

Texas Register

Volume 13, Number 13, February 16, 1988

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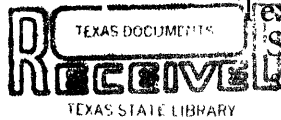
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Texas Register

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Information Available: The 10 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules 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 explanations 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: "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 12 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, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule 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 rule 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 the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *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 February 8

To be a member of the **Texas Higher Education Coordinating Board** for a term to expire August 31, 1993:

Carolyn Rembert Bacon, 3388 InterFirst One, Dallas, Texas 75202. Ms. Bacon will be replacing William J. Caraway of Houston whose term expired.

To be a member of the **Board of Pilot Commissioners for the Ports of Galveston County** for a term to expire April 15, 1989:

Diane Marie Bender Peck, 1903 Williamsburg Court South, League City, Texas 77573. Mrs. Peck will be replacing Patty Gray of Galveston whose term expired.

To be a member of the **Board of Pilot Commissioners for the Ports of Galveston County** for a term to expire April 15, 1989:

Sidney Charles Farmer, III, 1908 Strand, Galveston, Texas 77550. Mr. Farmer will be replacing Daniel Perez of Galveston whose term expired.

To be a member of the **Board of Pilot Commissioners for the Ports of Galveston County** for a term to expire April 15, 1989:

James Foster Nowlin, Jr., 3000 Richmond Avenue, Houston, Texas 77098. Mr. Nowlin will be replacing Cliff Burks of Texas City whose term expired.

To be a member of the **Board of Pilot Commissioners for the Ports of Galveston County** for a term to expire April 15, 1989:

Michael B. Hughes, P.O. Box 629, Galveston Texas 77553. Mr. Hughes will be replacing Charles Jordan of Galveston whose term expired.

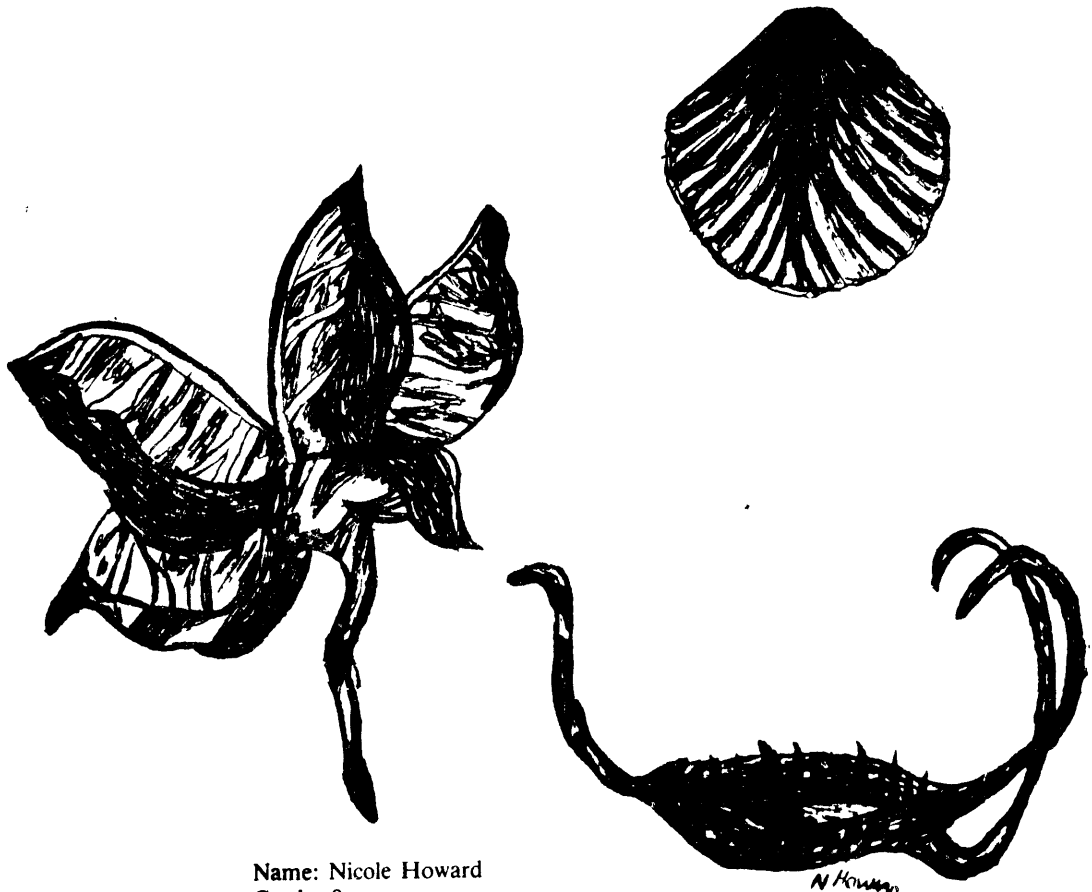
To be a member of the **Board of Pilot Commissioners for the Ports of Galveston County** for a term to expire April 15, 1989:

F. Wayne Faircloth, Jr., 5425 Thornwood Circle, Dickinson, Texas 77539. Mr. Faircloth will be replacing Mr. Gay of Dickinson whose term expired.

Issued in Austin, Texas, on February 4, 1988.

TRD-8601351

William P. Clements, Jr.
Governor of Texas



Name: Nicole Howard
Grade: 8
School: Smithfield Jr. High, Birdville

Attorney

General

Description of attorney general submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), 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 may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Opinions

JM-849 (RQ-1241). Request from Charles D. Houston, District Attorney, 155th Judicial District, Bellville, concerning whether amended Texas Rules of Civil Procedure Rule 45, is applicable to criminal cases.

Summary of Opinion. Texas Rules of Civil Procedure, Rule 45, as amended by order of the Texas Supreme Court of July 15, 1987, effective January 1, 1988, is not applicable to criminal cases.

TRD-8801342

JM-850 (RQ-1100). Request from Doyce R. Lee, Commissioner, State Board of Insurance, Austin, concerning whether a casualty or surety company authorized to write fire and allied lines of insurance is subject to statutory risk exposure limitations, and related questions.

Summary of Opinion. A casualty or surety company authorized to write fire and allied lines of insurance is subject to the "ten per-

cent" single risk limitation imposed by the Insurance Code, Article 6.16, (whether the company has actually written fire and allied lines or not) regarding all the lines it writes.

TRD-8801341

JM-851 (RQ-1150). Request from Marlin W. Johnston, Commissioner, Texas Department of Human Services, Austin, concerning whether the Open Records Act, Article 6252-17a, §3(a)(1) authorizes the Texas Department of Human Services to withhold records about a deceased person.

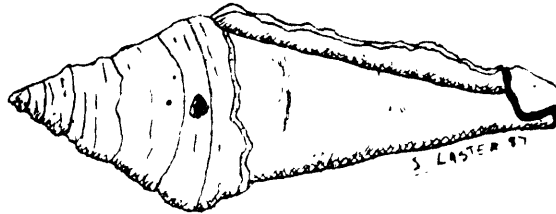
Summary of Opinion. The Texas Department of Human Resources must withhold Medicaid records and adult protective services records of a person who is now deceased. Human Resources Code, §§12.003, 12.012, and 48.083; Texas Civil Statutes, Article 6252-17a, §3(a)(1).

TRD-8801340

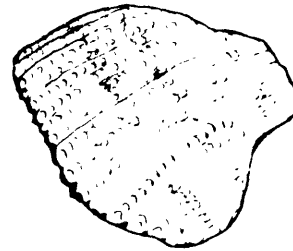
JM-852 (RQ-1197). Request from Hugh Parmer, Chairman, Committee on Intergovernmental Relations, Texas State Senate, Austin, concerning whether applicability of former Texas Civil Statutes, Article 988b, to transactions between a city council and a state university or school district which employs city council members.

Summary of Opinion. Former Texas Civil Statutes, Article 988b, recodified as the Local Government Code, Chapter 171, does not apply to a vote on a matter involving Southwest Texas State University by a member of the San Marcos city council who is employed by the university or who has a substantial interest in the university through his spouse's employment there. Southwest Texas State University is not a business entity as defined in the Local Government Code, Chapter 171.001(2).

TRD-8801339



Name: Stephen Laster
Grade: 8
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Emergency

Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule 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 rules. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

TITLE 1.

ADMINISTRATION Part V. State Purchasing and General Services Commission

Chapter 113. Central Purchasing Division

★1 TAC §113.9

The State Purchasing and General Services Commission is renewing the effectiveness of the emergency adoption of amended §113.9 for a 60-day period effective February 25, 1988. The text of the amended §113.9 was originally published in the November 6, 1987, issue of *Texas Register* (12 TexReg 4042)

Issued in Austin, Texas, on February 8, 1988

TRD-8801335

Judith M. Porras
Assistant General
Counsel
State Purchasing and
General Services
Commission

Effective date: February 25, 1988

Expiration date: March 1, 1988

For further information, please call
(512) 463-3446

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas Chapter 5. Transportation Division

Subchapter W. Registration of Commercial Carriers

★16 TAC §5.501

The Railroad Commission of Texas adopts on an emergency basis an amendment to §5.501, concerning the definition of commercial motor vehicles. The amendment is adopted on an emergency basis due to the substantial burdens of registering and the heavy insurance costs which would be temporarily imposed on the exempted groups if the amendment were adopted through normal rulemaking proceedings. The registration requirement becomes mandatory on April 1, 1988. This burden poses an imminent threat to the general welfare

The amendment exempts farmers, ranchers, agricultural cooperatives, gins, elevators, persons subject to the regulation of the Texas Alcoholic Beverage Commission, tow truck owners, rural electric cooperatives, and rural telephone cooperatives from the commercial motor vehicle registration requirements

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 911b, §4(a)(13), which give the commission authority to define commercial motor vehicle.

§5.501. Definitions

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

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the following are not subject to the provisions of this subchapter:

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

(5) a carrier operating under an agricultural permit pursuant to Subchapter X of this chapter (relating to Agricultural Permits);[.]

(6) **an electric cooperative corporation organized pursuant to the provisions of Texas Civil Statutes, Article 1528b;**

(7) **a telephone cooperative organized pursuant to the provisions of Texas Civil Statutes, Article 1528c.**

(d) Notwithstanding the provisions of subsection (a) of this section, the following are not commercial motor vehicles:

(1) a vehicle registered with the commission pursuant to §9.17 of this title (relating to LP-Gas Transport); [and]

(2) a vehicle registered with the commission pursuant to §5.40 of this title (relating to Intercorporate Transportation Exemption);[.]

(3) **a motor vehicle transporting alcoholic beverages pursuant to a wholesale permit or license issued by the Texas Alcoholic Beverage Commission under the provisions of the Texas Alcoholic Beverage Code;**

(4) **a tow truck registered with the Texas Department of Labor and Standards pursuant to the provisions of Texas Civil Statutes, Article 6687-9b, §1; and**

(5) **a motor vehicle operated by or on behalf of a farmer or rancher, an agricultural cooperative of which the farmer or rancher is a member, a gin, or an elevator.**

Issued in Austin, Texas, on February 8, 1988.

TRD-8801331

Jim Nugent
Chairman
Railroad Commission of
Texas

Effective date: February 8, 1988

Expiration date: June 7, 1988

For further information, please call
(512) 463-7149.

Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *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 rule. Also, in the case of substantive rules, 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 rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule

TITLE 16. ECONOMIC REGULATION

Part 1. Railroad

Commission of Texas

Chapter 3. Oil and Gas

Division

Conservation Rules and Regulations

★ 16 TAC §3.14, §3.58

The Railroad Commission of Texas proposes an amendment to §3.14 and §3.58, concerning well plugging and certain oil, gas, or geothermal resource operators' reports. There are two proposed changes to §3.14. The first change would allow operators of inactive wells to pay a \$100 permit fee for an inactive wellbore and receive a one-year extension of the plugging deadline. The permit would be renewable at the end of the year. Any well permitted under this new method must be properly maintained to prevent pollution of fresh water or the permit would be revoked. The section still retains the alternative of bonding inactive wells. The second change to §3.14 creates the rebuttable presumption that the last operator appearing on a commission-approved producer's transportation authority and certificate of compliance (P-4) is the operator responsible for proper plugging of all wells on that particular property.

The proposed amendment to §3.58 clarifies commission procedures with regard to the P-4 form. The proposed amendment requires that P-4 forms be filed directly with the Austin office. The proposed amendment also provides that an operator can not unilaterally cancel a P-4 which would leave no operator on commission records certifying to compliance with the conservation laws of the State of Texas and rules and orders of the commission. Further, the proposed amendment clarifies the procedure for obtaining temporary transportation authority under certain circumstances, as well as describing the procedure an operator must follow when attempting to be designated as the operator of a property without written approval of the previous operator.

Rita E. Percival, systems analyst, Oil and Gas Division, has determined that for the first five-year period the proposed sec-

tions will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the amendment to §3.14 will be in effect is an estimated additional cost of \$13,336, and an estimated increase in revenue of \$250,000 for fiscal year 1988, and an estimated increase in revenue of \$500,000 for each fiscal year from 1989-1992. The effect on state government for the first five-year period the amendment to §3.58 will be in effect is an estimated reduction in cost of \$1,500 for fiscal year 1988 and an estimated reduction in cost of \$3,000 for each fiscal year from 1989-1992. There will be no fiscal implications for local government or small businesses as a result of enforcing or administering the amendments to §3.14 and §3.58.

Bob Biard, staff attorney, 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 prevention of the needless plugging of wells with future potential, increased plugging of abandoned wells that threaten to pollute the state's fresh water supplies, quicker changes of operator on particular properties, and increased production activity statewide. 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 Bob Biard, Oil and Gas Section, Office of the General Counsel, Railroad Commission of Texas, PO Drawer 12967, Austin, Texas 78711-2967. The docket number is 20-91,678 and the due date for filing comments is 5 p.m. on April 1, 1988.

The amendment to §3.14 is proposed under the Texas Natural Resources Code, Title 3, Subtitle A, §81.052 and Subtitle B, §85.202 and §91.101, which authorizes the Railroad Commission of Texas to adopt and enforce rules relating to the operation, abandonment, and proper plugging of wells. The amendment to §3.58 is proposed under the Texas Natural Resources Code, Subtitle B, §85.0442, which authorizes the Railroad Commission of Texas to promulgate rules necessary to prevent the transportation and handling of oil and gas in violation of the conservation laws of the State of Texas and rules or orders of the commission.

§3.14. Plugging.

(a) (No change.)

(b) Plugging report and commencement of operations.

(1) (No change.)

(2) Plugging operations on each dry or inactive well must be commenced within a period of **one year** [90 days] after drilling or operations ceased and shall proceed with due diligence until completed [provided that dry or inactive wells on which drilling or operations ceased on or after January 1, 1986, but before January 1, 1989, need not commence such plugging operations within one year of the date on which drilling or operations ceased] For good cause, a reasonable extension of time in which to start the plugging operations may be granted pursuant to the following procedures:

(A) The Oil and Gas Division director or the director's designee may administratively grant an extension of time if the well is not a pollution hazard, and

(i) provided that the well is in compliance with all other conservation laws and rules of the commission, the operator intends to use the wellbore, pays the proper fee, and obtains a permit for this extension [has presented a viable plan for utilizing the well within a reasonable time]; or

(ii) the operator posts a performance bond or other form of financial security in an amount acceptable to the staff to ensure that the commission will not have to plug the well with state funds, or [.]

(iii) the operator has presented a viable plan for using the well in a secondary or tertiary recovery project within a reasonable time.

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

(c) General plugging requirements.

(1) In plugging wells, it is essential that all formations bearing usable quality water, oil, gas, or geothermal resources be protected. Proper plugging is the responsibility of the operator of the well. **The term "operator," as used in this section, is defined as a person who was responsible for the physical operation and control of a well at the time the well was abandoned or ceased operation. For purposes of plugging responsibility, the commission will presume that the operator designated on the most recent commission-approved producer's transportation authority and certificate of compliance was the person responsible for the physical**



operation and control of the well at the time the well was abandoned or ceased operation. This presumption may be refuted at a hearing called for the purpose of determining plugging responsibility. All cementing operations during plugging must be performed under the direct supervision of the operator or his authorized representative, who shall not be an employee of the service or cementing company hired to plug the well. Direct supervision means supervision on location at the well site.

(2)-(11) (No change.)

(d)-(i) (No change.)

§3.58. Oil, Gas, and Geothermal Resource Operator's [Producer's] Reports.

(a) Producer's transportation authority and certificate of compliance [and authorization]

(1) Each operator who is a producer of crude oil, [or] natural gas, or geothermal resources is required to file with [in] the Austin [district] office a producer's transportation authority and certificate of compliance [report] for each of his producing properties [on the required form] certifying that the operator [producer] has complied with the conservation laws and the oil, gas, and geothermal resources conservation orders, rules, and regulations of the commission in respect to each property. When the report is filed, it authorizes a transporter [gatherer] (whether the operator [producer] or someone else) to transport the oil, gas, or geothermal resources from such property. Each operator subject to this subsection [producer of crude oil, natural gas, or geothermal resource] is required to comply with the instruction given on the producer's transportation authority and certificate of compliance [appropriate form].

(2) The producer's transportation authority and certificate of compliance [and authorization] shall bind the operator [producer] until validly transferred on commission records to another operator [cancelled by him, and it shall be necessary for the producer, after filing his first report on the required form to file with the commission any subsequent certificate and authorization, using said form until he has cancelled or modified the certificate and authorization previously given].

(3) The Austin office or the appropriate district office may grant temporary authority for an operator to use a transporter not authorized for a particular property in order to take care of production and prevent waste. [If a temporary change occurs in the transporter, the producer shall not be required to file an amended form when oil, in an amount not exceeding 100% of the current month's allowable plus legal storage, is moved from an lease, provided, however, that] the [producer] operator shall secure such temporary authority in writing from the appropriate [namely, the district] office before [in writing within 10 days after] the oil is moved; provided that, in the case of an emergency situation where oil must be moved

off a lease because it poses an imminent threat to the public health and safety, the operator may secure such temporary authority verbally but shall notify the district office in writing within 10 days after the oil is moved. [An original of such notification shall be filed in the Austin office and also in the district office; and] The operator [producer] shall also furnish copies of such authorization or notification to the regular transporter and to the temporary transporter.

(4) If an applicant wishes to assume operator status for a property, but is unable to obtain the signature of the previous operator on the producer's transportation authority certificate of compliance, the applicant must file an explanatory letter and legal documentation of the applicant's right to operate the property. Prior to approval of such an application, the commission legal staff will notify the last known operator of record, if such operator's address is available, affording such operator an opportunity to protest.

(b) Monthly producer's report (oil and geothermal resources) For each calendar month, each operator who is a producer of crude oil or geothermal resources shall file with the commission the required form for each of his producing leases. On or before the last day of the month subsequent to the period of or of the report, such operator [the producer] shall file an original and one copy of each such form, the original to be filed in the Austin office, and one copy with the transporter [and/or gatherer] taking the oil or geothermal resources from the lease.

(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 February 8, 1988

TRD-8801302 Walter E. Lillie
Special Counsel
Railroad Commission of
Texas

Proposed date of adoption

April 18, 1988

For further information, please call

(512) 463-7149



**Chapter 5. Transportation
Division**

**Subchapter W. Registration of
Commercial Carriers**

★ 16 TAC §5.501

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

The Railroad Commission of Texas proposes an amendment to §5.501, concern-

ing the definition of a commercial motor vehicle. The amendment exempts persons subject to the regulation of the Texas Alcoholic Beverage Commission, tow truck owners, rural electric cooperatives, rural telephone cooperatives, farmers, ranchers, agricultural cooperatives, and independent gins and elevators from the commercial motor vehicle registration requirements.

Nim K. Graves, assistant director, has determined that for the first five year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on small businesses will be that exempted persons will be able to avoid the large premiums for the liability insurance levels otherwise required. There will be no fiscal implications for state or local government.

Ronald D. Stutes, hearings examiner, 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 avoidance of economic burdens on the exempted group. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted within 30 days to Ronald D. Stutes, Hearings Examiner, and C. Tom Clowe, Director, Transportation Division, PO Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under Texas Civil Statutes, Article 911b, §4(a)(13), which give the commission authority to define commercial motor vehicle.

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 February 8, 1988

TRD-8801332 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption

March 18, 1988

For further information, please call

(512) 463-7149



**TITLE 22. EXAMINING
BOARDS**

**Part IX. State Board of
Medical Examiners
Chapter 161. General
Provisions**

★ 22 TAC §161.1

The Texas State Board of Medical Examiners proposes an amendment to

§161.1, concerning general provisions of the agency as they relate to board and committee meetings. The amendment represents a change in parliamentary procedures from Sturgis to Robert's. Further, the amendment states that issues requiring a vote of the board shall be decided by majority vote. Standing committees are also set out in this amendment.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year part of the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Davis 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 any member of the public wishing to appear before the board will know from the amendment how the meetings are conducted. 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 Jean Davis, P.O. Box 13562, Austin, Texas 78711. It is expected that a public hearing will be held on the amendment, possibly during the latter part of February. The office will be glad to furnish additional information when it is available.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act and may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§161.1 Meetings.

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

(d) **Board and committee meetings shall be conducted pursuant to the provisions of Robert's Rules of Order Newly Revised unless the board by rule adopts a different procedure** [in d. Sturgis Rules of Order].

(e) **All elections and any other issues requiring a vote of the board shall be decided by a simple majority of the members present. A quorum for transaction of business by the board shall be one more than half the board's membership at the time of the meeting. If more than two candidates contest an election, and if no candidate receives a majority on the first ballot, a second ballot will be conducted between the two candidates receiving the highest number of votes.**

(f)(e) **At the first meeting of the board after each biennial appointment, the board shall elect from its membership a president, vice-president, and secretary-treasurer.**

(g)(f) **The following are standing and permanent committees of the board, as [president shall appoint members to all committees] established by the board in accordance with the Medical Practice Act:**

- (1) **executive committee;**
- (2) **medical school committee;**
- (3) **examination committee;**
- (4) **reciprocity committee;**
- (5) **legislative committee;**
- (6) **standing orders committee;**
- (7) **district review committee;**
- (8) **finance committee;**
- (9) **disciplinary process review committee;**
- (10) **computer committee; and**
- (11) **long range planning committee.**

(h)(g) **The board shall contract with an executive director to act as the chief executive and administrative officer of the board. The executive director's duties shall be to assist in conducting meetings of the board and to carry out other responsibilities as provided by the Medical Practice Act. The executive director shall be compensated as provided in the Medical Practice Act. Any responsibilities or authority of the secretary-treasurer of the board described in any rules of the board may be exercised by the executive director unless the board assigns specific duties or prerogatives exclusively to the secretary-treasurer.**

(i)(h) **To assist with meetings and functions of the board, a general counsel for the Texas State Board of Medical Examiners may be appointed by a majority vote of the board and shall hold office at the pleasure of the board. He or she shall be a member of the State Bar of Texas, but may not be a lobbyist registered with the Office of the Secretary of State of Texas. No person required to register personally as a lobbyist representing physicians, health care entities, or health care related professions may be employed by the board in any capacity. The executive director or secretary-treasurer may employ, compensate, and provide for special hearings and meetings, administrative hearing officers, and other professionals as may be found necessary in the executive director's or secretary-treasurer's opinion to provide for legal services.**

(j)(i) **The board shall authorize the executive director or secretary-treasurer to employ, compensate, and provide administrators, clerks, employees, consultants, professionals, and other persons as may be found necessary in the executive director's or secretary-treasurer's opinion, to carry out the duties related to meetings of the board and other provisions of the Medical Practice Act. The board shall authorize the executive director or secretary-treasurer to reimburse the previously mentioned persons for actual and necessary expenses, including investigation expenses, travel, and other incidental expenses incurred in the performance of official duties as determined by the executive director or secretary-treasurer.**

(k)(j) **Meetings of the board and of its committees are open to the public unless such meetings are conducted in executive session pursuant to Texas Civil Statutes, Article 6252-17. In order that board meetings may be conducted safely, efficiently, and with decorum, members of the public shall refrain at all times from smoking or using tobacco products, eating, or reading newspapers and magazines. Members of the public may not engage in disruptive activity that interferes with board proceedings, including excessive movement within the meeting room, noise or loud talking, and resting of feet on tables and chairs. The public shall remain within those areas of the board's offices designated as open to the public. Members of the public shall not address or question board members during meetings unless recognized by the board's presiding officer pursuant to a published agenda item.**

(l)(k) **Journalists have the same right of access as other members of the public to board meetings conducted in open session, and are also subject to the rules of conduct described in subsection (k) [(j)] of this section. Observers of any board meeting may make audio or visual recordings of such proceedings conducted in open session subject to the following limitations: The board's presiding officer may request periodically that camera operators extinguish their artificial lights to allow excessive heat to dissipate. Camera operators may not assemble or disassemble their equipment while the board is in session and conducting business. Persons seeking to position microphones for recording board proceedings may not disrupt the meeting or disturb participants. Journalists may conduct interviews in the reception area of the board's offices or, at the discretion of the board's presiding officer, in the meeting room after recess or adjournment. No interviews may be conducted in the hallways of the board's offices. The board's presiding officer may exclude from a meeting any person who, after being duly warned, persists in conduct described in this subsection and subsection (k) [(j)] of this section.**

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 February 5, 1988.

TRD-8801311

G. V. Brindley, Jr.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption:
March 18, 1988
For further information, please call
(512) 452-1078



★ 22 TAC §161.3

The Texas State Board of Medical Examiners proposes new §161.3, concerning general provisions and specifically relating to officers. The new section outlines who shall be presiding officer in the event the president is unable to preside. It also sets out method of election in the event of death, resignation, or permanent incapacity of any elected officer of the board.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have 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 or small businesses as a result of enforcing or administering the section.

Ms. Davis 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 minimal, since the public is relatively unaffected by this proposed new section which simply allows the agency to have an orderly transition when and if an elected officer is unable to serve in or her term of office. 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 Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected to be held on the rule, possibly the latter part of February. More information can be obtained by contacting the board office.

The new section is proposed under Texas Civil Statutes, Article 4405b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§161.3 Officers.

(a) The vice-president assumes the duties of the president in case of the absence or incapacity of the president.

(b) In the absence or incapacity of both the president and vice-president, the secretary-treasurer assumes the duties of the president.

(c) In the event of the absence or incapacity of all three elected officers, the board may elect another person to act as presiding officer of a board meeting or may elect an interim acting president for the duration of the absence or incapacity of all three elected officers.

(d) The vice-president becomes president on the death, resignation, or permanent incapacity of the president.

(e) At the next regularly scheduled board meeting after the death, resignation, or permanent incapacity of any elected officer of the board, the board shall hold an election to fill the vacant officer position. If any elected officer is elected to another position at these elections, that officer's vacant position shall be filled by election to be held immediately following the creation of the new vacancy.

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 February 5, 1988

TRD-8801312

G. V. Brindley, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption.

March 18, 1988

For further information, please call
(512) 452-1078



Chapter 179. Investigation Files

★ 22 TAC §179.6

The Texas State Board of Medical Examiners proposes new §179.6, concerning the reporting of medical professional liability claims. The new section gives the form which shall be used and instructions for its completion. Time limitations, reporting responsibilities, other reports needed, alternative reporting methods, and penalties for failure to report are outlined.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have 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 or small businesses as a result of enforcing or administering the section.

Ms. Davis also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the public should be better assured of this important data reaching the Texas State Board of Medical Examiners for proper action, if any, to be taken. 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 Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected to be held on this new section, possibly the latter part of February. More information can be obtained by contacting the board office.

The new section is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulations of the practice of medicine in this state, and the enforcement of this Act.

§179.6. Reporting Medical Professional Liability Claims.

(a) Reporting responsibilities. The reporting form must be completed and forwarded to the Texas State Board of Medical Examiners for each defendant physician against whom a professional liability claim or complaint has been filed. The information is to be reported by insurers or other entities providing medical professional liability insurance for a physician. If a nonadmitted insurance carrier does not report, reporting shall be the responsibility of the physician.

(b) Separate reports required and identifying information. One separate report shall be filed for each defendant insured physician. When Part II is filed, it shall be accompanied by the completed Part I or other identifying information as described in subsection (d)(1) of this section.

(c) Timeliness and attachments. The information in Part I of the form must be provided within 30 days of receipt of the claim or suit. A copy of the claim letter or petition must be attached. The information in Part II must be reported within 90 days after disposition of the claim. Disposed claims shall be defined as those claims where a court order has been entered, a settlement agreement has been reached, or the complaint has been dropped or dismissed.

(d) Alternate reporting formats. The information may be reported either on the form provided or in any other legible format which contains at least the requested data.

(1) If the reporter elects to use a reporting format other than the board's form for data required in Part II, there must be enough identification data available to enable board staff to match the closure report to the original file. The data required to accomplish this include:

(A) name and license number of defendant physician(s), and

(B) name of plaintiff.

(2) A court order or settlement agreement is an acceptable alternative submission for Part II. An order or settlement agreement should contain the necessary information to match the closure information to the original file. If the order or agreement

is lacking some of the required data, the additional information may be legibly written on the order or agreement.

(e) Penalty. Failure by a licensed insurer to report under this section shall be referred to the State Board of Insurance. Sanctions under the Insurance Code, Arti-

cle 1.10, §7, may be imposed for failure to report.

(f) The reporting form shall be as follows.

TEXAS STATE BOARD OF MEDICAL EXAMINERS
P.O. Box 13562, Capitol Station
Austin, Texas 78711

MEDICAL PROFESSIONAL LIABILITY CLAIMS REPORT

FILE ONE REPORT FOR EACH DEFENDANT PHYSICIAN.

PART I COMPLETE FOR ALL CLAIMS OR COMPLAINTS AND FILE WITH THE TEXAS STATE BOARD OF MEDICAL EXAMINERS WITHIN 30 DAYS FROM RECEIPT OF COMPLAINT OR CLAIM. INCLUDE COPY OF CLAIM LETTER AND/OR PLAINTIFF'S COMPLAINT.

1. Name and address of insurer: _____

2. Defendant physician: _____
License number: _____
3. Plaintiff's name: _____
4. Policy number: _____
5. Date claim reported to insurer/self-insured physician: _____
6. Type of complaint: _____ claim only _____ lawsuit
7. Initial reserve amount after investigation: _____
(If this is not determined within 30 days, report this data within 90 days of filing the Part I report with T.S.B.M.E.)

Person completing this report

Phone number

PART II COMPLETE AFTER DISPOSITION OF THE CLAIM AS DEFINED IN 23 T.A.C., INCLUDING DISMISSALS OR SETTLEMENTS. FILE WITH T.S.B.M.E. WITHIN 90 DAYS AFTER DISPOSITION OF THE CLAIM. A COPY OF COURT ORDER OR SETTLEMENT AGREEMENT MAY BE USED AS PROVIDED IN 23 T.A.C.

8. Date of disposition: _____
9. Type of Disposition:
_____ (1) Settlement
_____ (2) Judgment after trial
_____ (3) Other (please specify) _____
10. Amount of indemnity agreed upon or ordered on behalf of this defendant:
\$ _____. Note: If percentage of fault was not determined by the court or insurer in the case of multiple defendants, the insurer may report the total amount paid for the claim followed by a slash and the number of insured defendants. (Example: \$100,000/3)
11. Appeal, if known: _____ Yes _____ No. If yes, which party: _____

Person completing this report

Phone number

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 February 8, 1988

TRD-8801353

G. V. Brindley, Jr.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption
March 18, 1988

For further information, please call
(512) 452-1078.



Part XIX. Polygraph Examiners Board Chapter 391. Polygraph Examiner Internship

★ 22 TAC §391.3

The Polygraph Examiners Board proposes an amendment to §391.3, concerning internship training schedule. For the ultimate benefit of the public, the amendment regulates areas of the industry that the board determines to be critical.

Bryan M. Perot, executive officer, 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 or small businesses as a result of enforcing or administering the section

Mr. Perot also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more close regulation in areas that the board determines to be critical. 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 Bryan M. Perot, Polygraph Examiners Board, P.O. Box 4087, Austin, Texas 78773.

The amendment is proposed under Texas Civil Statutes, Article 4413(29cc), which provide the Polygraph Examiners Board with the authority to regulate persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation

§391.3. *Internship Training Schedule.* The following internship schedule has been approved and adopted by the board as a minimum type and number of hours of any internship training program to be utilized in a course of supervised instruction of not less than 32 hours per week

(1)-(12) (No change.)

(13) Approved polygraph school include the following:

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

[(H) Texas A&M Polygraph School;]

[(H) [(D)] Virginia School of Polygraph;

[(D) [(J)] University of Houston, Downtown College, Polygraph Program;

[(J) [(K)] Maryland Institute of Criminal Justice;

[(K) [(L)] American Institute of Technology and Applied Psychology;

[(M) Munford Institute of Polygraph;]

[(L) [(N)] Rocky Mountain Security Institute;

[(M) [(O)] Argenbright International Institute of Polygraph;

[(N) [(P)] Carroll Institute of Polygraph;

[(O) [(Q)] South School of Polygraph;

[(P) [(R)] Los Angeles Institute of Polygraph;

[(Q) [(S)] Arizona School of Polygraph Science;

[(R) [(T)] any other polygraph school or institute the board may approve from time to time

(14)-(16) (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 January 26, 1988

TRD-8801358

Bryan M Perot
Executive Officer
Polygraph Examiners
Board

Earliest possible date of adoption

March 18, 1988

For further information, please call
(512) 465-2058



Chapter 393. General

★ 22 TAC §393.3

The Polygraph Examiners Board proposes an amendment to §393.3, concerning board promulgated regulations. For the ultimate benefit of the public, the amendment clarifies language

Bryan M Perot, executive officer, 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 or small businesses as a result of enforcing or administering the section

Mr Perot 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 language. 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 Bryan M Perot, Polygraph Examiners Board, P.O. Box 4087, Austin, Texas 78773.

The amendment is proposed under Texas Civil Statutes, Article 4413(29cc), which provide the Polygraph Examiners Board with the authority to regulate persons who purport to be able to detect deception or to verify truth of statement through the use of instrumentation

§393.3. *Board Promulgated Regulations.* Regulations promulgated under authority of Texas Civil Statutes, Article 4413(29cc), §6, shall be published. Along with the Polygraph Examiners Act it will be mailed to all licensed examiners and made a part of the Act by the Polygraph Examiners Board.

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 January 26, 1988

TRD-8801359

Bryan M Perot
Executive Officer
Polygraph Examiners
Board

Earliest possible date of adoption

March 18, 1988

For further information, please call
(512) 465-2058



Chapter 395. Code of Operating Procedure of Polygraph Examiners

★ 22 TAC §395.4

The Polygraph Examiners Board proposes an amendment to §395.4, concerning filing. For the ultimate benefit of the public, the amendment regulates areas of the industry the board determines to be critical.

Bryan M Perot, executive officer, 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 or small businesses as a result of enforcing or administering the section.

Mr Perot also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more close regulation in areas that the board determines to be critical. 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 Bryan M Perot, Polygraph Examiners Board, P.O. Box 4087, Austin, Texas 78773

The amendment is proposed under Texas Civil Statutes, Article 4413(29cc), which provide the Polygraph Examiners Board

with the authority to regulate persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation.

§395.4. Filing All polygraph charts, question sheets, written reports, data sheets, **films, audio and video tapes**, opinions of the examiner from chart analysis, and other pertinent papers shall be kept on file in a safe place for a minimum period of at least two years from the date of the examination. The materials mentioned in this section shall be subject to the inspection of the board upon written request from the secretary (Texas Civil Statutes, Article 4413(29cc), §19(11)).

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 January 26, 1988

TRD-8801356 Bryan M. Perot
Executive Officer
Polygraph Examiners
Board

Earliest possible date of adoption
March 18, 1988

For further information, please call
(512) 465-2058



★ 22 TAC §395.13

The Polygraph Examiners Board proposes an amendment to §395.13, concerning expiration of licenses. For the ultimate benefit of the public, the amendment regulates areas of the industry the board determines to be critical

Bryan M. Perot, executive officer, 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 or small businesses as a result of enforcing or administering the section

Mr. Perot also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more close regulation in areas that the board determines to be critical. 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 Bryan M. Perot, Polygraph Examiners Board, P.O. Box 4087, Austin, Texas 78773

The amendment is proposed under Texas Civil Statutes, Article 4413 (29cc), which provide the Polygraph Examiners Board with the authority to regulate persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation

§395.13. Expiration of Licenses. At the end of the 31st day of December of the current year, every original and subsequently

renewed polygraph examiner's license covered under the Polygraph Examiners Act shall expire. Thereafter, each original and subsequently renewed polygraph examiner's license shall be issued to cover a period from January 1 of each calendar year through December 31 of that same calendar year, dates inclusive. Originally and subsequently renewed licensed examiners shall be issued a license dated in accordance with this Act, §17A [§13A(a)], and date of expiration will be December 31 of that calendar year. [Prior to the issuance of such license or renewal license, the examiner shall annually furnish to the board a bond or insurance policy which covers the same period of time covered by the license to be issued or renewed.] **At the time of issuance of such license or renewal, the examiner shall annually furnish to the board a bond or insurance policy which shall remain in force as a requisite to initial and continued licensure. At no time shall a license be considered issued and valid unless a bond or insurance policy is in force and certification thereof is furnished to the board.**

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 January 26, 1988

TRD-8801357 Bryan M. Perot
Executive Officer
Polygraph Examiners
Board

Earliest possible date of adoption
March 18, 1988

For further information, please call
(512) 465-2058



Part XXIII. Texas Real Estate Commission
Chapter 542. Rules Relating to the Provisions of House Bill 5

★ 22 TAC §542.1

The Texas Real Estate Commission proposes an amendment to §542.1, concerning notices to persons applying for licenses issued by the agency, time periods for processing applications, and appeals for applicants. Section 542.1 was adopted to meet requirements of House Bill 5, 70th Legislature, 1987

The amendment limits the application of §542.1 to timeshare registrations and real estate school accreditation. The other licenses issued by the agency are in the nature of occupational or professional licenses which the attorney general of Texas has indicated are not subject to the requirements of House Bill 5.

Mark A. Moseley, legal counsel, 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 or small businesses as a result of enforcing or administering the section.

Mr. Moseley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be public awareness of the periods for applications to be processed by the agency and of the existence of a remedy for any failure of the agency to comply with those periods. 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 Mark A. Moseley, Legal Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711.

The amendment is proposed under House Bill 5, 70th Legislature, 1987, which requires state agencies to adopt rules regarding the procedures by which the agency processes applications for permits.

§542.1. Notices to Applicants; Processing Times; Appeals.

(a) An application for **timeshare registration or real estate school accreditation** [any license or other authorization] granted by the commission must be filed on a form approved by the commission. The commission shall issue a written notice informing each applicant either that the application is complete and accepted for filing, or that the application is deficient and that specific additional information is required. The commission shall issue the notice to the applicant within the period indicated for the following [licenses or other] authorizations granted by the commission:

- (1) [real estate salesman or broker licenses: 10 days;
- [(2) real estate inspector licenses: seven days;
- [(3) timeshare registrations: 60 days;
- [(4) residential service company licenses: 30 days;]
- [(2)][(5)] real estate school accreditation: 60 days.

(b) The commission shall determine whether to deny or approve an application within the following periods after a complete application[, including the successful completion of any required examination by the applicant.] has been filed:

- (1) [real estate salesman or broker licenses: 30 days;
- [(2) real estate inspector licenses: seven days;
- [(3) timeshare registrations: 30 days;
- [(4) residential service company licenses: 75 days;]

(2)(5)] real estate school accreditation: 90 days.

(c) If an application is subject to denial on the basis of information revealed in the application or an investigation conducted by the commission, the commission shall determine whether to deny or approve the application within 180 days after a complete application[. including the successful completion of any required examination,] has been filed. If an application is denied and a hearing is held to consider the application, the commission shall deny or approve the application within 60 days after the hearing (d)-(e) (No change.)

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

Issued in Austin, Texas, on February 4, 1988

TRD-8801300 Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Earliest possible date of adoption
March 18, 1988

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



TITLE 28. INSURANCE

Part I. State Board of Insurance

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

Subchapter T. Minimum Standards for Medicare Supplement Policies

★28 TAC §3.3308

The State Board of Insurance proposes an amendment to §3.3308, concerning required disclosure provisions in Medicare supplement insurance policies. The amendment provides a warning to consumers, prior to the purchase of Medicare supplement insurance, to consider the need for such coverage. This amendment requires that an outline of coverage in each Medicare supplement policy must include language which advises consumers that duplicate coverage is costly and unnecessary.

A. W. Pogue, deputy insurance commissioner for life, accident, and health insurance, 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 or small businesses as a result of enforcing or administering the section.

Mr. Pogue 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 curtailing of abuses in the marketing of Medicare supplement insurance and the education of consumers about unnecessary and costly duplicate coverage. The anticipated economic cost to persons who are required to comply with the proposed section will be limited to the cost of amending or endorsing existing policy forms incurred by insurers issuing Medicare supplement policies. That cost should be less than \$5.00 per policy.

Comments on the proposal may be submitted to A. W. Pogue, Deputy Insurance Commissioner for Life, Accident, and Health Insurance, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment is proposed under the Insurance Code, Article 3.74, which authorizes the State Board of Insurance to adopt rules regarding Medicare supplement insurance, including rules establishing standards for policy provisions and rules providing for disclosure respecting specific Medicare supplement policies and respecting Medicare in general.

§3.3308. Required Disclosure Provisions.

(a) (No change.)

(b) Outline of coverage requirements for Medicare supplement policies.

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

(3) The outline of coverage provided to applicants pursuant to **paragraph (1) of this subsection** [§3.3308(b)(1) of this title (relating to Required Disclosure Provisions)] shall be in the following form:

(Company name)
Outline of Medicare
Supplement Coverage

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

(10) Duplicate Medicare supplement coverage is costly and unnecessary. A single Medicare supplement policy is usually better than several Medicare supplement policies with overlapping or duplicate coverage.

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 February 10, 1988

TRD-8801386 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption
March 18, 1988

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 3. Traffic Law Enforcement

Traffic Supervision

★37 TAC §3.59

The Texas Department of Public Safety proposes an amendment to §3.59, concerning regulations governing transportation safety. Subsection (b)(2)(F) is amended by revising the enforcement dates relating to applicable parts of the Federal Motor Carrier Safety Regulations and deleting clause (iii). The implementation date of Motor Carrier Safety Regulations required by House Bill 908, 70th Legislature, 1987, has been rescheduled to be effective September 1, 1989.

Melvin C. Pœples, assistant chief of fiscal affairs, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. This amendment will delay whatever penalties are collected by approximately 1½ years. The department does not have the historical data necessary to estimate the degree of noncompliance with the section which will cause civil charges to be filed whereby penalties collected will increase revenue to the general fund of the State of Texas. The amendment will delay whatever penalties are collected by approximately 1½ years. The department does not have the historical data necessary to estimate the degree of noncompliance with this section which will cause criminal charges to be filed in justice and municipal courts whereby penalties collected will increase revenue in these jurisdictions. There will be no effect on small businesses.

Virgil Walsmith, captain, 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 additional time for motor carriers to comply with the requirements of the applicable Motor Carrier Safety Regulations.

The anticipated economic cost to individuals who are required to comply with the proposed section will be the estimated cost per vehicle not presently in compliance of \$0.00 in 1988, and \$200 each year in 1989-1992.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001 (512) 465-2000.

The amendment is proposed under Texas Civil Statutes, Article 6701d, §139, which provide the director of the Department of Public Safety with the authority to adopt

such regulations as he deems necessary to administer the provisions of the hazardous material and motor carrier safety transportation enforcement.

§3.59. *Regulations Governing Transportation Safety.*

(a) (No change.)

(b) Explanations and exceptions.

(1) (No change.)

(2) Specific explanations and exceptions concerning the adoption of the Federal Motor Carrier Safety Regulations are as follows.

(A) (F) (No change.)

(F) The enforcement dates for this section are as follows:

(i) Parts 390, 391, 392, 393, 395, and 396 (except §396.7 and §396.9) [and 397], effective September 1, 1989; and [January 1, 1988;]

(ii) §396.7 and §396.9 and Part 397, effective January 1, 1988. [Part 391, effective January 1, 1989; and]

(iii) Part 395, effective June 1, 1988.]

(3)-(4) (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 February 5, 1988

TRD-8801354

Leo E. Gossett
Director
Texas Department of
Public Safety

Earliest possible date of adoption.
March 18, 1988

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



Part X. Texas Adult Probation Commission

Chapter 321. Standards

★37 TAC §321.1

The Texas Adult Probation Commission proposes an amendment to §321.1, concerning administration. The section relates to payment from judicial district funds of expenses for travel to training programs on probation and community corrections.

Edmond J. Peterson, CPA, director of fiscal services, 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 or small businesses as a result of enforcing or administering the section.

Mr. Peterson also has determined that for each year of the first five years the section is in effect the public benefit antici-

pated as a result of enforcing the section will be promotion of the use of available training funds to provide the most effective training for department staff and judges who try criminal cases. 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 Virginia Grote, Texas Adult Probation Commission, 8100 Cameron Road, Building B, Suite 600, Austin, Texas 78753.

The amendment is proposed under the 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)-(w) (No change.)

(x) Probation department staff and judges trying criminal cases may be reimbursed from the judicial district adult probation fund for travel expenses and registration fees for conferences, workshops, seminars, and training programs in or out of state that are related to probation or community-based correctional programs. Travel expenses for other purposes will be disallowed. If there is any question concerning whether or not the conference is related to probation or community-based correctional programs, clarification shall be requested from the TAPC prior to requesting reimbursement for expenses.

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 February 8, 1988

TRD-8801319

David Spencer
General Counsel
Texas Adult Probation
Commission

Proposed date of adoption

April 8, 1988

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



★37 TAC §321.11

The Texas Adult Probation Commission proposes an amendment to §321.11, concerning intensive supervision probation. The section is amended to conform to statutory and programmatic changes.

Edmond J. Peterson, CPA, director of fiscal services, 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 or small businesses as a result of enforcing or administering the section.

Mr. Peterson 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 improvement of the administrator

of the ISP Program. 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 Virginia Grote, Texas Adult Probation Commission, 8100 Cameron Road, Building B, Suite 600, Austin, Texas 78753.

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

§321.11 Intensive Supervision Probation (ISP)

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

(d) Probationer eligibility. Eligibility for placement in the ISP Program is restricted to offenders diverted from incarceration in the IDC. [by] Placement may occur as a result of:

(1) direct court sentence; [being placed on probation and ordered into the ISP Program by the court; or]

(2) shock probation incarceration; [being placed on probation after incarceration (shock probation) and ordered into the ISP Program by the court; or]

(3) alternative to revocation; [being continued on probation by the court after a revocation hearing as the result of a subsequent arrest, behavior seriously in conflict with the conditions of probation, or failure to report to the probation officer, in lieu of revocation and incarceration in IDC; and]

(4) court-authorized intensive probation [demonstrating one or more of the indicators of need]

(e) Indicators of need. Additionally, probation departments shall document the need for this supervision strategy using such indicators as [The probation department should identify one or more of the following indicators of high risk and/or high need of each probationer assigned to the ISP Program]:

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

(f)-(u) (No change.)

(v) Policies and procedures. The probation department shall supervise probationers on ISP in accordance with policies and procedures developed by the chief adult probation officer and approved by the executive director of the TAPC.

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 February 8, 1988.

TRD-8801318

David Spencer
General Counsel
Texas Adult Probation
Commission

Proposed date of adoption

April 8, 1988

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



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part 1. Texas Department of Human Services

Chapter 72. Memoranda of Understanding with Other State Agencies

Memorandum of Understanding for Long-Term Care

★ 40 TAC §72.101

The Texas Department of Human Services (TDHS) proposes new §72.101, concerning services in hospitals and long-term care institutions, in its memoranda of understanding with other state agencies chapter legislation passed by the 70th Legislature, 1987, requires the adoption by rule of a memorandum of understanding between the Texas Department of Human Services, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation regarding the responsibilities, procedures, and standards involved in the provision, regulation, and/or funding of services in hospitals or long-term care institutions. This memorandum of understanding does not apply to state hospitals or to any TDMHMR service not funded under Title XIX of the Social Security Act.

Brian Packard, associate commissioner for budget, planning, and economic analysis, 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 governments or small businesses as a result of enforcing or administering the section.

Mr Packard 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 assurance of care for individuals in hospitals or long-term care institutions. 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 Support Division-002, Texas Department of Human Services 222-E, PO Box 2960, Austin Texas 78769, within 30 days of publication in the *Texas Register*.

The new section 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.

§72.101 Services in Hospitals and Long-term Care Institutions

(a) Basis. The Texas Department of Human Services, hereinafter referred to as TDHS, the Texas Department of Health,

hereinafter referred to as TDH, and the Texas Department of Mental Health and Mental Retardation, hereinafter referred to as TDMHMR, are required under the provisions of the Human Resources Code, §22.014, to enter into a memorandum of understanding regarding responsibilities, procedures, and standards involved in the provision, regulation, and/or funding of services in hospitals or long-term care institutions. However, the agreement does not apply to state hospitals or to any TDMHMR service not funded under Title XIX of the Social Security Act.

(b) Provision of services.

(1) Hospital and long-term care services are provided by facilities under contract to TDHS as the Title XIX designated single state agency. TDHS contracts for intermediate care provided by facilities for the mentally retarded (IC-MR) in community-based settings and in state schools and state centers, and for intermediate care (ICI) and skilled nursing facility (SNF) care in nursing homes.

(2) TDHS is also responsible for reimbursing Title XIX participating hospitals and long-term care facilities for covered Title XIX services provided to Title XIX-eligible individuals. Reimbursement is subject to the specifications, conditions, limitations, and requirements established by the department or its designee.

(c) Regulation of service standards and procedures of operations.

(1) TDHS promulgates standards and policies, appropriate to complement and support federal regulations, to govern the participation of acute care hospitals and the operation of intermediate care and skilled nursing facility care in nursing homes. TDMHMR develops, with the approval of TDHS, standards and policies, appropriate to complement and support federal regulations, to govern the operation of community-based IC-MR facilities and state schools for the mentally retarded.

(2) TDH, under contract to TDHS, surveys, certifies, and monitors facilities providing services to IC-MR clients and to ICF-SNF clients. TDH develops and publishes licensure requirements for all facilities providing health care. Consonant with federal regulations, TDH develops and publishes the certification procedures which govern the certification of facilities desiring to enter into contracts with TDHS as providers of ICF-SNF service. TDH has administrative penalties which provide sanctions for nursing home facilities who fail to provide acceptable care and to maintain compliance with state licensure requirements. TDHS' standards for participation contain sanctions requirements for facilities who fail to carry out their contractual responsibilities.

(3) TDHS and TDH entered into contracts in 1972, whereby TDH agreed to survey and certify as meeting state and federal standards, all nursing facilities wishing to contract or continue to contract with TDHS as ICFs and SNFs under Title

XIX. These contracts have been in force continuously since 1972. In 1977, pursuant to State Bill 9, 65th Legislature, 1977 TDHS and TDH entered into a contract whereby TDH agreed to be responsible for monitoring and evaluating the quality of care provided by ICF, SNF, and ICF-MR facilities.

(4) TDHS and TDMHMR, pursuant to House Bill 656 67th Legislature, 1981, agreed that TDMHMR would develop and recommend policy and standards, and that TDMHMR would assume the responsibility for monitoring TDHS's activities regarding quality of care review in community-based ICF-MR facilities and state schools.

(d) Funding of services.

(1) TDHS requests state funds and matching federal funds in support of the Medicaid program in Title XIX participating hospitals and long-term care facilities. TDHS also requests federal matching funds for expenditures made by TDH and TDMHMR on behalf of Medicaid.

(2) TDMHMR requests state funds for its activities and certifies expenditures to TDHS for the purpose of drawing down federal matching funds under Title XIX. TDH requests state funds for its activities and certifies expenditures to TDHS for the purpose of drawing down federal matching funds as they relate to survey and certification of nursing facilities for Title XIX participation and quality of care in such facilities.

(e) Promulgation of rules.

(1) TDHS, TDH, and TDMHMR agree that no new rules or regulations that would increase the cost of providing the required services or increase the number of personnel in hospitals or long-term care facilities will be promulgated by the agencies unless:

(A) the commissioner of health certifies that the new rules or regulations are urgent and necessary to protect the health or safety of recipients of hospital or long-term care services; or

(B) TDHS provides written verification that funds are available to adequately reimburse hospital or long-term care service providers for any increased costs resulting from the rule or regulation and establishes reimbursement rates that are sufficient to cover the increased costs; or

(C) the rules are required by state or federal law or federal regulations.

(2) TDHS, TDH, and TDMHMR agree that any rules or regulations proposed by the agencies which would increase the costs of providing the required services or increase the number of personnel in hospital or long-term care facilities will be accompanied by a preliminary fiscal note prepared for the agency promulgating the rules. The fiscal note will be submitted to TDHS and will state the expected impact on the cost of providing the required service and the anticipated impact on the number of personnel in hospital or long-term care facilities. For a rule to be finally adopted, TDHS must provide written verification that funds are

available to adequately reimburse hospital or long-term care service providers for any increased costs resulting from the rule or regulation. Written verification is not required if the commissioner of health certifies that the new rule or regulation is urgent and necessary to protect the health or safety of recipients of hospital or long-term care services. The provisions of this paragraph do not apply if the rules are required by state or federal law or federal regulations.

(f) Termination. In the event that federal and or state laws or other requirements should be amended or judicially interpreted so as to render continued fulfillment of this agreement substantially unreasonable or impossible, or if the parties should be unable to agree upon any amendment which would therefore be needed to enable the substantial continuation of services contemplated herein, then, and in that event, the parties shall be discharged from any further obligation created under the terms of this agreement, except for the equitable settlement of the respective accrued interests or obligations incurred up to the date of termination.

(g) Annual review. TDHS, TDH, and TDMHMR shall review and, if necessary, update this memorandum of understanding prior to the close of each fiscal year.

(h) Effective date. For the faithful performance of this agreement, this agreement is executed by the commissioners of TDHS, TDMHMR, and TDH, to be effective January 1, 1988.

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 February 9, 1988

TRD-8801368 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption
April 1, 1988
For further information, please call
(512) 450-3765



Part II. Texas Rehabilitation Commission Chapter 101. General Rules

★ 40 TAC §101.12

The Texas Rehabilitation Commission proposes an amendment to §101.12, concerning cooperation with other public agencies. The amendment includes coordination with the Texas Department of Human Services and other health and human services agencies to ensure that clients with learning disabilities receive appropriate services.

Charles Harrison, controller, 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 or small businesses as a result of enforcing or administering the section.

Charles Schiesser, assistant commissioner, 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 coordination of services to be provided to persons with learning disabilities. 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 Charles Schiesser, Assistant Commissioner for Legal Services, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8124.

The amendment is proposed under the Human Resources Code, Title 7, Chapter 111, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations necessary

to carry out the purposes of this chapter.

§101.12. Cooperation with Other Public Agencies. The commission enters into appropriate cooperative arrangements with, and utilizes the services and facilities of, the state agencies administering the state's public assistance programs to specifically include the State Commission for the Blind, Texas Department of Human Services, other programs for disabled individuals, veterans' programs, health and mental health programs, education programs, workers' compensation programs, and public employment offices; the Social Security Administration, the Office of Workers' Compensation Programs of the Department of Labor, the Veterans Administration, and other federal, state, and local public agencies providing services related to the rehabilitation of handicapped individuals. **The commission shall coordinate with the Texas Department of Human Services and other health and human service agencies, as necessary, to ensure that clients with learning disabilities receive appropriate services.** The commission also works toward maximum coordination and consultation with programs for and relating to the rehabilitation of disabled veterans.

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 January 25, 1988

TRD-8801292 Charles Schiesser
Assistant Commissioner
Texas Rehabilitation
Commission

Earliest possible date of adoption.
March 18, 1988
For further information, please call
(512) 445-8124.



Withdrawn

Rules An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule 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 *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

**TITLE 16. ECONOMIC
REGULATION**
**Part I. Railroad Commission
of Texas**
**Chapter 5. Transportation
Division**
**Subchapter W. Regulation of
Commercial Carriers**

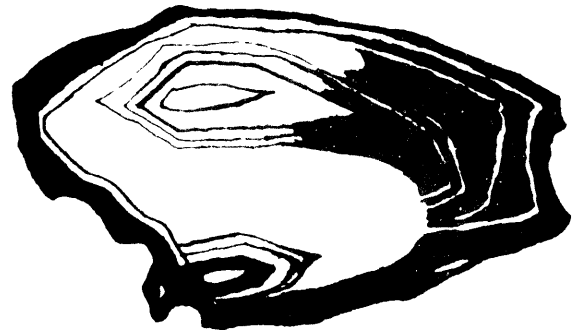
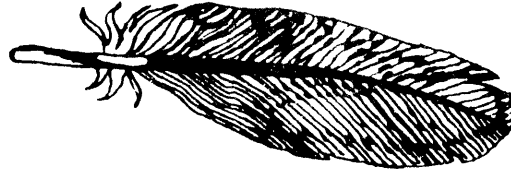
★ 16 TAC §5.501

The Railroad Commission of Texas has withdrawn the emergency effectiveness of the amendment to §5.501, concerning the regulation of commercial carriers. The text of the emergency amendment appeared in the January 1, 1988, issue of the *Texas Register* (13 TexReg 8). The effective date of this withdrawal is February 8, 1988.

Issued in Austin, Texas, on February 8, 1988

TRD-8801333 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Filed February 8, 1988
For further information, please call
(512) 463-7149

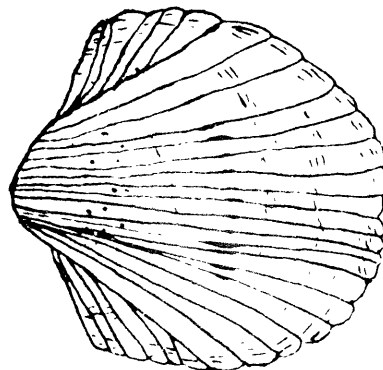


The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §5.501, concerning the regulation of commercial carriers. The text of the proposed appeared in the November 27, 1987, issue of the *Texas Register* (12 TexReg 4448). The effective date of this withdrawal is February 8, 1988.

Issued in Austin, Texas, on February 8, 1988.

TRD-8801334 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Filed: February 8, 1988
For further information, please call
(512) 463-7149.



Name: Schuyler Peterson
Grade: 8
School: Smithfield Jr High, Birdville

Adopted

Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule 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 rule 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 rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 78. Athlete Agents

★1 TAC §§78.1, 78.11, 78.21

The Office of the Secretary of State adopts new §§78.1, 78.11, and 78.21, without changes to the proposed text published in the October 23, 1987, issue of the *Texas Register* (12 TexReg 3900)

The new sections provide the public with specific guidance by which an individual may file an application and renewal with the secretary of state in accordance with Texas Civil Statutes, Chapter 13

New §78.1 provides for the registration of an athlete agent with the secretary of state's office, new §78.11 provides for the renewal of an athlete agent with the secretary of state's office, and new §78.21 sets the filing fee for an application for registration and a renewal or registration as an athlete agent

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 6252-13a, §4, and Texas Civil Statutes, Article 8871, §11, which provide the Office of the Secretary of State with the authority to adopt rules and regulations governing registrations as required by law

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 February 9, 1988

TRD-8801338 Lorna Wassdorf
Special Assistant
Office of the Secretary
of State

Effective date: March 1, 1988
Proposal publication date: October 23, 1987
For further information, please call
(512) 463-5701

Part V. State Purchasing and General Services Commission

Chapter 113. Central Purchasing Division Purchasing

★1 TAC §113.9

The State Purchasing and General Services Commission adopts an amendment to §113.9, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4055)

The amendment raises the minimum dollar level of term contract awards requiring the submission of a performance bond by the successful bidder. An estimated 2.0% savings in purchasing costs to the state is expected on term contract awards of less than \$25,000

The amendment changes the minimum dollar level on term contract awards requiring the submission of a performance bond, from \$1,000 to \$25,000

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 601b, which provide the State Purchasing and General Services Commission with the authority to promulgate rules necessary for the administration and enforcement of the Act

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

Issued in Austin, Texas, on February 5, 1988

TRD-8801307 Judith M. Porras
Assistant General
Counsel
State Purchasing and
General Services
Commission

Effective date: February 29, 1988
Proposal publication date: November 6, 1987
For further information, please call
(512) 463-3446

★1 TAC §113.72

The State Purchasing and General Services Commission adopts an amendment to §113.72, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4055)

The amendment allows the sale of state surplus or salvage property to community mental health and retardation centers by defining the center as political subdivisions, causing the definition to conform to the 70th Legislature, 1987, Chapter 956.

Community mental health and retardation centers will be included in the definition of political subdivisions and will have the privilege of purchasing state surplus or salvage property as other political subdivisions

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 601b, which provide the State Purchasing and General Services Commission with the authority to promulgate rules necessary for the administration and enforcement of the Act

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

Issued in Austin, Texas, on February 5, 1988

TRD-8801308 Judith M. Porras
Assistant General
Counsel
State Purchasing and
General Services
Commission

Effective date: February 29, 1988
Proposal publication date: November 6, 1987
For further information, please call
(512) 463-3446



**TITLE 16. ECONOMIC
REGULATION**

Part I. Railroad

Commission of Texas

Chapter 3. Oil and Gas

Division

**Conservation Rules and
Regulations**

★ 16 TAC §3.34

The Railroad Commission of Texas adopts an amendment to §3.34 without changes to the proposed text published in the November 20, 1987 issue of the *Texas Register* (12 TexReg 4325)

The Railroad Commission adopts these amendments in order to clarify the application of the amended section

The amendment to subsection (h)(3), regarding one of the requirements for qualifying an affiliate as a separate first purchaser. The first amendment prohibits an offer to purchase gas in the special marketing program or in an affiliate use of gas for sale in a special marketing program to require modification of any existing contract provisions. The second amendment clarifies that volume or volume credits are to be created against the contract from which gas is released for sale in the special marketing program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Natural Resources Code, §§81.052, 85.202, 85.046, 86.012, 86.041, 111.083, 111.090, and 111.133, which provides the Railroad Commission of Texas with the authority to adopt sections for the following purpose: to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission to prevent waste of oil and gas in drilling and producing operations; to effectuate the provision and purposes of Chapter 86 of the Natural Resources Code to conserve and prevent waste of gas; and to regulate common purchasers of oil and gas to achieve the prior purposes.

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 February 1, 1988

TRD-8801323

Walter E. Lillie
Special Counsel
Railroad Commission of
Texas

Effective date: February 29, 1988
Proposal publication date: November 20, 1987
For further information, please call
(512) 463-7149



**TITLE 22. EXAMINING
BOARDS**

**Part VI. Texas State Board
of Registration for**

Professional Engineers

**Chapter 131. Practice and
Procedure**

Registration

★ 22 TAC §131.137

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.137, with changes to the proposed text published in the October 20, 1987, issue of the *Texas Register* (12 TexReg 3870)

The amendment clarifies due process procedures that will be followed when the board institutes disciplinary action against a registrant and defines a formal and informal reprimand.

The amendment provides clear and concise due process procedures when disciplinary actions are taken by the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.137. Disciplinary Actions.

(a) Under the authority and provisions of the Act, §8 and §22, the board must take disciplinary action against a registrant who is found guilty of a violation of law, rules, or conduct. In such case, the board may:

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

(5) issue a formal or informal reprimand. A formal reprimand will take the form of a board order, made public by means of the board newsletter and transmitted to the National Council of Engineering Examiners. An informal reprimand may be no less than an oral or written admonishment from the board, which will be noted in the registrant's file and board minutes.

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

(e) A registrant alleged to have violated the law, rules, or standards of conduct will be notified by personal service or by certified or registered mail of the facts or conduct alleged to be in violation and shall be afforded an opportunity to present arguments and evidence in his own behalf before a determination of guilt is made by the board, as provided in §131.224 of this title (relating to Show Cause Orders and Complaints).

(f) Where a violation appears evident, the board will consider instituting disciplinary action by means of scheduling a public hearing in conformance with §§131.181-131.225 of this title (relating to Hearings-Contested Cases); however:

(1) the registrant will first be advised of the right to voluntarily contact the board within a specified time limit to schedule an informal conference at the board office with an informal conference review committee for the purpose of showing there has been no violation as alleged. The committee will be composed of one board member, the executive director, legal counsel, and appropriate staff personnel; however, the absence of the board member or the executive director or legal counsel shall not invalidate the formation of the committee or the conclusions of the conference. The registrant may employ an attorney to represent him. If the registrant desires a conference and the complaint cannot thereafter be dismissed on the evidence, an effort will then be made to reach an informal settlement. This settlement will take the form of a proposed agreed board order which will be presented to the board for acceptance or rejection;

(2) (No change.)

(3) any board action under this subsection which is not informally disposed by stipulation, agreed settlement, consent order, or default will be treated as a contested case and disposed as provided by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the board rules for hearings and contested case.

(g) (No change.)

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

Issued in Austin, Texas, on February 8, 1988.

TRD-8801344

Kenneth J. Bartosh
Executive Director
Texas State Board of
Registration for
Professional
Engineers

Effective date: March 1, 1988
Proposal publication date: October 20, 1987
For further information, please call
(512) 440-7723



**Part XIX. Polygraph
Examiners Board
Chapter 395. Code of
Operating Procedure for
Polygraph Examiners**

★ 22 TAC §395.2

The Polygraph Examiners Board adopts an amendment to §395.2, without changes to the proposed text published in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4827).

The amendment provides examiners with a better understanding of what is expected of them in administering polygraph examinations.

This amendment provides a specific guideline for marketing polygraph charts and requires a question sheet with numbered questions

No comments were received regarding adoption of the amendment.

This amendment is adopted under Texas Civil Statutes, Article 4413(29cc), which provides the Polygraph Examiners Board with the authority to regulate persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation

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 January 26, 1988

TRD-8801360

Bryan M. Perot
Executive Officer
Polygraph Examiners
Board

Effective date March 1, 1988

Proposal publication date December 22, 1987

For further information, please call

(512) 465-2058.



Chapter 397. General Rules of Practice and Procedure

★ 22 TAC §397.22

The Polygraph Examiners Board adopts an amendment to §397.22, without changes to the proposed text published in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4827).

The amendment brings the practice and procedure into compliance with APTRA for the ultimate benefit of the public.

This section concerns contested cases

No statements were received regarding adoption of the amendment

The amendment is adopted under Texas Polygraph Examiners Act, Article 4413 (29cc) §6(a), which gives the board authority to issue regulations consistent with 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 January 26, 1988

TRD-8801361

Bryan M. Perot
Executive Officer
Polygraph Examiners
Board

Effective date March 1, 1988

Proposal publication date December 22, 1987

For further information, please call

(512) 465-2058



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 275. Special Procedures

Appeals of City Actions Relating to Water Pollution Control and Abatement Outside the Corporate Limits of the City

★ 31 TAC §§275.51-275.59

The Texas Water Commission adopts new §§275.51-275.59. New §§275.54, 275.56, and 275.57 are adopted with changes to the proposed text published in the December 18, 1987, issue of the *Texas Register* (12 TexReg 4734). The other sections are adopted without changes and will not be republished

The new sections are adopted in response to Senate Bill 1191, 70th Legislature, 1987, which amended the Texas Water Code, §26.177, authorizing the appeals of certain city action to the Texas Water Commission or district court. The new sections provide necessary procedural guidance for instituting and processing the appeals to the commission and also impose filing fees for processing such appeals.

New §275.51 specifies the applicability of the subchapter and the statutory authorization for the filing of appeals to the commission. New §275.52 establishes how an affected party initiates an appeal to the commission. New §275.53 specifies the issues on appeal as enumerated in the Texas Water Code, §26.177. New §275.54 specifies the deadline for filing a petition for review with the commission, enumerates the requirements for the service of pleadings, establishes a filing fee, requires notice of any hearing scheduled, and places responsibility for the cost of required notice on the party seeking commission action. New §275.57 specifies that the commission hear the matter de novo and may refer the appeal to the Office of Hearings Examiners for an evidentiary hearing. This section also specifies what the record on appeal is if the commission issues an order without referral to the Office of Hearings Examiners. New §275.58 allows the commission to consolidate all appeals related to the city action on appeal. New §275.59 states that the commission order shall remain in effect during the pendency of an appeal of the order until a court of competent jurisdiction renders a final decision.

These new sections currently exist as emergency sections adopted by the commission and published in the September 11, 1987, issue of the *Texas Register* (12 TexReg 3119). There are no substantial differences between the emergency version and this adoption.

Written comments were requested and accepted until January 8, 1988. Based on the comments received, some revisions were made. The modifications and summary of comments follow.

Section 275.54(2) is modified by adding the words "of the" after the words "the executive director." This is a nonsubstantive change since it does not change the scope of the section.

Section 275.56 is modified by adding the words "the executive director of" after the phrase "the city may submit to." This is a nonsubstantive change since it merely clarifies to whom within the commission the answer should be submitted to.

Written comments to the proposed sections were received from the City of Austin and Kenneth L. Peterson, Jr.

The City of Austin suggested that §275.53 be changed to restrict the scope of the commission's review to whether the action of the city bears a rational relationship to water quality. The commission believes that it would be inappropriate to limit the authority granted under the statute which clearly specifies the issues on appeal. For this reason, no change is made to this section.

The commenter also suggested that §275.55 be changed to require the party seeking commission action to include a statement in the petition for review that the specific relief request has previously been presented to the city and that all city legislative and administrative remedies have been exhausted. In response, the commission believes that because there are no uniform, statewide procedures for the exhaustion of remedies at the city level, it would be difficult for the commission to make a determination on a case-by-case basis whether remedies had been exhausted. Also, a jurisdictional requirement of this nature is not apparent in the statute. For this reason, no changes are made to this section.

Mr. Peterson suggested that §275.57 be changed to make it clear that the commission may consider the matter itself or refer the appeal to the Office of Hearings Examiners. He also commented that should the commission consider the matter without referral to the Office of Hearings Examiners, the sections should specify what the record on appeal of the commission order is. This change would allow the commission to handle appeals without the expense and delay of an evidentiary hearing whenever the parties believe the matter is properly presented to the commission through the pleading and argument, while ensuring that the district court will have a record for review in the event of any appeals from the commission's orders. The commission agrees with the commenter and has added language in §275.57 to clarify these matters.

The commenter also suggested a revision to §275.56 to allow the party filing the ap-

peal an opportunity to respond to the city's answer. The commission believes that the petitioner will have an opportunity to respond to the city's answer, either in argument or evidence presented to the commission or a hearings examiner. For this reason, no change is made to §275.56.

These new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides that the commission shall adopt any rules necessary to carry out the powers and duties under the Texas Water Code and to establish and approve policies of the commission. In §26.177, the commission is authorized to adopt and assess reasonable and necessary fees to cover the costs of administering the appeals of certain city actions.

§275.54 *Prerequisites to Appeal.* The following are prerequisites to appeal under the Texas Water Code, §26.177(c).

(1) Filing of a petition. Any appeal to the commission of an action by a city relating to water pollution control and abatement outside the corporate limits of such city requires the filing of a petition for review with the executive director of the commission within 60 days of the enactment of the ruling, order, decision, ordinance, program, resolution, or act of the city.

(2) Service of pleadings. A copy of the petition for review and all other pleadings shall be mailed by first class mail or delivered to the city whose action is being appealed. A certificate of service shall be furnished to the executive director of the commission with the original pleading.

(3) Filing fee. Each petition for review which is intended to institute a proceeding before the commission shall be accompanied by a filing fee of \$100.

(4) Hearing. A time and place for hearing on the matter(s) in dispute shall be set and due notice of the hearing shall be issued by the commission as required by law. The party seeking commission action is responsible for the cost of required notice.

§275.56. *Answer.* Not later than the 20th day after the date on which the city receives a copy of the petition for review, the city may submit to the executive director of the commission an answer in defense of the action from which the appeal is taken.

§275.57. *Review of Commission.* The commission shall hear the appeal de novo and may, in its final order, affirm, overturn, or modify the action of the city from which the appeal was taken. The commission, on its own motion or at the request of any party to an appeal, may refer the appeal to the Office of Hearings Examiners for hearing prior to commission decision. If the commission issues an order without prior referral to the Office of Hearings Examiners, the record on any appeal from the commission's order pursuant to §275.59 of this title (relating to Appeal of Commission Order) shall include the pleadings of all parties, including attachments, and the argument and testimony

before the commission, except where specifically indicated in the commission's order.

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 February 9, 1988

TRD-8801377 William G. Newchurch
Director
Legal Division
Texas Water Commission

Effective date: March 1, 1988
Proposal publication date: December 18, 1987
For further information, please call
(512) 463-8087

◆ ◆ ◆

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part X. Texas Adult Probation Commission

Chapter 321. Standards

★37 TAC §321.12

The Texas Adult Probation Commission adopts an amendment to §321.12, with changes to the proposed text published in the October 30, 1987, issue of the *Texas Register* (12 TexReg 3999).

The section is intended to implement the operation of community rehabilitation centers by adult probation departments.

The section establishes standards for operation of community rehabilitation centers.

Montie Morgan, chief adult probation officer, Beaumont, commented in favor of the amendment.

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

§321.12. *Community Rehabilitation Center.*

(a) Sentencing alternative. The judicial district court shall use the rehabilitation center as a sentencing alternative to incarceration in the Texas Department of Corrections (TDC), not as a sentencing alternative to regular probation or intensive supervision probation. In utilizing this sentencing alternative, the district court should give priority to rehabilitation center placement to offenders on whom there has been a motion to revoke probation, and to offenders whose pre-sentence investigation reports have indicated the need for incarceration at the TDC were the rehabilitation center alternative not available.

(b) Reaching capacity. The judicial district court and adult probation department shall ensure that a sufficient number of eligi-

ble offenders are placed in the rehabilitation center so that it will reach at least 50% of its capacity within three months and 90% capacity within six months after commencing operation.

(c) Eligibility for placement. To be eligible for placement in a rehabilitation center, the offender:

(1) must have been convicted of or plead guilty or nolo contendere to a felony offense other than those under the Penal Code, Title 5, (those offenses include murder, capital murder, voluntary manslaughter, false imprisonment, kidnapping, indecency with a child, assault, aggravated assault, sexual assault, aggravated sexual assault, deadly assault on a law enforcement or correction officer or a court participant, injury to a child or an elderly individual, abandoning or endangering a child, terroristic threat, tampering with a consumer product, or leaving a child in a vehicle);

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

(4) must be employable; and

(5) would have been incarcerated at the TDC if it were not for the availability of the rehabilitation center.

(d) Court order. The probation department shall place an offender in a rehabilitation center only after an order by the court and release a probationer from a rehabilitation center only by order of the court.

(e) Pre-sentence investigation. If a district court does not order a pre-sentence investigation, the probation department shall have a post-sentence investigation report written for each offender placed in a rehabilitation center. This report shall be in compliance with TAPC pre-sentence investigation report standards.

(f) Term of residency. The probationary sentence order by the court to be served in a rehabilitation center shall be for a period of not less than three months nor more than 12 months.

(g) Community advisory council. A community advisory council of not less than seven persons representative of the community shall be appointed by the district judge or judges to advise the probation department in its establishment and maintenance of the rehabilitation center. The community advisory council shall meet at least once in each calendar quarter.

(h) Appointment of the director. The chief adult probation officer shall appoint a director of the rehabilitation center who is familiar with the operation of a residential program, the goals and procedures of an adult probation department, and the diversionary purpose of the rehabilitation center.

(i) Maximum resident capacity. The probation department shall establish the maximum resident capacity limit of the rehabilitation center prior to commencing operations at the center. The limit shall not be exceeded under any circumstances.

(j) Denying admission. The judicial district court and the adult probation department shall give the rehabilitation center

director the authority to deny admission of a prospective resident if that offender is not eligible for placement in a rehabilitation center or if the rehabilitation center has reached its capacity

(k) Prohibited uses. The judicial district court and the probation department shall not use the rehabilitation center as a diagnostic facility to determine offender eligibility for rehabilitation center services or as an emergency shelter for probationers experiencing crisis situations or to alleviate overcrowding at the county jail

(l) Fiscal management. The probation department shall maintain a separate account within the judicial district fund for rehabilitation center funds and use a rehabilitation center fiscal management system approved by the TAPC

(m) Data. The probation department shall submit on a timely basis the rehabilitation center data requested by the TAPC.

(n) Employment opportunities and placement. The probation department shall ensure that the rehabilitation center director assists residents in obtaining and maintaining employment. To this end, programs shall be available to enhance the employability of the residents.

(o) Reports to TDC. If the probation of a resident at the rehabilitation center is revoked, the probation department shall forward to TDC with the commitment papers a copy of the written evaluation report, the PSI, and other information as required by TAPC standards

(p) Training. The probation department shall require that the rehabilitation center personnel participate in residential services training offered by the TAPC

(q) Equipment transfer. The probation department shall transfer the equipment and any remaining supplies purchased with rehabilitation center funds to another rehabilitation center or to an adult probation department temporarily or permanently upon request of the TAPC.

(r) Fiscal guidelines. The probation department shall follow TAPC fiscal guidelines for rehabilitation centers, including, but not limited to:

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

(s) Autonomy. The probation department shall ensure that the rehabilitation center is autonomous and separate from other correctional or treatment facilities.

(t) Case classification. The probation department shall require the rehabilitation center to utilize the TAPC case classification system and the TAPC case management system as part of the intake, assessment, reassessment, and termination processes

(u) Policies and procedures. The probation department shall operate the community rehabilitation center in accordance with policies and procedures developed by the chief adult probation officer and approved by the executive director of the Texas Adult Probation Commission. The policies and procedures are to include, but not be limited to:

(1) utilizing the TAPC case classification system and TAPC case management system.

(2)-(7) (No change.)

(8) providing for release procedures and intensive supervision upon release from the rehabilitation center;

(9)-(15) (No change.)

(16) providing a pass/furlough policy for the residents.

(v) Location. The probation department shall ensure that the location of the rehabilitation center is suited to the employment needs of the residents, and other factors considered important by the local courts and probation departments. Before selecting the location to be used as the basis for an application for establishing a rehabilitation center to be operated by the probation department, the department shall publish a notice in three consecutive issues of a newspaper of general circulation in the county of the proposed location. The notice shall describe the proposed location or locations in a manner sufficient to enable a reasonable person to locate the premises and identify it from other places in the community, and shall also state the time, date, and place of a public hearing on the proposed rehabilitation center. The hearing shall be held not less than 10 nor more than 30 days after the date the last notice is published. No center established after September 1, 1987, may be located within 1,000 feet of a public or private school

(w) Regional rehabilitation center. Probation departments choosing to cooperate in establishing a rehabilitation center shall follow the TAPC guidelines for regional rehabilitation centers.

(x) Caseload average.

(1) The following shall not be included in calculating the department average caseload or in claiming per capita state aid:

(A) residents of a rehabilitation center;

(B) probationers who have been terminated from a rehabilitation center and are being intensively supervised within the judicial district in which the rehabilitation center is located.

(2) Probationers who have been terminated from a rehabilitation center and are being intensively supervised in a judicial district other than the rehabilitation center, may be included in calculating the department average caseload and in claiming per capita state aid.

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 February 8, 1988

TRD-8801317

David Spencer
General Counsel
Texas Adult Probation
Commission

Effective date February 29, 1988
Proposal publication date October 30, 1987
For further information, please call
(512) 834-8188.

★ 37 TAC §321.14

The Texas Adult Probation Commission adopts new §321.14 without changes to the proposed text published in the October 30, 1987, issue of the *Texas Register* (12 TexReg 4000)

The section is intended to implement the operation of court residential treatment centers by adult probation departments

The section establishes standards for the operation of court residential treatment centers.

Montie Morgan, chief adult probation officer, Beaumont, commented in favor of the new section

The new section is adopted under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

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 February 8, 1988

TRD-8801316

David Spencer
General Counsel
Texas Adult Probation
Commission

Effective date March 1, 1988
Proposal publication date October 30, 1987
For further information, please call
(512) 834-8188

★ 37 TAC §321.15

The Texas Adult Probation Commission adopts new §321.15 with changes to the proposed text published in the October 30, 1987, issue of the *Texas Register* (12 TexReg 4001).

The section is intended to implement the management of specialized caseloads by adult probation departments.

The section establishes standards for the management of specialized caseloads.

Montie Morgan, chief adult probation officer, Beaumont, commented in favor of the proposed section.

The new section is adopted under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules

§321.15. *Specialized Caseloads Program.*

(a) Program description. The Specialized Program Caseloads (SPC) is a community-based sanction designed to provide services and supervision to felony offenders with special needs, who would otherwise be incarcerated in the Texas Department of Corrections (TDC).

(b) Department eligibility. All probation departments participating in the Texas Adult Probation Commission (TAPC) state-aid program shall be eligible to apply for funding for the SCP provided the department:

(1) can document a specific target population of special needs offenders to be served; and

(2) can demonstrate the availability of services to be provided for the special needs offenders.

(c) Community-based sanction. The probation department shall utilize the SCP as a sentencing alternative for the court to divert special needs felony offenders from the TDC.

(d) Court order. Placement of an offender into the SCP shall be only after an order of the court. Placement may occur as a result of:

- (1) a direct court sentence;
- (2) shock probation/incarceration;
- (3) an alternative to renovation; or
- (4) court-authorized intensive probation;

(e) Presentence investigation/specialized assessment. A pre/post sentence investigation and/or a specialized assessment to document a specific need shall be conducted on each special needs offender. The required documentation should substantiate the need for placement in this particular caseload supervision strategy.

(f) Case classification. The TAPC computerized case classification system shall be utilized on each person supervised on specialized caseloads.

(g) Individualized supervision. The department shall require the probation officer supervising special needs offenders to prepare an individualized supervision plan for each probationer. The plan should be based on the identified needs/risk area, specifying time frames and measurable objectives.

(h) Term of participation. The probation department shall establish policy and procedures to discharge an offender from a specialized caseload when the measurable objectives of the supervision plan have been achieved.

(i) Caseload size. The specialized caseload shall not exceed the workload of 40 probationers supervised at an intensive level of supervision.

(j) Supervision. The probation department shall provide services and supervision to SCP probationers consistent with the need and risk factors identified, and use available community resources including the purchase of services, if necessary, to provide safety to the community and promote responsible behavior by the probationer

by the probationer

(k) Training. Probation officers supervising SCP probationers shall participate in computerized case classification training sponsored by the TAPC. The probation department shall encourage training in the special needs areas.

(l) SCP officers. A probation department participating in the SCP shall designate an individual probation officer to supervise SCP probationers. This officer shall possess knowledge and skills in the special need area the officer supervises

(m) Policies and procedures. The probation department shall operate the SCP in accordance with policies and procedures developed by the chief probation officer and approved by the executive director of the TAPC. The policies and procedures are to include, but not be limited to, the concepts identified in the TAPC specialized caseload guidelines, where appropriate, according to identified special needs.

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 February 8, 1988

TRD-8801315 David Spencer
General Counsel
Texas Adult Probation
Commission

Effective date. March 1, 1988
Proposal publication date. October 30, 1987
For further information, please call
(512) 834-8188.



★37 TAC §321.16

The Texas Adult Probation Commission adopts new §321.16 with changes to the proposed text published in the October 30, 1987, issue of the *Texas Register* (12 TexReg 4002).

The section is intended to implement the management of electronic monitoring programs by adult probation departments.

The section establishes standards for the management of electronic monitoring programs.

Montie Morgan, chief adult probation Officer, Beaumont, Texas, commented against the section. He opposed the requirement for immediate response when continuously signaling equipment is used

The agency responds that the high cost of continuously signaling equipment is justified only if there is a capability to respond immediately to violations.

The new section is adopted under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

§321.16. *Electronic Monitoring.*

(a) Department eligibility. All probation departments participating in the Texas Adult Probation Commission (TAPC) state aid program and having established a continuum of supervision strategies shall be eligible to apply for funding of electronic monitoring (EM) as a supervision strategy.

(b) Eligibility. Electronic monitoring shall be restricted to felony probationers diverted from the Texas Department of Corrections (TDC). Departments shall submit to the TAPC for approval a limited population of offenders to be served by the use of EM

(c) Court order. Utilization of the EM supervision strategy shall be only after an order of the court. Placement may occur as a result of:

- (1) a direct court sentence;
- (2) shock probation;
- (3) an alternative to revocation;
- (4) court-authorized intensive probation.

(d) Documentation. In addition to the requirements for regular case record documentation, each case file of persons supervised on EM shall include a detailed reason for placement of offenders in this supervision strategy as opposed to one of the other community-based sanctions.

(e) Term of participation. The probation department shall establish policy and procedures to immediately terminate the use of EM when the measurable outcomes of the supervision plan have been achieved or when it becomes apparent that compliance with the conditions of probation will not be achieved through the use of EM. The maximum term of utilizing the EM supervision strategy shall not exceed three months without the specific order of the court.

(f) Case classification. The department shall utilize the TAPC case classification system on each person supervised on EM.

(g) Individualized supervision. The probation department shall require the probation officer supervising EM cases to prepare an individualized supervision plan for each probationer. The plan should be based on the identified risk/needs areas, specifying time frames and measurable objectives that relate to the use of EM.

(h) Policies and procedures. The probation department shall supervise probationers on EM in accordance with policies and procedures developed by the chief adult probation officer and approved by the executive director of the TAPC. The policies and procedures are to include, but not be limited to:

- (1) constitutional issues such as search and seizure, right to privacy, equal protection;
- (2) equipment installation and verification of proper functioning;
- (3) officer intervention strategies;
- (4) how EM complements the continuum of sanctions;
- (5) continuum of intervention.

strategies in response to violations;

(6) violation verification procedures;

(7) furloughs from curfew;

(8) frequency of face-to-face verification contacts;

(9) alternative supervision strategies if EM is not feasible; and

(10) probationer/family orientation on the use of EM.

(i) Technology. Continuously signaling monitors shall be utilized only in conjunction with the capability to respond immediately to violations.

(j) Reliability. Departments shall use EM equipment which has been evaluated as reliable by a nationally recognized and objective authority.

(k) Fees. The EM supervision strategy shall not be denied to any eligible probationer because of inability to pay a direct or indirect fee for it.

(l) Training. The department shall design a training program for personnel prior to the implementation of the program. This training should include, but not be limited to,

(1) the capacity and limitations of the system used;

(2) intervention strategies;

(3) case classification (TAPC sponsored), and

(4) verification procedures.

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

Issued in Austin, Texas, on February 8, 1988

TRD-8801314

David Spencer
General Counsel
Texas Adult Probation
Commission

Effective date February 29, 1988

Proposal publication date October 30, 1987

For further information, please call

(512) 834-8188



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part 1. Texas Department of Human Services

Chapter 16. ICF/SNF

The Texas Department of Human Services (DHS) adopts amendments to §§16 1101, 16 1906, and 16 1912. The amendment to §16 1906 is adopted with changes to the proposed text published in the September 18, 1987 issue of the *Texas Register* (12 TexReg 3261). The amendments to §16 1101 and §16 1912 are adopted without changes and will not be republished.

The amendment to §16 1101 defines the terms "PA" and "supervising physician." The amendment to §16 1906 emphasizes that each facility must include in its operating policies the specific conditions under which PAs may provide services in the facility. The amendment to §16 1912 clarifies the scope of each PA's tasks in a nursing facility, and that these tasks are assigned by the PA's supervising physician as specified in rules of the Texas Board of Medical Examiners (TBME).

Sections 16 1101, 16 1906, and 16 1912 specify conditions under which physician assistant (PA) services may be used in intermediate care and skilled nursing facilities (ICF/SNF).

The department received seven written comments on the proposed changes. Commenters included the Texas Health Care Association (THCA), the Texas Academy of Physician Assistants (TAPA), and the Texas Association of Homes for the Aging (TAHA). At TAHA's request the department held a public hearing on October 19, 1987.

Although the commenters generally supported the changes, several requested clarifications.

One commenter expressed concern that the proposed changes indicate that the department is encouraging an expansion of the number of PAs in nursing facilities and an expansion of the scope of PA services.

It is not the department's intent to encourage or discourage the use of PA services. The amendments address only the conditions under which physicians may, with facility consent, use PA services.

One commenter requested clarification of the extent to which facilities may be responsible to regulatory authorities for any authorized or unauthorized PA actions. This commenter requested that the department modify the rule language to specify that PAs are subject to direct supervision by their employing physicians and not by the facility.

Although the department understands the commenter's concern about potential facility liability, the department does not agree that the language should be changed. When a facility contracts for participation in the Medicaid program, the facility assumes the legal responsibility to ensure that its policies and procedures meet or exceed the prevailing health care standards and regulations. The facility's agreement with a physician is similarly subject to limitations established by federal and state standards for participation and by all other applicable state laws.

One commenter suggested specific changes to language regarding drug orders as they relate to PAs.

The department disagrees. Federal regulations under 42 Code of Federal Regulations (CFR) 405 1124(h) and 442 334

stipulate that PAs may not receive verbal orders for drugs in ICF/SNF facilities. Sections 16 3017(c) and 16 3207(a) of the ICF/SNF rule chapter therefore require that all drugs must be ordered in writing by a physician, and that the physician's verbal drug orders may be given only to licensed nurses, pharmacists, or other physicians. These verbal orders must be immediately recorded and signed by the person receiving the orders. The department does not have the prerogative to promulgate rule language that conflicts with federal regulations. Until the cited sections are changed, providers remain responsible for compliance with them.

One commenter suggested that the term "supervising physician" might be misinterpreted and asked the department to further define the term "supervision" in this context. This commenter also requested copies of pertinent TBME rules.

The department disagrees that a restatement is necessary or appropriate. TBME rules, 22 TAC §185.7(a) and (b) define the supervision of PAs by supervising physicians. The department neither interprets nor disseminates rules promulgated by another agency. Providers may find the cited rules in the *Texas Administrative Code*, which is available in many public libraries, or they may request a copy of the rules by contacting TBME.

One commenter asked the department to specify the elements in the patient-consent form mentioned in §16 1906.

The department is not concerned with the specific format of patient consent, as long as the consent is obtained and kept in the patient's current medical record. To emphasize this and to avoid misunderstanding, the department has deleted the word "form" from the adopted language. Providers can find the patient-consent requirements in TBME rules, 22 TAC §185.6 (a)—(c), or they can contact the Texas Department of Health Long Term Care Units for specific information.

One commenter suggested that the proposed amendment to §16 1912 be relocated to a section in another subchapter. This commenter felt that the material would be more appropriately placed under the Physician Services subchapter of Chapter 16.

Although the department agrees that the amendment would be more appropriately placed in the recommended subchapter, this change would cause lengthy delays and is therefore impractical at this time. The suggested relocation will be made in a future amendment to this chapter.

★ 40 TAC §16.1101

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

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 9, 1988.

TRD-8801367 Marlin W. Johnston
 Commissioner
 Texas Department of
 Human Services

Effective date, March 14, 1988

Proposal publication date, September 18, 1987

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



Governing Body and Management

★40 TAC §16.1906, §16.1912

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs

§16.1906. *Operative Policies and Procedures.*

(a)-(f) (No change)

(g) If physician assistant (PA) services are used in the facility, facility staff must ensure that the following conditions exist.

(1) The facility has written agreements with physicians who intend to use the services of PAs.

(2) The facility has, in writing established procedures specifying that:

(A) the PA is identified clearly

to recipients and to employees, as a PA,

(B) recipients are informed that the PA is not a physician and that they may at their request see the supervising physician;

(C) recipients consent, in writing, to receive services from the PA, and

(D) the signed recipient consent is included in the recipient's record.

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 February 9, 1988.

TRD-8801366 Marlin W. Johnston
 Commissioner
 Texas Department of
 Human Services

Effective date, March 14, 1988

Proposal publication date, September 18, 1987

For further information, please call
(512) 450-3766



Chapter 23. Nursing Facility Administration

Subchapter L. General Policies

★40 TAC §23.1105

The Texas Department of Human Services (DHS) adopts the repeal of §23.1105,

without changes to the proposed text published in the September 18, 1987, issue of the *Texas Register* (12 TexReg 3262).

The purpose of the repeal is to delete physician-assistant policy that has been superseded by changes to Chapter 16 of the department rules. Chapter 16 governs intermediate care and skilled nursing facilities. The Chapter 16 changes are also adopted in this issue of the *Texas Register*.

The repeal will function by making department rules more concise and accurate.

No comments were received regarding adoption of the repeal.

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.

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 February 9, 1988.

TRD-8801365 Marlin W. Johnston
 Commissioner
 Texas Department of
 Human Services

Effective date, March 14, 1988

Proposal publication date, September 18, 1987

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 *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 agendas than what is published in the *Register*.

Texas Department of Agriculture

The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Mountsides Road, San Juan. According to the agendas, the department will review alleged violations of Texas Agriculture Code §103.001. Dates, times, and agendas follow.

Thursday, February 18, 1988, 10 a.m. Alleged violation by Albert Ivy, doing business as Evergreen Farms, as petitioned by Wayne Sojack.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas, 78711, (512) 463-7583.

Filed: February 9, 1988, 10:46 a.m.
TRD-8801348

Thursday, February 18, 1988, 1 p.m. Alleged violation by Albert Ivy, doing business as Evergreen Farms, as petitioned by Jesus Salas.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas, 78711, (512) 463-7583.

Filed: February 9, 1988, 10:46 a.m.
TRD-8801347

Friday, February 19, 1988, 8 a.m. Alleged violation by Marion Sojack, as petitioned by Albert Ivy, doing business as Evergreen Farms.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas, 78711, (512) 463-7583.

Filed: February 9, 1988, 10:46 a.m.
TRD-8801346

Friday, February 19, 1988, 10 a.m. Alleged violation by Albert Ivy, doing business as Evergreen Farms, as petitioned by Willie Steel.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas, 78711, (512) 463-7583.

Filed: February 9, 1988, 10:46 a.m.
TRD-8801345



Tuesday, April 5, 1988, 10 a.m. The Texas Department of Agriculture will meet in the District Office, First Floor, 122 Heimann

Street, San Antonio. According to the agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §103.001 by Pattillo Brothers Produce Company, Inc., Charles M. Pattillo, Darrel E. Pattillo, Cynthia Stavimoha, and Charles L. Pattillo, as petitioned by Marcelino Perez.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: February 11, 1988, 9:45 a.m.
TRD-8801440



Texas Alcoholic Beverage Commission

Monday, February 22, 1988, 1:30 p.m. The Texas Alcoholic Beverage Commission will meet in Room 320, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda, the commission will approve minutes of the January 25, 1988, meeting; hear administrator's and staff's report of agency activity; and approve affidavit of destruction of tested alcoholic beverages.

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

Filed: February 9, 1988, 1:25 p.m.
TRD-8801362



Automated Information and Telecommunications Council

Friday, February 19, 1988, 10 a.m. The Automated Information and Telecommunications Council will meet in Room 106, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the council will approve minutes of the previous meeting; consider procurement proposal of Texas Department of Human Services concerning consultant services—\$1.6 million; consider telecommunications concerning statewide telecommunications system network replacement status report and long-range telecommunications update status report; and consider future business.

Contact: Tina J. Turner, 105 West 15th Street, Austin, Texas, (512) 463-5530.

Filed: February 10, 1988, 4:47 p.m.
TRD-8801434



State Bar of Texas

Thursday, February 18, 1988, 9 a.m. The Executive Committee of the State Bar of Texas will meet in Rooms 206-207, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the committee will hear reports of chairman, president, executive director, general counsel, president-elect, immediate past president, TYLA president, board committee of professional responsibility, and supreme court liaison; and consider authorization of revisions to bylaws of state bar college.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: February 10, 1988, 3:55 p.m.
TRD-8801430



Texas Diabetes Council

Wednesday, February 24, 1988, 10 a.m. The Texas Diabetes Council will meet in Room T-610, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of the December 10, 1987, meeting, hear report on budget proposal for the Diabetes Council, consider state plan for diabetes control and ranking of diabetes control goals and strategies, discussion and adoption of recommendations for diabetes control, and consider dissemination of plan for review and comment.

Contact: Charlene Laramey, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534.

Filed: February 9, 1988, 4:22 p.m.
TRD-8801374



Advisory Commission on State Emergency Communications

Wednesday, February 17, 1988, 10:30 a.m. The Regional Plan Committee of the Advisory Commission on State Emergency Communications will meet in Room 2300, One Bell Plaza, Dallas. According to the agenda, the committee will conduct a work session to continue drafting standards for the regional plan application and establish procedures related to request for regional plan approval

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas, (512) 463-1812

Filed: February 9, 1988, 4:05 p.m.
TRD-8801370

Thursday, February 18, 1988, 9 a.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet in Room 407, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the committee will consider developing a policy on governmental units entering an existing 9-1-1 district; review statutes and rules for conducting commission committee business, consider developing job descriptions for proposed staffing needs and developing a policy on public agency participation with the council of governments 9-1-1 plan.

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas, (512) 463-1812.

Filed: February 10, 1988, 4:37 p.m.
TRD-8801433

Friday, February 19, 1988, 10 a.m. The Public Information Committee of the Advisory Commission on State Emergency Communications will meet at 1520 East Rochel Road, Irving. According to the agenda, the committee will discuss 9-1-1 public education programs and the production of video tape

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas, (512) 463-1812

Filed: February 9, 1988, 4:05 p.m.
TRD-8801371

Texas Employment Commission

Wednesday, February 17, 1988, 8:30 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 approve minutes of the previous meeting; consider internal procedures of commission appeals, tax liability cases and higher level appeals in unemployment compensation cases listed on Docket 7, and set date of next meeting

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

Filed: February 9, 1988, 2:05 p.m.
TRD-8801350

Employees Retirement System of Texas

Tuesday, February 23, 1988, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet in the ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; consider Group Insurance Advisory Committee election calendar, flexible benefits plan, 1988 operating budget adjustment to expand internal auditing program, emergency and proposed amendment to trustee rules, final adoption of proposed amendment to trustee rules, and appeal of beneficiaries of deceased Vernon L. Young; and hear report on feasibility of acquiring software, status report on state auditor's management letter, and executive director's report. The board will also meet in executive session

Contact: James T. Herod, 18th and Brazos Streets, Austin, Texas, (512) 476-6431.

Filed: February 10, 1988, 3:15 p.m.
TRD-8801422

Office of the Governor

Thursday, February 11, 1988, 9 a.m. The Criminal Justice Division of the Office of the Governor met in emergency session in Room 304T, 12th and Trinity Streets, TEC Building, Austin. According to the agenda summary, the division overiewed revised grant process; considered financial update, criminal justice division newsletter briefing, and questions and answers. The emergency status was necessary to make staff available to the council of governments to answer any questions concerning the CJD guidelines prior to the development of the region's plan for fiscal year 1989

Contact: Ken Carter, P.O. Box 12423, Austin, Texas 78711, (512) 463-1919.

Filed: February 10, 1988, 4:28 p.m.
TRD-8801432

Texas Department of Health

The Texas Department of Health will meet in Room I-507, 1100 West 49th Street, Austin. Dates, times, and agendas follow.

Thursday, February 18, 1988, 9:30 a.m. The Medical Radiologic Technologist Advisory Board will approve minutes of the November 7, 1987, meeting, consider comments received and approval of amendments to 25 TAC §§143.1-143.14 relating to certification

of medical radiologic technologists; and consider other matters relating to the certification of medical radiologic technologists or Senate Bill 1439 (not requiring advisory board action) and setting of next meeting date.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7275.

Filed: February 9, 1988, 4:21 p.m.
TRD-8801376

Friday, February 19, 1988, 11 a.m. The Respiratory Care Practitioners Advisory Board will approve minutes of the November 5, 1987, meeting; hear program administrator's report and chairperson's report; discuss and accept resignation from advisory board member Donnie Holman; consider amendments to rules and regulations 25 TAC §§123.1-123.13; discuss proposed legislative amendments, consider action on applications disapproved by the program administrator, other matters relating to the certification of respiratory care practitioners (not requiring advisory board action), and setting of next meeting date.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7631.

Filed: February 9, 1988, 4:21 p.m.
TRD-8801375

Texas Department of Human Services

Friday, February 19, 1988, 9 a.m. The Medical Care Advisory Committee of the Texas Department of Human Services will meet in Classroom A, Fourth Floor, Building C, 11044 Research Boulevard, Austin. According to the agenda summary, the committee will elect chairperson and vice-chairperson; hear commissioner's comments, deputy commissioner for health care services comments, and executive assistant's comments; approve minutes of the previous meeting; consider EPSDT orthodontic services, payment for absences from facility rule (iCF-MR), reimbursement methodology vendor drug program, link-up America, treatment of couple cases, SSI and RSDI lump sum payment, exclusion of death benefits spent on last illness and burial, coverage of physician services provided by dentists, notice of subrogation, coverage of home deliveries performed by certified nurse-midwives, and provider certification enrollment in Medicare; review and recoupment of above routine physician visit claims; and consider amendments to policies and procedures.

Contact: Carolyn Howell, P.O. Box 2960, Austin, Texas 78769, (512) 450-3053

Filed: February 10, 1988, 9:20 p.m.
TRD-8801390

Friday, February 19, 1988, 9:30 a.m. The Texas Council of Child Welfare Boards of the Texas Department of Human Services will meet in Classroom 1, Second Floor, West Tower, 701 West 51st, Austin. According to the agenda, the council will approve minutes of the previous meeting; hear the treasurer's report; consider appointment of nominating committee; hear reports from regions, issues committee report, report from state office, committee reports on education, public information, conference, and closing announcements.

Contact: Chris Theophilus, P.O. Box 2960, Austin, Texas, (512) 450-3321.

Filed: February 9, 1988, 1:42 p.m.
TRD-8801355



Lamar University

Thursday, February 11, 1988, 1:15 p.m. The Board of Regents of Lamar University met in the Mary and John Gray Library, 4400 Martin Luther King Parkway, Beaumont. According to the agenda summary, the board considered approval of Building and Grounds Committee recommendation, Academic Affairs Committee recommendations, Student Relations and Services Committee recommendations, and Personnel Committee recommendations. The board also met in executive session to consider legal, real estate, and personnel matters. The emergency status was necessary to ensure quorum presence at meeting of the board.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: February 11, 1988, 9:36 a.m.
TRD-8801436



Texas Board of Law Examiners

Sunday-Tuesday, February 21-23, 1988, 8:15 a.m. daily, except 5 p.m. on Sunday. The Texas Board of Law Examiners will meet at the University Law Center, 1414 Colorado, Austin, except for Sunday at the Guest Quarters Hotel, 305 West 15th Street, Austin. According to the agenda, the board will approve minutes of the January 1988 meeting; consider budget status for fiscal year 1988; discuss February 1988 exam and proposed rule changes, and consider questions of eligibility, special requests, and hearings on moral character and fitness.

Contact: Wayne E. Denton, 510 South Congress Avenue, Suite 116, Austin, Texas 78701 (512) 463-1621

Filed: February 10, 1988, 3:42 p.m.
TRD-8801431



Pan American University

Saturday, February 13, 1988, 9 a.m. The Board of Regents-Academic Programs Workshop of Pan American University submitted a revised agenda to a meeting held in the Coastal Studies Lab, Isla Blanca Park, South Padre Island. According to the agenda, the board considered academic programs of Reynaldo G. Garza School of Law and others.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas.

Filed: February 10, 1988, 1:45 p.m.
TRD-8801397



Texas State Board of Public Accountancy

Wednesday, February 17, 1988, 9 a.m. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Agendas follow.

The Enforcement Committee will review status report; consider recommendations regarding specific complaints concerning licensees; discuss items; and consider standard agenda items. The emergency status was necessary because this was the only date the officers could meet.

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

Filed: February 10, 1988, 9:22 a.m.
TRD-8801394

The Enforcement Informal Committee will discuss complaints 87-07-151, 87-07-111, and 87-7-58L.

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

Filed: February 10, 1988, 9:22 a.m.
TRD-8801388



Thursday, February 18, 1988, 8:30 a.m. The CE Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will review exemption requests and forms which have been submitted to the committee; CE hours submitted by licensees who have received a board sanction for noncompliance with CE requirements; requests for additional credit for published articles and books, sponsor registrations, requests for CE credit from unregistered sponsors and statistical report concerning CE; discuss §523.63; and consider mandatory CE attendance and other matters coming before the committee.

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

Filed: February 11, 1988, 9:47 a.m.
TRD-8801438



Friday, February 19, 1988, 9 a.m. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Agendas follow.

The Technical Standards Review Informal Conference will review specific complaints 86-11-05L, 86-11-06L, 86-11-07L, 86-11-10L, 86-11-08L, and 87-01-13L.

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

Filed: February 10, 1988, 9:22 a.m.
TRD-8801387

The Technical Standards Review Committee will review status report for December 1987-January 1988, recommendations regarding specific complaints concerning licensees, discussion items, and standard agenda items.

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

Filed: February 10, 1988, 9:23 a.m.
TRD-8801389



Friday, February 19, 1988, 3 p.m. The Texas State Board of Public Accountancy will hold a public hearing in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will discuss new §519.29 concerning publication of disciplinary/administrative sanctions and proposed amendment §523.61 concerning establishment of mandatory CE program.

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

Filed: February 9, 1988, 1:46 p.m.
TRD-8801352



Public Utility Commission of Texas

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

Wednesday, February 17, 1988, 9 a.m. The Hearings Division will consider Docket 7718, 7598, 7790, 7382, 7127, 7577, 7632, 7798, 7844, and 7862; consider permanent adoption of §§23.26-23.28 and 23.61(h); and new §§23.52, 23.54, and 976 rulemaking.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: February 9, 1988, 2:52 p.m.
TRD-8801363

Wednesday, February 17, 1988, 11 a.m. The Administrative Division will approve minutes of the previous meeting; hear reports; discuss and act on budget and fiscal matters; consider selection of a consultant and approve contracts to perform prudence review of the South Texas Nuclear Project; investigate telecommunications companies concerning repeal of gross receipts tax; consider briefing from federal Tax Reform Act Task Force and set time and place for next meeting. The division will also meet in executive session to consider personnel and litigation matters.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 9, 1988, 2:51 p.m.
TRD-8801364

Tuesday, March 1, 1988, 10 a.m. The Hearings Division will consider Docket 7971—Complaint of Intellicall, Inc. against General Telephone Company of the Southwest, Inc..

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 10, 1988, 1:59 p.m.
TRD-8801398



State Purchasing and General Services Commission

Wednesday, February 24, 1988, 9 a.m. The Texas School Bus Committee of the State Purchasing and General Services Commission will meet in Room 916, LBJ Office Building, 111 East 17th Street, Austin. According to the agenda, the committee will discuss specifications for school bus bodies, chassis, engines, options, and accessories; and approved products list.

Contact: Troy Martin, P.O. Box 13047, Austin, Texas 78711-3047, (512) 463-3414.

Filed: February 9, 1988, 4:19 p.m.
TRD-8801373



Texas Racing Commission

Thursday, February 11, 1988, 10 a.m. The Texas Racing Commission submitted a revised agenda for a meeting held in the Senate Chamber, State Capitol, Austin. According to the agenda, the commission considered administrative and procedural issues concerning attorney general's office and comptroller's office.

Contact: Nelva Lou Shelton, Texas Racing Commission, Austin, Texas.

Filed: February 10, 1988, 4:56 p.m.
TRD-8801435



Texas Water Commission

Friday, March 4, 1988, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 1-110, William B. Travis Office Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the office will consider Docket 7457-G—Rate increase by Carroll Water Company.

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

Filed: February 10, 1988, 11:56 a.m.
TRD-8801396

Friday, March 18, 1988, 10 a.m. The Office of Hearings Examiner will meet in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider Docket 7418Q—Application by Louis Del-esandri also known as Louie's Fish Camp to cease operation of its water utility company in Galveston County.

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

Filed: February 10, 1988, 11:52 a.m.
TRD-8801395



Regional Agencies

Meetings Filed February 9

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Killeen Hilton Hotel, 803 East Central Texas Expressway, Killeen, on February 16, 1988, at 8:15 p.m. Information may be obtained from Micheal K. Muegge, 304 South 22nd Street, Temple, Texas.

The Denton Central Appraisal District, Board of Directors, will meet at 3911 Morse Street, Denton, on February 18, 1988, at 1 p.m. and 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205. (817) 566-0904.

The Education Service Center, Region XIV, Board of Directors, will meet at 1850 State Highway 351, Abilene, on February 18, 1988, at 5:30 p.m. Information may be obtained from Taressa Huey, Route 1, P.O. Box 70-A, Abilene, Texas 79601.

The Texas Municipal Power Agency (TMPA), Board of Directors, met in the City Council Conference Room, Fourth Floor, Garland City Hall, 200 North Fifth Street, Garland, on February 12, 1988, at 4 p.m. Information may be obtained from Jim Bailey, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013.

TRD-8801349



Meetings Filed February 10

The Tax Appraisal District of Bell County, Board of Directors, will meet at 411 East Central, Belton, on February 24, 1988, at 7 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, ext. 293.

The Bosque County Appraisal District, Board of Directors and Appraisal Review Board, will meet at 104 West Morgan, Meridian, on February 16, 1988, at 2 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665.

The East Texas Council of Governments, Regional Review Committee, will meet at the Ramada Hotel, 5701 Broadway South, Tyler, on February 29 and March 1, 1988, at 9 a.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641

The Harris County Appraisal District, Board of Directors, met and will meet on the Eighth Floor, 2800 North Loop West, Houston, on February 15 and 17, 1988, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Hood County Appraisal District, Appraisal Review Board, will meet at 1902 West Pearl Street, Granbury, on February 26, 1988, at 9:30 a.m. Information may be obtained from Harold Chesnut, 1902 West Pearl, Granbury, Texas 76048, (817) 573-2471.

The Jack County Appraisal District, Board of Directors, will meet in the Los Creek Office Building, 216-D South Main, Jacksboro, on February 16, 1988, at 7 p.m. Information may be obtained from Doris Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 76036, (817) 567-6301.

The Lee County Appraisal District, Appraisal Review Board, will meet at 218 East Richmond Street, Giddings, on February 18, 1988, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942

The Limestone County Appraisal District, Board of Directors, will meet in the Appraisal District Meeting Room, Limestone County Courthouse, Groesbeck, on February 17, 1988, at 5 p.m. Information may be obtained from Clydene Hyden, P.O. Box 831, Groesbeck, Texas 76642, (817) 729-3009.

The Trinity River Authority of Texas, Resources Development Committee, will meet at 5300 South Collins, Arlington, on February 16, 1988, at 10 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

TRD-8801379



Meetings Filed February 11

The Alamo Area Council of Governments, Executive Committee, will meet in Suite 400, 118 Broadway, San Antonio, on February 14, 1988, at 1 p.m. Information may be obtained from Al J. Notzon, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on February 16, 1988, at 8:30 a.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Central Texas Council of Governments, Central Texas Private Industry Council and Executive Committee, will meet at 302 East

Central, Belton, on February 25, 1988, at 10 a.m. and noon, respectively. Information may be obtained from A.C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-3771.

The Gillespie Central Appraisal District, Board of Review, will meet in Room 101-B, Gillespie County Courthouse, Fredericksburg, on February 18, 1988, at 10 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807.

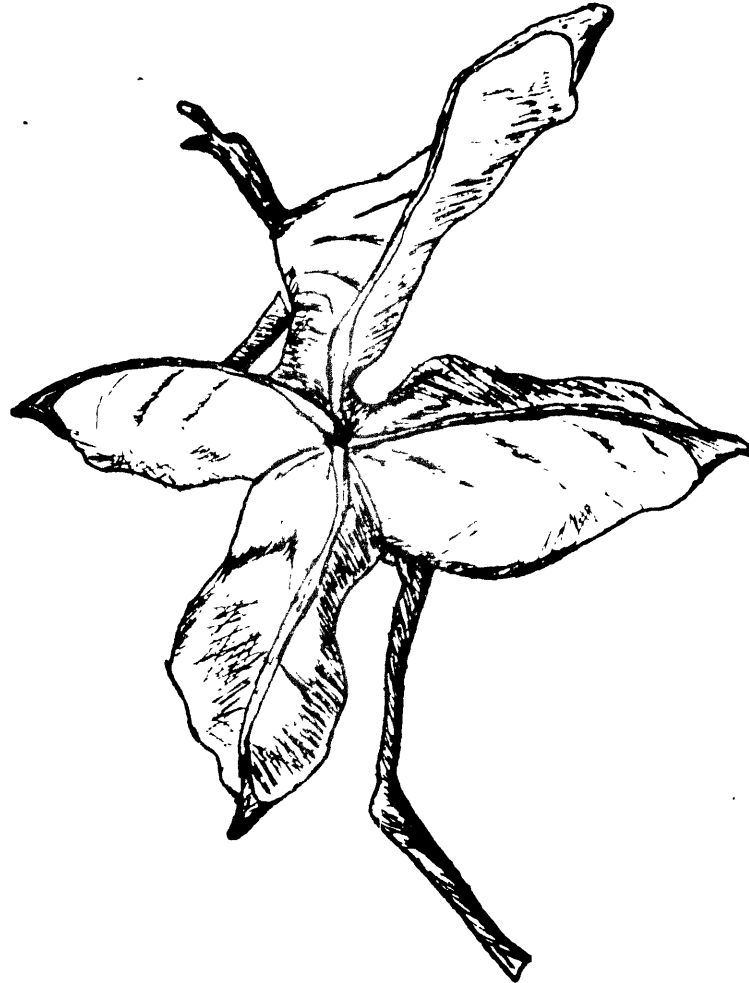
The Middle Rio Grande Development Council, Regional Review Committee, will meet in the Commissioner's Courtroom, Courthouse, Uvalde, on February 26, 1988, at 9:30 a.m. Information may be obtained from Micheal Patterson, P.O. Box 1199, Carrizo

Springs, Texas 78834, (512) 876-3533.

The Rio Grande Council of Governments, Board of Directors, will meet in the Second Floor Conference Room, the Centre, 123 Pioneer Plaza El Paso, on February 19, 1988, at 9:30 a.m. Information may be obtained from Cecile C. Gamez, 123 Pioneer Plaza, Suite 210, El Paso, Texas 79901, (915) 533-0998.

The Trinity River Authority of Texas, Legal Committee, will meet at 5300 South Collins, Arlington, on February 17, 1988, at 10 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

TRD-8801439



Name: Jason Kitchens
Grade: 8
School: Smithfield Jr. High, Birdville

In Addition

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

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

Texas Commission on Alcohol and Drug Abuse

Notice of Statewide Advisory Council Meeting

The Statewide Advisory Council of the Texas Commission on Alcohol and Drug Abuse will meet on Thursday, February 18, 1988, from 12:30 p.m.-5 p.m., and on Friday, February 19, 1988, from 8:30 a.m.-noon. The meeting will be in the Houston Room, Guest Quarters Hotel, Austin.

Issued in Austin, Texas, on February 8, 1988

TRD-8801383 Bob Dickson,
Executive Director
Texas Commission on Alcohol and
Drug Abuse

Filed: February 10, 1988
For further information, please call (512) 463-5510.



Request for Proposals

The Texas Commission on Alcohol and Drug Abuse, under the Texas Alcohol and Drug Abuse Services Act, Texas Civil Statutes, Article 5561c-2, gives notice of a request for proposals (RFP). The specific services under this RFP are Student Assistance Programs, Employee Assistance Programs, and substances abuse services for high-risk youth.

To be eligible for funding, applicants must be either a public entity or a private nonprofit corporation.

An annual amount of \$394,740 is available for services contained in this RFP. Applicants meeting eligibility requirements may apply for a minimum of \$25,000 and a maximum of \$70,000.

The closing date for receipt of applications by the commission is 5 p.m., April 18, 1988, and the closing date for review under the Texas review and comment system is March 4, 1988.

The commission will review applications in accordance with the requirements contained in the RFP. The commission's Grant and Contract Review Committee, comprised of commission members and Statewide Advisory Council members will make final funding decisions.

To request a copy of the RFP, write Grants Management at the following address or call the Grants Management office at (512) 463-5510: Texas Commission on Alcohol and Drug Abuse, Grants Management, 1705 Guadalupe, Austin, Texas 78701-1214

Issued in Austin, Texas, on February 5, 1988

TRD-8801382 Bob Dickson
Executive Director
Texas Commission on Alcohol and
Drug Abuse

Filed: February 10, 1988
For further information, please call (512) 463-5510.



Texas Department of Commerce Private Activity Bond Allocation Report

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 \$834,100,000.

State legislation, Senate Bill 1382, Chapter 1092, 70th Legislature, (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 on qualified mortgage bond subceiling is \$278,033,300, with \$185,355,500 available to the local housing authorities and \$92,677,800 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$208,525,000, and the amount for all other bonds requiring an allocation is \$347,541,700.

Generally, the state ceiling will be allocated on a first-come, first-served basis within the applicable subceiling, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a summary report of the allocation activity for the period February 1, 1988-February 5, 1988.

Weekly Report on the 1988 Allocation of the State Ceiling on Certain Private Activity Bonds as Pursuant to Senate Bill 1382

Total amount of state ceiling remaining unreserved for the \$278,033,300 subceiling for qualified mortgage bonds under Senate Bill 1382 through February 5, 1988: \$190,185,425.

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under Act as of February 5, 1988: \$208,525,000.

Total amount of state ceiling remaining unreserved for the \$347,541,700 subceiling for all other bonds under Act as of February 5, 1988: *\$244,536,700.

Total amount of the \$834,100,000 state ceiling remaining unreserved as of February 5, 1988: \$643,247,125.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from February 1, 1988, through February 5, 1988. Listed following is the issuer, user, description, and amount: Lubbock Housing, Eligible Borrower, Qualified Mortgage Bonds, \$17,300,000; Southeast Texas Housing Finance Corporation, Eligible Borrowers, Qualified Mortgage Bonds, \$20,547,875; Houston Housing Finance Corporation, Eligible Borrowers, Qualified Mortgage Bonds, \$52,000,000; Panhandle-Plans Higher Education Authority, Inc., Eligible Borrowers, Qualified Student Loan Bonds, \$46,600,000;

Comprehensive listing of bonds issued and delivered as pursuant to the Act from February 1-5, 1988. Listed following is the issuer, user, description, and amount: Harris County, Houston Sports Association and the Astrodome-Astrohall Stadium Corporation, Governmental Bond With Private Portion Use, \$1,405,000.

Issued in Austin, Texas, on February 8, 1988

TRD-8801372 J. W. Lauderback
Executive Director
Texas Department of Commerce

Filed: February 9, 1987

For further information, please call (512) 472-5059.



Court Reporters Certification Board Certification of Court Reporters

Following examination of applicants on January 15, 1988, the Court Reporters Certification Board has certified to the Supreme Court that the following persons are qualified in the method indicated to practice reporting pursuant to the Government Code, Texas Civil Statutes, Subchapter C, §52.024(a).

In oral stenography: Jessie Lee Coburn, Austin; Gay Elizabeth Denton, Arlington.

In machine shorthand: Janet Kay Neel, Denton; Marlene Casey, Seabrook; Laura Martinez, San Antonio; Bonnie Sue Smithson, Dallas; Gwen Landess, North Richland Hills; Jill Elaine McFadden, Tyler; Vivian J. Bradley, San Antonio; Paula Boren, Abilene; Patricia Morales, San Antonio; Laretta K. Horne, Irving; Marcy Lynn Ligon, League City; Jana Renee Thomas, Fort Worth; Lori Jo Swonger, Lancaster; Robin G. Ladd, Benbrook; Suzanne C. Eaves, Alvin; Connie Rae Willison, Dallas; Amy Elizabeth Duckett, Amarillo; Liza Christina Barron, Abilene.

Issued in Austin, Texas, on February 8, 1988

TRD-8801310 Peggy Liedtke
Executive Secretary
Court Reports Certification Board

Filed February 8, 1988

For further information, please call (512) 463-1630.



Region IX Education Service Center Notice of Application for Place on Ballot

Applications for place on ballot for election to Board of Directors of the Region IX Education Service Center may be obtained at the Region IX office at 301 Loop 11, Wichita Falls, between the hours of 8 a.m. and 5 p.m., beginning Monday, February 1, 1988.

Open for election are Place Three, currently filled by Fred Parkey, (Wichita County) Iowa Park; and Place Five, currently filled by Jimmy Fitts, (Montague County) Nocona. Board members are elected to three-year terms. Notice of filing must be received at the headquarters office in person or by certified mail no later than 5 p.m., Friday, February 19, 1988.

Any citizen of the United States who is over 21 years of age, a resident of the region being served by the center, who is not engaged professionally in education or who is not a member of a school district board of trustees, a county board of trustees, or a board of an institution of higher education, who is eligible for membership on the Regional Advisory Committee, may be elected to the board of Director membership. No member of the board nor member of his or her immediate family shall be in the business of vending or servicing materials or equipment to regional education service centers.

Issued in Wichita Falls, Texas, on January 28, 1988.

TRD-8801309 Jim O. Rogers
Executive Director
Region IX Education Service Center

Filed: February 8, 1988

For further information, please call (817) 322-6928.



Employees Retirement System of Texas Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Employees Retirement System of Texas (ERS) is requesting proposals from information systems consultants.

Description. The services are to be provided in the context of assisting ERS in the migration and redesign of three major automated systems from VSAM files and COBOL programs to MODEL 204 data base management system files and user language programs. These major automated systems support pension and insurance benefits administration, provided primarily to officers, employees, and annuitants of the State of Texas.

The contract encompasses the first 12 months of a project ending on or before December 31, 1989. Services required include the provision of analysis, design, programming, documentation, and transfers of MODEL 204 file design and programming techniques to ERS staff by very experienced MODEL 204 data base analysis, systems analysis, and programming analysis consultant personnel. A copy of a detailed plan of work to be performed is available on request.

The contractor will be responsible for working with several divisions of ERS, including, but not limited to, accounting, data processing, member benefits, group insurance, and internal audit.

Limitations. The effective dates of the contract will be April 1, 1988-March 31, 1989. Funding for the first year of the project shall not exceed \$210,000. The total cost of the project shall not exceed \$322,000; and the project will end no later than December 31, 1989.

The award of this contract is wholly contingent upon receipt of advanced certification for this project from the Automated Information and Telecommunications Council (A.I.T.C.), as required by 34 TAC §201.1 (12 TexReg 4360) (1987)

Evaluation and Selection. Procedures to be used to evaluate offers will include review and scoring of these criteria: previous education and relevant experience of persons proposed by the consultant for this contract; proposed cost; and corporate capability.

The accessibility of equally qualified additional or replacement personnel is a mandatory requirement. Final selection will be based upon the agency's evaluation of these criteria.

Closing Date. Offers must be received in the ERS Purchasing Section by 4 p.m., March 10, 1988.

Contact Person. Any consultant interested in providing the described services should contact Dalton G. Elliott, Data Processing Division, P.O. Box 13207, Austin, Texas 78711-3207, (512) 476-6431, ext. 186, for a copy of the request for proposals document.

Issued in Austin, Texas, on February 10, 1988

TRD-8801381 Clayton T Garrison
Executive Director
Employees Retirement System of Texas

Filed: February 10, 1988
For further information, please call (512) 476-6431, ext. 178.



Texas Department of Health Sexual Assault Prevention and Crisis Services

The Texas Department of Health is accepting letters of intent to apply for sexual assault prevention and crisis services funding provided under the preventive health and health services block grant and state funds. Funds will be available October 1, 1988.

Letters of intent to apply for funds should be sent by April 15, 1988 to Gene Weatherall, Chief, Bureau of Emergency Management, 1100 West 49th Street, Austin, Texas 78756-3199. Applications will be due on or before June 1, 1988, at 5 p.m. For more information, contact Ann J. Robison, Program Administrator, Bureau of Emergency Management, (512) 465-2601.

Eligible applicants who send letters of intent will receive application kits consisting of materials pertinent to submitting an application. To be an eligible entity, an applicant must be a rape crisis center which has been providing services on or before September 1, 1987, must meet the requirements in the department's rules concerning sexual assault prevention and crisis services (25 TAC §§891-899) must enter into a contract with the department covering the services, must make reports required by the department, must provide counseling and accompaniment, a liaison, professional training, and public education, and must provide a 24-hour hotline.

Issued in Austin, Texas, on February 9, 1988

TRD-8801369 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 9, 1988
For further information, please call (512) 465-2601.



Texas Housing Agency Request for Proposals

The Texas Housing Agency plans to undertake a state housing study, the first phase of which must be completed by September 1, 1988, and the second phase of which should be completed by September 1, 1989. This is a request for proposals for both phases.

The constraints of the study are as follows. The study should produce a housing data base which can be updated on a regular basis. The study and future updates must rely on regularly updated data bases already existing in the public and private sectors. The study should be able to correlate housing trends with demographic trends, including as many different housing types and population segments as possible. The demographic information should include, at a minimum, groups by income, age, ethnicity, and special groups such as disabled persons and single heads of households. The preferred geographic bases are county or state planning regions. Phase I of the study, although not limited to data on affordable housing, should be completed by September 1, 1988, with submission of a report analyzing the findings of Phase I to coincide with the schedule of hearings being conducted by the State Affordable Housing Task Force.

Phase II, to be completed by September 1, 1989, should deliver to the agency a design for a housing data base which can be updated regularly. An in-house data base is not assumed. A design relying on appropriate contract services for ongoing updates will be considered.

Each proposal will include, at a minimum, but not be limited to, the following information for each of the two phases: the assumptions which will be used to design each phase; the methodology for targeting and collecting data; the scope of work for each phase, with schedules for each activity; the names and qualifications of staff who will be assigned to the study with designation of the lead consultant; a budget for each phase with line items broken down as far as possible to clearly show uses of funds; a schedule for funds to be drawn, if prior to the end of each phase, and the product to be delivered at each scheduled draw of funds; any other information which will assist the agency in understanding the proposal. General information about the institution or company should be confined to those accomplishments or facts necessary to establish qualifications.

Proposals must be received in the agency office by 5 p.m. on March 9, 1988. The Personnel and Planning Committee of the agency will select the most suitable proposal and might request oral presentations. The contract will be awarded no sooner than March 21, 1988. For further information, contact Dan McNeil, executive administrator, or Katerina Dittmore, administrative assistant, at (512) 474-2974.

Issued in Austin, Texas, on February 8, 1988

Filed: February 8, 1988

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



Texas Department of Mental Health and Mental Retardation

Correction of Error

A consultant proposal request submitted by the Texas Department of Mental Health and Mental Retardation contained an error as submitted by the department in the February 5, 1988, issue of the *Texas Register* (13 TexReg 653).

In the second paragraph, the first sentence should read: "Under the contract, the consultant will assist in the development of a computerized, integrated quality assurance evaluation program for the Abilene State School and the Travis State School."

In the third paragraph, a second sentence should be inserted reading: "Services are to be provided at the Travis State School for 15 unspecified days."

Texas Rehabilitation Commission Requests for Proposals

The Texas Rehabilitation Commission, through this request for proposals (RFP), announces its intent to contract with a not-for-profit, cross-disability consumer organization for the establishment of an independent living center in the Lower Rio Grande Valley (to include Cameron, Hidalgo, Starr, and Willacy Counties of Texas). This independent living center will provide services to individuals with a broad range of severe disabilities within these four counties. Proposals are requested for that purpose.

Grant Eligibility. All organizations which apply must be directed through a governing board whose membership includes at least 51% persons with disabilities. These individuals must be representative of a range of disabling conditions. The staff of the agency or organization must include at least 51% persons with disabilities.

Funding Areas. Projects funded for fiscal year 1988 will focus on providing peer counseling, information and referral, independent living skills training, individual and systems advocacy, and other services to assist persons with disabilities in living more independently in the community. Services are to be provided to persons with a broad range of disabilities. Services are to be available to persons in Cameron, Hidalgo, Starr, and Willacy Counties of Texas.

Funding Period. The actual funding period has not been determined. It is estimated that the funding period will begin during the second half of fiscal year 1988. Funding for continuation proposals will be based upon the availability of funding for that purpose and performance of the project.

Funding Amount. Funding for fiscal year 1988 is limited to a maximum of \$75,000. A budget for a six-month period

not exceeding that amount should be submitted with the proposal.

Application Process. Persons interested in applying for grants must write to Mel Fajkus, Program Specialist, Independent Living Program, 118 East Riverside Drive, Austin, Texas 78704. Further information regarding requirements and format of the proposal will be sent to these parties.

Deadline. Proposals must be received at Room 112, 118 East Riverside Drive, Austin, before 5 p.m., March 7, 1988.

Issued in Austin, Texas, on February 8, 1988

TRD-8801385

Charles Schiesser
Assistant Commissioner
Legal Services
Texas Rehabilitation Commission

Filed: February 10, 1988

For further information, please call (512) 445-8124.



The Texas Rehabilitation Commission, through this request for proposals (RFP), announces its intent to contract with a not-for-profit, cross-disability consumer organization for the establishment of an independent living center in the Tarrant County. This independent living center will provide services to individuals with a broad range of severe disabilities within these four counties. Proposals are requested for that purpose.

Grant Eligibility. All organizations which apply must be directed through a governing board whose membership includes at least 51% persons with disabilities. These individuals must be representative of a range of disabling conditions. The staff of the agency or organization must include at least 51% persons with disabilities.

Funding Areas. Projects funded for fiscal year 1988 will focus on providing peer counseling, information and referral, independent living skills training, individual and systems advocacy, and other services to assist persons with disabilities in living more independently in the community. Services are to be provided to persons with a broad range of disabilities. Services are to be available to persons in Tarrant County.

Funding Period. The actual funding period has not been determined. It is estimated that the funding period will begin during the second half of fiscal year 1988. Funding for continuation proposals will be based upon the availability of funding for that purpose and performance of the project.

Funding Amount. Funding for fiscal year 1988 is limited to a maximum of \$75,000. A budget for a six-month period not exceeding that amount should be submitted with the proposal.

Application Process. Persons interested in applying for grants must write to Ted M. Thayer, Program Specialist, Independent Living Program, 118 East Riverside Drive, Austin, Texas 78704. Further information regarding requirements and format of the proposal will be sent to these parties.

Deadline. Proposals must be received at Room 115, 118 East Riverside Drive, Austin, before 5 p.m., March 7, 1988.

Issued in Austin, Texas, on February 8, 1988

TRD-8801384 Charles Schiesser
Assistant Commissioner for Legal
Services
Texas Rehabilitation Commission

Filed: February 10, 1988
For further information, please call (512) 445-8285.



Texas Water Commission Application for Provisionally- Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of January 25-29, 1988.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11 138, and commission rules 31 TAC §§303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Smith and Company; from the stream crossing at FM Road 1484, approximately seven miles northeast of Conroe, Montgomery County; McRae Creek, tributary of Caney Creek, tributary of San Jacinto River; four acre-feet; one year; TP-5870, January 25, 1988

Quick Line Service Company, from the stream crossing near US 83, approximately five miles south of Laredo, Webb County; Rio Grande; five acre-feet, six months, TP-5871, January 25, 1988

Adams Brothers, Inc., from the stream crossing at State Highway 274, approximately 13 miles southeast of Kaufman, Kaufman County; Kings Creek, tributary of Cedar Creek, tributary of the Trinity River, one acre-foot, one year; TP 5869; January 25, 1988

Issued in Austin, Texas, on February 5, 1988.

TRD-8801378 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: February 9, 1988
For further information, please call (512) 463-7898.



Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 1-5, 1988

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

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

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

Period of February 5, 1988

Shell Oil Company, Odessa; hazardous and non-hazardous industrial solid waste processing and disposal facility; on a tract of land owned by Shell Oil Company, approximately three miles south of downtown Odessa and approximately one mile south of the intersection of IH 20 and Grandview Avenue, in Ector County; HW-50152-000; new

Encycle/Texas, Inc., Corpus Christi; electrolytic zinc refinery; at 5500 Up River Road in the City of Corpus Christi, Nueces County; 00314; amendment

Greens Parkway Municipal Utility District, Houston; wastewater treatment facilities; approximately 5,000 feet east of the intersection of Hardy Road and Greens Road, and 400 feet north of Greens Road in Harris County; 12754-01; renewal

Sonco Enterprises, Inc., Houston; wastewater treatment facilities; at 6911 Ramona in Harris County; 12573-01; renewal

Wayward Wind Properties, Ltd., Willis; wastewater treatment plant; approximately five miles northwest of the City of Willis and 450 feet north of Lake Conroe in Montgomery County; 12582-01; renewal

Great Western Utilities Company, Houston; sewage treatment plant; approximately 1.3 miles west of the intersection of Huffsmith-Dobbins Road and Hardin-Store Road in Montgomery County; 12587-01; renewal

Damon Quarry, Inc., Damon, limestone mine; approximately .5 miles northwest of the Town of Damon, Brazoria County; 02098, renewal

H.E.B Grocery Company, San Antonio; wastewater treatment facilities; approximately 1,000 feet southeast of the intersection of State Highway 35 and FM Road 1781 in Aransas County; 12684-01; renewal

El Dorado Mortgage and Investment Corporation, Houston; sewage treatment plant; approximately 3,500 feet east of Lee Road and 2,500 feet north of Jetero Boulevard in the City of Houston, Harris County; 12547-01; renewal

City of Colorado City, Colorado City; wastewater treatment plant; at 200 East Central Avenue, two blocks east of State Highway 163 at the intersection of East Central Avenue and Washington Street and the secondary facilities approximately 1.6 miles south-southeast of the primary facilities and 1.7 miles east of the intersection of State Highway 163 and FM Road 1229 in Mitchell County; 10077-01, renewal

Anheuser-Busch Inc., Houston Brewery, Houston; brewery; at 775 Gellhorn Drive in the City of Houston, Harris County; 02033; amendment

City of Corpus Christi; wastewater treatment facilities; in the northwest portion of the City of Corpus Christi, approximately one mile north of IH 37 at the end of Allison Road in Nueces County; 10401-06; renewal

El Paso Water Control and Improvement District, Canutillo; treatment facilities; on the west side of IH 10 and approximately 3,000 feet south of the intersection of IH 10 and Westway Road in El Paso County; 10167-01; amendment

Standard Oil Chemical Company, Port Lavaca; petrochemical plant; in the John Pickering Survey Abstract 131, Calhoun County; WDWs 163, 164, and 165; amendments

Celanese Engineering Resins, Inc., Bishop; hazardous industrial solid waste management facility; on a 1,378.86-acre tract of land on U.S. Highway 77 South, one mile southwest of the town of Bishop, Nueces County; HW-50123-001; new

Ameripol Synpol Company, A Division of Unroyal Goodrich Tire Company, Port Neches, industrial solid wastes disposal facility, on a 64.703-acre tract of land in the extra-territorial area of Port Neches, immediately northeast of the intersection of FM Road 366 and Orchard Avenue, in Jefferson County, SW 39062; amendment

Play Ball, Inc. (amended notice), Houston, wastewater treatment facility, on the northern property line of the permittee, which is approximately 1/2 mile west of the intersection of Mason Road and Westheimer Road (FM Road 1093) in Fort Bend County; 13403-01; new

Bush and Bailey Oil Company, Jacksonville; wastewater treatment facilities; approximately 1,000 feet southeast of the intersection of IH 45 and State Highway 179 in Freestone County; 11578-01; renewal

The City of Mason; wastewater treatment facilities; approximately 1/4 mile northeast of the intersection of FM Road 1723 and U.S. Highway 87, southeast of the City of Mason in Mason County; 10670-01; renewal

The City of Dallas; wastewater treatment plant; southeast of the City of Dallas on the east bank of the Trinity River, northwest of South Belt Line Road and adjacent to Log Cabin Road in Dallas County; 10060-06; amendment

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Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: February 8, 1988

For further information, please call (512) 463-7898.



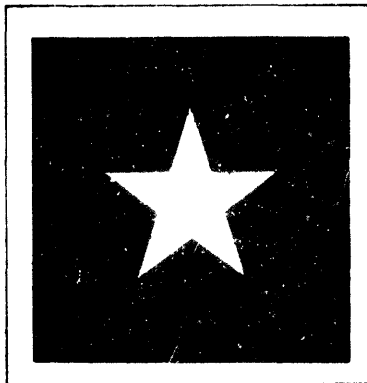
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