:18 p.m.

TRD-8909505

Board of Pardons and Paroles

Tuesday, October 17, 1989, 1:30 p.m.
The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will meet to consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions and executive clemency actions.

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

Filed: October 6, 1989, 11 a.m.

TRD-8909425

Monday-Friday, October 16-20, 1989, 1:30 p.m. except on Friday, 11 a.m.
The Board Panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board panel will receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction, and initiate and carry through with appropriate action.

Contact: K. Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 459-2713.

Filed: October 6, 1989, 11:01 a.m.

TRD-8909426

Texas Parks and Wildlife Department

Wednesday, October 25, 1989, 10 a.m.
The Operation Game Thief Committee will

meet in Department Headquarters, 4200 Smith School Road, Austin. According to the agenda, the committee will hear the financial report; consider payment of rewards; eight year overview; and set date of next meeting.

Contact: Wayne Chappell, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4626.

Filed: October 9, 1989, 1:43 p.m.

TRD-8909508

Public Utility Commission of Texas

Thursday, October 12, 1989, 2 p.m.
The Hearings Division of the Public Utility Commission of Texas met in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing rescheduled from October 9, 1989, 10 a.m., on Docket No. 8871—application of GTE Southwest Incorporated to establish central rates for certain customers.

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

Filed: October 5, 1989, 4:12 p.m.

TRD-8909408

Monday, October 16, 1989, 1:30 p.m.
The Relay Service Advisory Committee of the Public Utility Commission of Texas will meet in the Staff Training Room, Criss Cole Rehabilitation Center, 4800 North Lamar, Austin. According to the agenda, the committee will consider issues concerning the development of a statewide dual-party telecommunications relay system for the hearing and speech-impaired; advisory committee appointed by PUC pursuant to House Bill 174, passed by the 71st Texas Legislature; committee may begin discussion on specifications to be included in a request for proposals that the PUC will issue later this year to solicit bids for carriers to provide the relay service.

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

Filed: October 5, 1989, 4:13 p.m.

TRD-8909409

Thursday, December 14, 1989, 9 a.m.
The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing rescheduled from December 13, 1989, 10 a.m., on Docket No. 9030—petition of general counsel for a fuel reconciliation for Southwestern Public Service Company.

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

Filed: October 5, 1989, 4:12 p.m.

TRD-8909407

Tuesday, December 19, 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 on Docket No. 9040—application of Southwestern Electric Service Company for authority to change rates.

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

Filed: October 6, 1989, 3:51 p.m.

TRD-8909503

Wednesday, January 3, 1990, 9 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 rescheduled from November 2, 1989, 10 a.m. on Docket No. 8640—compliant of Compaq Computer Corporation against Southwestern Bell Telephone Company.

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

Filed: October 5, 1989, 4:11 p.m.

TRD-8909406

Texas Racing Commission

Monday, October 9, 1989, 10 a.m.
The Texas Racing Commission met for an emergency meeting in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the revised agenda summary, the commission considered and voted on an amendment to §309.63—restriction on racing. The emergency status was necessary to expedite the receipt of state revenue from pari-mutuel wagering by ensuring that the rules of horse racing are in place.

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

Filed: October 5, 1989, 4:34 p.m.

TRD-8909399

Monday, October 9, 1989, 10:15 a.m.
The Texas Racing Commission met for an emergency meeting in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the commission considered and voted to adopt as an emergency rule and to propose an amendment to §309.56—temporary pass. The emergency status was necessary to facilitate the receipt of state revenue from pari-mutuel racing by encouraging the ownership of race horses.

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

Filed: October 9, 1989, 8:14 a.m.

TRD-8909479

Railroad Commission of Texas

Monday, October 16, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedure, and personnel matters. Discussion of the development of a natural gas clearing house that would match companies that need gas to fuel new plants with producers that have gas to sell-possible action.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: October 6, 1989, 1:11 p.m.

TRD-08909454

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: October 6, 1989, 1:13 p.m.

TRD-08909449

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Office of the Executive Director, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7274.

Filed: October 6, 1989, 1:12 p.m.

TRD-08909452

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78753, (512) 463-6710.

Filed: October 6, 1989, 1:13 p.m.

TRD-08909448

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828.

Filed: October 6, 1989, 1:11 p.m.

TRD-08909453

The commission will consider various matter within the 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 action, including but not limited to scheduling an item in its entirety for particularly action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 6, 1989, 1:15 p.m.

TRD-08909451

The commission will consider guidelines for salvage of equipment from inactive wells plugged with state funds, pursuant to House Bill 1318 which amended Texas Natural Resource Code, §89.085; rules and procedures governing the assignment of acreage to wells for allowable and proration purposes, and the commission will meet in executive session to consider the pending appeal from the Federal Energy Regulatory Commission's order in FERC Docket No. GP84-23-029 (Stowers-Phase III).

Contact: Andy Taylor, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6924.

Filed: October 6, 1989, 1:11 p.m.

TRD-08909455

The commission will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 6, 1989, 1:12 p.m.

TRD-08909450

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: October 6, 1989, 1:09 p.m.

TRD-08909456

Monday, October 16, 1989, 1:30 p.m. The commission will consider oral argument on Docket No. 6-93,108 to consider any reasons why the Oak Hill (Cotton Valley) and Oak Hill South (Cotton Valley) fields should not be consolidated into a single field, Gregg and Rusk Counties, Texas.

Contact: Margaret Allen, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6925

Filed: October 6, 1989, 1:15 p.m.

TRD-08909446

Monday, October 23, 1989, 1:30 p.m. The commission will consider oral argument on docket No. 105,480-Rule 37, Helton/Buckthall Lease, Well No. 1025 Waterfield (Morrow Upper) and wildcat fields Hemphill County, Texas.

Contact: Dilma Scimeca, P.O. Drawer 12967, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6924.

Filed: October 6, 1989, 1:15 p.m.

TRD-89090447

Texas Rehabilitation Commission

Thursday, October 26, 1989, 8:30 a.m. The Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission will meet in the Wyndham Southpark Hotel, 4140 Governor's Row, Austin, According to the agenda summary, the approval of minutes; ex officio members reports, chairperson report; executive director report; Attendant Services Task Force and Advocacy, Inc. reports; subcommittee reports; president's committee convention-1991 planning, set dates for FY 1990 GCDP meetings.

Contact: Virginia Roberts, 4900 North Lamar, Austin, Texas 78751-2316, (512) 483-4381.

Filed: October 6, 1989, 1:50 p.m.

TRD-8909504

Texas Savings and Loan Department

Thursday, October 19, 1989, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar, Austin. According to the agenda summary, the purpose of the hearing is to accumulate a record of evidence in regard to the application of Sun Savings Association, Houston, Harris County, Texas for a loan office to be located at the southeast corner of Falling Creek Drive and FM 1960, Harris County, Texas, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North

Lamar, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: October 6, 1989, 4:04 p.m.

TRD-8909476

School Land Board

Tuesday, October 17, 1989, 10 a.m. The School Land Board will meet in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of previous meeting; pooling applications; report and discussion of horizontal severance; preliminary consideration of lease option on commercial lease; authorization of expenditure of funds for Kennedy Causeway leases; executive session, consideration of sale of permanent school fund lands; consideration of land trade; pending and proposed litigation.

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

Filed: October 9, 1989, 4:07 p.m.

TRD-8909526

University Interscholastic League

Wednesday, October 11, 1989, 1 p.m. The State Executive Committee Panel of the University Interscholastic League met in Ballroom A, Radisson Hotel, 7th and San Jacinto, Austin. According to the agenda summary, the panel heard allegations of UIL rule violations and request for official interpretation of rules.

Contact: Bonnie Northcutt, P.O. Box 8028, UT Station, Austin, Texas 78713-8028, (512) 471-5883.

Filed: October 6, 1989, 9:10 a.m.

TRD-8909410

University of Texas Health Science Center at San Antonio

Wednesday, October 18, 1989, 3 p.m. The Institutional Animal Care and Use Committee of the University of Texas Health Science Center at San Antonio will meet in the Dental Dean's Conference Room 4.320R, 7703 Floyd Curl Drive, San Antonio. According to the agenda, the committee will approve minutes; consider recommendations from protocol review group; subcommittee reports; and other business.

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

Filed: October 9, 1989, 3:04 p.m.

TRD-8909525

University of Texas System

Friday, October 13, 1989, Noon-Executive Session; 1 p.m.-Open Session. The Board of Regents and Standing Committees of the University of Texas System will meet in Room 1.212, Conference Center, UT Dallas, 2601 North Floyd Road, Richardson. According to the agenda summary, the board will consider defeasance of PUF bonds; amendments to RRR, chancellor's docket (submitted by system administration); degree programs; fees; housing rates-HSC-Houston; appointments to development boards, advisory councils and endowed academic positions; discipline; dismissal and grievance policies; institutional funds investment policy; agreements; buildings and grounds matters including approval for projects, preliminary and final plans; award of contracts; master trust custodian for PUF; land and investment matters; acceptance of gifts, bequests, and estates; establishment of endowed positions and funds; intellectual property matters, litigation, land acquisition and negotiated contracts; personnel matters.

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

Filed: October 6, 1989, 1:09 p.m.

TRD-8909445

Texas Water Commission

Thursday, October 19, 1989, 10 a.m. The Weather Modification Advisory Committee of the Texas Water Commission will meet in Room 342, 8900 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will meet to review operational procedures of companies now conducting rainfall enhancement operations in Texas and to be briefed on the progress and status of the 1989 southwest cooperative rainfall augmentation research program in the Big Spring-San Angelo area of west central Texas, under the southwest cooperative program of the bureau of reclamation.

Contact: George Bomar, P.O. Box 13087, Austin, Texas 78711-3087, (512) 371-6382.

Filed: October 9, 1989, 4:33 p.m.

TRD-8909531

Monday, November 6, 1989, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the revised agenda summary, the notice of hearing on Docket No. 8092-G, rate increase of River Oaks Ranch Water Systems, Inc., (name was previously incorrect).

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

Filed: October 5, 1989, 11:13 a.m.

TRD-8909394

Tuesday, November 14, 1989, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the public hearing on consideration of temporary order for David K. Moore doing business as DKM Enterprises to discharge an average daily flow not to exceed 1,000 gallons, with a maximum daily flow not to exceed 2,000 gallons, of treated wastewater from Crawdad Convenience Center located on the west side of State Highway 62, 1/10 of a mile south of the intersection of State Highway 62 and State Highway 12 in Orange County, Texas; discharge shall be into roadside ditch located on west side of State Highway 62; thence into Adams Bayou; thence into Adams Bayou Tidal in segment No. 0508 of the Sabine River Basin.

Contact: Irene Montelongo, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: October 5, 1989, 3:14 p.m.

TRD-8909411

Tuesday, November 14, 1989, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the notice of public hearing on consideration of a temporary order for the City of Henrietta to discharge 1.5 million gallons of partially treated domestic wastewater from an oxidation ditch into two temporary holding ponds while repairs are being made on their wastewater treatment clarifier; no discharge into state waters would be authorized; the wastewater treatment facility is located at the intersection of U.S. Highway 82 and Dry Fork Creek, each of the City of Henrietta, Clay County, Texas.

Contact: Irene Montelongo, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: October 5, 1989, 3:15 p.m.

TRD-8909412

Tuesday, November 28, 1989, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the notice of hearing on the creation of Fort Bend County Municipal Utility District No. 60, located in Fort Bend County and containing approximately 236.6 acres of land.

Contact: Brenda W. Foster, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: October 9, 1989, 1:07 p.m.

TRD-8909506

Tuesday, December 5, 1989, 10 a.m. The Texas Water Commission will meet in

Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the hearing on Application No. 4363A- Pilgrim's Pride Corporation, to amend Permit No. 4033, to show that applicant is owner of 2928.137 acres of land out of 6591.60 acres to establish irrigation of the land; to add a new diversion point; to establish a combined diversion rate of 31.8 cfs; and to increase the annual appropriation to 5856.274 acre-feet of water.

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6300.

Filed: October 6, 1989, 11:33 a.m.

TRD-8909442

Tuesday, December 5, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the notice of Application No. 4432B- of Brazos River Club, to amend Permit No. 4105 to increase the amount of water authorized for use from the Brazos River, Brazos River Basin in Brazoria County, Angleton, Texas.

Filed: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6300.

Filed: October 6, 1989, 11:33 a.m.

TRD-8909443

Tuesday, December 12, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the notice of Application No. 5257- by Lakeside Country Club to divert and use 200 acre-feet of water per annum from Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin, into 8 off-channel reservoirs for recreation and irrigation purposes of 70 acres of land (golf course) approximately 14 1/2 miles west of the County Courthouse in Houston, Harris County, Texas.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 371-6300.

Filed: October 6, 1989, 11:32 a.m.

TRD-8909444

Regional Meetings

Meetings Filed October 5, 1989

The Austin Transportation Study, Planning Process Subcommittee met in Room A, Austin Central Library, 800 Guadalupe, Austin, October 9, 1989, at 1:30 p.m. Information may be obtained from Joseph P. Gieselman, 811 Barton Springs Road, Suite 700, Austin, Texas, (512) 472-7483.

The Austin Transportation Study, Policy Advisory Committee met in Room 2.102,

Thompson Conference Center, 26th and Red River, Austin, October 10, 1989, at 6 p.m. Information may be obtained from Joseph P. Gieselman, 811 Barton Springs Road, Suite 700, Austin, Texas, (512) 472-7483.

The Central Appraisal District of Rockwall County, Board of Directors met in the District Appraisal Office, 106 North San Jacinto, Rockwall, October 10, 1989, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034.

The Concho Valley Council of Governments, Executive Committee met at 5002 Knickerbocker Road, San Angelo, October 11, 1989, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Grayson Appraisal District, Board of Directors met at 205 North Travis, Sherman, October 11, 1989, at Noon. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, 75090, (214) 893-9673.

The Hays County Appraisal District, Appraisal Review Board met in the Municipal Building, 632 A East Hopkins, San Marcos, October 11, 1989, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, 78666, (512) 754-7400.

The Region VII Education Service Center, Board of Directors will meet in the Days Inn, Highway 259 South, Henderson, October 19, 1989, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas 75662, (214) 984-3071.

TRD-8909379

Meetings Filed October 6, 1989

The Barton Springs/Edwards Aquifer Conservation District, Board of Directors met at 1124-A Regal Row, Austin, October 9, 1989, at 6:30 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441.

The Brazos River Authority, Lake Management Committee will meet at 4400 Cobbs Drive, Waco, October 16, 1989, at 8:30 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Central Appraisal District of Taylor County, Board of Directors met at 1534 South Treadaway, Abilene, October 11, 1989, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Dallas Area Rapid Transit, Mobility Impaired Committee met in the Board Room, 601 Pacific Avenue, Dallas, October

10, 1989, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit, Minority Affairs Committee met in the Board Room, 601 Pacific Avenue, Dallas, October 10, 1989, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit, Committee of the Whole met in the Board Room, 601 Pacific Avenue, Dallas, October 10, 1989, at 5 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit, Board of Directors met in the Board Room, 601 Pacific Avenue, Dallas, October 10, 1989, at 16:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The East Texas Council of Governments, JTPA Board of Directors met at the Ramada Inn, Kilgore, October 12, 1989, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Eastland County Appraisal District, Board of Director will meet in the Commissioners' Courtroom, Eastland County Courthouse, Eastland, October 18, 1989, at 1 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas, 76448.

The Golden Crescent Service Delivery Area, Private Industry Council, Inc., met at 301 Colony Creek Drive, Victoria, October 11, 1989, at 6:30 p.m. Information may be obtained from Charles R. Steele, P.O. Box 164, Victoria, Texas 77902.

The Gonzales County Appraisal District, Appraisal Review Board met at 928 St. Paul Street, Gonzales, October 10, 1989, at 5 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Grand Parkway Association, met at 140 East Wing, 5757 Woodway, Houston, October 11, 1989, at 8:15 a.m. Information may be obtained from Larry W. Nettles, 2823 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 654-4586.

The Hays County Appraisal District, Board of Directors met in the Municipal Building, 632 A East Hopkins, San Marcos, October 12, 1989, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, 78666, (512) 754-74000.

The Hickory Underground Water Conservation District #1, Board and Advisers met at 2005 Old Nine Road, Brady, October 12, 1989, at 7 p.m. Information may be obtained from Vickie Roddie, P.O. Box

1214, Brady, Texas 76825, (915) 597-2785.

The Hockley County Appraisal District, Board of Directors met at 1103-C Houston Street, Levelland, October 9, 1989, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, 1103-C Houston, Levelland, Texas 79336, (806) 894-9654.

The Lampasas County Appraisal District, Board of Directors met at 109 East Fifth, Lampasas, October 11, 1989, at 9:30 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The North Central Texas Council of Governments, Local Government Investment Fund for Texas will meet at Centerpoint Two, 616 Six Flags Drive, Arlington, October 13, 1989, at 12:30 p.m. Information may be obtained from Charles Cason III, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300, ext. 110.

The Permian Basin Regional Planning Commission, Board of Directors met in the Commission Office, Midland, October 11, 1989, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 6391, Midland, Texas 79711.

The Region X Education Service Center, Board of Directors met in the Board Room, 400 East Spring Valley, Richardson, October 11, 1989, at 12:30 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas 75081, (214) 231-6301.

The Sulphur-Cypress Soil and Water Conservation District #419, met at 1603 North Jefferson, Mt. Pleasant, October 11, 1989, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1603 North Jefferson, Mt. Pleasant, Texas 75455, (214) 572-5411.

The Tyler County Appraisal District, Appraisal Review Board met at 806 West Bluff, Woodville, October 12, 1989, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8909400

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**Meetings Filed October 9,
1989**

The Hunt County Tax Appraisal District, Board of Directors met in the Board Room, District Office, 4801 King Street, Greenville, October 12, 1989, at 7 p.m. Information may be obtained from Joe Pat Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Liberty County Central Appraisal District, Appraisal Review Board will meet at 1820 Sam Houston, Liberty, October 19, 1989, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The Liberty County Central Appraisal District, Board of Directors will meet at 1820 Sam Houston, Liberty, October 25, 1989, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The Middle Rio Grande Development Council, Texas Review and Comment System Committee met for an emergency meeting in the Kennedy Room, Civic Center, Del Rio, October 11, 1989, at 2 p.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas, (512) 876-3533.

TRD-8909480

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**Meetings Filed October 10,
1989**

The Brazos River Authority, Properties Committee will meet at 4400 Cobbs Drive, Waco, October 16, 1989, at 1 p.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Capital Area Economic Development District, Inc. will meet in Suite 100, 2520 IH 35 South, Austin, October 17, 1989, at 2:30 p.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

The Capital Area Planning Council, Executive Committee will meet in Suite 100, 2520 IH 35 South, Austin, October 17, 1989, at 2 p.m. Information may be obtained from Richard G. Bean, Suite 100, 2520 South IH 35, Austin, Texas 78704, (512) 443-7653.

The Ellis County Appraisal District will meet at 406 Sycamore Street, Waxahachie, October 13, 1989, at 10 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Erath County Appraisal District, Board of Directors will meet in the Board Room, 1390 Harbin Drive, Stephenville, October 18, 1989, at 9 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Jones County Appraisal District, Board of Directors will meet in the District's Office, 1137 East Court Plaza, Anson, October 19, 1989, at 8 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas, (915) 823-2422.

The Multimodal Transportation Planning Gulf Coast State Planning Region, Transportation Planning Committee will meet in the Conference Room, Fourth Floor, 3555 Timmons, Houston, October 13, 1989, at 9:30 a.m. Information may be obtained from LaDawn Bush, P.O. Box 1386, Houston, Texas 77251, (713) 869-4571.

The Palo Pinto Appraisal District, Board of Directors will meet in the County Courthouse, Palo Pinto, October 18, 1989, at 3 p.m. Information may be obtained from Jack Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The San Antonio River Authority, Board of Directors-Audit Committee will meet in SARA General Offices, 100 East Guenther Street, San Antonio, October 18, 1989, at 1:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373.

The San Antonio River Authority, Board of Directors will meet in the SARA General Offices, 100 East Guenther Street, San Antonio, October 18, 1989, 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Drawer 830027, San Antonio, Texas 78283-0027, (512) 227-1373.

The San Antonio River Authority Employees Retirement Fund, Board of Trustees will meet in the SARA General Offices, 100 East Guenther Street, San Antonio, October 18, 1989, at 1:45 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Drawer 830027, San Antonio, Texas 78283-0027, (512) 227-1373.

The South East Texas Regional Planning Commission, Executive Committee will meet in the City of Beaumont Council Chambers, Beaumont, October 18, 1989, at 7 p.m. Information may be obtained from Jackie Vice, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384.

The Trinity River Authority of Texas, Administration Committee will meet at 5300 South Collins, Arlington, October 16, 1989, at 10:30 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343.

The Trinity River Authority of Texas, Resources Development Committee will meet at 5300 South Collins, Arlington, October 16, 1989, at 1:30 p.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343.

The Trinity River Industrial Development Authority, Board of Directors will meet at 5300 South Collins, Arlington, October 16, 1989, at 1 p.m. Information may be obtained from Ramona A. Winer, 5300 South Collins, P.O. Drawer 60, Arlington, Texas 76004, (817) 467-4343.

The Tyler County Appraisal District, Board of Directors will meet at 806 West Bluff, Woodville, October 17, 1989, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wise County Appraisal District, Board of Directors will meet in the Board Room, 206 South State Street, Decatur, October 19, 1989, at 9 a.m. Information may be

obtained from Brenda Jones, 206 South
State, Decatur, Texas 76234, (817) 627-
3081.

TRD-8909543

In Addition

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

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

Texas Air Control Board Notice of Contested Case Hearing

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing on the qualification by Troy Vines, Inc., (the applicant), under TACB Standard Exemption Number 71 of TACB Regulation VI, §116.6, to construct a concrete batch plant to be located at 7300 Andrews Highway, Midland, Midland County.

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m., on November 14, 1989, at the TACB Central Office, Room 332, 6330 Highway 290 East, Austin.

What the Applicant Must Prove. This hearing is a contested case hearing under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13. It is generally conducted like a trial in district court. The applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will comply with all requirements of TACB Regulation VI, §116.6 and TACB Standard Exemption Number 71.

Deadline for Requesting to be a Party. At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the applicant and the TACB staff. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner, Cindy Hurd and make sure that this request is actually received at the TACB Central Office, 6330 Highway 290 East, Austin, Texas 78723, by 5 p.m. on October 20, 1989. The examiner cannot grant party status after that deadline, unless there is good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to the TACB before publication of this notice will not be considered as a request for party status. The examiner will make a final decision on party status at the prehearing conference.

Prehearing Conference. The examiner has scheduled a prehearing conference on October 30, 1989, at 1:30 p.m. at the TACB Central Office, Room 332, 6330 Highway 290 East, Austin. At this conference, the examiner will consider any motions of the parties, but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

Public Attendance and Testimony. Members of the general public may attend the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin, at (512) 451-5711, extension 350, a day or two prior to the hearing date in order to confirm the setting, since continuances are sometimes granted.

Any person who wants to give testimony at the hearing, but who does not want to be a party, may call the TACB Legal Division at (512) 451-5711, extension 350, to find

out the names and addresses of all admitted parties who may be contacted about the possibility of presenting testimony.

Information About the Application and TACB Rules. Information about the application and copies of the TACB's Rules and Regulation are available at the TACB Regional Office located at 1901 East 37th Street, Suite 101, Odessa, Texas 79762, the TACB Central Office located at 6330 Highway 290 East, Austin, Texas 78723, and at the Office of the Midland City Secretary, 300 North Loraine Street, Midland, Texas 79701.

Legal Authority. This hearing is called and will be conducted under the authority of the Texas Clean Air Act, §§382.029, 382.030, 382.031, and 382.056; and TACB Procedural Rules §103.31 and §103.41.

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

TRD-8909497 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: October 9, 1989

For further information, please call: (512) 451-5711, ext. 354

Texas Department of Banking Notice of Hearing Amendment

The Hearing on the appeal of branch approval by Caprock Savings and Loan Association, Crane, and motion for rehearing by Security State Bank, McCamey, which was previously scheduled for Monday, October 30, 1989, at 9 a.m., has been rescheduled for Tuesday, October 31, 1989, at 9 a.m. The hearing will be held in the Finance Commission Building, 2601 North Lamar Boulevard, Austin.

Additional information may be obtained from: Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on October 9, 1989.

TRD-8909500 Ann Graham
General Counsel
Texas Department of Banking

Filed: October 9, 1989

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

Notice of Hearing

The hearing officer of the Department of Banking will hear an appeal of branch approval by Caprock Savings and Loan Association, Crane, and a motion for rehearing by Security State Bank, McCamey, on Monday, October 30, 1989, at 9 a.m. The hearing will be held in the Finance Commission Building, 2601 North Lamar Boulevard, Austin.

Any interested person wishing to appear must file a written notice of intent to appear including a brief statement of position with the Texas Department of Banking at least 10 days prior to the hearing. A copy of this notice and all other pleadings must be sent to each party to the hearing. All parties appearing at the hearing are requested to provide the department with two copies of all exhibits received as evidence, excepting poster size exhibits and photographs.

Additional information may be obtained from: Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on October 2, 1989.

TRD-8909333 Ann Graham
 General Counsel
 Texas Department of Banking

Filed: October 4, 1989

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

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Texas Department of Commerce
Weekly Report on the 1989 Allocation
of the State Ceiling on Certain Private
Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1988 is \$839,250,000.

State legislation, Texas Civil Statutes, Article 5190.9(a), (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$279,750,000, with \$186,500,000 available to the local housing authorities and \$93,250,000 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$209,812,500 and the amount for all other bonds requiring an allocation is \$349,687,500.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, September 25, 1989-September 29, 1989.

Weekly report on the 1989 allocation of the state ceiling on certain private activity bonds as pursuant to Texas Civil Statutes, Article 5190.9(a).

Total amount of state ceiling remaining unreserved for the \$279,750,000 subceiling for qualified mortgage bonds under the Act as of September 29, 1989: \$1,166.

Total amount of state ceiling remaining unreserved for the \$209,812,500 subceiling for state-voted issues under the Act as of September 29, 1989: \$164, 812,500.

Total amount of state ceiling remaining unreserved for the \$349,687,500 subceiling for all other bonds under the Act as of September 29, 1989: \$2,500.

Total amount of the \$839,250,000 state ceiling remaining unreserved as of September 29, 1989: \$164,816,166.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from September 25, 1989-September 29, 1989: Texas Housing Agency, eligible borrowers, qualified mortgage bonds, \$48,250,000.

Comprehensive listing of bonds issued and delivered as pursuant to the Act from September 25, 1989-September 29, 1989: none

Issued in Austin, Texas, on October 3, 1989.

TRD-8909354 William D. Taylor
 Executive Director
 Texas Department of Commerce

Filed: October 4, 1989

For further information, please call: (512) 472-5059

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Texas Department of Community
Affairs
Notice of Public Hearing

The Texas Department of Community Affairs (TDCA) announces that a public hearing will be held pursuant to 10 Code of Federal Regulations Part 440-Title IV of the Energy Conservation and Production Act for the Weatherization Assistance For Low-Income Persons Program. The purpose of the public hearing is to receive comments on TDCA's proposed selection of the organization that will administer the weatherization activities as authorized by the Weatherization Assistance for Low-Income Persons (WAFILP) Program in the County of Dallas. The following four organizations submitted proposed weatherization operations in response to the request for proposals (RFP) announced in the July 25, 1989, issue of the *Texas Register* (14 TexReg 3583): Centro De Amistad, Dallas; Community Services, Inc., Corsicana; Grand Prairie Community Renewal Agency, Grand Prairie; Visiting Nurse Association, Dallas.

The public hearing will be held at 10:30 a.m. on Tuesday, October 24, 1989, in the Dallas East Room of the J. Erik Johnsson Central Library, 1515 Young Street, Dallas. For additional information, contact Lucio Varela of the Texas Department of Community Affairs-Program Support Section, P.O. Box 13166, Austin, Texas 78711, (512) 834-6006.

Issued in Austin, Texas on October 5, 1989.

TRD-8909378 Roger Coffield
 General Counsel
 Texas Department of Community Affairs

Filed: October 5, 1989

For further information, please call: (512) 834-6006

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Office of Consumer Credit
Commissioner
Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended

(Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ /Agri- cultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	10/09/89-10/15/89	18.00%	18.00%
Monthly Rate ⁽¹⁾ Art. 1.04(c)	10/01/89-10/31/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/89-12/31/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	10/01/89-12/31/89	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) ⁽³⁾	10/01/89-12/31/89	15.52%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	10/01/89-12/31/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	10/01/89-12/31/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	10/01/89-12/31/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	10/01/89-10/31/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on October 2, 1989.

TRD-8909388 Al Endsley
Consumer Credit Commissioner

Filed: October 5, 1989

For further information, please call: (512) 479-1280

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**Governor's Office of Budget and
Planning**

Request for Proposals

Notice of Invitation. The Energy Management Center (EMC) in the Governor's Office of Budget and Planning invites proposals from local governments, school districts, public and non-profit agencies, and institutions of higher education to participate in the Community-Based Recycling Program (CBRP). CBRP will provide up to \$20,000 to help local communities establish or expand programs

that promote the recycling of glass, metal, paper, plastic, or yard wastes. Funds may cover program activities for a maximum of 12 months.

During the program period, and for two years afterward, grantees must submit quarterly reports to the EMC, documenting the types and volumes of materials recycled. Collection and reporting of additional data may be requested by the EMC for program evaluation purposes.

Allowable expenditures include, but are not limited to:

1. salaries wages, fringe benefits, and local travel (reimbursed at standard state rates) of personnel directly involved in program implementation;
2. promotional and outreach activities, including the production and distribution of posters, brochures, and public service announcements for radio and television;
3. purchase or construction of collection boxes and containment fences;

4. associated costs such as office space, office equipment and supplies, copying, utilities, and telephone service.

A minimum 25% local match is required. This matching requirement may be cash or in-kind, such as donated office space or staff time.

Restrictions on the Use of Funds. This program is funded with oil overcharge funds appropriate to the Energy Extension Service (EES) by the 71st Texas Legislature. Oil overcharge funds are monetary settlements returned to the states as a result of litigation by the United States Department of Energy against certain oil companies for violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges.

Funds are subject to program guidelines of the United States Department of Energy's Energy Extension Service (EES) and the U.S. v. Exxon court decision, and may not be used to pay indirect administrative costs. The funds may be used to supplement existing programs, but may not supplant funds already allocated to the programs.

Projects selected will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's office. No advance payments are allowable.

Contact Person. To obtain a copy of the proposal format, or for more information, contact Douglas Key, Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, (512) 463-1870.

Due Date. Six copies of the sealed proposals should be sent to: Kim Munyon, Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711.

The Energy Management Center is located in room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78701. Proposals should be sent by certified mail or by courier and must be received no later than 3 p.m. on January 5, 1990. Proposals received after that time will not be considered.

Selection Criteria. Proposals must adhere to the format provided by the Energy Management Center. Proposals will be evaluated using the following criteria:

1. proposer's experience administering community-based programs, (15%);
2. proposer's plan for marketing and promoting the recycling program, (20%);
3. degree of community support for the program, evidenced by letters of support from local governments, including school districts, local businesses and business associations, civic and religious organizations, and non-profit environmental groups (other indications of support in addition to such letters also are acceptable), (20%);
4. for new programs, proposer's plan for continuation of the recycling program after the grant has expired; for existing programs, the extent to which the grant will increase the amount of materials recycled after the grant has expired, (15%);
5. proposer's plan for marketing the materials collected, including identification of potential purchasers, transportation costs, and expected prices for each material to be recycled, (15%); and
6. reasonableness of the proposed budget and the amount of local match committed, (15%).

Final selection of grantees will be based on the recommendations of a proposal review panel. If two or more proposals are ranked so closely that a decision cannot be made, the review panel may request finalists to provide additional information or to meet with Energy Management Center staff in Austin prior to final selection. However, no respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal.

Issued in Austin, Texas on October 6, 1989.

TRD-8909488 Sheila W. Beckett
Director
Governor's Office of Budget and Planning

Filed: October 9, 1989

For further information, please call: (512) 463-1931

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**Texas Department of Human Services
Public Notice**

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 89-7, Amendment Number 227. The amendment describes the case mix reimbursement methodology for nursing facilities. If additional information is needed, contact Steve Lorenzen, (512) 450-3744.

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

TRD-8909481 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: October 9, 1989.

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

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**Texas College of Osteopathic Medicine
Consultant Proposal Request**

This request for consulting services is filed under Texas Civil Statutes, Article 6252-11c.

The Texas College of Osteopathic Medicine (TCOM), under the direction of the University of North Texas Board of Regents, invites offers for consultants to review and advise administrative organization, space needs, personnel needs, expansion and marketing for future planning, practice plan for medical clinic facility. The contact for offers of consulting services is Dr. Michael Clearfield, Chairman, Department of Medicine, Texas College of Osteopathic Medicine, 3500 Camp Bowie Boulevard, Fort Worth, Texas 76107, (817) 735-2636.

Details of the proposed scope of services are available upon request.

The deadline for receipt of offers of consulting services is November 15, 1989. Proposals received after 5 p.m. on November 15, 1989, will be returned unopened to the proposer.

TCOM intends to evaluate each proposal and award a contract based upon the consultant's demonstrated competence, knowledge, and the reasonableness of the proposed fee.

Issued in Fort Worth, Texas, on October 3, 1989.

TRD-8909391 David M. Richards, D.O.
President
Texas College of Osteopathic Medicine

Filed: October 5, 1989

For further information, please call: (817) 736-2333

Texas Parks and Wildlife Department Notice of Public Hearings

Notice is hereby given that TPC Services, Inc., whose address is 14811 St. Mary's Lane, Suite 200, Houston, Texas 77079, on September 25, 1989, filed an application with the Texas Parks and Wildlife Department for a sand permit: "to disturb 35,794.68 cubic yards of Gulf of Mexico waterbottoms (sand) per month while installing a 16" O.D. gas pipeline by jetting a minimum of three feet below the mud line, beginning at the state/federal boundary approximately 12 miles offshore from Quintana, at a point with coordinates X=3, 192,417.53 and Y=359,092.33, thence N 22 05'01"W 15,588.59 feet to coordinates X=3, 186,556.87 and Y=373,537.29 thence N 20 47'07"W 19,068.76 feet to coordinates X=3, 179,790.00 and Y=391,365.00, thence N 13 26'26"E 11,551.38 feet to coordinates X=3, 182, 475.00 and Y=402,600.00 thence N 08 38'28"E 12,110.63 feet to coordinates x=3, 184,294.56 and Y=414,573.16, then N 11 31'11"W 1,338.45 feet to the installation by jetting termination point approximately 3,000 feet offshore from Quintana, at coordinates X=3,184,001.30 and Y=416,012.03, a total distance of 59,657.8' all in Texas state waters (public lands), Gulf of Mexico, offshore Brazoria County."

Pursuant to commission rule, the executive director has appointed an examiner to conduct a hearing on this application at: 2 p.m., October 23, 1989, Conference Room C-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County; at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. All evidence offered must be subject to cross-examination or otherwise qualify as admissible evidence under the Texas rules of Civil Evidence in order to be considered by the commission. Written evidence should be filed with the examiner prior to the hearing date.

This hearing will be held under the authority of Texas Civil Statutes, Article 6252-13a, §18(a) and the rules of the Texas Parks and Wildlife Commission, 31 TAC §57.61 et. seq. and 31 TAC §51.21 et. seq.

The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. The examiner retains the authority to schedule or reschedule hearings as deemed necessary. Further information concerning any aspect of the application, if available, may be obtained by contacting Rollin MacRae, Wetlands Coordinator, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4639. Information concerning any procedures of the hearing or scheduling may be obtained by contacting: Jennifer Mellett, Hearing Examiner, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4867.

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

TRD-8909471 Jennifer Mellett
Hearing Examiner
Texas Parks and Wildlife Department

Filed: October 6, 1989

For further information, please call: (512) 389-4805

Notice is hereby given that Tomcat (a general partnership between Transco Matagorda Pipeline Company and Tejas Power Corporation), whose address is 2800 Post Oak Boulevard, P. O. Box 1396, Houston, Texas 77251, on September 21, 1989, filed an application with the Texas Parks and Wildlife Department for a sand and gravel permit: "to disturb state-owned bay bottom of the Matagorda and Lavaca Bays in Calhoun County for the installation of a 20-inch natural gas pipeline. The pipeline would be installed from Magnolia Beach 13 miles through State Tracts 33, 46, 47, 53, 52, 66, 67, 69, 68, 88, 89, 93, 92, 108, 109, 115, and 114, to a proposed platform in State Tract 135, east of Port O'Connor. Adjoining property owners are Tejas Power Corporation and Calhoun County Navigation District."

Pursuant to commission rule, the executive director has appointed an examiner to conduct a hearing on this application at: 2 p.m., October 23, 1989, Conference Room C-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County; at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. All evidence offered must be subject to cross-examination or otherwise qualify as admissible evidence under the Texas rules of Civil Evidence in order to be considered by the commission. Written evidence should be filed with the examiner prior to the hearing date.

This hearing will be held under the authority of Texas Civil Statutes, Article 6252-13a, §18(a) and the rules of the Texas Parks and Wildlife Commission, 31 TAC §57.61 et. seq. and 31 TAC §51.21 et. seq.

The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. The examiner retains the authority to schedule or reschedule hearings as deemed necessary. Further information concerning any aspect of the application, if available, may be obtained by contacting Rollin MacRae, Wetlands Coordinator, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4639. Information concerning any procedures of the hearing or scheduling may be obtained by contacting: Jennifer Mellett, Hearing Examiner, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4867.

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

TRD-8909472 Jennifer Mellett
Hearing Examiner
Texas Parks and Wildlife Department

Filed: October 6, 1989

For further information, please call: (512) 389-4805

Notice is hereby given that the Koch Refining Company, whose address is 4111 North 37th Street East, Wichita, Kansas 67220, (local office is P. O. Drawer 1210, Round Rock, Texas 78681) on August 8, 1989, filed an application with the Texas Parks and Wildlife Commission for a sand, gravel, and marl permit: "to temporarily disturb approximately 400 cubic yards of sand, gravel, and marl of the bed of Onion Creek to install a 16" pipeline located approximately 0.7 mile upstream from State Highway 71

in the vicinity of an existing Lone Star pipeline. Adjoining land owners are H. P. Parkley and Ivy Berdoll, located in Travis County, Texas."

Pursuant to Commission rule, the executive director has appointed an examiner to conduct a hearing on this application at: 2 p.m., October 23, 1989, Conference Room C-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County; at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. All evidence offered must be subject to cross-examination or otherwise qualify as admissible evidence under the Texas Rules of Civil Evidence in order to be considered by the commission. Written evidence should be filed with the examiner prior to the hearing date.

This hearing will be held under the authority of Texas Civil Statutes, Article 6252-13a, §18(a) and the rules of the Texas Parks and Wildlife Commission, 31 TAC §57.61 et. seq. and 31 TAC §51.21 et. seq.

The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. The examiner retains the authority to schedule or reschedule hearings as deemed necessary. Further information concerning any aspect of the application, if available, may be obtained by contacting Rollin MacRae, Wetlands Coordinator, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4639. Information concerning any procedures of the hearing or scheduling may be obtained by contacting: Jennifer Mellett, Hearing Examiner, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4867.

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

TRD-8909473 Jennifer Mellett
Hearing Examiner
Texas Parks and Wildlife Department

Filed: October 6, 1989

For further information, please call: (512) 389-4805

Notice is hereby given that the Koch Refining Company, whose address is 4111 North 37th Street East, Wichita, Kansas 67220, (local office is P. O. Drawer 1210, Round Rock, Texas 78681) on August 8, 1989, filed an application with the Texas Parks and Wildlife Commission for a sand, gravel, and marl permit: "to temporarily disturb approximately 1,400 cubic yards of sand, gravel, and marl of the Brazos River to install a 16" pipeline located approximately 11 miles downstream from State Highway six in the vicinity of an existing Texas utilities pipeline. Adjoining land owners are Wesley Robinson and Melton A. Hawkins, located in McLennan County, Texas."

Pursuant to Commission rule, the executive director has appointed an examiner to conduct a hearing on this application at: 2 p.m., October 23, 1989, Conference Room C-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County; at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. All evidence offered must be subject to cross-examination or otherwise qualify as admissible evidence under the Texas Rules of Civil Evidence in order to be considered by the commission. Written evidence should be filed with the examiner prior to the hearing date.

This hearing will be held under the authority of Texas Civil Statutes, Article 6252-13a, §18(a) and the rules of the Texas Parks and Wildlife Commission, 31 TAC §57.61 et. seq. and 31 TAC §51.21 et. seq.

The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. The examiner retains the authority to schedule or reschedule hearings as deemed necessary. Further information concerning any aspect of the application, if available, may be obtained by contacting Rollin MacRae, Wetlands Coordinator, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4639. Information concerning any procedures of the hearing or scheduling may be obtained by contacting Jennifer Mellett, Hearing Examiner, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4867.

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

TRD-8909474 Jennifer Mellett
Hearing Examiner
Texas Parks and Wildlife Department

Filed: October 6, 1989

For further information, please call: (512) 389-4805

Notice is hereby given that the Oyster Mariculture Farms, Inc., whose address is 302 Mechanic, Galveston, Texas 77550, on September 11, 1989, filed an application with the Texas Parks and Wildlife Department for a sand and gravel permit: "to disturb state-owned bay bottom of the Matagorda Bay, to install a 900-foot water pipeline extending from a bulkhead shoreline south into Matagorda Bay. The site is located 1/3 mile east of the southernmost end of FM 3280, south of Palacios in Matagorda County. Adjoining land owners are R.B. and Margaret S. Trull."

Pursuant to commission rule, the executive director has appointed an examiner to conduct a hearing on this application at: 2 p.m., October 23, 1989, Conference Room C-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County; at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. All evidence offered must be subject to cross-examination or otherwise qualify as admissible evidence under the Texas Rules of Civil Evidence in order to be considered by the commission. Written evidence should be filed with the examiner prior to the hearing date.

This hearing will be held under the authority of Texas Civil Statutes, Article 6252-13a, §18(a) and the rules of the Texas Parks and Wildlife Commission, 31 TAC §57.61 et. seq. and 31 TAC §51.21 et. seq.

The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. The examiner retains the authority to schedule or reschedule hearings as deemed necessary. Further information concerning any aspect of the application, if available, may be obtained by contacting Rollin MacRae, Wetlands Coordinator, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4639. Information concerning any procedures of the hearing or scheduling may be obtained by contacting Jennifer Mellett,

Hearing Examiner, Texas Parks and Wildlife Department,
4200 Smith School Road, Austin, Texas 78744, (512) 389-
4867.

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

TRD-8909475

Jennifer Melett
Hearing Examiner
Texas Parks and Wildlife Department

Filed: October 6, 1989

For further information, please call: (512) 389-4805

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**Texas Rehabilitation Commission
Request for Applications**

The Texas Rehabilitation Commission (TRC) announces the availability of State Revenue Funds for the provision of personal attendant services for persons with severe disabilities who are employed. These funds will be contracted to profit and/or not-for-profit organizations, who will arrange for and monitor the provision of these services on a statewide or multi-county basis. The total amount of funding available is \$350,000. The commission anticipates awarding one to three contracts, in the range of \$100,000-\$350,000.

Personal attendant services enable a person with a severe physical disability to live independently by having a personal attendant perform routine tasks of daily living. These routine tasks typically include assistance with transferring, dressing and undressing, meal preparation and cleanup, eating, bathing, grooming, toileting, shopping, laundry, light housekeeping, and other household duties. To the greatest extent possible, the consumer will be responsible for selecting, training, supervising, and terminating the attendant's service.

Many persons with severe disabilities are either unable to work or have difficulty maintaining employment because of the costs associated with personal attendant services. This project will provide supplemental funding using a co-payment system, in order to make employment an option for an increased number of persons with severe disabilities.

Services will be provided to individuals who are employed and are not eligible for these services through a similar program. Individuals who are preparing for employment will not be eligible for service until they actually become employed.

General Information. Application packets will be available October 13, 1989. Completed proposals must be received by or postmarked and mailed first class to: Sarah D. Bolz, Program Specialist, the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin, Texas 78751, no later than 5 p.m. on November 17, 1989.

Funding Period. The funding period will begin on January 1, 1990, and all funds must be expended by August 31, 1990.

Contract Award and Requirements. Determination of funding for the personal attendant services will be based on the accepted application(s) and may be subject to reduction if budgeting limitations exist. The applicant whose application is accepted for funding, hereinafter referred to as provider, will be notified no later than December 30, 1989. The contract with the selected provider will include but is not limited to the following: provider workplan; evaluation/monitoring processes to be performed by both parties; provider reporting requirements; payment/reimbursement schedule; compliance with

applicable laws and regulations; procedures for maintenance of financial records and program files; auditing procedures; insurance liability/bonding requirements, if applicable; and termination process.

Qualifications of Applicant. Potential providers must ensure that they have the capability, facilities, and all special resources readily available within the selected geographic area to meet and to satisfactorily perform the services identified in their proposal. The TRC will have proprietary rights to all files generated. The potential provider must have submitted: documentation of ability to perform the work specified; documentation of ability to provide acceptable accounting and financial reporting systems; evaluation mechanisms to measure quality of services provided; and assurances that confidentiality of client information is protected.

Application Procedure. More detailed information on the application, the review process and the appeals process may be obtained from Sarah D. Bolz, Program Specialist, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4117.

Review of Applications. The commission reserves the right to accept or reject any or all applications submitted. The commission is under no legal obligation to execute a resulting contract on the basis of this advertisement. This request does not commit the commission to pay any costs incurred prior to the execution of a contract. Each application will be evaluated according to selection criteria which will be included in the application packet.

Results of Application Review. The application selection results will be published in the *Texas Register* on January 9, 1990, and may be obtained by sending a written request and a stamped self-addressed envelope to: Texas Rehabilitation Commission, Programs, 4900 North Lamar Boulevard, Austin, Texas 78751.

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

TRD-8909490

Charles W. Schiesser
Assistant Deputy Commissioner
Texas Rehabilitation Commission

Filed: October 9, 1989

For further information, please call: (512) 483-4117

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**University of Texas at Austin
Management Development Training**

Many Texas agencies have requirements for continuing education for their employees. At the University of Texas, the Industrial Education Department (IED) supports these requirements, provides training to fulfill these requirements, and awards continuing education units (CEUs) for the training. The Industrial Education Department offers courses in two training environments: Open Seminars—Training sessions conducted at the Joe C. Thompson Conference Center in Austin that are open to the public. Call (512) 471-4633 for a 1989-1990 schedule or to receive routine announcements of these training sessions; Closed Seminars—Training sessions conducted at a location chosen by the sponsoring organization. These presentations can be tailored to meet specific needs of the sponsoring organization. For additional information, call (512) 471-4633.

Organizations recognizing selected courses provided by the Industrial Education Department as meeting their continuing education requirements are: Texas Education Agency; Texas Board of Public Accountancy; Texas Department of Human Resources; Texas Department of

Health (water and wastewater); Texas Adult Probation Commission; Texas Department of Health (Division of Water Hygiene); Texas Commission of Law Enforcement Standards and Education.

Courses currently offered by the Industrial Education Department of the University of Texas at Austin are:

<u>Course Titles</u>	<u>Hrs.</u>	<u>CEUs</u>
Courses Specialized by Type of Work		
Managing Highway Maintenance	28	2.8
Managing Highway Maintenance (Modified)	12	1.2
First-line Supervisors Course for Law Enforcement	32	3.2
Middle Managers Course for Law Enforcement	32	3.2
Effective Oral Presentations for Law Enforcement Personnel	20	2.0
The Effective Secretary	12	1.2
Effective Techniques for Inspecting Management Practices	*	*
Health (MSHA)	*	*
Accident Prevention Techniques (MSHA)	*	*
Instructor Approval Course (MSHA)	18	1.8
First Aid (MSHA)	*	*

Mandatory Health and Safety Standards (MSHA)	*	*
Cardiopulmonary Resuscitation — CPR (MSHA)	4	.4
Miners' Rights and Legal Responsibilities (MSHA)	2	.2
Courses for Nonsupervisory Personnel		
Drugs and Alcohol: Use and Abuse	4	.4
Employee Development—Presupervisory Training	20	2.0
Effective Communications	12	1.2
Courses for All Persons		
Teamwork	14	1.4
Personal Values, A Key to Understanding People	4	.4
Management for Quality	14	1.4
Effective Reading	18	1.8
Effective Writing	12	1.2
Listening and Remembering	12	1.2
Technical Writing	12	1.2
The Telephone—Friend or Foe	8	.8

 Note: Hours Variable *

If you are interested in having IED serve your continuing education needs or need more information, write to IED, the University of Texas at Austin, EDA S-13, Box 7700, Austin, Texas 78713-7700.

Issued in Austin, Texas, on October 5, 1989.

TRD-8909395

Arthur H. Dilly
Executive Secretary to the Board
The University of Texas System

Filed: October 5, 1989

For further information, please call: (512) 499-4402

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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 City of Port Neches, Permit Number 10477-04, on October 4, 1989, assessing \$17,600 in administrative penalties and imposing stipulated penalties.

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

Issued in Austin, Texas, on October 5, 1989.

TRD-8909441

Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: October 6, 1989

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