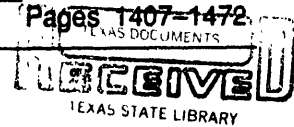


Texas Register

Volume 13, Number 24, March 25, 1988



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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



Texas Register Publications

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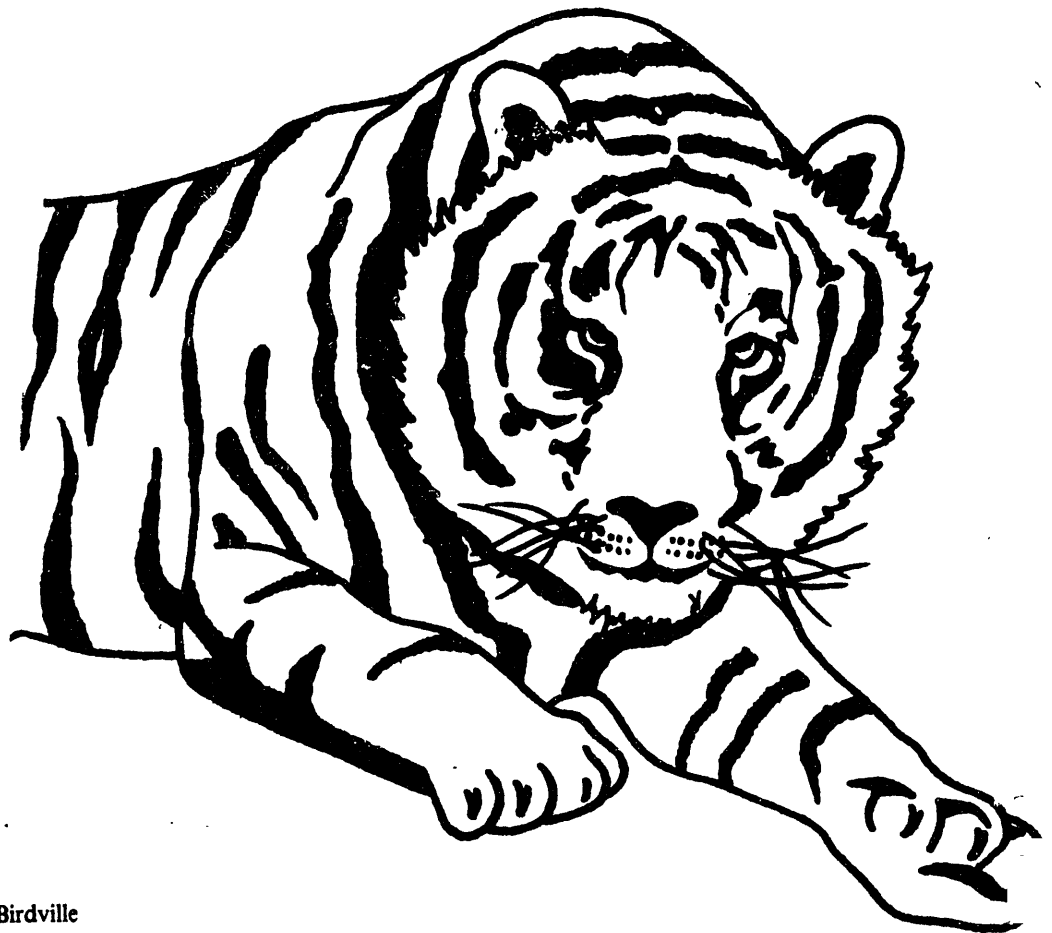
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Name: Terry Avery
Grade: 9
School: Haltom Jr. High, Birdville

The Governor

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

Appointments Made March 17

To be a member of the **North Central Regional Community Development Review Committee** for a term to expire January 1, 1988: The Honorable Ron Harmon, Johnson County Commissioner, Precinct 2, 742 Ann Lois, Burleson, Texas 76028. Commissioner Harmon will be replacing Judge James Blakemore of Ellis County who resigned.

To be **Deputy Assistant Adjutant General for Army** for a term at the pleasure of the governor: Brigadier General Reynaldo Sanchez, 1704 Lary Hinson, El Paso, Texas 79936. General Sanchez will be replacing General Don Daniel of Houston.

To be a member of the **Texas State Library and Archives Commission** for a term to expire September 28, 1993: Harriette Williford-Whatley, 111 South Mount, Fairfield, Texas 75840. Mrs. Whatley will be replacing Ann R. Cragg of McAllen whose term expired.

To be a member of the **Texas State Library and Archives Commission** for a term to expire September 28, 1993: John Ben Shepperd, TCB Building, 620 North Grant, Odessa, Texas 79761. Mr. Shepperd is being reappointed.

To be a member of the **Texas Diabetes Council** for a term to expire February 1, 1990: Luther B. Travis, M.D., 35 Maple Lane, Galveston, Texas 77551. Dr. Travis is being reappointed.

To be a member of the **Texas Hospital Equipment Financing Council** for a term to expire September 1, 1993: Miguel San Juan, 14727 Charlmont Drive, Houston, Texas 77083. Mr. San Juan will be replacing Ms. Margaret Reed of Dallas whose term expired.

To be a member of the **Commission on Fire Protection Personnel Standards and Education** for a term to expire June 11, 1993: Chester A. "Pete" Shelton, P.O. Box 3827, Beaumont, Texas 77704. Chief Shelton will be replacing Mike Eastland of Waco whose term expired.

To be a member of the **Texas Board of Architectural Examiners** for a term to expire January 31, 1993: Thomas W. Parker, 2907 Hillside, Bryan, Texas 77802. Mr. Parker will be replacing Ralph B. Perkins of Wichita Falls whose term expired.

To be a member of the **Governing Board of the Texas School for the Deaf** for a term to expire January 31, 1993: Gary Adrian Utley, 701 West Sterling, Baytown, Texas 77520. Mr. Utley will be replacing Robert Edward Parrish of Dallas whose term expired.

To be a member of the **North Central Regional Community Development Review Committee** for a term to expire January 1, 1989: The Honorable Ron Harmon, Johnson County Commissioner, Precinct 2, 742 Ann Lois, Burleson, Texas 76028. Commissioner Harmon will be replacing Judge James Blakemore of Ellis County who resigned.

Issued in Austin, Texas on March 17, 1988.

TRD-8800220

William P. Clements, Jr.
Governor of Texas



Name: Lien Nguyen

Grade: 7

School: Haltom Jr. High, Birdville

Emergency Rules

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

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

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 133. Pupil-School Relation

Subchapter B. Discipline Management

19 TAC §133.28

The Texas Education Agency adopts an amendment to §133.28, concerning discipline of handicapped students, on an emergency basis. On January 20, 1988, the United States Supreme Court rendered a decision in *Honig v. Doe*, a case involving the discipline of a handicapped student. The Supreme Court ruled that where an administrative action or court proceeding is pending, state and local school authorities may not unilaterally exclude disabled students from the classroom for dangerous or disruptive conduct growing out of their disabilities. *Honig v. Doe* invalidates the "dangerousness exception" previously in effect as a result of prior lower court decisions. The amendment brings the section on discipline of handicapped students into accord with the decision in *Honig v. Doe*.

Under the amended section, handicapped students may be suspended in the same manner as nonhandicapped students for a period not to exceed six school days or removed to an alternative education program for a period not to exceed ten consecutive school days. Handicapped students may not be suspended for more than six days or removed to an alternative education program for more than ten days unless the admission, review, and dismissal (ARD) committee first determines that the alleged behavior in question was not related to the handicapping condition.

Provisions for emergency removal are also revised in accordance with the decision in *Honig v. Doe*. Emergency removal of a handicapped student from a class or school for health, safety, or welfare reasons may only be done for compelling reasons and shall not exceed five consecutive school days unless the ARD committee determines that the student poses an immediate threat to the safety of himself or herself or others, or disrupts the safety of the learning environment. If the ARD committee makes such a determination, but the parents appeal the decision and refuse to permit a change of placement, the school must obtain immediate injunctive relief from a state or federal court in order to remove the student for more than ten consecutive days.

The agency finds that imminent peril to the public health, safety, or welfare requires

adoption of these amendments on an emergency basis to ensure that school districts have legally sufficient procedures under which to discipline handicapped students, particularly where those students present a danger to themselves or others or disrupt the safety of the learning environment.

The amendment is adopted under the Texas Education Code, §21.301, which authorizes the State Board of Education to make rules concerning student discipline, including suspension and removal of students to an alternative education program.

§133.28. Discipline of Handicapped Students. Disciplinary actions regarding handicapped students shall be in accordance with §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and §133.27 of this title (relating to Expulsion) except as noted in this section.

(1) (No change.)

(2) Suspension or removal to an alternative education program.

(A) **Handicapped students may be suspended in the same manner as nonhandicapped students [Suspension] for a period not to exceed six school days or removed [removal] to an alternative education program for a period not to exceed 10 consecutive school days. [may be effected if a qualified group of professionals first determines that the alleged behavior in question was not related to the handicapping condition or an inappropriate placement. The qualified group of professionals must consist of at least the following members:**

[(i) a special education teacher who is familiar with the student and the student's individual educational plan (IEP) and is reasonably available;

[(ii) a special education support person (all reasonable efforts shall be made to ensure that the person chosen is qualified to interpret assessment data relative to the behavior-handicap-placement link in the case of the individual student being considered); and

[(iii) the designated building administrator.]

(B) **Handicapped students may not be suspended for more than six days or removed to an alternative education program for more than ten days unless the ARD committee first deter-**

mines that the alleged behavior in question was not related to the handicapping condition. [If the qualified group of professionals determines there is a connection, the ARD committee must review the decision and determine what action is appropriate.]

(C) The term of a handicapped student's removal to an alternative education program shall be assessed in accordance with this requirements of the Texas Education Code, §21.301(d) and **34 Code of Federal Regulations §300.513 (relating to Child's Status During Proceedings)**. However, removal for more than 10 consecutive school days may be effected only through ARD committee action subject to the parents' right to appeal.

(3) Emergency removal.

(A) Emergency removal of a handicapped student from a class or school for [nondisciplinary] health, safety, or welfare reasons may only be done for compelling reasons as noted in §133.26(c) of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and shall not exceed five consecutive school days except as set out in subparagraphs (B) and (C) of this paragraph. Any student who is removed from school premises pursuant to this subsection and who is in a condition that threatens his own welfare or the welfare of others must be released to the student's parent, a representative of the parent, or other proper authority, including, but not limited to, law enforcement officers and medical personnel.

(B) Removal under this section is intended to be used in emergency situations only, and consecutive five school day removals are prohibited unless the ARD committee determines that the student poses an immediate threat to the safety of himself or herself or others, or disrupts the safety of the learning environment.

(C) If the ARD committee determines that a student is dangerous pursuant to subparagraph (B) of this paragraph, but the parents appeal the decision pursuant to the Education for the Handicapped Act procedures and refuse to permit a change of placement, the school must obtain immediate injunctive relief from a state or federal court in

order to remove the student for more than ten consecutive days.

(D)[(C)] The district shall make reasonable efforts to notify the parent prior to removing a student from school premises under this subsection. If the parent cannot be notified prior to removal, the parent must be notified as soon as possible after the removal and the reasons for it.

(A) (No change.)

(5) Sanctions specified in students' IEP. The requirements of §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and paragraphs (2) and (3) of this subsection shall not apply to disciplinary sanctions implemented in accordance with specifications in the student's IEP. If the student's IEP contains disciplinary sanctions and is not being challenged in an administrative or court appeal pursuant to the Education of the Handicapped Act, then those sanctions in the IEP should be followed rather than the requirements of §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and paragraphs (2) and (3) of this subsection.

(6) Expulsion of handicapped students.

(A) (No change.)

(B) The exclusion of a handicapped student from his or her home campus, pending appeal of an expulsion, may not exceed ten days without ARD committee action (subject to the parents' rights to appeal under the Education for the Handicapped Act and the status quo provisions of 34 Code of Federal Regulations §300 513) to determine appropriate services in the interim.

(C)[(B)] In determining whether a student's disruptive behavior was related to a student's handicapping condition, the ARD committee shall base its decision on currently available [current] evaluation and assessment data and on review of the current IEP documentation rather than on established eligibility or previous committee decisions. The committee shall consider whether the student's behavior indicates the need for new assessment or evaluation data. Unless the parents agree otherwise, the student must be returned to school after ten days while additional assessments are being conducted.

(D)[(C)] The ARD committee shall determine the instructional and related [educational] services to be provided during the time of expulsion. The student's IEP shall include goals and objectives designed to assist in returning the student to school and preventing significant

regression.

(E)[(D)] If the ARD committee determines that the student's disruptive behavior is related to the handicapping condition or inappropriate placement, the student shall not be expelled. If the disruptive behavior on the part of the student indicates an inappropriate placement, the ARD committee shall review the placement and recommend alternatives.

(F) If the ARD committee determines that the behavior was related to the handicapping condition, then the ARD committee shall:

(i) rewrite the IEP to address the behavioral and educational needs of the student; or

(ii) when appropriate consider the extension of an emergency removal pursuant to paragraph (3)(B) of this subsection.

(7) Parent participation in ARD committee meetings. The provisions of §89 222(d) of this title (relating to Parent Participation in ARD Committee Meetings) and 34 Code of Federal Regulations §300.513 (relating to Child's Status During Proceedings) are applicable in circumstances arising under this section.

(8) (No change.)

(9) Exclusion from home campus. The exclusion of a handicapped student from his or her home campus, pending appeal of an expulsion, may not exceed 10 days without ARD committee action to determine appropriate services in the interim.]

Issued in Austin, Texas, on March 18, 1988.

TRD-8802856 W. N. Kirby
Commissioner of Education

Effective date: March 18, 1988

Expiration date: July 16, 1988

For further information, please call: (512) 463-9212

gency basis is necessary in order to insure public safety for fire fighters and the general public. This section is also necessary to provide regulations for testing laboratories that test compressed breathing air used by fire fighters while protecting the general public.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 4413(35), §2, which provide the Commission on Fire Protection with the authority to promulgate rules and regulations necessary to carry out the provisions of this Act.

§235.43. Testing Compressed Air Used to Refill Self-Contained Breathing Apparatus. Compressed gaseous breathing air used to fill or refill self-contained breathing apparatus worn by fire fighters must meet the following requirements.

(1) The compressed air must be tested twice annually by a competent testing laboratory or facility.

(2) The air quality must meet the requirements of the Compressed Gas Associations G-7.1, Commodity Specification for Air, with a minimum quality of Grade D, and possess a water vapor level of less than 25 parts per million.

(3) Test results must be retained by the local fire department(s) until commission representative(s) review the test results. Fire departments may destroy the test results after a commission review.

(4) The air testing is required of both fire department air refilling systems and private enterprise systems used to refill self-contained breathing apparatus used by fire protection personnel.

Issued in Austin, Texas, on March 11, 1988.

TRD-8802766 Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Effective date: March 16, 1988

Expiration date: June 14, 1988

For further information, please call: (512) 474-8066

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TITLE 37. PUBLIC
SAFETY AND
CORRECTION
Part VIII. Commission on
Fire Protection Personnel
Standards and Education
Chapter 235. Policy

• 37 TAC §235.43

The Commission on Fire Protection Personnel Standards and Education adopts on an emergency basis, new §235.43, concerning testing requirements for compressed breathing used to fill self-contained breathing apparatus worn by fire fighters.

Adoption of this new section on an emer-



Name: Saysone Phouangaphayvoy
Grade: 9
School: Haltom Jr. High, Birdville

Proposed Sections

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

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

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 133. Pupil-School Relations

Subchapter B. Discipline Management

19 TAC §133.28

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

The Texas Education Agency proposes an amendment to §133.28, concerning discipline of handicapped students. On January 20, 1988, the United States Supreme Court rendered a decision in *Honig v. Doe*, a case involving the discipline of a handicapped student. The Supreme Court ruled that where an administrative action or court proceeding is pending, state and local school authorities may not unilaterally exclude disabled students from the classroom for dangerous or disruptive conduct growing out of their disabilities. *Honig v. Doe* invalidates the "dangerousness exception" previously in effect as a result of prior lower court decisions. The amendment brings the section on discipline of handicapped students into accord with the decision in *Honig v. Doe*.

Under the proposed amendment, handicapped students may be suspended in the same manner as nonhandicapped students for a period not to exceed six school days or removed to an alternative education program for a period not to exceed ten consecutive school days. Handicapped students may not be suspended for more than six days or removed to an alternative education program for more than ten days unless the admission, review, and dismissal (ARD) committee first determines that the alleged behavior in question was not related to the handicapping condition. Provisions for emergency removal are also revised in accordance with the decision in *Honig v. Doe*.

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

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a

result of enforcing the section will be to ensure that all school districts have legally sufficient procedures for disciplining handicapped students, particularly where those students present a danger to themselves or others or disrupt the safety of the learning environment. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.301, which authorizes the State Board of Education to make rules concerning student discipline, including suspension and removal of students to an alternative education program.

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 March 18, 1988.

TRD-8802857 W. N. Kirby
Texas Education Agency

Proposed date of adoption: May 14, 1988

For further information, please call: (512) 463-9212

TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 281. General Provisions

• 22 TAC §281.33

The Texas State Board of Pharmacy proposes an amendment to §281.33, concerning depositions. This amendment brings mileage reimbursements and fees paid to witnesses in line with current practices of other agencies.

Fred S. Brinkley, Jr., R. Ph., executive director/secretary, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an esti-

mated additional cost of \$4,000 per year for each year from 1988-1992, based on an average of 20 witnesses/deponents per year, traveling a 400 mile round trip, and attending a two day hearing. There will be no effect on local government for the first five-year period the section will be in effect.

Mr. Brinkley 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 provision of adequate funds to meet normal travel expenses incurred by witnesses. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, Suite 110, Austin, Texas, 78754.

The amendment is proposed under Texas Civil Statutes, Article 6252-13e, §14(1), which provide the Texas State Board of Pharmacy with the authority to set minimum standards of uniform practice and procedure for state agencies.

§281.33. *Depositions.*

(a)-(h) (No change.)

(i) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of any proceeding under the authority of the Act is entitled to receive:

(1) mileage of not less than \$.21 [\$.10] a mile and/or commercial airfare and/or public transportation at the rate allowed for state employees for going to and returning from the place of the hearing or the place where the deposition is taken, if the place is more than 25 miles from the person's place of residence; [and]

(2) a fee of not less than \$25 [\$10] a day for each day or part of a day the person is necessarily present as a witness or deponent; and

(3) reimbursement for food and lodging at the rate provided for state employees.

(j) (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 March 16, 1988.

TRD-8802803 Fred S. Brinkley, Jr., R.Ph.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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



Chapter 291. All Classes of Pharmacy

• 22 TAC §291.6

The Texas State Board of Pharmacy proposes an amendment to §291.6, concerning pharmacy license fees. This amendment allows the board to assign an expiration date, other than one year from the date of application, to a new pharmacy license.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Brinkley, Jr., R.Ph., also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of any potential administrative burden on owners with a large number of pharmacy licenses, by allowing the board the flexibility to assign expiration dates to new licenses. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph. 8505 Cross Park Drive, Suite 110, Austin, Texas 78754.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, §31, which provide the Texas State Board of Pharmacy with the authority to determine a license renewal fee and adopt a system in which licenses to operate a pharmacy expire on various dates during the year.
§291.6. Pharmacy License Fees.

(a) The board shall require annual renewal of all licenses provided under the Pharmacy Act, §31. The board shall charge the following fees for the issuance or renewal of a pharmacy license.

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

(3) New pharmacy licenses issued after April 1, 1988, shall be assigned an expiration date [, which date shall be the last day of the month, one year from the date of licensure].

(b) (No change.)

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

Issued in Austin, Texas, on March 16, 1988.

TRD-8802804 Fred S. Brinkley, Jr.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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



Community Pharmacy (Class A)

• 22 TAC §291.31

The Texas State Board of Pharmacy proposes an amendment to §291.31, concerning definitions contained in community (Class A) pharmacy rules. This proposed amendment adds new definitions of the terms "Deliver" or "delivery," "full-time pharmacist," "hard-copy," and "part-time pharmacist," it also amends "practitioner" and "Act."

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Brinkley 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 to establish minimum operational standards for Class A pharmacies, including the standards that a pharmacy's employees involved in the practice of a pharmacy shall meet. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754. In addition, the agency plans to conduct a public hearing on April 26, 1988, to hear comments on the proposed section. The hearing will begin at 9 a.m. and will be held at the Embassy Suites North Austin hotel. Further information will be announced in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, which provide the Texas State Board of Pharmacy with the authority to govern the practice of community pharmacy and its employees or personnel involved in the practice of community pharmacy must meet to qualify for licensing or relicensing as a community pharmacy.

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

Act—The Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, as amended [House Bill 1628, Acts of the 67th Legislature, 1981].

Deliver or delivery—The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

Full-time pharmacist—A pharmacist who works in a pharmacy an average of 35 to 40 hours per week, or if the pharmacy is open less than 40 hours per week, one-half of the time the pharmacy is open.

Hard-copy—A physical document that is readable without the use of a special device (i.e., cathode ray tube (CRT), microfiche reader, etc).

Part-time pharmacist—A pharmacist who works less than full-time.

Practitioner—

(A) A physician, dentist, podiatrist, veterinarian, or other person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state; [or

(B) a person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs or a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV or V controlled substances in such other state; or

(C) a person licensed in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs.

(D) ["Practitioner"] does not include a person licensed under the [this] Texas Pharmacy Act.

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

Issued in Austin, Texas, on March 16, 1988.

TRD-8802805 Fred S. Brinkley, Jr.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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



• TAC §§291.32-291.34

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas State Board of Pharmacy, 8505 Cross Park Drive, Suite 110, Austin or in the Texas Register office, Room 503, Sam Houston Building, 201, East 14th Street, Austin.)

The Texas State Board of Pharmacy proposes the repeal of §§291.32-291. 34, concerning personnel; operational standards; and records. These repeals and simultaneous publication of new §§291.32-291.34 establishes minimum operational standards for Class A pharmacies, including the standards that a pharmacy's employees involved

in the practice of pharmacy shall meet.

Fred S. Brinkley, Jr., R.Ph., has determined that for the first five-year period the proposed repeals are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Brinkley also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the establishment of minimum operational standards for Class A pharmacies, including the standards that a pharmacy's employees involved in the practice of a pharmacy shall meet. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754.

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

§291.32. Personnel.

§291.33. Operational Standards.

§291.34. Records.

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 March 16, 1988.

TRD-8802806 Fred S. Brinkley, Jr.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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



The Texas State Board of Pharmacy proposes new §§291.32-291.34, concerning community pharmacies (Class A). These new sections and the simultaneous repeal of the existing §§291.32-291.34, establishes minimum operational standards for Class A Pharmacies, including the standards that a pharmacy's employees involved in the practice of pharmacy shall meet. The new sections include the requirements of the existing Class A sections with the following changes: a clarification of the duties of the pharmacist and supportive personnel; provision for patient/pharmacist contact; the upgrading of library and environmental requirements; and the clarification of recordkeeping requirements consistent with other state and federal statutory and regulatory requirements.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implica-

tions for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Brinkley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the establishment of minimum operational standards for Class A pharmacies, including the standards that a pharmacy's employees involved in the practice of a pharmacy shall meet.

The cost of compliance with the sections for small businesses will be the same as the existing sections with the possible following exceptions. Any possible economic cost to the pharmacist providing verbal explanations and patient information cannot be determined since the additional time required in the provision of patient information may or may not be absorbed into normal operating costs. However, since the provision of patient information is currently in the realm of the professional responsibility of a pharmacist, the costs of this requirement should not be significant. Also, allowing supportive personnel to perform some manipulative nonjudgmental tasks now performed by pharmacists should allow the pharmacist additional time to provide information to the patient. Other exceptions include the cost of making USP-DI or other sources of information available to the public and costs incurred in the education, training, and use of supportive personnel. However, these costs would be offset by the savings in allowing supportive personnel to perform certain functions that were previously reserved for pharmacists. There will be possible additional costs to new pharmacies built after January 1, 1989. These costs would result from requirements that a pharmacy include a designated area for private patient counseling, and a sink with hot and cold running water within the pharmacy, exclusive of restroom facilities. The cost of additional library books will increase because the proposed sections allow a choice of four rather than three books.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., executive director/secretary, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754. The agency plans to conduct a public hearing on April 26, 1988, to hear comments on these proposed sections. The hearing will begin at 9 a.m. and will be held at the Embassy Suites North Austin hotel. Further information will be announced in the *Texas Register*.

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

§291.32. Personnel

(a) Pharmacist-in-charge.

(1) General.

(A) Each Class A pharmacy shall have one pharmacist-in-charge who is employed on a full-time basis, who may be

the pharmacist-in-charge for only one such pharmacy; provided, however, such pharmacist-in-charge may be the pharmacist-in-charge of more than one Class A pharmacy, if the additional Class A pharmacies are not open to provide pharmacy services simultaneously.

(B) The pharmacist-in-charge shall comply with the provisions of §291.17 of this title (relating to Controlled Substances Inventory Requirements).

(2) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

(A) dispensing of drugs, including the packaging, preparation, compounding, and labeling of the drug;

(B) delivery of drugs to the patient or the patient's agent;

(C) assuring that information concerning prescription drugs is available to the patient when required by law or requested by the patient;

(D) education and training of pharmacy supportive personnel;

(E) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(F) disposal and distribution of drugs from the Class A pharmacy;

(G) bulk compounding of drugs;

(H) storage of all materials, including drugs, chemicals and biologicals;

(I) maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal law and rules;

(J) establishment and maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs; and

(K) legal operation of the pharmacy, including meeting all inspection and other requirements of all state and federal laws or rules governing the practice of pharmacy.

(b) Pharmacists.

(1) General.

(A) The pharmacist-in-charge shall be assisted by sufficient number of additional licensed pharmacists as may be required to operate the Class A pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

(B) All pharmacists shall assist the pharmacist-in-charge in meeting her or her responsibilities in ordering, dispensing, and accounting for prescription drugs.

(C) Each pharmacist shall be responsible for any delegated act performed by supportive personnel under his or her supervision.

(D) All pharmacists while on duty, shall be responsible for complying with all state and federal laws or rules governing the practice of pharmacy.

(2) Duties. Duties of the pharmacist-in-charge and all other pharmacists shall include, but need not be limited to, the following:

(A) receiving oral prescription drug orders and reducing these orders to writing, either manually or electronically;

(B) interpreting prescription drug orders;

(C) selection of drug products;

(D) interpreting patient profiles, if applicable;

(E) compounding prescription drug orders;

(F) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient;

(G) providing drug information to the patient or patient's agent with each new prescription; and

(H) consulting with patients on over-the-counter drugs.

(c) Supportive personnel.

(1) Qualifications.

(A) Supportive personnel shall possess the education and training necessary to carry out their responsibilities.

(B) Supportive personnel

shall be qualified to perform the tasks assigned to them.

(2) Duties. Duties may include, but need not be limited to, the following functions under the direct supervision of and responsible to a pharmacist;

(A) preparing prescription labels from the information contained on the prescription drug order, provided a pharmacist verifies the label for accuracy;

(B) entering prescription drug order information into a data processing system, provided judgmental decisions are not required and a pharmacist verifies the information for accuracy;

(C) preparing and packaging prescription drug orders, provided a pharmacist supervises and conducts in-process and final checks and affixes the label on the prescription container;

(D) reconstitution of medications, provided a pharmacist supervises and conducts in-process and final checks;

(E) initiating and receiving a refill authorization request, however, only a pharmacist may directly communicate with the practitioner concerning judgmental matters;

(F) prepackaging and labeling prepackaged drugs, provided a pharmacist supervises and conducts in-process and final checks; and

(G) bulk compounding, provided a pharmacist supervises and conducts in-process and final checks and affixes her or her initials to the appropriate quality control records.

(3) Ratio of pharmacist to supportive personnel. The ratio of pharmacists to supportive personnel shall be 1:1 on a regular basis, but may be 1:2 during temporary emergency situations. For the purposes of this paragraph supportive personnel are those persons who perform any of the duties listed in paragraph (2) of this subsection.

(4) Training.

(A) Supportive personnel shall complete initial training as outlined by the pharmacist-in-charge which includes on-the-job and related education commensurate with the tasks they are to perform, prior to the regular performance of those tasks.

(B) The pharmacist-in-charge shall assure the continuing competency of supportive personnel through in-

service education and training to supplement initial training.

(C) The pharmacist-in-charge and each person who performs the duties listed in paragraph (2) of this subsection, shall sign a statement which attests to the fact that the supportive person has read the list of duties which may be performed by supportive personnel and understands that these duties must be performed under the direct supervision of a pharmacist.

(D) A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

(i) name of the person receiving the training;

(ii) date(s) of the training;

(iii) general description of the topics covered; and

(iv) name of the person supervising the training.

§291.33. Operational Standards.

(a) Licensing requirements.

(1) A Class A pharmacy shall register annually with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

(2) A Class A pharmacy which changes ownership shall notify the board within 10 days of the change of ownership and apply for a new and separate license as specified in §291.4 of this title (relating to Change of Ownership).

(3) A Class A pharmacy which changes location and/or name shall notify the board within 10 days of the change and file for an amended license as specified in §291.2 of this title (relating to Change of Location and/or Name).

(4) A Class A pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within 10 days of the change, following the procedures in §291.3 of this title (relating to Change of Managing Officers).

(5) A Class A pharmacy shall notify the board in writing within 10 days of closing, following the procedures in §291.5 of this title (relating to Closed Pharmacies).

(6) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(7) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a license and the issuance of an

amended license.

(8) A Class A pharmacy, licensed under the provisions of the Act, §29(b) (1), which also operates another type of pharmacy which would otherwise be required to be licensed the Act, §29(b)(2), (relating to Nuclear Pharmacy (Class B)), is not required to secure a license for such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of §§291.51-291.54 of this title (relating to Nuclear Pharmacy (Class B)), to the extent such rules are applicable to the operation of the pharmacy.

(b) Environment.

(1) General requirements.

(A) The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be clean and in good operating condition.

(B) A sink with running water shall be available to all pharmacy personnel and maintained in a sanitary condition.

(C) A Class A pharmacy initially licensed after January 1, 1989, shall have a sink with hot and cold running water within the pharmacy, exclusive of restroom facilities, available to all pharmacy personnel and maintained in a sanitary condition.

(D) A Class A pharmacy initially licensed after January 1, 1989, shall contain a designated area which is suitable for private patient counseling.

(E) The pharmacy shall be properly lighted and ventilated.

(F) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs; the temperature of the refrigerator shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration.

(2) Security.

(A) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of prescription drugs, and records for such drugs.

(B) The prescription department shall be locked by key or combination so as to prevent access when a pharmacist is not on-site. However, the pharmacist-in-charge may designate persons who may enter the pharmacy to perform functions designated by the pharmacist-in-charge (e.g., janitorial services).

(c) Prescription dispensing and delivery.

(1) Provision of drug information.

(A) If a prescription drug order is delivered to the patient at the pharmacy the following is applicable.

(i) To assure the proper utilization of the drug for each new prescription drug order dispensed, a pharmacist shall explain to the patient or her and/or her agent:

(I) the directions for use;

(II) any warning of the potential harmful effect of combining any form of alcoholic beverage with the drug; and

(III) any other information the pharmacist in his or her professional judgment deems necessary for the proper utilization of the drug or device prescribed.

(ii) So that a patient will have access to information concerning her or her prescription, a prescription may not be delivered to a patient unless a pharmacist is in the pharmacy. However, an agent of the pharmacist may deliver a prescription drug order to the patient or her or her agent when a pharmacist is absent from the pharmacy, provided such period of absence does not exceed two hours.

(iii) A Class A pharmacy shall make available for use by the public, a current or updated edition of the *United States Pharmacopeia Dispensing Information*, Volume II (Advice to the Patient), or, another source of such information, such as patient information leaflets.

(iv) A Class A Pharmacy shall prominently display a sign that is in clear public view and readable to the public, that reads: "A pharmacist is available to answer any questions concerning your prescription".

(B) If a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the pharmacist shall:

(i) provide specific information as to when and where a pharmacist employed by the pharmacy is available to answer questions concerning the prescription drug order; and

(ii) affix appropriate auxiliary labels to the prescription drug container regarding the potential harmful effect of combining any form of alcohol with the drug, if applicable;

(iii) this subparagraph does not apply to patients in institutions where medication is administered to the patient by a person authorized to do so by the laws of the state (i.e., nursing homes).

(2) Prescription containers.

(A) A drug dispensed pursuant to a prescription drug order shall be dispensed in a child-resistant container unless:

(i) the patient or the practitioner requests the prescription not be dispensed in a child-resistant container; or

(ii) the product is exempted from requirements of the Poison Prevention Packaging Act of 1970.

(B) A drug dispensed pursuant to a prescription drug order shall be dispensed in an appropriate container as follows.

(i) If a drug is susceptible to light, the drug shall be dispensed in a light-resistant container.

(ii) If a drug is susceptible to moisture, the drug shall be dispensed in a tight container.

(iii) The container should not interact physically or chemically with the drug product placed in it so as to alter the strength, quality, or purity of the drug beyond the official requirements.

(C) Prescription containers or closures shall not be re-used.

(3) Labeling. At the time of delivery of the drug, the dispensing container shall bear a label with at least the following information:

(A) name, address, and phone number of the pharmacy;

(B) unique identification number of the prescription;

(C) date the prescription is dispensed;

(D) name or initials of the dispensing pharmacist;

(E) name of the prescribing practitioner;

(F) name of the patient or if such drug was prescribed for an animal, the species of the animal and the name of the owner;

(G) instructions for use;

(H) if applicable, a warning of the potential harmful effect of combining any form of alcoholic beverage with the drug;

(I) appropriate ancillary instructions such as storage instructions or cautionary statements;

(J) if the prescription is for a Schedule II-IV controlled substance, the statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed";

(K) if the pharmacist has selected a generically equivalent drug pursuant to the provisions of the Act, §40, the statement "Substituted for Brand Prescribed"; and

(L) the name and strength of the actual drug product dispensed, unless otherwise directed by the prescribing practitioner.

(i) The name shall be either:

(I) the brand name; or

(II) if no brand name, then the generic name and name of the manufacturer or distributor of such generic drug. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products having no brand name, the principal active ingredients shall be indicated on the label).

(ii) The brand name of the prescribed drug shall not appear on the prescription container label unless it is the drug product actually dispensed.

(d) Equipment and supplies. Class A pharmacies dispensing prescription drug orders shall have the following equipment and supplies:

(1) typewriter or comparable equipment;

(2) refrigerator;

(3) adequate supply of child-resistant, light-resistant, and tight containers;

(4) adequate supply of prescription, poison, and other applicable labels;

(5) appropriate equipment necessary for the proper preparation of prescription drug orders;

(6) metric-apothecary weight and measure conversion charts; and

(7) if the community pharmacy compounds prescriptions, a Class A prescription balance, or analytical balance and weights. Such balance shall be properly maintained and inspected at least every three years by the appropriate authority as prescribed by local, state, or federal law or regulations.

(e) Library. A reference library shall be maintained which includes the following:

(1) current copies of the following:

(A) Texas Pharmacy Act and rules;

(B) Texas Dangerous Drug Act and rules;

(C) Texas Controlled Substances Act and rules; and

(D) Federal Controlled Substances Act and rules (or official publication describing the requirements of the Federal Controlled Substances Act and Rules);

(2) at least one current or updated reference from each of the following categories:

(A) patient information.

(i) *United States Pharmacopeia Dispensing Information, Volume II (Advice to the Patient)*; or

(ii) a reference which provides patient information;

(B) Drug interactions. A reference text on drug interactions, such as

Phillip D. Hansten's Drug Interactions;

(C) Toxicology/pharmacology.

(i) *Approved Drug Products with Therapeutic Equivalence Evaluations* with current supplements; or

(ii) a reference text in toxicology or pharmacology;

(D) General information.

(i) *Facts and Comparisons* with current supplements;

(ii) *United States Pharmacopeia Dispensing Information Volume I (Drug Information for the Healthcare Provider)*;

(iii) *American Hospital Formulary Service* with current supplements; or

(iv) *Remington's Pharmaceutical Sciences*; and

(3) basic antidote information and the telephone number of the nearest Regional Poison Control Center.

(f) Drugs.

(1) Procurement and storage.

(A) The pharmacist-in-charge shall have the responsibility for the procurement and storage of drugs, but may receive input from other appropriate staff relative to such responsibility.

(B) Prescription drugs and devices and nonprescription Schedule V controlled substances shall be stored within the prescription department or a locked storage area.

(C) All drugs shall be stored at the proper temperature, as defined by the following terms:

(i) controlled room temperature-temperature maintained thermostatically between 15 and 30 degrees Celsius (59 and 86 degrees Fahrenheit);

(ii) cool-temperature between 8 and 15 degrees Celsius (46 and 59 degrees Fahrenheit) which may, alternatively, be stored in a refrigerator unless otherwise specified on the labeling;

(iii) refrigerate-temperature maintained thermostatically between 2 and 8 degrees Celsius (36 and 46 degrees Fahrenheit); and

(iv) freeze-temperature maintained thermostatically between -20 and -10 degrees Celsius (-4 and 14 degrees Fahrenheit).

(2) Out-of-date drugs or devices.

(A) Any drug or device bearing an expiration date shall not be dispensed beyond the expiration date of the drug or device.

(B) Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined together until such drugs or devices are disposed of properly.

(3) Nonprescription Schedule V controlled substances.

(A) Schedule V controlled substances containing codeine, dihydrocodeine, or any of the salts of codeine or dihydrocodeine may not be distributed without a prescription drug order from a practitioner.

(B) A pharmacist may distribute nonprescription Schedule V controlled substances which contain no more than 15 milligrams of opium per 29.5729 ml. or per 28.35 Gm. provided:

(i) such distribution is made only by a pharmacist; a nonpharmacist employee may not distribute a nonprescription Schedule V controlled substance even if under the supervision of a pharmacist; however, after the pharmacist has fulfilled professional and legal responsibilities, the actual cash, credit transaction or delivery may be completed by a nonpharmacist;

(ii) not more than 240 ml. (eight fluid ounces) or not more than 48 solid dosage units of any substance containing opium, may be distributed to the same purchaser in any given 48-hour period without a prescription drug order;

(iii) the purchaser is at least 18 years of age; and

(iv) the pharmacist requires every purchaser not known to the pharmacist to furnish suitable identification (including proof of age where appropriate).

(C) A record of such distribution shall be maintained by the pharmacy in a bound record book. The record shall contain the following information:

(i) true name of the purchaser;

(ii) current address of the purchaser;

(iii) date of each purchase; and

(iv) signature or written initials of the distributing pharmacist.

(g) Prepackaging.

(1) Drugs may be prepackaged in quantities suitable for internal distribu-

tion only by a pharmacist or by supportive personnel under the direction and direct supervision of a pharmacist.

(2) The label of a prepackaged unit shall indicate:

(A) brand name, strength, and dosage form of the drug; or if no brand name, then the generic name, strength, dosage form, and name of the manufacturer or distributor;

(B) facility's lot number;

(C) expiration date; and

(D) quantity of the drug.

(3) Records of prepackaging shall be maintained to show:

(A) name of the drug, strength, and dosage form;

(B) facility's lot number;

(C) manufacturer or distributor;

(D) manufacturer's lot number;

(E) expiration date;

(F) quantity per prepackaged unit;

(G) number of prepackaged units;

(H) date packaged;

(I) name or initials of the preparer; and

(J) signature of the responsible pharmacist.

(4) Stock packages, repackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(h) Customized patient medication packages.

(1) Purpose. In lieu of dispensing two or more prescribed drug products in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, or the prescriber, provide a customized patient medication package (patient med-pak).

(2) Definition. A patient med-pak is a package prepared by a pharmacist for a specific patient comprising a series of

containers and containing two or more prescribed solid oral dosage forms. The patient med-pak is so designed or each container is so labeled as to indicate the day and time, or period of time, that the contents within each container are to be taken.

(3) Label.

(A) The patient med-pak shall bear a label stating:

(i) the name of the patient;

(ii) the unique identification number for the patient med-pak itself and a separate identifying serial number for each of the prescription drug orders for each of the drug products contained therein;

(iii) the name, strength, physical description or identification, and total quantity of each drug product contained therein;

(iv) the directions for use and cautionary statements, if any, contained in the prescription drug order for each drug product contained therein;

(v) if applicable, a warning of the potential harmful effect of combining any form of alcoholic beverage with any drug product contained therein;

(vi) any storage instructions or cautionary statements required by the official compendia;

(vii) the name of the prescriber of each drug product;

(viii) the date of preparation of the patient med-pak and the beyond-use date assigned to the patient med-pak (which such beyond-use date shall not be later than 60 days from the date of preparation);

(ix) the name, address, and telephone number of the pharmacy;

(x) the initials of the dispensing pharmacist; and

(xi) any other information, statements, or warnings required for any of the drug products contained therein.

(B) If the patient med-pak allows for the removal or separation of the intact containers therefrom, each individual container shall bear a label identifying each of the drug products contained therein.

(4) Labeling. The patient med-pak shall be accompanied by a patient package insert, in the event that any drug contained therein is required to be dispensed with such insert as accompanying labeling. Alternatively, such required information may be incorporated into a single, overall educational insert provided by the pharmacist for the total patient med-pak.

(5) Packaging. In the absence of more stringent packaging requirements for

any of the drug products contained therein, each container of the patient med-pak shall comply with official packaging standards. Each container shall be either not reclosable or so designed as to show evidence of having been opened.

(6) Guidelines. It is the responsibility of the dispensing pharmacist when preparing a patient med-pak, to take into account any applicable compendial requirements or guidelines and the physical and chemical compatibility of the dosage forms placed within each container, as well as any therapeutic incompatibilities that may attend the simultaneous administration of the drugs.

(7) Recordkeeping. In addition to any individual prescription filing requirements, a record of each patient med-pak shall be made and filed. Each record shall contain, as a minimum:

(A) the name and address of the patient;

(B) the unique identification number for the patient med-pak itself and a separate unique identification number for each of the prescription drug orders for each of drug products contained therein;

(C) the name of the manufacturer or distributor and lot number for each drug product contained therein;

(D) information identifying or describing the design, characteristics, or specifications of the patient med-pak sufficient to allow subsequent preparation of an identical patient med-pak for the patient;

(E) the date of preparation of the patient med-pak and the beyond-use date that was assigned;

(F) any special labeling instructions; and

(G) the name or initials of the pharmacist who prepared the patient med-pak.

§291.34. Records.

(a) Maintenance of records.

(1) Every inventory or other record required to be kept under the provisions of §§291.31-291.36 of this title (relating to Community Pharmacy (Class A)) shall be kept by the pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies.

(2) Records of controlled substances listed in Schedules I and II shall be maintained separately from all other records

of the pharmacy.

(3) Records of controlled substances, other than prescription drug orders, listed in Schedules III-V shall be maintained separately or readily retrievable from all other records of the pharmacy. For purposes of this subsection, readily retrievable means that the controlled substances shall be asterisked, redlined, or in some other manner readily identifiable apart from all other items appearing on the record.

(b) Prescriptions.

(1) Written prescription drug orders.

(A) Practitioner's signature. Written prescription drug orders shall be manually signed by the practitioner (electronically produced or rubber stamped signatures may not be used).

(i) A practitioner may sign a prescription drug order in the same manner as he would sign a check or legal document, e.g., J. H. Smith or John H. Smith.

(ii) The prescription drug order may not be signed by a practitioner's agent but may be prepared by an agent for the signature of a practitioner. However, the prescribing practitioner is responsible in case the prescription drug order does not conform in all essential respects to the law and regulations.

(B) Required prescription drug order format.

(i) A pharmacist may not dispense a written prescription drug order issued in Texas unless it is ordered on a form containing two signature lines of equal prominence, side by side, at the bottom of the form. Under either signature line shall be printed clearly the words "product selection permitted", and under the other signature line shall be printed clearly the words "dispense as written".

(ii) The two signature line requirement does not apply to the following types of prescriptions drug orders:

(I) prescription drug orders issued by a practitioner in a state other than Texas;

(II) prescription drug

orders for dangerous drugs issued by a practitioner in the United Mexican States or the Dominion of Canada; and

(III) prescription drug orders issued by practitioners practicing in a federal facility provided they are acting in the scope of their employment.

(C) Preprinted prescription drug order forms. No prescription drug order form furnished to a practitioner shall contain a preprinted order for a drug product by brand name, generic name, or manufacturer.

(D) Prescription drug orders written by practitioners in another state.

(i) Dangerous drug prescription orders. A pharmacist may dispense a prescription drug order for dangerous drugs issued by practitioners in a state other than Texas in the same manner as prescription drug orders for dangerous drugs issued by practitioners in Texas are dispensed.

(ii) Controlled substance prescription drug orders. A pharmacist may dispense prescription drug orders for controlled substances in Schedule III, IV, or V issued by a practitioner in another state provided:

(I) the prescription drug order is an original written prescription issued by a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule III, IV, or V controlled substances in such other state;

(II) the prescription drug order is not dispensed or refilled more than six months from the initial date of issuance and may not be refilled more than five times; and

(III) a new written prescription drug order is obtained from the prescribing practitioner prior to dispensing any additional quantities of controlled substances, if there are no refill instructions on the original written prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original written prescription drug order have been dispensed.

(E) Prescription drug orders written by practitioners in the United Mexican States or the Dominion of Canada.

(i) Controlled substance prescriptions. A pharmacist may not dispense a prescription drug order for a Schedule II, III, IV, or V controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States.

(ii) Dangerous drug prescriptions drug orders. A pharmacist may dispense a dangerous drug prescription issued by a person licensed in the Dominion of Canada or the United Mexican States as a physician, dentist, veterinarian, or podiatrist provided:

(I) the prescription drug order is an original written prescription;

(II) a new written prescription drug order shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of dangerous drugs if there are no refill instructions on the original written prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original written prescription drug order has been dispensed.

(F) Prescription drug orders for Schedule II controlled substances. No Schedule II controlled substance may be dispensed without a written prescription drug order of a practitioner on a triplicate prescription form as required by the Texas Controlled Substances Act, §3.09 (Texas Civil Statutes, Article 4476-15).

(2) Oral prescription drug orders.

(A) A pharmacist may not dispense an oral prescription drug order for

a Schedule III, IV, or V controlled substance issued by a practitioner licensed in another state unless the practitioner is also registered under the Texas Controlled Substances Act.

(B) A pharmacist may not dispense an oral prescription drug order issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(C) If a prescription drug order is transmitted to a pharmacist orally, the pharmacist shall note any substitution instructions by the practitioner or practitioner's agent, on the file copy of the prescription drug order. Such file copy may follow the two-line format indicated in paragraph (1)(B) of this subsection, or any other format that clearly indicates the substitution instructions.

(D) A telephonic prescription drug order may only be received by a pharmacist or a pharmacist-intern under the direct supervision of a pharmacist.

(3) Authorization for substitution.

(A) A pharmacist may dispense a generically equivalent drug product if the patient does not refuse the substitution and:

(i) the prescribing practitioner authorizes the substitution of a generically equivalent product; or

(ii) the practitioner or practitioner's agent does not clearly indicate that the oral prescription drug order shall be dispensed as ordered.

(B) Practitioners shall indicate their dispensing instructions by signing on either the "Dispense as Written" or "Product Selection Permitted" line on the prescription drug order. If the practitioner's signature does not clearly indicate the prescription drug order shall be dispensed as written, the pharmacist may substitute a generically equivalent drug product.

(C) A pharmacist may not substitute on prescription drug orders identified in paragraph (1)(B)(ii) of this subsection unless the practitioner has authorized substitution on the prescription drug order.

(D) If the practitioner has not authorized substitution on the written prescription drug order, a pharmacist shall not substitute a generically equivalent drug product unless:

(i) the pharmacist obtains verbal or written authorization from the practitioner (such authorization shall be

noted on the original prescription drug order); or

(ii) the pharmacist obtains written documentation regarding substitution requirements from the State Board of Pharmacy in the state, other than Texas, in which the prescription drug order was issued. The following is applicable concerning this documentation.

(I) The documentation shall state that a pharmacist may substitute on a prescription drug order issued in such other state unless the practitioner prohibits substitution on the original prescription drug order.

(II) The pharmacist shall note on the original prescription drug order the fact that documentation from such other state board of pharmacy is on file.

(III) Such documentation shall be updated yearly.

(4) Original prescription drug order records.

(A) Hard-copy prescriptions as used in this and any other subsections, are the original written or original oral prescription drug orders reduced to writing either manually or electronically by the pharmacist.

(B) Hard copy prescriptions shall be maintained by the pharmacy in numerical order for a period of two years from the date of filling or the date of the last refill dispensed.

(C) If an original prescription drug order is changed, such prescription order shall be invalid and of no further force and effect; if additional drugs are to be dispensed, a new prescription drug order with a new and separate number is required.

(D) Hard-copy prescriptions shall be maintained in three separate files as follows:

(i) prescriptions for controlled substances listed in Schedule II;

(ii) prescriptions for controlled substances listed in Schedule III-V; and

(iii) prescriptions for dangerous drugs and nonprescription drugs.

(5) Prescription drug order information.

(A) All hard-copy prescriptions shall bear:

(i) name of the patient, if such drug is for an animal, the species of such animal and the name of the owner;

(ii) address of the patient, provided however, a prescription for a dangerous drug is not required to bear the address of the patient if such address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such medication records;

(iii) name, and if for a controlled substance, the address and DEA registration number of the practitioner;

(iv) name and strength of the drug prescribed;

(v) quantity prescribed;

(vi) directions for use; and

(vii) date of issuance.

(B) At the time of dispensing, a pharmacist is responsible for the addition of the following information:

(i) unique identification number of the prescription drug order;

(ii) hand-written initials of the dispensing pharmacist;

(iii) quantity dispensed, if different from the quantity prescribed;

(iv) date of dispensing, if different from the date of issuance; and

(v) brand name or manufacturer of the drug product actually dispensed, if the drug was prescribed by generic name or if a drug product other than the one prescribed was dispensed pursuant to the provisions of the Act, §40.

(6) Refills.

(A) Refills may be dispensed only in accordance with the prescribers authorization as indicated on the original prescription drug order.

(B) If there are no refill instructions on the original prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original prescription drug order has been dispensed, authorization from the prescribing practitioner shall be obtained prior

to dispensing any refills.

(C) Refills of prescriptions drug orders for dangerous drugs or nonprescription drugs.

(i) Prescription drug orders for dangerous drugs or nonprescription drugs may not be refilled after one year from the date of issuance of the original prescription drug order.

(ii) If one year has expired from the date of issuance of an original prescription drug order for a dangerous drug or nonprescription drug, authorization shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of the drug.

(D) Refills of prescription drug orders for Schedule III-V controlled substances.

(i) Prescription drug orders for Schedule III-V controlled substances may not be refilled more than five times or after six months from the date of issuance of the original prescription drug order, whichever occurs first.

(ii) If a prescription drug order for a Schedule III, IV, or V controlled substance has been refilled a total of five times or if six months have expired from the date of issuance of the original prescription drug order, whichever occurs first, a new and separate prescription drug order shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of controlled substances.

(c) Prescription drug order records maintained in a manual system.

(1) Hard-copy prescriptions shall be maintained in three files as specified in subsection (b)(4)(D) of this section.

(2) Refills.

(A) Each time a prescription drug order is refilled, a record of such refill shall be made:

(i) on the back of the prescription by recording the date of dispensing, the written initials or identification code of the dispensing pharmacist and the amount dispensed (If the pharmacist merely initials and dates the back of the prescription drug order, he or she shall be deemed to have dispensed a refill for the full face amount of the prescription drug order); or

(ii) on another appropriate, uniformly maintained, readily retrievable record, such as medication records, which indicates by patient name the following information:

(I) prescription number;

(II) name and strength of the drug dispensed;

(III) date of each dispensing;

(IV) quantity dispensed at each dispensing;

(V) initials or identification code of the dispensing pharmacist; and

(VI) total number of refills for the prescription.

(B) If refill records are maintained in accordance with paragraph (2) (A) (ii) of the subsection, refill records for controlled substances in Schedule III-V shall be maintained separately from refill records of dangerous drugs and nonprescription drugs.

(3) Authorization of refills. Practitioner authorization for additional refills of a prescription drug orders shall be noted on the original prescription, in addition to the documentation of dispensing the refill.

(4) Transfer of prescription drug order information. For the purpose of refill dispensing, the transfer of original prescription drug order information is permissible between pharmacies, subject to the following requirements:

(A) the transfer of original prescription drug order information for con-

trolled substances listed in schedules III, IV, or V is permissible between pharmacies on a one-time basis;

(B) the transfer of original prescription drug order information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills;

(C) the transfer is communicated directly between two licensed pharmacists;

(D) both the original and the transferred prescription drug order are maintained for a period of two years from the date of last refill;

(E) the pharmacist transferring the prescription drug order information shall:

(i) write the word "void" on the face of the invalidated prescription drug order; and

(ii) record on the reverse of the invalidated prescription drug order the following information:

(I) the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription drug order is transferred;

(II) the name of the pharmacist receiving the prescription drug order information;

(III) the name of the pharmacist transferring the prescription drug order information; and

(IV) the date of the transfer.

(F) The pharmacist receiving the transferred prescription drug order information shall:

(i) write the word "transfer" on the face of the transferred prescription drug order; and

(ii) record on the transferred prescription drug order, the following information:

(I) original date of issuance and date of dispensing, if different from date of issuance;

(II) original prescription number and the number of refills authorized on the original prescription drug order;

(III) number of valid refills remaining and the date of last refill;

(IV) name, address, and if a controlled substance, the DEA registration number of the pharmacy from which such prescription information is transferred; and

(V) name of the pharmacist transferring the prescription drug order information.

(d) Prescription drug order records maintained in a data processing system.

(1) Hard-copy prescriptions. Hard-copy prescriptions shall be maintained in three files as specified in subsection (b)(4)(D) of this section.

(2) Records of dispensing.

(A) Each time a prescription drug order is filled or refilled, a record of such dispensing shall be entered into the data processing system.

(B) The data processing system shall have the capacity to produce a daily hard-copy printout of all original prescriptions dispensed and refilled. This hard copy printout shall contain the following information:

(i) unique identification number of the prescription;

(ii) date of dispensing;

(iii) patient name;

(iv) prescribing practitioner's name;

(v) name and strength of the drug product actually dispensed, if generic name, the brand name or manufacturer of drug dispensed;

(vi) quantity dispensed;

(vii) initials or an identification code of the dispensing pharmacist; and

(viii) if not immediately retrievable via CRT display, the following shall also be included on the hard-copy printout:

(I) patient's address;

(II) prescribing practitioner's address;

(III) practitioner's DEA registration number, if the prescription drug order is for a controlled substance;

(IV) quantity prescribed, if different from the quantity dispensed;

(V) date of issuance of the prescription drug order, if different from the date of dispensing; and

(VI) total number of refills dispensed to date for that prescription drug order.

(C) The daily hard-copy printout shall be produced within 72 hours of the date on which the prescription drug orders were dispensed and shall be maintained in a separate file at the pharmacy. Records of controlled substances shall be readily retrievable from records of noncontrolled substances.

(D) Each individual pharmacist who dispenses or refills a prescription drug order shall verify that the data indicated on the daily hard-copy printout is correct, by dating and signing such document in the same manner as signing a check or legal document (e.g., J.H. Smith, or John H. Smith) within seven days from the date of dispensing.

(E) In lieu of the printout described in subparagraph (B) of this paragraph, the pharmacy shall maintain a log book in which each individual pharmacist using the data processing system shall sign a statement each day, attesting to that fact that the information entered into the data processing system that day has been reviewed by him or her and is correct as entered. Such log book shall be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing; provided, however, that the data processing system can produce the hard-copy printout on demand by an authorized agent of the Texas State Board of Pharmacy, the Texas Department of Public Safety, or the Drug Enforcement Administration. If no printer is available on site, the hard-copy printout shall be available within 48 hours with a certification by the individual providing the printout, which states that the printout is true and correct as of the date of entry and such information has not been altered, amended, or modified; and

(F) the pharmacist-in-charge is responsible for the proper maintenance of such records and responsible that such data processing system can produce the records outlined in this section and that such system is in compliance with this subsection.

(G) The data processing system shall be capable of producing a hard-copy printout of an audit trail for all dis-

pensing (original and refill) of any specified strength and dosage form of a drug (by either brand or generic name or both) during a specified time period.

(i) Such hard-copy printout shall contain all of the information required on the daily hard-copy printout as set out in paragraph (2)(B) of this subsection.

(ii) The hard-copy printout required in this subparagraph shall be supplied by the pharmacy within 48 hours, if requested by an authorized agent of the Texas State Board of Pharmacy, Department of Public Safety, or Drug Enforcement Administration.

(H) Failure to provide the records set out in this subsection, either on site or within 48 hours for whatever reason, constitutes prima facie evidence of failure to keep and maintain records.

(I) The data processing system shall provide on-line retrieval (via CRT display or hard-copy printout) of the information set out in paragraph (2)(B) of this subsection of:

(i) the original controlled substance prescription drug orders currently authorized for refilling; and

(ii) the current refill history for Schedule III, IV, and V controlled substances for the immediately preceding six month period.

(J) In the event that a pharmacy which uses a data processing system experiences system down-time, the following is applicable:

(i) an auxiliary procedure shall ensure that refills are authorized by the original prescription drug order and that the maximum number of refills has not been exceeded or authorization from the prescribing practitioner shall be obtained prior to dispensing a refill; and

(ii) all of the appropriate data shall be retained for on-line data entry as soon as the system is available for use again.

(3) Authorization of refills. Practitioner authorization for additional refills of a prescription drug order shall be noted as follows:

(A) on the hard-copy prescription drug order;

(B) on the daily hard-copy printout; or

(C) via the CRT display.

(D) Transfer of prescription drug order information. For the purpose of refill dispensing, the transfer of original prescription drug order information is permissible between pharmacies, subject to the following requirements.

(A) the transfer of original prescription drug order information for controlled substances listed in Schedules III, IV, or V is permissible between pharmacies on a one-time basis.

(B) The transfer of original prescription drug order information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills.

(C) The transfer is communicated directly between two licensed pharmacists or as authorized in paragraph (5) of this subsection.

(D) Both the original and the transferred prescription drug orders are maintained for a period of two years from the date of last refill.

(E) The pharmacist transferring the prescription drug order information shall:

(i) write the word "void" on the face of the invalidated prescription drug order; and

(ii) record on the reverse of the invalidated prescription drug order the following information:

(I) the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred;

(II) the name of the pharmacist receiving the prescription drug order information;

(III) the name of the pharmacist transferring the prescription drug order information; and

(IV) the date of the transfer.

(F) The pharmacist receiving the transferred prescription drug order information shall:

(i) write the word "transfer" on the face of the transferred prescription drug order; and

(ii) record on the transferred prescription drug order, the following information:

(I) original date of issuance and date of dispensing, if different from date of issuance;

(II) original prescription number and the number of refills authorized on the original prescription drug order;

(III) number of valid refills remaining and the date of last refill;

(IV) name, address, and if a controlled substance, the DEA registration number of the pharmacy from which such prescription drug order information is transferred; and

(V) name of the pharmacist transferring the prescription drug order information.

(G) Prescription drug orders may not be transferred by nonelectronic means during periods of downtime except on consultation with and authorization by a prescribing practitioner; provided however, during downtime, a hard-copy of a prescription drug order may be made available for informational purposes only, to the patient or another pharmacist, and the prescription may be read to another pharmacist by telephone.

(H) The original prescription drug order shall be invalidated in the data processing system for purposes of filling or refilling, but shall be maintained in the data processing system for refill history purposes.

(I) If the data processing system has the capacity to store all the information required in paragraph (4)(E) and (F) of this subsection, the pharmacist is not required to record this information on the original or transferred prescription drug order.

(J) The data processing system shall have a mechanism to prohibit the transfer or refilling of controlled substance prescription drug order which have been previously transferred.

(5) Electronic transfer of prescription drug order information between pharmacies. Pharmacies electronically accessing the same prescription drug order records may electronically transfer prescription information if the following requirements are met:

(A) The data processing system shall have a mechanism to send a message to the transferring pharmacy containing the following information:

(i) the fact that the prescription drug order was transferred;

(ii) the unique identification number of the prescription drug order transferred;

(iii) the name of the pharmacy to which it was transferred; and

(iv) the date and time of the transfer.

(B) A pharmacist in the transferring pharmacy shall review the message and document the review by signing and dating a hard copy of the message or a log book containing the information required on the message as soon as practical, but in no event more than 72 hours from the time of such transfer.

(C) Pharmacies not owned by the same person may electronically access the same prescription drug order records, provided the owner or chief executive officer of each pharmacy signs an agreement allowing access to such prescription drug order records.

(e) Limitation to one type of record keeping system. When filing prescription drug order information a pharmacy may use only one of the two systems described in subsection (c) or (d) of this section.

(f) Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy or other registrant, without being registered to distribute, under the following conditions.

(1) The registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to dispense that controlled substance.

(2) The total number of dosage units of controlled substances distributed by a pharmacy may not exceed 5.0% of all controlled substances dispensed and distributed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5.0%, the pharmacy is required to obtain an additional registration to distribute controlled substances.

(3) If the distribution is for a Schedule III, IV, or V controlled substance, a record shall be maintained which indicates:

(A) the actual date of distribution;

(B) the name, strength, and quantity of controlled substances distributed;

(C) the name, address, and DEA registration number of the distributing pharmacy; and

(D) the name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(4) If the distribution is for a Schedule I or II controlled substance, the following is applicable.

(A) The pharmacy, practitioner, or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222C) to the distributing pharmacy.

(B) The distributing pharmacy shall:

(i) complete the area on the DEA order form (DEA 222C) titled "TO BE FILLED IN BY SUPPLIER";

(ii) maintain Copy 1 of the DEA order form (DEA 222C) at the pharmacy for two years; and

(iii) forward Copy 2 of the DEA order form (DEA 222C) to the Divisional Office of the Drug Enforcement Administration.

(g) Other Records. Other records to be maintained by a pharmacy:

(1) a permanent log of the initials or identification codes which will identify each dispensing pharmacist by name (the initials or identification code shall be unique to ensure that each pharmacist can be identified, i.e., identical initials or identification codes shall not be used);

(2) copy 3 of DEA order form (DEA 222C) which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(3) a copy of the power of attorney to sign DEA 222C order forms (if applicable);

(4) suppliers' invoices of dangerous drugs and controlled substances upon which is clearly recorded the actual date of receipt of the dangerous drugs or controlled substances and the initials of the pharmacist or other responsible individual who verified that the drugs listed on the invoices were actually received;

(5) suppliers' credit memos for controlled substances and dangerous drugs;

(6) controlled substances inventories required by §291.17 of this title (relating to the Controlled Substances Inventory Requirements);

(7) reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

(8) Schedule V nonprescription register book;

(9) records of distribution of controlled substances and/or dangerous drugs to other pharmacies, practitioners or registrants; and

(10) a copy of any notification required by the Texas Pharmacy Act or these sections, including, but not limited to, the following:

(A) reports of theft or significant loss of controlled substances to DEA, DPS, and the board;

(B) notifications of a change in pharmacist-in-charge of a pharmacy; and

(C) reports of a fire or other disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or treatment of injury, illness, and disease.

(h) Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall first submit written notification by registered or certified mail to the divisional director of the Drug Enforcement Administration as required by Title 21, Code of Federal Regulations, §1304(a), and submit a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the divisional director of the Drug Enforcement Administration that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional director. A copy of such notification shall be maintained by the pharmacy. The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, which shall be maintained at the pharmacy.

(i) Ownership of pharmacy records. For purposes of these sections, a pharmacy licensed under the Act is the only entity which may legally own and maintain prescription drug records.

(j) Confidentiality. A pharmacist shall provide adequate security of prescription drug order records to prevent indiscriminate or unauthorized access to confidential health information.

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 March 16, 1988.

TRD-8802807 Fred S. Brinkley, Jr., R.Ph.
Executive Director
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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

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• 22 TAC §291.36

The Texas State Board of Pharmacy proposes an amendment to §291.36, concerning Class A pharmacies dispensing compounded sterile parenteral and enteral products. This amendment to existing sections governing Class A pharmacies dispensing sterile products, is in line with the recommendations made by the board's Joint Advisory Committee on Class A and C Pharmacy Practice and the Board/Association Liaison Committee.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for

state or local government as a result of enforcing or administering the section. The cost of compliance with the section for small businesses will be reduced since current rules require certification two times a year of the laminar flow hood at a cost of approximately; the proposed amendment requires certification only one time a year. After January 1, 1989, all pharmacists who compound sterile parenteral and enteral products must provide documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider of continuing pharmacy education in the preparation, sterilization, and admixture of parenteral products. There will be a cost to the facility for pharmacists to complete the course, if the facility pays for the training. There will also be costs incurred in the education, training, and use of supportive personnel. However, these costs would be offset by the savings in allowing supportive personnel to perform certain functions that were previously reserved for pharmacists. There will be no difference in the cost of compliance for small businesses and the cost of compliance for the largest businesses.

Fred S. Brinkley, R. Ph., executive director/secretary, 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 establishment of minimum standards for Class A pharmacies, including the standards that a pharmacy's employees involved in the practice of a pharmacy must meet. The possible economic cost to individuals who are required to comply with the section as proposed will be the cost to the pharmacist to complete the course in the preparation, sterilization, and admixture of parenteral products if the facility does not pay for training.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., 8505 Creek Park Drive #110, Austin, Texas 78754. The agency plans to conduct a public hearing on April 26, 1988, to hear comments on proposed sections. The hearing will begin at 9 a.m. and will be held at the Embassy Suites North Austin Hotel. Further information will be announced in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, §§5, 17, 29, and 30, which provide the Texas State Board of Pharmacy with the authority to govern the practice of community pharmacy and community pharmacists and the standards that each community pharmacy and its employees or personnel involved in the practice of community pharmacy must meet to qualify for licensing or relicensing as a community pharmacy. §291.36. *Class A Pharmacies Dispensing Compounded Sterile Parenteral and Enteral Products.*

(a) (No change.)

(b) Personnel.

(1) Pharmacist-in-charge responsibilities. In addition to the requirements of [those responsibilities described in] §291.32(a) of this title (relating to Personnel), the pharmacist-in-charge of a Class A pharmacy dispensing compounded sterile enteral and parenteral products shall have the responsibility for, at a mini-

mum, the following:

(A)[(1)] preparation and sterilization of parenteral and enteral drugs [medications] compounded within the pharmacy;

(B)[(2)] admixture of parenteral and enteral products, including education and training of personnel concerning incompatibility; [and provision of proper incompatibility information when the admixture of parenteral products is not performed within the pharmacy;

[(3) bulk compounding of drugs;

[(4) storage of all materials, including drugs, chemicals, and biologicals, and establishment of specification for procurement where appropriate;

[(5) filling and labeling all containers from which drugs are to be distributed, administered, or dispensed;

[(6) records of all transactions of the pharmacy as may be required by applicable state and federal laws and rules as may be necessary to maintain accurate control over, and accountability for all pharmaceutical material;]

(C)[(7)] participation in those aspects of the facility's patient care evaluation program relating to pharmaceutical material utilization and effectiveness; and

(D)[(8)] implementation of the policies and decisions of the appropriate committees relating to pharmaceutical services of the facility[;]

[(9) labeling, storage, dispensing, and distribution of investigational new drugs, including maintenance of information in the pharmacy concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse effects, interactions, and symptoms of toxicity of investigational new drugs; and

[(10) meeting all inspection and other requirements of the Texas Pharmacy Act and these rules].

(2) Pharmacists. In addition to the requirements of §291.32(b) of this title (relating to Personnel), all pharmacists who compound sterile parenteral and enteral products shall meet minimal standards of training and experience in the preparation, sterilization, and admixture of parenteral and enteral products.

(A) Such standards of training and experience may be evidenced by either:

(i) documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved

provider of continuing pharmacy education in the preparation, sterilization, and admixture of parenteral and enteral products; or

(ii) documentation of completion of a minimum of 20 hours of education or experience in the preparation, sterilization, and admixture of parenteral and enteral products not sponsored by an accredited college of pharmacy.

(B) Any documentation submitted after January 1, 1989, must meet the requirements of subparagraph (A)(i) of this paragraph.

(3) Supportive Personnel.

(A) Duties. In addition to the those duties described in §291.32(c)(2) of this title (relating to Personnel), supportive personnel in a Class A pharmacy dispensing compounded sterile enteral and parenteral products may mix drugs with parenteral fluids pursuant to prescription drug orders, provided a pharmacist supervises and conducts in-process and final checks of the preparation.

(B) Training. In addition to the training requirements described in §291.32(c)(4) of this title (relating to Personnel), supportive personnel who are performing the duties described in paragraph 3(A) of this subsection shall complete 40 hours of documented on-the-job training in the preparation, sterilization, and admixture of parenteral and enteral products.

(c) Environment. In addition to those standards outlined in §291.33(b) of this title (relating to Operational Standards), the environmental standards for Class A pharmacies dispensing compounded sterile enteral and parenteral products are as follows.

(1) (No change.)

(2) Special requirements. The pharmacy shall have a designated area for the laminar air flow hood for the preparation of sterile enteral and parenteral products, which shall:

(A) (No change.)

(B) have [nonporous and] cleanable surfaces, walls, and floors;

(C)-(D) (No change.)

(3) (No change.)

(d) Equipment and supplies. In addition to the requirements outlined in §291.33(d) of this title (relating to Operational Standards), Class A pharmacies

dispensing compounded sterile enteral and parenteral products shall have [the following equipment:]

[(1) metric-apothecary weight and measure conversion charts; and

[(2) an annually [a semiannually] certified laminar air flow hood and other equipment necessary for the preparation of sterile parenteral and enteral products.

(e) Library. In addition to [lieu of] the library requirements outlined in §291.33(d) of this title (relating to Operational Standards), the library of Class A pharmacies dispensing sterile parenteral and enteral products shall include [maintain] a current or updated reference on injectable drug products, such as the Handbook of Injectable Drugs. [library which includes current copies of the following:

[(1) laws:

[(A) Texas Pharmacy Act and rules;

[(B) Texas Dangerous Drug Law;

[(C) Texas Controlled Substances Act and regulations;

[(D) Federal Controlled Substances Act and regulations or official publication describing the requirements of the Federal Controlled Substances Act and regulations;

[(2) American Hospital Formulary Service or Facts and Comparisons, with current supplements;

[(3) Handbook of Injectable Drugs or comparable type; and

[(4) at least one of the following references:

[(A) United States Pharmacopeia-National Formulary (USP-NF);

[(B) United States Dispensatory (USD); or

[(C) Remington's Pharmaceutical Sciences.]

(F) Sterile Products.

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

(3) At the time of delivery of the drug [medication], the dispensing container shall bear [bears] a label with at least the following information:

(A) name, address, and phone number of the pharmacy;

- (B)[(A)] date dispensed;
- (C)[(B)] name of practitioner [physician];
- (D)[(C)] name of patient;
- (E)[(D)] directions for use;
- (F)[(E)] unique identification number of the prescription;
- (G)[(F)] name and amount of drug(s) added;
- (H)[(G)] name of the basic solution;
- (I)[(H)] name or identifying code of person who prepared the admixture; [and]
- (J) initials or identification code of the pharmacist who checked the preparation; and
- (K)[(I)] expiration date of the preparation [solution] based on published data.

(g) Policy and procedure manual. [to obtain a pharmacy license.] A [a] policy and procedure manual as it relates to sterile products shall be available for inspection at the pharmacy. The manual shall include policies and procedures for:

(1)-(14) (No change.)

(h) (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 March 16, 1988.

TRD-8802808

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

Earliest possible date of adoption: April 25, 1988

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

Institutional Pharmacy (Class C)

• 22 TAC §§291.71, 291.73-291.75

The Texas State Board of Pharmacy proposes amendments to §291.71 and §§291.73, 291.75, concerning Class C (institutional) pharmacies. This amendment brings the existing sections in line with the recommendations made by the board's Joint Advisory

Committee on Class A and C Pharmacy Practice and the Board/Association Liaison Committee regarding pharmacy environmental standards; pharmacist supervision; library requirements; training of supportive personnel; procedures for supplying drugs from radiology departments; and clarification of recordkeeping, labeling, and registration procedures for pharmacies, and the duties of a pharmacist.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. The cost of compliance with the sections for small businesses include construction costs if the hospital pharmacy does not have a sink exclusive of restroom facilities which are available to pharmacy personnel; costs to upgrade the laminar air flow hood area, if the hospital pharmacy's current area does not meet the proposed new standards regarding traffic, ventilation, and interior surfaces.

A possible increase in costs for a hospital with a part time or consultant pharmacist, if the pharmacist is currently visiting the pharmacy less frequently than every 72 hours. (The proposed new sections require a pharmacist to check the pharmacy's drug distribution system every 72 hours.)

The cost to the hospital for pharmacists to complete a course in the preparation, sterilization, and admixture of parenteral products if the hospital pays for the training; and (After January 1, 1989, all pharmacists who compound sterile parenteral and enteral products must provide documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider of continuing pharmacy education, in the preparation, sterilization, and admixture of parenteral products.)

An increase in cost for one additional reference book required under library requirements.

Mr. Brinkley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the establishment of minimum standards for Class C pharmacies including the standards that a pharmacy's employees involved in the practice of a pharmacy must meet.

The cost to pharmacists to complete a course in the preparation, sterilization, and admixture of parenteral products, if the hospital does not pay for training. (After January 1, 1989, all pharmacists who compound sterile parenteral and enteral products must provide documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider of continuing pharmacy education, in the preparation, sterilization, and admixture of parenteral products.)

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph. 8505 Cross Park Drive #110, Austin, Texas 78754. The agency plans to conduct a public hearing on April 26, 1988, to hear comments on these proposed amendments. The hearing will begin at 9 a.m. and will be held at the Embassy Suites North Austin Hotel. Further information will be announced in the *Texas Register*.

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

§291.71. Purpose. The purpose of these sections is to provide standards in the conduct, practice activities, and operation of a pharmacy located in a hospital or other inpatient facility that is licensed under the Texas Hospital Licensing Law, Texas Civil Statutes, Article 4473f, or Chapter 6, Texas Mental Health Code, Texas Civil Statutes, Article 5547-1 et seq., or a pharmacy located in a hospital maintained or operated by the state.

§291.73. Personnel.

(a) Requirements for Pharmacist Services.

(1) A Class C Pharmacy in a facility licensed for 101 beds or more shall be under the continuous on-site supervision of a pharmacist during the time it is open for pharmacy services; provided however, that supportive personnel may distribute prepackaged and pre-labeled drugs from a satellite pharmacy in the absence of on-site supervision of a pharmacist, under the following conditions:

(A) the distribution is under the control of a pharmacist; and

(B) a pharmacist is on duty in the facility.

(2) A Class C Pharmacy in a facility licensed for 100 beds or less shall have the services of a pharmacist at least on a part-time or consulting basis according to the needs of the facility.

(b)[(a)] Pharmacist-in-charge.

(1) General.

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

(2) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

(A)-(O) (No change.)

(c)[(b)] Consultant pharmacists [pharmacist].

(1) The consultant pharmacist may be the pharmacist-in-charge.

(2) A written agreement shall exist between the facility and any consultant pharmacist, and a copy of the written agreement shall be made available to the board upon request.

(d)[(c)] [Staff] pharmacists.

(1) General.

(A)[(1)] The pharmacist-in-charge shall be assisted by a sufficient number of additional licensed [registered] pharmacists as may be required to operate the institutional pharmacy competently, safely, and adequately to meet the needs of the patients of the facility.

(B)[(2)] All [staff] pharmacists shall assist the pharmacist-in-charge in meeting the responsibilities as outlined in subsection (b)[(a)](2) of this section and in ordering, administering, and accounting for pharmaceutical materials.

(C)[(3)] All [staff] pharmacists shall be responsible for any delegated act performed by supportive personnel under his or her supervision.

(D) All pharmacists while on duty, shall be responsible for complying with all state and federal laws or rules governing the practice of pharmacy.

(2) Duties. Duties of the pharmacist-in-charge and all other pharmacists shall include, but need not be limited to, the following:

(A) receiving and interpreting prescription drug orders and oral medication orders and reducing these orders to writing either manually or electronically;

(B) selection of prescription drugs and/or devices and/or suppliers; and

(C) interpreting patient profiles.

(3) Special requirements. All pharmacists who compound sterile parenteral and enteral products shall meet minimal standards of training and experience in the preparation, sterilization, and admixture of parenteral products; such standards of training and experience may be evidenced by either:

(A) documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider of continuing pharmacy education, in the preparation, sterilization, and admixture of parenteral products; or

(B) documentation of completion of a minimum of 20 hours of education or experience in the preparation, sterilization, and admixture of parenteral products not sponsored by

an accredited college of pharmacy;

(4) any documentation submitted after January 1, 1989, must meet the requirements of paragraph (3)(A) of this paragraph.

(e)[(d)] Supportive personnel.

(1) Qualifications.

(A) Supportive personnel shall possess the education and training necessary to carry out their responsibilities.

(B) Supportive personnel must be qualified to perform the tasks assigned to them.

(2) Duties. Duties may include, but need not be limited to, the following functions [according to the needs of the facility] under the direct supervision of a pharmacist:

(A) prepacking and labeling unit and multiple dose packages, provided a pharmacist supervises and conducts in-process and final checks and affixes his or her initials to the appropriate quality control records;

(B) preparing, packaging, compounding, or labeling prescription drugs pursuant to medication orders, providing a pharmacist supervises and checks the preparation;

(C) mixing drugs with parenteral fluids pursuant to medication orders, providing a pharmacist supervises and checks the preparation;

(D) bulk compounding, provided a pharmacist supervises and conducts in-process and final checks and affixes his or her initials to the appropriate quality control records;

(E) distributing routine orders for stock supplies to patient care areas; and

(F) entering prescription information into a data processing system, provided judgemental decisions are not required. [maintaining inventories of drug supplies; and]

[(G) maintaining pharmacy records.]

(3) Procedures.

(A) Supportive personnel shall handle medication orders in accordance with standard, written procedures and guidelines.

(B) Supportive personnel shall handle prescription drug orders in the same manner as those working in a Class A pharmacy.

(4) Training.

(A) Supportive personnel shall complete initial training as outlined by the pharmacist-in-charge which includes [receive documented] on-the-job training and related education commensurate with the tasks they are to perform, prior to the regular performance of those tasks.

(B) Supportive personnel who prepare sterile parenteral and enteral products shall complete an additional 40 hours of on-the-job training in the preparation, sterilization, and admixture of parenteral products [receive regular and documented inservice education and training to supplement initial training].

(C) The pharmacist-in-charge shall assure continuing competency of supportive personnel through inservice education and training to supplement initial training.

(D) The pharmacist-in-charge and each person who performs the duties listed in paragraph (2) of this subsection shall sign a statement attesting that the supportive person has read the list of duties which may be performed by supportive personnel and understands that these duties must be performed under the direct supervision of a pharmacist.

(E) A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

(i) name of the person receiving the training;

(ii) date(s) of the training;

(iii) general description of the topics covered; and

(iv) name of the person supervising the training.

§291.74. Operational Standards.

(a) Licensing requirements [registration].

(1) A [All] Class C [institutional pharmacies] pharmacy shall register annually with the board on a pharmacy license application [form] provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

[(2) The registration form shall be signed by the pharmacist-in-charge of the institutional pharmacy and shall be certified.

(3) The chief executive officer of the facility shall sign the registration form and shall agree to comply with the regulations promulgated by the board governing institutional pharmacies.

(4) The registration form shall state whether the institutional pharmacy is a sole ownership and give the name of the owner; or if a partnership, name all the managing partners; or if a corporation, name all the managing officers.]

(2)(5) If the institutional pharmacy is owned or operated by a hospital pharmacy management or consulting firm, the following conditions apply.

(A) The pharmacy license application [registration form] shall list the hospital pharmacy management or consulting firm as the owner or operator.

(B) The hospital pharmacy management or consulting firm shall obtain DEA and DPS controlled substances registrations that are issued in the [their] name of the firm, unless the following occurs:

(i) the hospital pharmacy management or consulting firm and the facility cosign a contractual pharmacy service agreement which assigns overall responsibility for controlled substances to the facility; and

(ii) such hospital pharmacy management or consulting firm maintains dual responsibility for the controlled substances.

(3)(6) A Class C [When an institutional] pharmacy which changes ownership [,] shall notify the board within 10 days of the change of ownership and apply for a new and separate license as specified in §291.4 of this title (relating to Change of Ownership) [registration must be filed with the board and the old permit returned to the board's office].

(4) A Class C pharmacy which changes location and/or name shall notify the board within 10 days of the change within 10 days and file for an amended license as specified in §291.2 of this title (relating to Change of Location and/or Name).

(5) A Class C pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within 10 days of the change following the procedures in §291.3 of this title (relating to Change of Managing Officers).

(6) A Class C pharmacy shall notify the board in writing within 10 days of closing, following the procedures in §291.5 of this title (relating to Closed Pharmacies).

(7) A fee as specified in §291.6

of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a [new] license and the issuance of an amended license [for each renewal].

(8) (No change.)

(9) A Class C [Any institutional] pharmacy, licensed under the Act, §29(b)(3), [the provisions of §§291.71-291.75 of this title (relating to Institutional Pharmacy (Class C)), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §29(b)(1), [§§291.31-291.35 of this title (relating to) (Community Pharmacy (Class A)) or the Act, §29(b)(2), [§§291.51-291.54 of this title (relating to) (Nuclear Pharmacy (Class B)) [or §§291.91-291.95 of this title (relating to Clinic Pharmacy (Class D))], is not required to secure a license for the such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of §§291.31-291.36 [291.35] of this title (relating to Community Pharmacy (Class A)), or §§291.51-291.54 of this title (relating to Nuclear Pharmacy (Class B)), [or §§291.91-291.95 of this title (relating to Clinic Pharmacy ((Class D))], to the extent such rules are applicable to the operation of the pharmacy.

(b) Environment.

(1) General requirements.

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

(D) A sink with hot and cold running water exclusive of restroom facilities shall be available to all pharmacy personnel and shall be maintained in a sanitary condition at all times.

(E)-(F) (No change.)

(2) Special requirements.

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

(C) If the institutional pharmacy prepares sterile products, the institutional pharmacy shall have a designated area for the laminar air flow hood for the preparation of sterile products[,] which shall:

(i) be designed to avoid outside traffic and air flow;

(ii) have cleanable surfaces, walls, and floors;

(iii) be ventilated in a manner not interfering with laminar flow hood conditions; and

(iv) not be used for bulk storage for supplies and materials.

(D) (No change.)

(3) Security requirements.

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

(c) Equipment and supplies.

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

(3) Special equipment according to the requirements set out in subparagraphs (A) and (B) of this paragraph shall be maintained:

(A) if the institutional pharmacy compounds prescriptions or medication orders, a Class A prescription balance [or equivalent,] or analytical balance [(with weights)]. Such balance shall be properly maintained and inspected at least every three years [triannually] by the appropriate authority as prescribed by local, state, or federal law or regulations; and

(B) (No change.)

(d) Library. A reference library shall be maintained which includes the following:

(1) current copies of the following [laws]:

(A) (No change.)

(B) Texas Dangerous Drug Act [Law] and rules;

(C) -(D) (No change.)

(2) at least one current or updated reference from each of the following categories: [American Hospital Formulary Service with current supplement, or Facts and Comparisons with current supplements];

(A) patient information.

(i) United States Pharmacopoeia Dispensing Information, Volume II (Advice to the Patient); or

(ii) a reference which provides patient information;

(B) drug interactions. A reference text on drug interactions, such as Phillip D. Hansten's Drug Interactions.

(C) toxicology/pharmacology

(i) Approved Drug Products with Therapeutic Equivalence Evaluations with current supplements; or

(ii) a reference text in toxicology or pharmacology.

(D) General information.

(i) Facts and Comparisons with current supplements;

(ii) United States Pharmacopoeia Dispensing Information Volume I (Drug Information for the Healthcare Provider); or

(iii) American Hospital Formulary Service with current supplements; or

(iv) Remington's Pharmaceutical Sciences;

(3) basic antidote information and the telephone number of the nearest Regional Poison Control Center; [at least one current text in one of the following subjects:

(A) general organic pharmaceutical and biological chemistry;

(B) theoretical and practical pharmacy;

(C) toxicology;

(D) pharmacology;

(E) therapeutics;

(G) sterilization and disinfection;

(H) compatibility information;

(I) drug interaction information; and

(J) antidote information.]

(4) a current or updated reference on injectable drug products, such as Handbook of Injectable Drugs. [at least one of the following references:

(A) United States Pharmacopoeia (USP), National Formulary (NF) or USP-NF;

(B) United States Dispensatory (USD); or

(C) Remington's Pharmaceutical Sciences.]

(e) Absence of a pharmacist.

(1) Medication orders.

(A) (No change.)

(B) In facilities with a part-time or consultant pharmacist, if a practitioner orders a drug for administration to a

bonafide patient of the facility when the pharmacist is not on duty, or when the pharmacy is closed, the following is applicable.

(i) Prescription drugs and devices only in sufficient quantities for immediate therapeutic needs may be removed from the institutional pharmacy.

(ii)-(iii) (No change.)

(iv) The pharmacist shall verify the withdrawal as soon as practical [each distribution after a reasonable interval], but in no event more than 72 hours from the time of such withdrawal [may such interval exceed seven days].

(2) Floor Stock. In facilities using a floor stock method of drug distribution, the following is applicable.

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

(D) A pharmacist shall verify the withdrawal. [according to the following schedule.

(i) In facilities with a full-time pharmacist, the withdrawal shall be verified] as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(ii) In facilities with a part-time or consultant pharmacist, the withdrawal shall be verified after a reasonable interval, but in no event may such interval exceed seven days.]

(f) Drugs.

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

(3) Prepackaging.

(A) (No change.)

(B) The label of a prepackaged unit shall indicate:

(i) [the] brand name, [of the drug] strength, and dosage form of the drug; or if no brand name, then generic name, strength, dosage form, and name of the manufacturer or distributor);

(ii) facility's lot number [and appropriate ancillary label or labels];

(iii) expiration date [where applicable]; and

(iv) (No change.)

(C) (No change.)

(D) [Prepackaging procedures shall be in writing to specify that] Stock packages, repackaged units, and control records shall be quarantined together until checked/released by the [registered] pharmacist.

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

(g) Emergency rooms.

(1) During the times a pharmacist is on duty in the facility [In those facilities having 24-hour pharmacy service], any drugs dispensed to an outpatient, including emergency room [department] patients, may only be dispensed by a pharmacist.

(2) When a pharmacist is not on duty in the facility [In those facilities not having 24-hour pharmacy services, or those facilities having no outpatient pharmacy services], the following procedures shall be observed in dispensing drugs from the emergency room: [when the pharmacy service is closed.]

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

(E) At the time of delivery of the drug [medication], the practitioner shall appropriately complete the label, such that the dispensing container bears a label with at least the following information:

(i) name, address, and phone number of the facility;

(ii)/(i) date dispensed;

(iii)/(ii) name of the practitioner [physician];

(iv)/(iii) name of the patient;

(v)/(iv) directions for use; and

(vi)/(v) unique identification number.

(F) (No change.)

(G) A [suitable and] perpetual record of [dispensing of these] drugs dispensed from the emergency room shall be maintained in the emergency room [; the pharmacist-in-charge or a staff pharmacist designated by the pharmacist-in-charge shall verify the correctness of this record at least once every seven days]. Such record shall include the following:

(i) date dispensed;

(ii) practitioner's name;

(iii) patient's name;

(iv) brand name and strength of the drug; or if no brand name, then the generic name, strength, and the name of the manufacturer or distributor of the drug;

(v) quantity dispensed; and

(vi) unique identification number.

(H) The pharmacist-in-charge or staff pharmacist designated by

the pharmacist-in-charge, shall verify the correctness of this record at least once every seven days.

(h) Radiology departments.

(1) During the times a pharmacist is on duty, any drugs dispensed to an outpatient, including radiology department patients, may only be dispensed by a pharmacist.

(2) When a pharmacist is not on duty, the following procedures shall be observed in supplying drugs from the radiology department.

(A) Drugs may only be supplied to patients who have been scheduled for an x-ray examination at the facility.

(B) Drugs may only be supplied in accordance with the system of control and accountability for drugs administered or supplied from the radiology department and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

(C) Only drugs listed on the radiology drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the facilities radiology committee (or like group or persons responsible for policy in that department) and shall consist of drugs for the preparation of a patient for a radiological procedure.

(D) Drugs may only be supplied in prepackaged quantities in suitable containers and pre-labeled by the institutional pharmacy with the following information:

- (i) name and address of the facility;
- (ii) directions for use;
- (iii) name and strength of the drug-if generic name, the name of the manufacturer or distributor of the drug;
- (iv) quantity;
- (v) facility's lot number and expiration date; and
- (vi) appropriate ancillary label(s).

(E) At the time of delivery of the drug the practitioner or practitioner's agent shall complete the label with the following information:

- (i) date supplied;
 - (ii) name of physician;
 - (iii) name of patient;
- and

(iv) unique identification number.

(F) The practitioner or practitioner's agent, shall give the appropriately labeled, prepackaged drug to the patient.

(G) A perpetual record of drugs supplied from the radiology department shall be maintained in the radiology department. Such records shall include the following:

- (i) date supplied;
- (ii) practitioner's name;
- (iii) patient's name;
- (iv) brand name and strength of the drug; or if no brand name, then the generic name, strength, dosage form, and the name of the manufacturer or distributor of the drug;
- (v) quantity supplied; and
- (vi) unique identification number.

(H) The pharmacist-in-charge or a pharmacist designated by the pharmacist-in-charge, shall verify the correctness of this record at least once every seven days.
§§291.75. Records.

(a) Maintenance of records.

(1) Every inventory or other record required to be kept under the provisions of §§291.71-291.75 of this title (relating to Institutional Pharmacy (Class C)) [this section] shall be kept by the institutional pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies.

(2) Records of controlled substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

(3) Records of controlled substances listed in Schedules III-V shall be maintained separately or readily retrievable from all other records of the pharmacy. For purposes of this subsection, readily retrievable means that the controlled substances shall be asterisked, redlined, or in some other manner readily identifiable apart from all other items appearing on the record.

(b) Outpatient records.

(1) Outpatient records shall be maintained as provided in §§291.34-[and] 291.36 [291.35] of this title (relating to Community Pharmacy [Records in a] (Class A) [Pharmacy and Triplicate Pre-

scription Records]).

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

(c) Inpatient records.

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

(4) Records of controlled substances listed in Schedule II shall be maintained as follows.

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

(C) Distribution records for controlled substances listed in Schedule II shall bear the following information:

(i)-(iv) (No change.)

(v) signature [name] of the individual administering the controlled substance;

(vi)-(vii) (No change.)

(5) (No change.)

(d) Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy or other registrant, without being registered to distribute, under the following conditions.

(1) The registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to dispense that controlled substance.

(2) The total number of dosage units of controlled substances distributed by a pharmacy may not exceed 5.0% of all controlled substances dispensed or distributed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5.0%, the pharmacy is required to obtain an additional registration to distribute controlled substances.

(3) If the distribution is for a Schedule III, IV or V controlled substance, a record shall be maintained which indicates:

(A) the actual date of distribution;

(B) the name, strength, and quantity of controlled substances distributed;

(C) the name, address, and DEA registration number of the distributing pharmacy; and

(D) the name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(4) If the distribution is for a

Schedule I or II controlled substance, the following is applicable.

(A) The pharmacy, practitioner or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222C) to the distributing pharmacy.

(B) The distributing pharmacy shall:

(i) complete the area on the DEA order form (DEA 222C) titled "TO BE FILLED IN BY SUPPLIER";

(ii) maintain Copy 1 of the DEA order form (DEA 222C) at the pharmacy for two years; and

(iii) forward Copy 2 of the DEA order form (DEA 222C) to the divisional office of the Drug Enforcement Administration.

(e)[(d)] Other records. Other records to be maintained by a pharmacy:

(1) a permanent log of the initials or identification codes which will identify each pharmacist by name (the initials or identification code shall be unique to ensure that each pharmacist can be identified, i.e., identical initials or identification codes cannot be used);

(2)[(1)] copy 3 to DEA order form (DEA 222C) which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(3) a copy of the power of attorney to sign DEA 222C order forms (if applicable);

(4)[(2)] suppliers' invoices of dangerous drugs and controlled substances upon which is clearly recorded the actual date of receipt of the dangerous drugs or controlled substances and the initials of [by] the pharmacist or other responsible individual who verified that the drugs listed on the invoices were actually received;

(5)[(3)] suppliers' credit memos for controlled substances and dangerous drugs;

(6)[(4)] controlled substances inventories [biennial inventory of controlled substances required by the Drug Enforcement Administration and inventory records] required by §291.17 of this title (relating to the Controlled Substances Inventory Requirements);

(5) Drug Enforcement Administration and/or Department of Public Safety and Texas State Board of Pharmacy reports of theft or significant loss of controlled substances;

(7)[(6)] reports of surrender or destruction of controlled substances and/or

dangerous drugs to an appropriate state or federal agency;

(8)[(7)] Schedule V nonprescription register book;

(8) if a pharmacy distributes controlled substances to another pharmacy or a practitioner, the following records:

[(A) if for Schedule III, IV or V controlled substances, invoices showing the actual date of distribution; the name, strength, and quantity of controlled substances distributed; the name, address, and DEA registration number of the distributing pharmacy, and the name, address, and DEA registration number of the pharmacy or practitioner to whom the controlled substances are distributed;

[(B) if for Schedule I or II controlled substances, copy 1 of DEA order form (DEA 222C), furnished by the pharmacy or practitioner to whom the controlled substances are distributed, shall be maintained by the distributing pharmacy showing the quantity of controlled substances distributed and the actual date of distribution;]

(9) records of distribution of controlled substances practitioners, or registrants; and [records of controlled substances listed in Schedule I and II shall be maintained separately from all records of the pharmacy; records of controlled substances listed in Schedules III-V shall be maintained separately from all other records of the pharmacy. If controlled substances, dangerous drugs, and/or nonprescription items are listed on the same record, the controlled substances shall be asterisked, redlined, or in some other manner readily identifiable apart from all other items appearing on the record.]

(10) a copy of any notification required by the Texas Pharmacy Act or these section, including, but not limited to, the following:

(A) reports of theft or significant loss of controlled substances to DEA, DPS, and the board;

(B) notifications of a change in pharmacist-in-charge of a pharmacy; and

(C) reports of a fire or other disaster which may affect the strength, purity, or labeling of drugs, medication, devices or other materials used in the diagnosis or treatment of injury, illness, and disease.

(f)[(e)] Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall [provided in sub-

section (d)(2) of this section must] first submit written notification by registered or certified mail to the divisional [regional] director of the Drug Enforcement Administration as required by Title 21, Code of Federal Regulations, §1304(a), and submit a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the divisional [regional] director of the Drug Enforcement Administration that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional [regional] director. A copy of the previously mentioned notification shall be maintained by the pharmacy. The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, which shall be maintained at the pharmacy.

(g) Confidentiality. A pharmacist shall provide adequate security of prescription drug order records and medication order records to prevent indiscriminate or unauthorized access to confidential health information.

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 March 16, 1988.

TRD-8802809

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

Earliest possible date of adoption: April 25, 1988

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

◆ ◆ ◆
• 22 TAC §291.76

The Texas State Board of Pharmacy proposes amendments to §291.76 concerning ambulatory surgical centers. This section would amend the existing rules and is a result of recommendations of the Joint Advisory Committee on Class A and C pharmacy practice and the board/association liaison committee regarding (1) supportive personnel; (2) environmental standards; and (3) clarification of duties of a pharmacist, registration procedures for pharmacies, recordkeeping, and labeling.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. The cost of a Laminar air flow hood and the environmental requirements for the hood, if sterile products are being prepared in the pharmacy. (This requirement does not apply to sterile products being prepared in the operating or recovery rooms; the cost of a course in the preparation, sterilization, and admixture of sterile products (After January 1, 1989, phar-

macists who prepare sterile products must take an approved college course or CE course in the preparation, sterilization, and admixture of sterile products.) and possible which costs would be incurred in the education and training and use of supportive personnel. However, these costs would be offset by the savings in allowing supportive to perform certain functions that were previously reserved for pharmacist. This requirement does not apply to facility personnel; it applies to technicians who are pharmacy personnel only. There is no difference between the cost of compliance to small businesses and to large businesses.

Mr. Brinkley 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 to establish minimum standards for Class C pharmacies including the standards that a pharmacy's employees involved in the practice of a pharmacy must meet. The anticipated economic cost to individuals who are required to comply with the section as proposed will be after January 1, 1989, pharmacists who prepare sterile products must take an approved college course or CE course in the preparation, sterilization, and admixture of sterile products.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, Suite 110, Austin, Texas 78754. In addition, the agency plans to conduct a public hearing on April 26, 1988, to hear comments on these proposed rules. The hearing will begin at 9 a.m. and will be held at the Embassy Suites North Austin Hotel. Further information will be announced in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, §§5, 17, 29, and 30, which provide the Texas State Board of Pharmacy with the authority to govern the practice of institutional pharmacy and institutional pharmacists and the standards that each institutional pharmacy must meet to qualify for licensing or relicensing as a institutional pharmacy.

§291.76. Class C Pharmacies Located in a Free Standing Ambulatory Surgical Center.

(a) (No change.)

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

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

(16) Full-time pharmacist—A pharmacist who works in a pharmacy an average of 35 to 40 hours per week or if the pharmacy is open less than 40 hours per week, one-half of the time the pharmacy is open.

(17) Part-time pharmacist—A pharmacist who works less than full-time.

(c) Personnel.

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

(3) [Staff] Pharmacists.

(A) General.

(i)[(A)] The pharmacist-in-charge shall be assisted by a sufficient number of additional licensed [registered] pharmacists as may be required to operate the ASC pharmacy competently, safely, and adequately to meet the needs of the patients of the [ASC] facility.

(ii)[(B)] All [staff] pharmacists shall assist the pharmacist-in-charge in meeting the responsibilities as outlined in paragraph (1) (B) of this subsection and in ordering, administering, and accounting for pharmaceutical materials.

(iii)[(C)] All [staff] pharmacists shall be responsible for any delegated act performed by supportive personnel under his or her supervision.

(iv) All pharmacists while on duty, shall be responsible for complying with all state and federal laws or rules governing the practice of pharmacy.

(B) Duties. Duties of the pharmacist-in-charge and all other pharmacists shall include, but need not be limited to the following:

(i) receiving and interpreting prescription drug orders and oral medication orders and reducing these orders to writing either manually or electronically;

(ii) selection of prescription drugs and/or devices and/or suppliers; and

(iii) interpreting patient profiles.

(C) Special Requirements. All pharmacists who compound sterile parenteral and enteral products shall meet minimal standards of training and experience in the preparation, sterilization, and admixture of parenteral products; such standards of training and experience maybe evidenced by either:

(i) documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider of continuing pharmacy education, in the preparation, sterilization, and admixture of parenteral products; or

(ii) documentation of completion of a minimum of 20 hours of education or experience in the preparation, sterilization, and admixture of parenteral products not sponsored by an accredited college of pharmacy.

(D) any documentation submitted after January 1, 1989, must meet the requirements of subparagraph (i) of this paragraph.

(4) Supportive Personnel.

(A) (No change.)

(B) Duties. Duties may include, but need not be limited to, the following functions, [according to the needs of the ASC] under the direct supervision of a pharmacist:

(i)-(v) (No change.)

(vi) entering prescription information into a data processing system, provided judgmental decisions are not required;

(vii)[(vi)] maintaining inventories of drug supplies; and

(viii)[(vii)] maintaining pharmacy records.

(C) (No change.)

(D) Training.

(i) Supportive personnel shall complete initial [receive documented] training as outlined by the pharmacist-in-charge which includes *on-the-job training and related education commensurate with the tasks they are to perform, prior to the regular performance of those tasks.*

(ii) Supportive personnel who prepare sterile parenteral and enteral products shall complete an additional 40 hours of on-the-job training in the preparation, sterilization, and admixture of parenteral products.

(iii)[(ii)] The pharmacist-in-charge shall assure continuing competency of supportive personnel through [shall receive regular and documented] in-service education and training to supplement initial training.

(iv) The pharmacist-in-charge and each person who performs the duties listed in subparagraph (4)(B) of this paragraph, shall sign a statement attesting that the supportive person has read the list of duties which may be performed by supportive personnel and understands that these duties must be performed under the direct supervision of a pharmacist.

(v) A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

(I) name of the person receiving the training;

(II) date(s) of the training;

(III) general description of the topics covered; and

(IV) name of the person supervising the training.

(d) Operational Standards.

(1) Licensing Requirements [Registration].

(A) An [All] ASC pharmacy [Pharmacies] shall register annually with the board on a pharmacy license application [form] provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

(B) The registration form shall be signed by the pharmacist-in-charge of the ASC pharmacy and shall be certified.

(C) The chief executive officer of the ASC shall sign the registration form and shall agree to comply with the regulations promulgated by the board governing ASC pharmacies.

(D) The registration form shall be certified and state whether the ASC pharmacy is a sole ownership and give the name of the owner; or if a partnership, name all the managing partners; or if a corporation, name all managing officers.]

(B)(E) If the ASC pharmacy is owned or operated by a pharmacy management or consulting firm, the following conditions apply.

(i) The pharmacy license application [registration form] shall list the pharmacy management or consulting firm as the owner or operator.

(ii) The pharmacy management or consulting firm shall obtain DEA and DPS controlled substances registrations that are issued in the [their] name of the firm, unless the following occurs:

(I) the pharmacy management or consulting firm and the facility [ASC] cosign a contractual pharmacy service agreement which assigns overall responsibility for controlled substances to the facility [ASC]; and

(II) such pharmacy management or consulting firm maintains dual responsibility for the controlled substances.

(C)(F) [When] An ASC pharmacy which changes ownership shall notify the board within 10 days of the change of ownership and apply for [.] a new and separate license [registration] as specified in §291.4 of this title (relating to Change of Ownership) [must be filed with the board and the previously issued license returned to the board's office].

(D) An ASC pharmacy which changes location and/or name shall notify the board of the change within 10 days and file for an amended license as specified in §291.2 of this title (relating to Change of Location and/or Name).

(E) An ASC pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within 10 days of the change, following the procedures in §291.3 of this title (relating to Change of Managing Officers).

(F) An ASC pharmacy shall notify the board in writing within 10 days of closing, following the procedures in §291.5 of this title (relating to Closed Pharmacies).

(G) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a [new] license and the issuance of an amended license [and for each renewal].

(H) (No change.)

(I) An [Any] ASC pharmacy, licensed under the Act, §29(b)(3) [the provisions of §§291.71-291.76 of this title (relating to) (Institutional Pharmacy (Class C)), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §29(b)(1) [§§291.31-291.36 of this title (relating to) (Community Pharmacy (Class

A)] or the Act, §29(b)(2) [§§291.51-291.54 of this title (relating to) (Nuclear Pharmacy (Class B))], is not required to secure a license for the such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of §§291.31-291.36 of this title (relating to Community Pharmacy (Class A)), or §§291.51-291.54 of this title (relating to Nuclear Pharmacy (Class B)), to the extent such sections are applicable to the operation of the [ASC] pharmacy.

(2) Environment.

(A) (No change.)

(B) Special Requirements.

(i)-(ii) (No change.)

(iii) If the ASC pharmacy prepares sterile products, the ASC pharmacy shall have a designated area for the laminar air flow hood for the preparation of sterile products, which shall:

(I) be designed to avoid outside traffic and air flow;

(II) have cleanable surfaces, walls, and floors;

(III) be ventilated in a manner not interfering with laminar flow hood conditions; and

(IV) not be used for bulk storage for supplies and materials.

(C) (No change.)

(3) Equipment and supplies. Ambulatory surgical centers supplying drugs for post-operative use shall have the following equipment and supplies:

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

(D) Special equipment according to the following requirements shall be maintained.

(i) If the ASC pharmacy compounds prescriptions or medication orders, a Class A prescription balance or analytical balance with weights. Such balance shall be properly maintained and inspected at least every three years by the appropriate authority as prescribed by local, state, or federal law or regulations.

(ii) If the ASC pharmacy prepares sterile parenteral and enteral products, an annually certified laminar air flow hood and other equipment necessary for manipulation of sterile products.

(4) Library. A reference library shall be maintained which includes the following:

(A) current copies of the following:

(i) (No change.)

(ii) Texas Dangerous Drug Act [Law] and Rules;

(iii) Texas Controlled Substances Act and Rules; [and]

(iv) Federal Controlled Substances Act and Rules or official publication describing the requirements of the Federal Controlled Substances Act and Rules; [and]

(B) The following current or updated references:

(i) American Hospital Formulary Service with current supplements or Facts and Comparisons with current supplements; and

(ii) a reference on injectable drug products, such as Handbook on Injectable Drugs (if sterile parenteral or enteral products are compounded in the facility).

(C) basic antidote information and the telephone number of the nearest Regional Poison Control Center.

(5) Drugs.

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

(C) Prepackaging.

(i) (No change.)

(ii) The label of a prepackaged unit shall indicate:

(I) [The] brand name, strength and dosage form of the drug; or if no brand name, then the generic name, strength, dosage form, and name of the manufacturer or distributor;

(II) facility's lot number [and appropriate ancillary label or labels];

(III) expiration date [where applicable]; and

(IV)-(IV) quantity of the drug.

(iii) (No change.)

(iv) [Prepackaging procedures shall be in writing to specify that] Stock packages, prepackaged [repackaged] units, and control records shall be quarantined together until checked/released by the [registered] pharmacist.

(D) (No change.)

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

(9) Drugs supplied for post-operative use. Drugs supplied to patients for post-operative use shall be supplied according to the following procedures:

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

(E) At the time of delivery of the drug, the practitioner shall complete the label, such that the prescription container bears a label with a least the following information:

(i) name, address, and phone number of the facility;

(ii)/(i) date supplied;

(iii)/(ii) name of practitioner;

(iv)/(iii) name of patient;

(v)/(iv) directions for use;

(vi)/(v) brand name and strength of the drug; or if no brand name,

then the generic name of the drug dispensed, strength, and the name of the manufacturer or distributor of the drug; and

(vii)/(vi) unique identification number.

(F)-(G) (No change.)

(e) Records.

(1) Maintenance of Records.

(A) Every inventory or other record required to be kept under the provisions of §291.76 of this title (relating to Institutional Pharmacy (Class C) [this subsection] shall be kept by the [ASC] pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies [for at least two years from the date of such inventory of records].

(B) Records of controlled substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

(C) Records of controlled substances listed in Schedules III-V shall be maintained separately or readily retrievable from all other records of the pharmacy. For purposes of this subsection, readily retrievable means that the controlled substances shall be asterisked, redlined, or in some other manner readily identifiable apart from all other items appearing on the record.

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

(4) Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy or other registrant, without being registered to distribute, under the following conditions.

(A) The registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to dispense that controlled substance.

(B) The total number of dosage units of controlled substances distributed by a pharmacy may not exceed 5% of all controlled substances dispensed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5% the pharmacy is required to obtain an additional registration to distribute controlled substances.

(C) If the distribution is for a Schedule III, IV or V controlled sub-

stance, a record shall be maintained which indicates:

(i) the actual date of distribution;

(ii) the name, strength, and quantity of controlled substances distributed;

(iii) the name, address, and DEA registration number of the distributing pharmacy; and

(vi) the name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(D) If the distribution is for a Schedule I or II controlled substance, the following is applicable.

(i) The pharmacy, practitioner, or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222C) to the distributing pharmacy.

(ii) The distributing pharmacy shall:

(I) complete the area on the DEA order form (DEA 222C) titled "TO BE FILLED IN BY SUPPLIER";

(II) maintain Copy 1 of the DEA order form (DEA 222C) at the pharmacy for two years; and

(III) forward Copy 2 of the DEA order form (DEA 222C) to the Divisional Office of the Drug Enforcement Administration.

(5)[(4)] Other records to be maintained by a pharmacy. Other records to be maintained by a pharmacy include:

(A) a permanent log of the initials or identification codes which will identify each pharmacist by name. The initials or identification code shall be

unique to ensure that each pharmacist can be identified, i.e., identical initials or identification codes cannot be used;

(B)[(i)] copy 3 of DEA order form (DEA 222C), which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(C) a copy of the power of attorney to sign DEA 222C order forms (if applicable);

(D)[(ii)] suppliers' invoices of dangerous drugs and controlled substances upon which is clearly recorded the actual date of receipt of the dangerous drugs or controlled substances and the initials of the of the pharmacist or other responsible individual who verified that the drugs listed on the invoices were actually received [checks in the order];

(E)[(iii)] suppliers' credit memos for controlled substances and dangerous drugs;

(F)[(iv)] controlled substances inventories [biennial inventory of controlled substances] required by [the Drug Enforcement Administration and inventory records required by] §291.17 of this title (relating to the Controlled Substances Inventory Requirements);

(v) Drug Enforcement Administration and/or Texas Department of Public Safety and Texas State Board of Pharmacy Reports of theft or significant loss of controlled substances;]

(G)[(vi)] reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

(H)[(vii)] Schedule V non-prescription register book;

(viii) if a pharmacy distributes controlled substances to another pharmacy or a practitioner, the following records shall also be maintained by a pharmacy:

(I) if for Schedule III, IV or V controlled substances, invoices showing the actual date of distribution; the name, strength, and quantity of controlled substances distributed; the name, address, and DEA registration number of the distrib-

uting pharmacy, and the name, address, and DEA registration number of the pharmacy or practitioner to whom the controlled substances are distributed;

(II) if for Schedule I or II controlled substances, Copy 1 of DEA order form (DEA 222C), furnished by the pharmacy or practitioner to whom the controlled substances are distributed, shall be maintained by the distributing pharmacy showing the quantity of controlled substances distributed and the actual date of distribution;

(ix) records of controlled substances listed in Schedules I and II shall be maintained separately from all records of the pharmacy; records of controlled substances, dangerous drugs, and/or nonprescription items are listed on the same record, the controlled substances shall be asterisked, redlined, or in some other manner readily identifiable apart from all other items appearing on the record.]

(I) records of distribution of controlled substances and/or dangerous drugs to other pharmacies, practitioners or registrants; and

(J) a copy of any notification required by the Texas Pharmacy Act or these rules, including, but not limited to, the following:

(i) reports of theft or significant loss of controlled substances to DEA, DPS, and the board;

(ii) notifications of a change in pharmacist-in-charge of a pharmacy; and

(iii) reports of a fire or other disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or treatment of injury, illness, and disease.

(6)[(5)] Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall [provided in paragraph (4)(ii) of this subsection must] first submit written notification by registered or certified mail to the divisional [regional] director of the Drug Enforcement Administration as required by Title 21, Code of Federal Regulations, §1304(a), and submit a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the divisional [regional] director of the Drug Enforcement Administration that permission to keep central records is denied, the

pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional [regional] director. A copy of the previously mentioned notification shall be maintained by the pharmacy. The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, which shall be maintained at the pharmacy.

(7) Confidentiality. A pharmacist shall provide adequate security of prescription records and records pertaining to medication records to prevent indiscriminate or unauthorized access to confidential health information.

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 March 16, 1988.

TRD-8802810 Fred S. Brinkley
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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

Chapter 309. Generic Substitution

• 22 TAC §§309.2, 309.3, 309.5, 309.6

The Texas State Board of Pharmacy proposes amendments to §§309.2, 309.3, 309.5, and 309.6, concerning generic substitution. Amendments are consistent with simultaneous proposals for changes to Class A and Class C pharmacies. The amendments clarify recordkeeping and labeling requirements and allow a pharmacist to substitute a drug product which is generically equivalent to the drug prescribed by an out-of-state prescriber, under certain conditions.

Fred S. Brinkley, executive director/secretary, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Brinkley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to further insure the public health, safety, and welfare by establishing standards for generic drugs. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R. Ph., Executive Director/Secretary, 8505 Cross Park Drive, Suite 110, Austin, Texas, 78754. In addition, the agency plans to conduct a public hearing on Tuesday, April 26, 1988, to hear com-

ments on these proposed amendments. The hearing will begin at 9 a.m. and will be held at the Embassy Suites North Austin Hotel. Further information will be announced in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4542a-1, §17, which provide the Texas State Board of Pharmacy with the authority to specify minimum standards for the maintenance of prescription drug records and the labeling of prescription drugs. §309.2. *Definitions.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any term not [herein] defined in this section shall have the definition set out in section 5 and section 40 of the Act.

Act—The Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, as amended [House Bill 1628, Acts of the 67th Legislature, Regular Session, 1981].

§309.3. *Prescription Drug Orders.*

(a) Written prescription drug orders.

(1) Required prescription format.

(A)[(1)] A pharmacist may not dispense a written [fill a] prescription drug order issued in Texas unless it is ordered on a form containing two signature lines of equal prominence, side by side, at the bottom of the form. Under either signature line shall be printed clearly the words "product selection permitted," and under the other signature line shall be printed clearly the words "dispense as written." [If the practitioner's signature does not clearly indicate that the prescription must be dispensed as written, generically equivalent drug selection is permitted].

(B)[(2)] The two signature line requirement does not apply to the following types of [dangerous drug prescriptions] prescription drug orders:

(i) prescription drug orders issued by a practitioner in a [another] state other than Texas; [by a practitioner.]

(ii) prescriptions for dangerous drugs issued by a practitioner in the United Mexican States or the Dominion of Canada; or

(iii) prescription drug orders issued by practitioners practicing in a federal facility provided they are acting in the scope of their employment.

(C) Preprinted prescription forms. No prescription form furnished to a practitioner shall contain a preprinted order for a drug product by brand name, generic name, or manufacturer.

(2) Authorization for substitution.

(A) A pharmacist [Such prescriptions] may not substitute on a prescription drug order identified in paragraph (1)(B) of this subsection, [be substituted by a pharmacist] unless the prescribing practitioner has authorized substitution in writing on the prescription drug order [form or through preprinted or verbal authorization to the pharmacist].

(B) If the practitioner has not authorized substitution on the written prescription drug order, a pharmacist shall not substitute a generically equivalent drug product unless:

(i) the pharmacist obtains verbal or written authorization from the practitioner (such authorization shall be noted on the original prescription drug order); or

(ii) the pharmacist obtains written documentation regarding substitution requirements from the State Board of Pharmacy in the state, other than Texas, in which the prescription drug order was issued. The following is applicable concerning this documentation:

(I) the documentation shall state that a pharmacist may substitute on a prescription drug order issued in such other state unless the practitioner prohibits substitution on the original prescription drug order;

(II) the pharmacist shall note on the original prescription drug order, the fact that documentation from the other state board of pharmacy is on file;

(III) such documentation shall be updated yearly.

(b) Oral prescription drug orders.

(1) If a prescription drug order is transmitted to a pharmacist orally, the pharmacist shall note any substitution [dispensing] instructions by the practitioner or practitioner's agent, on the file copy of the prescription drug order. Such file copy may

follow the two-line format indicated in subsection (a)(1)(A) of this section, or any other format that clearly indicates the substitution [dispensing] instructions.

(2) If the practitioner or practitioner's agent does not clearly indicate that the prescription drug shall be dispensed as ordered, the pharmacist may substitute a generically equivalent drug product.

(c) Refills. Refills [authorized on such prescription] shall follow the original substitution [dispensing] instructions unless otherwise indicated by the practitioner or practitioner's agent. [If the practitioner or practitioner's agent does not indicate that the prescription drug must be dispensed as ordered, generically equivalent drug selection is permitted.]

§309.5. *Labeling Requirements.* At the time of delivery of the drug, the dispensing container shall bear a label with at least the following information: [The label affixed on the dispensing container of any prescription dispensed by a pharmacy pursuant to a prescription drug order shall bear:]

(1) (No change.)

(2) [the] name, [and] address, and phone number of the pharmacy;

(3)-(5) (No change.)

(6) name or initials of the dispensing pharmacist;

(7)[(6)] instructions for use;

(8) If applicable, a warning of the potential harmful effect of combining any form of alcoholic beverage with the drug;

(9) appropriate ancillary instructions such as storage instructions or cautionary statements;

(10) If the prescription drug order is for a Schedule II-IV controlled substance, the statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed.";

(11) If the pharmacist has selected a generically equivalent drug pursuant to the provisions of the Act, §40, the statement "Substituted for Brand Prescribed"; and

(12)[(7)] unless otherwise directed by the prescribing practitioner, the name and strength of the actual drug product dispensed. [in addition to the information listed in this section, the label shall bear either the brand name and strength, or if no brand name, then the generic name of the drug dispensed, the strength of the drug, and the name of the manufacturer or distributor of such generic drug. The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufac-

turer or distributor. For combination drug products having no brand name, the principal active ingredients shall be indicated on the label;]

[(8) if a drug product is dispensed other than the one prescribed, the statement, "Substituted for brand prescribed", or an auxiliary label bearing such statement may be affixed to the dispensing container. The brand name of the prescribed drug shall not appear on the prescription label unless it is the drug product actually dispensed.]

(A) The name shall be either:

(i) the brand name; or

(ii) if no brand name, then the the generic name and name of the manufacturer or distributor of such generic drug. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products having no brand name, the principal active ingredients shall be indicated on the label).

(B) The brand name of the prescribed drug shall not appear on the prescription container label unless it is the drug product actually dispensed.

§309.6. *Records.*

(a) When the pharmacist dispenses a generically equivalent drug pursuant to the Act, §40 of the Act, the following information shall be noted on the original written or hard-copy of the oral prescription drug order:

(1) [If a prescription drug order is orally communicated to a pharmacist,] any substitution [dispensing] instructions communicated orally to the pharmacist by the practitioner or practitioner's agent or a notation that no substitution instructions were given [on the file copy of the prescription.]; and

(2) [On oral or written prescriptions wherein a generically equivalent drug is dispensed,] the name[,] and strength of the actual drug product dispensed, the name shall be either: [, and manufacturer or distributor of the drug product actually dispensed on the prescription.]

(A) the brand name and strength; or

(B) the the generic name, strength, and name of the manufacturer or distributor of such generic drug. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination

drug products having no brand name, the principal active ingredients shall be indicated on the prescription).

(b) If a pharmacist refills a prescription drug order with a generically equivalent product from a different manufacturer or distributor than previously dispensed, the pharmacist shall record on the prescription drug order the [The] information required [set out] in [this] subsection [section] (a)(2) of this section for the product dispensed on the refill [shall also be indicated on the prescription in those instances when a generically equivalent drug is dispensed from a different manufacturer or distributor than was previously dispensed].

(c) If a pharmacy utilizes patient medication records for recording prescription information, the [The] information required [set out] in subsections (a)(2) and (b) of this section [subsection] shall be recorded [noted] on the patient medication records [if such document is utilized for providing and recording refill information].

(d)[(b)] The National Drug Code (NDC) of a drug or any other code may be indicated on the prescription drug order at the discretion of the pharmacist, but such code shall not be used in place of the requirements of subsections (a)(2) and (b) 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 March 16, 1988.

TRD-8802811

Fred S. Brinkley
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: April 25, 1988

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

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TITLE 37. PUBLIC
SAFETY AND
CORRECTIONS

Part I. Texas Department
of Public Safety

Chapter 3. Traffic Law
Enforcement

Accident Investigation

• 37 TAC §3.9

The Texas Department of Public Safety proposes an amendment to §3.9, concerning reporting by investigating officers. Texas peace officers who investigate motor vehicle traffic accidents which involve certain commercial motor vehicles will be required to complete a commercial motor vehicle supplement to the

Texas peace officer's accident report. Language is added to subsections (a) and (b) requiring submission of the commercial motor vehicle supplement by peace officers. The attached commercial motor vehicle supplement to the Texas Peace Officer's Accident Report, Form ST3C, is adopted by reference.

Melvin C. Peeples, assistant chief of fiscal affairs, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated additional cost of \$26,544 for each year from 1988-1992. There will be no fiscal implications for local government or small businesses.

James G. Templeton, manager, statistical services, 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 additional information on commercial vehicles and hazardous materials as they relate to motor vehicle traffic accidents will allow for more complete and accurate analyses of accident causes which will assist in formulating programs to insure public safety. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 6701d, §45, and the Government Code, §411.004(3) and §411.006(4), which provide the Texas Department of Public Safety with the authority to prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident report required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The Public Safety Commission is authorized to adopt rules necessary for carrying out the department's work. The director, subject to the approval of the commission, shall have authority to adopt rules considered necessary for the control of the department.

§3.9. Reporting by Investigating Officers.

(a) Reports required will be submitted on the Texas Peace Officers Accident Report, [and] the Texas Peace Officers Accident Casualty Supplement, and the Commercial Motor Vehicle Supplement to the Texas Peace Officers Accident Report by officers who investigate motor vehicle accidents and will be in accordance with Department of Public Safety publication, Instructions to Police Officers for Reporting Accidents.

(b) The Texas Peace Officers Accident Report effective January 1986, [and] the Texas Peace Officers Accident Casualty Supplement effective January 1986, and the Commercial Motor Vehicle Supplement to the Texas Peace Officers Accident Report effective January 1988 and as they may hereafter be modified as administratively necessary, are adopted by reference and list sufficiently detailed

information regarding investigation of a traffic accident. Copies of the reports are available for inspection at the headquarters of the Texas Department of Public Safety, 5805 North Lamar Boulevard, Austin, Travis County, Texas 78773.

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 March 10, 1988.

TRD-8802800 Leo E. Gossett
Director
Texas Department of
Public Safety

Earliest possible date of adoption: April 25, 1988

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

Part VIII. Commission on Fire Protection Personnel Standards and Education

Chapter 235. Policy

• 37 TAC §235.43

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

The Commission on Fire Protection Personnel Standards and Education proposes new §235.43, concerning testing compressed air used to refill self-contained breathing apparatus used by fire protection personnel. The section will cover testing requirements for compressed air that is used by fire fighters in self-contained breathing apparatus. The commission proposes this section to assure conformity with language in House Bill 278, 70th Legislature, §8A(h).

Ray L. Goad, executive director, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on local government, which consists of the average annual cost to each of 330 fire departments, will be an estimated additional cost of \$30 in fiscal years 1988 and \$40 in fiscal years 1990 and 1991; and \$50 in fiscal year 1992. There will be no effect on state government or small businesses.

Mr. Goad also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased safety for fire fighters, which will increase their ability to provide fire protection to the public. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ray Goad, Executive Director, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, or call (512) 474-8066.

The new section is proposed under House Bill 278, 70th Legislature, Article 4413(35), §2, which provides the Commission on Fire

Protection with the authority to promulgate rules for the administration of the Act.

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

Issued in Austin, Texas, on March 11, 1988.

TRD-8802767 Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Earliest possible date of adoption: April 25, 1988

For further information, please call: (512) 474-8066

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part. I. Texas Department of Human Services

Chapter 45. Medical Assistance Programs

Subchapter F. General Policies

• 40 TAC §45.504

The Texas Department of Human Services (DHS) proposes an amendment to §45.504, concerning notice of subrogation, in its medical assistance programs rule chapter. The amendment implements §2.03 of Senate Bill 298, passed in the 70th Legislature, 1987. It gives the department the right of subrogation to individual and group insurance benefits, as defined in the Insurance Code, Article 3.76. It also requires the department to notify the insurance company when a claim is first submitted.

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 fiscal implications as a result of enforcing or administering the section. The effect on state government is an estimated savings of \$638,174 in fiscal year 1989; \$1,981,530 in fiscal year 1990; \$2,929,260 in fiscal year 1991; \$2,830,200 in fiscal year 1992; and \$2,929,260 in fiscal year 1993. There will be no fiscal implications for local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a savings in Medicaid dollars when private insurance pays for clients' medical services. 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-102, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§45.504. Notice of Subrogation.

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

(e) As authorized under the Insurance Code, Article 3.76 the department or its designee will notify the insurance company of the department's right of subrogation when the claim is first submitted to the insurance company.

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 March 18, 1988.

TRD-8802818

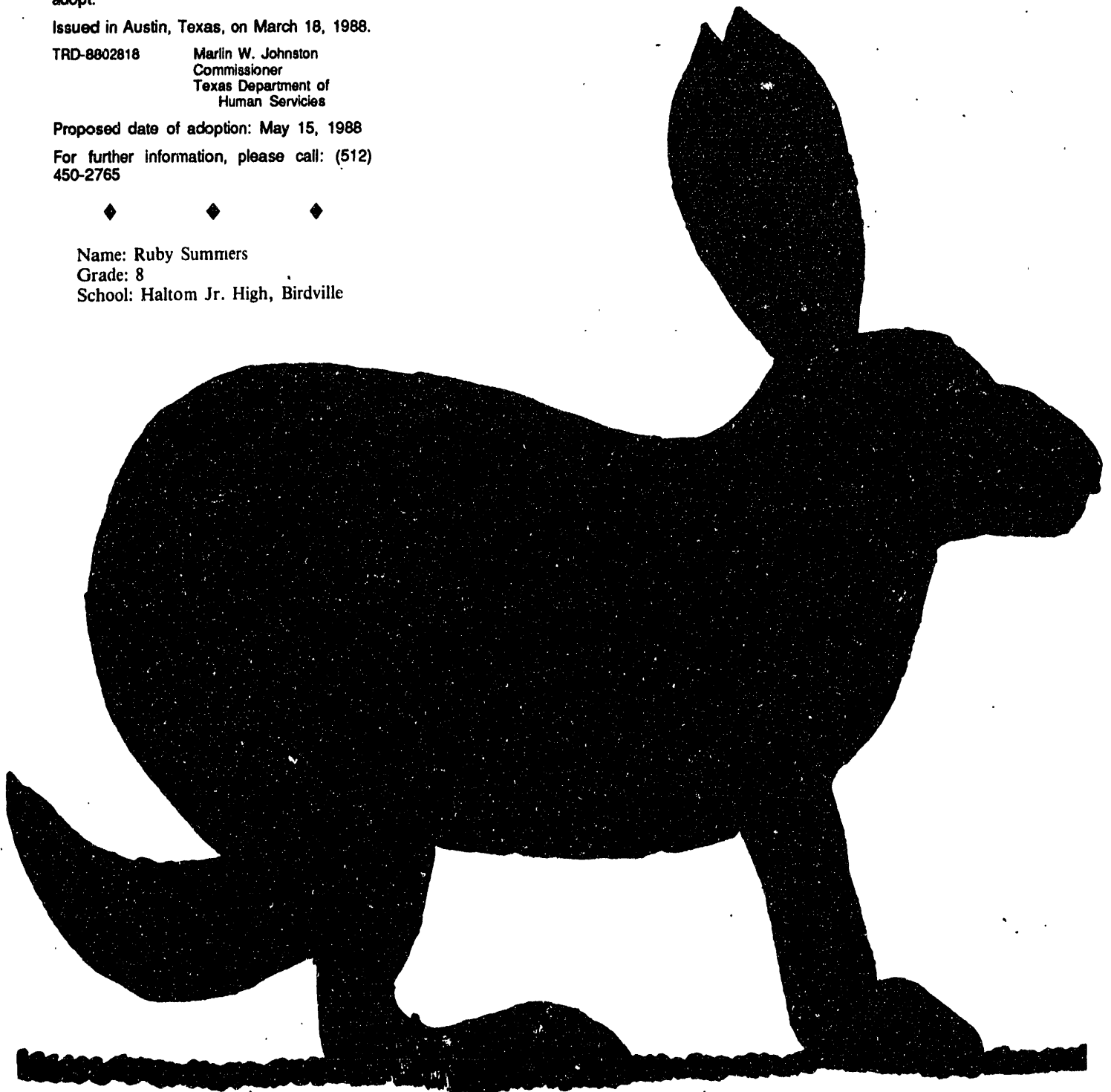
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: May 15, 1988

For further information, please call: (512)
450-2765



Name: Ruby Summers
Grade: 8
School: Haltom Jr. High, Birdville



Adopted Sections

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

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

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter G. Other Provisions

• 19 TAC §75.174

The Texas Education Agency adopts the repeal of §75.174 without changes to the proposed text published in the January 29, 1988, issue of the *Texas Register* (13 TexReg 530). The section concerned funding for compensatory education programs. The agency has adopted a new §89.131, which includes both programmatic and state funding requirements. To avoid duplication, the section in §75.174 has been repealed. School districts will conduct compensatory education programs in accordance with new §89.131.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802858

W. N. Kirby
Commissioner of Education

Effective date: April 8, 1988

Proposal publication date: January 29, 1988

For further information, please call: (512) 463-9212



Subchapter I. Special Provisions for Vocational Education

• 19 TAC §§75.211-75.218

The Texas Education Agency adopts new §§75.211-75.218. Sections 75.214, and 75.216-75.218 are adopted with changes to the proposed text published in the November 27, 1987, issue of the *Texas Register* (12 TexReg 4451). Sections 75.211, 75.212, and 75.215 are adopted without changes and will not be republished. The new subchapter implements the master plan for vocational education adopted by the State Board of Education in January 1987. Changes in §75.213 include addition of a reference to

criteria for identification of students as educationally disadvantaged in accordance with the Carl D. Perkins Vocational Education Act and revision of requirements for the admission, review, and dismissal committee in subsection (f) to include a vocational administrator or designee or the vocational teacher who will instruct the student, rather than including both, as was proposed. Changes also include substitution of "activity" for "experience" in the table and in the text in §75.214 and §75.217, and clarification of provisions concerning activities related to vocational student organizations in §75.214 and §75.216. The proposed basic vocational education program which was included in §75.217(h) has been deleted. The agency felt that implementation of such a course would be premature since the description in the section was very general, and no essential elements for the course have been developed. Section 75.218 has been edited for clarity, with no substantive changes.

The new sections provide for five types of courses. Cluster courses are designed to teach occupationally related skills basic to a family of occupations. Comprehensive courses are to be exploratory in nature to provide students with broad exposure to an entire industry. Cooperative education courses are designed to provide occupationally specific training in a specific occupation. Preemployment laboratory courses provide occupationally specific training in a laboratory setting. Technical courses provide a concentrated focus in one occupational or technological area. The new sections require vocational instruction to be planned to reinforce the skills of reading, writing, and mathematics in grades seven through 12.

Districts must conduct a follow-up study on students who have completed a vocational program and graduated from high school.

Section 75.214 sets out specific course requirements by vocational program area, including grade ranges and minimum age requirements. Additional program requirements are found in §75.217.

Districts must do an annual evaluation of vocational programs in accordance with criteria established in §75.218.

Several individuals expressed concern that the new subchapter does not include provision for coordinated vocational academic education (CVAE) at grades seven and eight. The master plan for vocational education calls for CVAE programs at these grade levels to be phased out effective September 1989. Districts may choose to include programs similar to CVAE in their alternatives to social promotion programs.

The new sections are adopted under the Texas Education Code, §21.111, which authorizes the State Board of Education to

make rules for vocational education programs in public schools. §75.213. General Operational Provisions

(a) Instruction shall be planned to reinforce the skills of reading writing, and mathematics in grades seven-12.

(b) Each school district shall plan and provide instruction to meet the needs of all students, including students who require special services or specially designed vocational instruction, and handicapped students who have individual needs and who may require special services, modified vocational instruction, or specially designed vocational instruction.

(c) Students at grades seven-12 shall, to the extent possible, be taught in regular classes with necessary support to enable them to succeed. If the student cannot succeed in a regular class, he or she may be served in a separate class designed to serve the needs of such students or the vocational component of an alternative program.

(d) Students identified as educationally disadvantaged in accordance with the provisions of the Carl D. Perkins Vocational Education Act (Public Law 98-524), limited English proficient, or at risk of not graduating from high school in Subchapter H of this chapter (relating to Promotion and Alternatives to Social Promotion) are eligible participants in vocational programs when the requirements in this subsection are met.

(1) Assessment of vocational interest, aptitudes, and special needs of each student will be made prior to planning a vocational program for the students.

(2) Each student identified as educationally disadvantaged, limited English proficient, or at risk by the district may participate in vocational education (regular and Coordinated Vocational-Academic Education (CVAE)). Programs at age appropriate levels: 14-year-olds may enroll in ninth grade courses, 15-year-olds may enroll in 10th grade courses, 16-year olds may enroll in 11th grade courses, and 17-year-olds may enroll in 12th grade courses.

(3) Students identified as educationally disadvantaged, limited English proficient, or at risk in Subchapter H of this chapter (relating to Promotion and Alternatives to Social Promotion), will be served through coordination of general and voca-

tional instruction to ensure that the concepts in both programs are taught in an applied manner.

(e) Handicapped students as identified in accordance with the provisions of the Carl D. Perkins Vocational Education Act (Public Law 98-524), the Education of the Handicapped Act, as amended (Public Law 94-142), and Chapter 89, Subchapter G of this title (relating to Special Education), shall be instructed to the extent possible within a regular vocational class. Provisions for special education instruction, modification of curriculum or program goals, and additional support service shall be provided the student. Students unable to succeed in an integrated setting may be served in separate programs designed to address their special vocational education needs.

(f) Handicapped students identified in accordance with provisions of Public Law 98-524, Public Law 94-142, and Chapter 89, Subchapter G of this title (relating to Special Education) are eligible participants in vocational education when the requirements in this subsection are met.

(1) Vocational interest and vocational aptitude assessment data will be collected for each handicapped student as specified in §89.233(h) of this title (relating to Comprehensive Individual Assessment) prior to his or her enrolling in vocational education classes. Assessment data will be collected for each handicapped student by special education personnel with assistance from vocational education personnel when appropriate.

(2) A vocational education counselor or teacher shall review the vocational assessment data with the special education person responsible for the vocational assessment. A written recommendation for appropriate vocational program placement shall be developed cooperatively, signed by both representatives, and presented to the Admission, Review, and Dismissal (ARD) Committee, in accordance with §89.233(h)

of this title (relating to Comprehensive Individual Assessment).

(3) The ARD committee shall include a vocational administrator or a designee from vocational education or the vocational teacher who will instruct the student as voting members of the ARD committee in accordance with §89.221 of this title (relating to the Admission, Review, and Dismissal Committee).

(4) Those identified handicapped students who cannot succeed in regular vocational education programs without modifications, special supplementary aids, or services placed in vocational education programs shall be placed through the ARD committee process. The handicapped student will be placed in the least restrictive vocational education environment appropriate to the needs of the student, in accordance with 34 Code of Federal Regulations, Part 400.

(5) In accordance with §89.223 of this title (relating to Content of the Individual Education Plan (IEP)) and 34 Code of Federal Regulations, Part 400, an ARD committee will address the goals, objectives, and vocational needs of each handicapped student in the IEP including:

(A) modification of instructional equipment;

(B) modification or adaptation of program goals; and

(C) related aids and services needed to benefit from the vocational program.

(g) Districts shall schedule time for supervision, planning, organizing, conducting, and coordinating the instruction by vocational teachers of students in their required supervised occupational experience programs, supervised work experiences, or on-the-job training in cooperative education.

(h) Districts must conduct a follow-up study on students who have completed a vocational program and graduated from high school. The follow-up study shall be conducted annually and shall address only those students who graduated during the previous school year. Follow-up records shall be retained for a period of not less than five years.

(i) Needs of students and adequacy of instructional facilities must determine the assignment of vocational program units to individual campuses. The maximum number of students enrolled in a class section shall not be greater than the number who can be provided safe and effective instruction and the number of available classroom or laboratory training stations.

(j) Preemployment laboratory and cooperative education programs may be offered for two years; the length of other programs is determined by the units of credit specified for each program. Handicapped students may be counted as eligible students for an extended number of years when the extended time for instruction is specified as a modification in the IEP.

(k) Vocational programs should be available to students who have the interest, aptitude, and ability to benefit from the program. Vocational programs are designed to:

(1) assist students in making informed and meaningful occupational choices;

(2) prepare students for paid or unpaid employment; or

(3) provide preparation for enrollment in an occupational program at a higher secondary or postsecondary level.

§75 214. Vocational Course Requirements.

(a) Specific course requirements by vocational program area are shown in the following table. Subsections (b)-(k) of this section provide additional information about course requirements for students.



Name: Yi Leng Lee
Grade: 8
School: Haltom Jr. High, Birdville

VOCATIONAL COURSE REQUIREMENTS			
	GRADE RANGE	MINIMUM AGE	SPECIFIC REQUIREMENTS
AGRICULTURAL SCIENCE AND TECHNOLOGY			
<u>Agriscience</u>			
Comprehensive	9-12		Each student must carry out an approved supervised agricultural activity for three months each semester of enrollment in Agriscience. The supervised agricultural activity shall be optional in the Introduction to World Agriculture course. See (c) and (e).
Cluster	10-12		
Technical	10-12		
<u>Agribusiness</u>			
Cooperative education	11-12	16	A student may take Agriscience prior to enrolling in cooperative education; however, Agriscience is not a prerequisite for cooperative education. See (b).
<u>Agribusiness</u>			
Preemployment laboratory	11-12		A student may take Agriscience prior to enrolling in preemployment laboratory; however, Agriscience is not a prerequisite for preemployment laboratory. See (c).
HOME ECONOMICS			
Life Management Skills	7-8		Districts are required to offer Life Management Skills at grades 7 & 8. Each student enrolled in Comprehensive, Cluster, and Technical Courses must carry out an approved supervised occupational activity program. See (h).
Comprehensive	9-12		
Cluster	10-12		
Technical	10-12		
Cooperative education	11-12	16	See (b).
Preemployment laboratory	11-12		See (c).
MARKETING			
Cluster	10-12		See (b).
Cooperative education	11-12	16	
Preemployment laboratory	11-12		See (c).
TRADE AND INDUSTRIAL			
Cluster	10-12		See (b).
Cooperative education	11-12	16	
Preemployment laboratory	11-12		See (c).

VOCATIONAL COURSE REQUIREMENTS			
	GRADE RANGE	MINIMUM AGE	SPECIFIC REQUIREMENTS
HEALTH OCCUPATIONS			
Cluster	10-12		
Cooperative education	11-12	16	See (b) and (c).
Preemployment laboratory	11-12		See (c).
OFFICE EDUCATION			
Cluster	10-12		
Cooperative education	11-12	16	See (b).
Preemployment laboratory	11-12		See (c).
COORDINATED VOCATIONAL-ACADEMIC EDUCATION			
Cooperative education	9-12	16	See (b) and (d).
Preemployment laboratory	9-12		See (c) and (d).
VOCATIONAL EDUCATION FOR THE HANDICAPPED			
Preemployment laboratory	7-12		14 (Must turn 14 before or during the school year) See (k).
INDUSTRIAL TECHNOLOGY EDUCATION			
Introductory Industrial Technology I & II	7-8		
Comprehensive	9-12		
Technical	9-12		
CAREER INVESTIGATION	7-8		
VEH CAREER INVESTIGATION	7-12		See (k).
VEH OCCUPATIONAL EXPLORATION	9-12		
TECHNICAL EDUCATION INTERNSHIP	12	16	See (f) and (g).
INDIVIDUALIZED VOCATIONAL EDUCATION	9-12		14 (on campus) See (k). 16 (in business or industry)

(b) Each student, while enrolled in a cooperative education program, must be employed part-time in one of the approved occupations listed under the appropriate program of vocational education. To receive three units of credit, a student must be employed 15 hours per week. At least 10 of the required 15 hours must be during the school week. For two units of credit, the student must be employed 10 hours per school week. Districts shall identify cooperative program units as either two-credit or three-credit units. All students enrolled in the same cooperative program unit shall be eligible to receive the same units of credit. A student may be counted as an eligible student from the date of employment provided an approved training plan is on file with the local education agency within three weeks after the date of employment. Cooperative education training plans shall be developed by the cooperative training teacher/coordinator in consultation with the person responsible for providing on-the-job training experiences to the student involved. Training stations shall be in business, industry, and governmental agencies and shall provide each student with a broad range of curriculum related training experiences. The approved training plans shall be based on competency statements which address the appropriate essential elements identified in this chapter.

(c) Each student is expected to pursue a program in manipulative processes, applied basic academic skills, related and technical instruction, practical experiences, and planned field trips directly related to the occupation or cluster of occupations approved. Courses classified as cluster, technical, or preemployment emphasize specialized and practical knowledge related to the mechanical, scientific, or technical aspects of the occupational objective.

(d) Students enrolled in coordinated vocational-academic education must be one or more years below grade level in achievement in three or more academic courses, or below grade level as evidenced by a score at or below the 25th percentile on a standardized test at the time of enrollment.

(e) The supervised agricultural activities shall relate directly to the course in which the student is currently enrolled and shall be for the purpose of reinforcement, in-depth study, or enrichment related to classroom instruction; however, the use of time during the school day for activities such as the feeding and grooming of animals for show purposes is prohibited. The preceding limitation does not prohibit activities that are designed to assist students in mastering the course essential elements. The three-month supervised agricultural activity requirement for students enrolled in agriscience may be satisfied by any one of the following three methods or a combination of the three:

(1) agricultural entrepreneurship (involves the functions of organizing and

managing the factors of production and distribution of goods and services);

(2) work experience in an agribusiness establishment; or

(3) point credit for supervised agricultural activities which require the development of skills outside the classroom, that are considered necessary for employment in the agricultural science and technology industry.

(f) Each student, while enrolled in a technical education internship program, must be serving as an unpaid part-time intern in an approved technical occupation. To receive three units of credit, a student must be in training 15 hours per week; at least 10 of the required 15 must be during the school week. For two units of credit, the student must be in training 10 hours per school week. Districts shall identify technical education internship program units as either two-credit or three-credit units. All students enrolled in the same technical education internship program unit shall be eligible to receive the same units of credit. A student may be counted from the date of placement as an intern provided an approved training plan is on file with the local education agency within three weeks after the date of placement. Technical education internship training plans shall be developed by the teacher or coordinator in consultation with the person responsible for providing intern training experiences to the student involved. Training stations shall be in business, industry, or governmental agencies and shall provide each student with a broad range of technical training experiences. The approved training plans shall be based on competency statements which address the appropriate essential elements identified in this chapter.

(g) Students enrolled in technical education internship must have previously completed:

(1) two years of mathematics, including algebra II or geometry;

(2) two years of science; and

(3) a program specifically related to the area of internship placement or a 30-hour (minimum) technical education internship summer program.

(h) The home economics supervised occupational activity program shall be for the purpose of remediation, reinforcement, in-depth study, or enrichment related to classroom instruction. This requirement may be satisfied by any one of the following techniques:

(1) entrepreneurial activities in home economics;

(2) on-the-job training in a home economics occupation; or

(3) research and/or its application in home economics or individual curriculum content element(s).

(i) Districts operating vocational education magnet schools may request modifications to the grade range requirements in accordance with §75.164 of this chapter (relating to Experimental Courses, Magnet Programs, and Alternative School Programs) specified in subsection (a) of this section.

(j) Enrollment for vocational education for the handicapped (VEH) and individualized vocational education (IVE) for the handicapped will be limited to handicapped students identified in Chapter 89, Subchapter G of this title (relating to Special Education). Students will be placed through the ARD Committee and have an IEP.

§75.216. Vocational Education Student Organizations. School districts shall provide opportunities for student participation in a local chapter of an approved student leadership organization related to each vocational program being conducted. The following provisions apply to vocational education student organizations.

(1) No student shall be required to join or participate in such organizations.

(2) Students shall not be released from classes for the purpose of attending a local meeting of a vocational student organization, with the exception of absences that are subject to the provisions of §97.113 of this title (relating to Student Absences for Extracurricular or Other Activities).

(3) The activities of vocational student organizations shall be considered as extracurricular activities and shall be subject to the provisions of §97.113 of this title (relating to Student Absences for Extracurricular or Other Activities).

§75.217. Specific Program Requirements.

(a) Agriculture.

(1) The full scope of the agriscience program shall include the comprehensive agriscience courses and six semester courses from at least three different instructional areas.

(2) The full scope of the combination agriscience/agribusiness program shall include the comprehensive agriscience courses and four semester courses from at least three different instructional areas in addition to at least one class of preemployment laboratory training or at least one class of cooperative part-time training.

(3) Each course in paragraphs (1) and (2) of this subsection requires a supervised agricultural activity program to be conducted in accordance with §75.214(e) of this title (relating to Vocational Course Requirements), with the exception of the Introduction to World Agriculture course in which the supervised agricultural activity program is optional.

(4) One hour per day of supervising the agricultural activity program

may, at the option of the local district, be counted as classroom teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(5) Teachers assigned to program units or combination program units shall visit the supervised agricultural activity program of each student at least three times each semester.

(6) For each vocational agriculture program unit approved for more than 10 months, the district shall ensure that the activities of the teacher include supervising and instructing the students in the supervised agricultural activity program, assisting students with the development of the supervised agricultural activity program, visiting prospective students and parents concerning the supervised agricultural activity program, and supervising and managing the school agricultural laboratory/project site.

(b) Home economics education.

(1) A minimum comprehensive and technical home economics program shall consist of at least one course of comprehensive home economics and a combination of four different specialized semester home economics technical courses representing four different subject matter areas each school year.

(2) Vocational home economics program units approved for comprehensive and technical home economics courses must include conducting parent/guardian conferences and organizing and supervising the required occupational activity program of students.

(3) One hour per day of organizing and supervising the occupational activity program may, at the option of the local district, be counted as classroom teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(4) Home economics program units approved for comprehensive home economics courses and technical courses and approved for more than 10 months shall consist of organized group instruction and supervised occupational activity program, and may include other activities conducted for prospective students.

(A) An organized group instruction summer program shall provide instruction in one or more home economics subject matter areas and shall be based on the State Board of Education-approved essential elements.

(B) Secondary school students may participate in the organized group instruction summer program on either a credit or noncredit basis.

(i) Credit for the organized group instruction summer program may be granted to students accomplishing

the goals and objectives established by the home economics teacher and approved by the local school administration. The goals and objectives shall be established to require both class instruction and occupational activity program.

(ii) A student may receive up to one unit of credit for summer program activities; however, no more than one-half unit of credit may be earned each summer.

(iii) A student may enroll in summer program activities after completion of two semesters of vocational home economics education.

(c) Preemployment laboratory program units.

(1) Preemployment laboratory classes may be conducted for one, two, or three class periods per day in accordance with this subsection.

(2) All two- and three-hour preemployment classes must be scheduled for consecutive class periods.

(3) Students may not be enrolled in or receive credit for participating one hour in a two-hour class or for one or two hours in a three-hour class.

(4) One-hour preemployment classes may be offered in coordinated vocational academic education (grade nine only), vocational education for the handicapped (grades seven, eight, and nine only), agriculture, marketing education, office education, home economics, and health occupations.

(5) Cosmetology preemployment classes must be conducted for three consecutive class periods each day.

(6) At local option, senior students in their last semester of high school who have completed three semesters of vocational training may be placed with business or industry for paid or unpaid employment in a training station provided:

(A) the training station is directly related to the occupational area for which the student has received training;

(B) an approved training plan is on file with the local education agency within three weeks after the date of placement;

(C) remediation for identified needs is available in the preemployment laboratory; and

(D) the training occurs during the time period in which the student is scheduled in the preemployment laboratory class.

(d) Cooperative education program units.

(1) Teachers assigned to cooperative education program units shall:

(A) visit each student training station at least six times each school year, including at least one visit during each student grading period; and

(B) be assigned specific times each day for the purpose of supervising the on-the-job training of students enrolled.

(2) Up to two hours of on-the-job supervision per day may, at the option of the local district, be counted as teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(3) School districts with an average daily attendance of 1,600 or less may apply for a multi-occupational cooperative training (MOCT) program unit. Special requirements for MOCT units are as follows.

(A) The program may provide training in any occupation approved for one of the regular cooperative training program units.

(B) The teacher assigned to an MOCT program unit must be either certified in or approvable for any regular cooperative training program unit.

(C) An MOCT program unit may not be approved in a school district if the district has any other cooperative training program unit in operation.

(D) All other sections of this chapter related to cooperative training program units shall apply to MOCT program units.

(E) Districts with an average daily attendance in excess of 1,600 and having unique situations may request special approval from the commissioner for an MOCT program.

(e) Technical education internship program units.

(1) Teachers assigned to technical education internship program units shall:

(A) visit each student training station at least six times each school year, including at least one visit during each student grading period; and

(B) be assigned specific times each day for the purpose of supervising the intern training of students enrolled.

(2) Up to two hours of intern supervision per day may, at the option of

the local district, be counted as teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(3) At the option of the local district, the related technical education internship class may be scheduled for a period of three consecutive hours for a three-credit course and two consecutive hours for a two-credit course during one school day. The technical education internship teacher/coordinator must have as a minimum one other regularly scheduled classroom instructional period, per school day, and conduct a daily technical education internship organizational, instructional, and attendance reporting class for a period of not less than 30 minutes. Teacher-coordinators of districts utilizing this option meet the requirements of §143.1 of this title (relating to Minimum Teaching Duties).

(f) Vocational cluster courses.

(1) Vocational cluster courses are one-hour classes that may be taught:

(A) as an approved vocational program unit utilizing an appropriately certified occupational exploration teacher or a vocational teacher certified in one or more of the occupational areas addressed in the cluster course;

(B) as a part of an approved vocational program unit in an occupational area that is addressed in the cluster course; or

(C) as a part of several approved vocational program units utilizing a team teaching approach with certified vocational teachers assigned to teach the portion of the cluster course related to their area of certification.

(g) Industrial technology education. The full scope of the high school industrial technology education program, grades nine-12, shall include the comprehensive course and/or at least one course from each of the following areas: communication, energy, and production technology.

(h) Individual vocational education.

(1) The individual vocational education (IVE) program may be offered at grades nine-12 for severely handicapped students who receive special education instruction during 50% or more of the school day. The class will be a coordinated effort between vocational education and special education. The program will be conducted with on-campus instruction beginning at age 14 and off-campus on-the-job training at age 16. The program will be individualized with each student being trained in multiple skill areas. The program will provide instruction in varied supported work models including, but not limited to:

(A) shadow training on campus and in business or industry;

(B) job coach in business and industry;

(C) mobile work crews; and

(D) enclaves in industry.

(2) Teachers assigned to the IVE class must be certified in one of the vocational education program areas and have additional training provided or identified by the Central Education Agency. §75.218. *Program Evaluations.*

(a) Vocational programs shall be evaluated each year as part of the district and campus five-year plan.

(b) Programs designed to prepare students for gainful employment shall be evaluated to determine the extent to which instruction meets the following criteria.

(1) Programs are realistic in light of actual or reliably anticipated opportunities for gainful employment.

(2) Programs are suited to the needs, interests, and ability of students to acquire the knowledge and skills necessary to enter and succeed in employment in those occupations.

(3) Programs are effective in the teaching, reinforcement, and application of basic skills.

(4) Programs are cost effective in terms of number of students served.

(5) Programs are effective in placing students, either in employment in those occupations or continuing occupational training at the postsecondary level.

(c) Approved home economics program units for comprehensive and technical education courses, industrial technology, and career investigation shall be evaluated to determine the extent to which the program is:

(1) realistic and effective in achieving up-to-date program objectives;

(2) suited to the needs, interests, and abilities of students to benefit from the program in which they are enrolled;

(3) effective in the teaching, reinforcement, and application of basic skills;

(4) cost effective in terms of numbers of students served and benefits derived; and

(5) effective in producing students' achievement of identified competencies.

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 March 15, 1988.

TRD-8802780

W. N. Kirby
Commissioner of Education

Effective date: April 7, 1988

Proposal publication date: November 27, 1987

For further information, please call: (512) 463-9212

Chapter 89. Adaptations for Special Populations

Subchapter F. Compensatory Education

The Texas Education Agency adopts the repeal of §§89.131-89.136, 89.151-89.154, 89.161-89.165, 89.171-89.173, 89.181, and 89.191, and new §§89.131, without changes to the proposed text published in the January 29, 1988, issue of the *Texas Register* (13 TexReg 530). The repealed sections concerned compensatory education, and the new section concerns remedial and compensatory instruction. The repealed sections have been deleted to avoid conflict with the new section. The new section gives guidance to school districts concerning the use of state compensatory education funds. The new section emphasizes that the goal of compensatory and remedial instruction is for students to learn. Districts are to use state compensatory funds to address the needs of students who are not mastering the basic skills. If programs are not effective, the agency will provide technical assistance to make programmatic changes. The approach provides considerable local flexibility, with district accountability for results.

The Region II Education Service Center superintendents, the Executive Committee of the Regional Advisory Committee for Education Service Center Region XX, several school districts, and several individuals expressed concern about the restrictiveness of provisions in earlier drafts of the section and commented in support of allowing school districts flexibility in the use of state compensatory funds. The section as proposed and adopted does allow such flexibility.

General Provisions

• 19 TAC §§89.131-89.136

The repeals are adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802782

W. N. Kirby
Commissioner of Education

Effective date: April 7, 1988

Proposal publication date: January 29, 1988

For further information, please call: (512) 463-9212

The new section is adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802781 W. N. Kirby
Commissioner of Education

Effective date: April 7, 1988

Proposal publication date: January 29, 1988

For further information, please call: (512) 463-9212

Student Centered Educational Process

• 19 TAC §§89.151-89.154

The repeals are adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802783 W. N. Kirby
Commissioner of Education

Effective date: April 7, 1988

Proposal publication date: January 29, 1988

For further information, please call: (512) 463-9212

Compensatory Education Program

• 19 TAC §§89.161, 89.162, 89.164, 89.165

The repeals are adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802784 W. N. Kirby
Commissioner of Education

Effective date: April 7, 1988

Proposal publication date: January 29, 1988

For further information, please call: (512) 463-9212

Special Program Provisions

• 19 TAC §§89.171-89.173

The repeals are adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802785 W. N. Kirby
Commissioner of Education

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For further information, please call: (512) 463-9212

Personnel for Compensatory Education Program

• 19 TAC §89.181

The repeal is adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802786 W. N. Kirby
Commissioner of Education

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For further information, please call: (512) 463-9212

State Compensatory Education

• 19 TAC §89.191

The repeal is adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802781 W. N. Kirby
Commissioner of Education

Effective date: April 7, 1988

Proposal publication date: January 29, 1988

For further information, please call: (512) 463-9212

Chapter 101. Assessment

Assessment of Minimum Skills

• 19 TAC §§101.1-101.4

The Texas Education Agency adopts amendments to §§101.1-101.4. Sections 101.2 and 102.3 are adopted with changes to the proposed text published in the December 11, 1987, issue of the *Texas Register* (12 TexReg 4619). Sections 101.1 and 101.4 are adopted without changes and will not be republished. The purpose of the amendments is to add written composition to the language arts portion of the exit level test and to clarify provisions concerning the testing of limited English proficient students. Under the amended sections, the commissioner of education may establish testing dates for the exit level test in addition to those in October or May. Written composition will be required as part of the exit level test in language arts beginning with the 1990-1991 school year. Rules for use of modifications of regular classroom procedures have been clarified. Limited English proficient students in grade three who were not enrolled in a bilingual prekindergarten class or who have not been enrolled in two consecutive years of bilingual education before grade three will be tested with the English or Spanish version of the grade three test. Other limited English proficient students in grade three who were tested with the Spanish version or were not tested in grade one will be tested with the English version of the grade three test, although such students may also be tested with the Spanish version. Section 101.4 now specifies that penalties for violating test procedures or test security may include reprimands and suspension or revocation of certificates of professional educators involved.

Changes from the proposed text include the designation of the last portion of proposed §101.2(g) as a separate subsection (h) for clarity; the addition of "and/or" in §101.3(f), to clarify options for testing of certain limited English proficient students in Spanish and/or English; and the rewording of §101.3(i), again to clarify testing provisions for limited English proficient students and to permit testing in Spanish at grade three for students who were not enrolled in a bilingual prekindergarten class or who have not been enrolled in two consecutive years of bilingual education before grade three. There were no changes in §101.1 or §101.4.

The Association of Texas Language Arts Supervisors commented in support of inclusion of written composition as part of the exit level Texas educational assessment of minimum skills (TEAMS) test. The Joint Committee in Regional Education Service Center Region II commented against inclusion of written composition on the TEAMS test, expressing concern about reliability of scoring procedures and concern that the requirement might increase the number of students who are unable to graduate because of failure on the exit level TEAMS test. The Association for Compensatory Educators of Texas commented against the written composition requirement because funding for implementation would come from funds appropriated for state compensatory education and because of concerns about reliability of scoring. The association suggested allowing the written composition portion of the ninth-grade

TEAMS test to fulfill the graduation requirement. One individual also suggested use of the ninth-grade test. The Texas Association for Bilingual Education urged that the TEAMS test for limited English proficient students in grades one and three be given in the language used to teach such children and requested that the results of such testing be used in Texas Education Agency reports on school district performance.

In response, the agency shares the concern that the addition of a written composition may result in an increase in the number of students who fail the exit-level test; however, the agency is also concerned to ensure that students who graduate from Texas high schools can write. The ninth-grade writing test tests the skill at a level appropriate to ninth-grade students, not the exit-level. The agency believes that the provisions concerning testing of limited English proficient students in the adopted section do address the concerns raised by the Texas Association of Bilingual Education. Use of the test results for reporting by the agency is not addressed in the sections.

The amendments are adopted under the Texas Education Code, §21.551, which directs the agency to adopt criterion referenced tests to assess specified basic skills at grades one, three, five, seven, nine and the exit level.

§101.2. Exit Level Requirements.

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

(d) Students who are enrolled in the eleventh grade during the 1985-1986 school year will take the exit level test for the first time in October of 1985 and will not receive a diploma unless they have passed both sections of the exit level test by the end of their twelfth grade year. The following conditions for receiving a diploma will apply.

(1) (No change.)

(2) Although increasingly difficult passing standards and examinations may be established for the exit level test, no student will be required to demonstrate performance at a standard higher than the passing standard that was in effect at the time that student first took the test.

(3) (No change.)

(e) (No change.)

(f) Students enrolled in the twelfth grade on or before September 1, 1985, shall not be required to take the exit level examination.

(g) Beginning with the 1990-1991 school year, the exit level examination will include a written composition as part of the language arts test.

(h) School districts shall notify in writing each student and the parent or guardian of each student who fails to pass the exit level basic skills examination that the student will be required to retake the examination each time it is administered thereafter until mastery of such skills is demonstrated by the student.

§101.3. Exemptions.

(a) (No change.)

(b) A handicapped student whose handicap has been determined by the student's admission, review, and dismissal committee to prevent him or her from mastering some or all of the competencies which the basic skills assessment instruments and/or the exit level assessment instrument are designed to measure may be exempted from some or all of the student assessment of basic skills tests and/or the exit level test(s), as appropriate.

(c) (No change.)

(d) Modifications of regular classroom procedures which would render the test invalid, such as use of slide rules and calculators or special reading assistance, shall not be provided. However, certain modifications of regular classroom procedures provided for handicapped students by the local district as specified in the student's individual educational plan shall be provided during the assessment process. Such modifications may include the following:

(1) provision for signing to hearing impaired students to ensure that such students receive any instructions given orally before or after the test as provided in the administration manual;

(2) provision for handicapped students to respond orally to test items where a handicapping condition interferes with their ability to record machine-readable responses or produce a written composition; and

(3) (No change.)

(e) The eligibility of each handicapped student to take all or a portion of the basic skills assessment instrument and/or the exit level assessment instrument shall be addressed in the student's individual educational plan.

(f) Students in grade one and grade three who have been identified as limited English proficient by the language proficiency assessment committee and whose native language is Spanish will be administered either the Texas educational assessment of minimum skills test or the Spanish version of the Texas educational assessment of minimum skills test. The language proficiency assessment committee will determine whether the student shall be tested in English and/or in Spanish.

(g) Limited English proficient students at grades one or three whose native language is not Spanish may receive an exemption from the Texas educational assessment of minimum skills for the test at that grade level and will participate in the assessment at subsequent grade levels.

(h) Students at grades five, seven, or nine who have been identified as limited English proficient by the language profi-

ciency assessment committee may receive an exemption from the Texas Educational assessment of minimum skills for the test at that grade level if the language proficiency assessment committee has determined that the student has not demonstrated sufficient proficiency in the English language to participate in the assessment. These students will participate in the assessment at subsequent grade levels.

(i) Limited English proficient students in grade three who were tested with the Spanish version or were not tested in grade one will be tested with the English version in grade three with this exception: Spanish-speaking limited English proficient students in grade three who were not enrolled in a bilingual prekindergarten class or have not been enrolled in two consecutive years of bilingual education before grade three will be tested with the English or Spanish version in grade three. Students in grade three who are required to take the English version may also be tested with the Spanish version.

(j) Districts shall make every reasonable effort to ensure that all nonexempt students are tested.

(k) The superintendent or chief administrative officer in each school district shall report to the commissioner of education the number of exempt and nonexempt students who were not tested and shall certify that the exemptions were granted in accordance with the Texas Education Code, §21.555, and this section.

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

Issued in Austin, Texas, on March 17, 1988.

TRD-8802859

W. N. Kirby
Commissioner of Education

Effective date: April 8, 1988

Proposal publication date: December 11, 1987

For further information, please call: (512) 463-9212

Chapter 105. Foundation School Program

Subchapter V. Funding for Compensatory Education Programs

• 19 TAC §§105.431, 105.433, 105.434

The Texas Education Agency adopts the repeal of §§105.431, 105.433, and 105.434 without changes to the proposed text published in the February 5, 1988, issue of the *Texas Register* (13 TexReg 585). The sections, comprising Chapter 105, Subchapter V, concerned funding for compensatory education programs. The agency has adopted a new §89.131, which includes both program-

matic and state funding requirements for compensatory education. To avoid duplication, the sections in Subchapter V are repealed. Funding for compensatory education will now be in accordance with new §89.131.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §21.557, which directs the State Board of Education to set standards for remedial and compensatory instruction.

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 March 16, 1988.

TRD-8802860 W. N. Kirby
Commissioner of Education

Effective date: April 8, 1988

Proposal publication date: February 5, 1988

For further information, please call: (512) 463-9212

◆ ◆ ◆
**TITLE 31. NATURAL
RESOURCE AND
CONSERVATION**
**Part II. Parks and Wildlife
Department**

Chapter 65. Wildlife

Subchapter S. Nongame-Elk

• **31 TAC §65.500**

The Texas Parks and Wildlife Department adopts the repeal of §65.500, without changes to the proposed text published in the September 29, 1987, issue of the *Texas Register* (12 TexReg 3468). The repeal allows the statewide hunting and fishing and proclamation, specifically 31 TAC §65.24 and §65.38, to be the regulating authority. The Texas Parks and Wildlife Commission adopted the repeal in a regularly scheduled public hearing on November 5, 1987.

Section 65.500 is no longer needed, since elk are now defined as wildlife resources in the six panhandle counties as a result of Senate Bill 150, 70th Legislature.

The repeal will allow elk to be regulated under the statewide hunting and fishing proclamation as a wildlife resource under the Texas Parks and Wildlife Code, §63.001(d).

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Parks and Wildlife Code, Chapter 67, which provides the Texas Parks and Wildlife Commission with authority to establish any limitations on the taking, possession, transportation, exportation, sale, and offering for sale of nongame.

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 March 16, 1988.

TRD-8802763

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: April 6, 1988

Proposal publication date: September 29, 1987

For further information, please call: (512) 389-4974

◆ ◆ ◆
**TITLE 37. PUBLIC
SAFETY AND
CORRECTIONS**
**Part VII. Texas
Commission on Law
Enforcement Officer
Standards and Education**

**Chapter 211. Administrative
Division**

Substantive Rules

• **37 TAC §211.74**

The Texas Commission on Law Enforcement Officer Standards and Education adopts the repeal of §211.74, without changes to the proposed text published in the January 8, 1988, issue of the *Texas Register* (13 TexReg 189).

This repeal is necessary because this section has been completely rewritten as a new section.

This repeal allows for adoption of a new section.

No comments were received regarding adoption of the repeal.

The repealed section is adopted under the Government Code, §415.056, which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to prescribe the content of written licensing examinations and set passing standards.

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 March 17, 1988.

TRD-8802840 David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Effective date: May 1, 1988

Proposal publication date: January 8, 1988

For further information, please call: (512) 834-9222

◆ ◆ ◆
The Texas Commission on Law Enforcement Officer Standards and Education adopts new §211.74 with changes to the proposed text published in the January 8, 1988, issue of the *Texas Register* (13 TexReg 189).

Section 211.74 has been completely rewritten to adopt current commission policy and procedures and to carry toward the provisions of the old section.

The new section will govern the entire process of administering and grading state licensing examinations given by the commission. One change clarifies that the discretion of the executive director governs the decision to count an invalidated test score as one of the three testing opportunities. Another change provides that endorsements of eligibility for training over two years old may be issued only by commission shall. Two other changes clarify the power to deny or revoke any license for violating any fraud provision of this license examination section and allow the commission to invalidate any test score for such violation and to require a retest for good cause shown.

No comments were received regarding adoption of the new section.

The new section is adopted under the Government Code, §415.056, which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to prescribe the content of written licensing examinations and set passing standards.
§211.74. State Examinations.

(a) The terms "examination", "exam", and "test" are synonymous in this section.

(b) The commission shall prescribe the content of any license examination and shall include in any such exam a written examination that tests the knowledge of the applicant about the appropriate occupation.

(c) Eligibility to sit for a state examination is based, generally, upon the examinee meeting the training standards appropriate to that exam. However, an exam may not be taken by one who already holds any license or certificate to be awarded upon its passage. Once qualified by training, an examinee will then be allowed only three opportunities to pass. After three failures, the examinee must requalify by repeating the training. If a score is invalidated for any reason, that particular score may, in the discretion of the executive director, count as one of the three opportunities.

(d) To sit for an examination, an examinee:

(1) must possess and display at the test site a valid, timely endorsement of eligibility for the specific type of exam sought;

(2) must bring to the test site and display upon request some identification card which contains a photograph;

(3) must report on time;

(4) must not disrupt the exam;

(5) must comply with all the written and verbal instructions of the proctor; and

(6) shall not violate any of the fraud provisions of this section.

(e) An endorsement of eligibility shall:

- (1) be on a form provided by the commission;
- (2) be signed by the endorser and completed, with a specific notation of the training completed and testing sought;
- (3) state that the examinee has met the minimum training standards appropriate to the type of exam sought; and
- (4) include a date of issue and date of expiration.

(f) For an endorsement of eligibility to be or remain valid:

(1) it must not be issued in error or based on false or incorrect information, and, specifically, the applicant must meet the appropriate minimum training standards; and

(2) it must be presented before its date of expiration or, in any event, before two years from its date of issue.

(g) An endorsement of eligibility may only be issued by a member of the commission staff if it involves training completed more than two years before the date of issue. Otherwise, an endorsement may be obtained from:

- (1) a member of the commission staff;
- (2) an academy coordinator;
- (3) a course coordinator; or
- (4) some other person designated by the commission.

(h) Each exam may be given by a test administrator who may proctor the exam alone or with the assistance of one or more additional proctors. However, the exam may also be given by one or more proctors under the direction of the test administrator. Each administrator or proctor shall be either:

- (1) a member of the commission staff; or
- (2) another person designated by the executive director.

(i) A member of the commission staff, a test administrator, or a proctor shall:

(1) set the date, time, and location of any exam;

(2) ensure that the exam remains secure and is conducted under conditions warranting honest results;

(3) monitor the exam while in progress;

(4) control entrance to and exit from the test site;

(5) permit no one in the room while the exam is in progress except proctors, examinees, and commission staff;

(6) assign or re-assign seating;

(7) bar admission to or dismiss any examinee who fails to comply with any of the provisions of subsection (d) of this section;

(8) collect all exam materials from anyone who is dismissed;

(9) comply with any testing agreements; and

(10) record the fact of examination on the endorsement of eligibility and shall collect any fraudulent or questionable endorsement.

(j) No license holder or prospective license holder shall violate or attempt to violate any of the following fraud provisions. An examinee shall not:

(1) bring into the testing room any books, notes, or other written material related to the content of the test;

(2) refer to, use, or possess any such written material in the testing room;

(3) give or receive answers or communicate in any manner with another examinee during the exam;

(4) communicate any of the contents of an exam to another at any time;

(5) steal, copy, or in any way reproduce any part of the exam;

(6) engage in any deceptive or fraudulent act either during an exam or to gain admission to it; or

(7) solicit, encourage, direct, assist, or aid another person to violate any provision of this section.

(k) The commission may deny or revoke any license or certificate held by a person who violates or attempts to violate any of the fraud provisions of this section.

(l) All official grading and notification shall come from the Austin office of

the commission. A self-addressed notice containing the results will be mailed by the commission to the examinee within 30 days of testing, if possible. If more than 90 days will elapse, the commission shall, before that date, notify the examinee in writing of the reasons for the delay. Telephone calls or personal inquiries about a particular score are discouraged before and encouraged after 30 days from the test date.

(m) Upon failure, the report of test results shall also include an analysis of the examinee's performance. The commission may issue a duplicate analysis upon timely request, no later than one year from the date of failure.

(n) For a score to be or remain valid:

(1) the examinee must complete the score sheet, or otherwise record the answers, as instructed;

(2) the endorsement of eligibility must remain valid; and

(3) the examinee must not violate or attempt to violate any of the fraud provisions of this section.

(o) If the commission invalidates an exam score for any reason, it may also, in the discretion of the executive director and for good cause shown, require a retest to obtain a substitute valid score.

(p) Unless provided otherwise by rule, agreement, instructor guide, learning objective, or other similar document, the minimum passing score on each exam shall be 70%. For a machine graded exam, this means that 70% of the total possible valid questions must be answered correctly. The commission may, in its discretion, invalidate any question.

(q) The effective date of this section shall be May 1, 1988.

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 March 17, 1988.

TRD-8802841

David M. Boatright
General Counsel
Texas Commission on Law
Enforcement

Effective date: May 1, 1988

Proposal publication date: January 8, 1988

For further information, please call: (512) 834-9222



Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the billeting board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

State Board of Barber Examiners

Tuesday, April 5, 1988, 8 a.m. The State Board of Barber Examiners will meet in Suite C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will approve minutes of the previous meeting; interview out-of-state applicants; and consider letters and reports to board by executive director. The board will also meet in executive session.

Contact: Jo King McCrorey, 1300 East Anderson Lane, C-275, Austin, Texas 78752, (512) 835-2040

Filed: March 18, 1988, 2:05 p.m.

TRD-88k02843

Consumer Credit Section of the Finance Commission

Friday, March 25, 1988, 1 p.m. The Consumer Credit Section of the Finance Commission will meet at 2601 North Lamar Boulevard, Austin. According to the agenda, the section will discuss agency operation, personnel, and a report to the Interim Study Committee on government reorganization.

Contact: Al Endsley, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1280.

Filed: March 17, 1988, 3:26 p.m.

TRD-8802812

Texas School for the Deaf

Saturday, March 26, 1988, 10 a.m. The Governing Board for the Texas School for the Deaf will meet in the Boardroom, Administration Building, 1102 South Congress Avenue, Austin. According to the agenda, the board will approve minutes of the December 11, 1987, board meeting, hear individuals from the audience who wish to make a report or comment, discuss business requiring board action and business for information purposes, and hear comments by

members.

Contact: Susan Nixon, P.O. Box 3538, Austin, Texas 78750, (512) 440-5335.

Filed: March 17, 1988, 1:43 p.m.

TRD-8802790

Texas Education Agency

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

Wednesday, March 30, 1988, 9 a.m. The Teachers' Professional Practices Commission on Texas will meet in Room 1-110, to consider jurisdiction, Trapp v. Collins, by commission en banc Room 1-109; approve minutes of the November 9, 1987, meeting; orientation of new commission members; discuss results of referendum on code of ethics revisions; consider adoption of revised code of ethics; hear director's report; consider election of officers and setting of next meeting date.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: March 17, 1988, 10:47 a.m.

TRD-8802778

Thursday, March 31, 1988, 10 a.m. The Accountable Costs Advisory Committee will meet in Room 1-109, to consider update on Coopers and Lybrand Consultants site visits to selected school districts, update on delivery of facilities data tape, preliminary work on minimum basic program study, and review of long-range plan goals.

Contact: Joe Wisnoski, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: March 17, 1988, 10:47 a.m.

TRD-8802779

Advisory Commission on State Emergency Communications

Tuesday, April 5, 1988, 1 p.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet in Room 102, John H. Reagan Office, Austin. According to the agenda, the committee will consider office space needs and bid process, selection process for agency personnel, and any new business related to the ongoing administration of the commission.

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: March 22, 1988, 9:31 a.m.

TRD-8802913

Texas Funeral Service Commission

Wednesday, March 30, 1988, 10 a.m. The Funeral Service Commission will meet in Conference Room B, Building B, 8100 Cameron Road, Austin. According to the agenda, the commission will discuss the commission's decision on March 1, 1988, to provisionally approve correspondence course for funeral directing and embalming.

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

Filed: March 21, 1988, 11:10 a.m.

TRD-8802885

Texas Department of Health

Monday, March 28, 1988, 1:30 p.m. The Hospital Data Advisory Committee of the Texas Department of Health will meet in Room T-803, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of the previous meeting; review reporting and collecting systems for hospitals, Texas 1986; introduce state legislation impact assistance grants (SLIAG); hear report from bureau

chief; hear status reports concerning 1987 cooperative Texas Department of Health/American Hospital Association/Texas Hospital Association annual survey of hospitals; consider Hospital Discharge Data Collection Committee appointments workgroup activities and selection of next meeting date.

Contact: Carol Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: March 18, 1988, 4:10 p.m.

TRD-8802849

Texas Statewide Health Coordinating Council

Wednesday, April 6, 1988, 9 a.m. The State Health Plan Development Committee of the Texas Statewide Health Coordinating Council will meet in Room T-803, 1100 West 49th Street, Austin. According to the agenda summary, the committee will review planning documents developed by staff for 1989-1990 state health plan.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: March 18, 1988, 4:10 p.m.

TRD-8802850

Health and Human Services Coordinating Council

The Health and Human Services Coordinating Council will meet in the Sam Houston Building, Austin. Dates, times, rooms, and agendas follow.

Tuesday, March 29, 1988, 3 p.m. The Youth Committee will meet in the Seventh Floor Conference Room, to approve minutes of the previous meeting; consider old business; discuss common application implementation and cost reporting process; consider update on the Children and Youth Services State Coordinating Committee; hear report on the Senate Select Committee on the Juvenile Justice System; and consider new business.

Contact: Tom Olsen, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: March 21, 1988, 3:59 p.m.

TRD-8802903

Wednesday, March 30, 1988, 9 a.m. The Immigration Committee will meet in the Fourth Floor Conference Room, to approve minutes of the previous meeting; review state conference on SLIAG; consider SLIAG implementation, allocation process, application, old business, and new business.

Contact: Tom Olsen, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: March 21, 1988, 3:59 p.m.

TRD-8802902

State Department of Highways and Public Transportation

March 29, 1988, 10 a.m. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Rooms 101 and 101A, First Floor, Auditorium, Dewitt C. Greer Building, 11th and Brazos Streets, Austin. According to the agenda, the commission will present various highway, bridge, and F.M. Road requests for Anderson, Dallas, Walker, Fort Bend, and Harris Counties (docket is available on second floor commissioners office); execute contract awards and routine minute orders; consider decisions on presentations from public hearing dockets; and review staff reports relative to planning and construction projects and programs.

Contact: Lois Jean Turner, Room 203, Dewitt C. Greer Building, 11th and Brazos Streets, Austin, Texas 78711, (512) 463-8616.

Filed: March 21, 1988, 3:03 p.m.

TRD-8802898

Texas Department of Human Services

Monday, March 28, 1988, 10 a.m. The Income Assistance Advisory Committee of the Texas Department of Human Services will meet in Conference Room 3W, Third Floor West Tower, 701 West 51st Street, Austin. According to the agenda, the committee will approve minutes of the January meeting; hear tracking report; review agenda; hear state office report; consider Medicaid expansion, welfare reform, public relations initiative, rule changes for July revision, group discussion regarding purpose and format of program service plans, what's next regarding nature of IAS worker's job, wrap-up, and next meeting date.

Contact: Pat Anderson, P.O. Box 2960, Austin, Texas 78769, (512) 450-3398.

Filed: March 18, 1988, 1:57 p.m.

TRD-8802844

State Board of Insurance

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

Monday, March 21, 1988, 3 p.m. The board met in emergency session in Room 414, to consider motion for stay of commissioner's order creating a state of

conservatorship of an insurance company and motion for stay of an order of the commissioner of insurance upholding a directive of the supervisor of an insurance company. The emergency status was necessary to provide review by the board at the earliest possible date in accordance with the Insurance Code, Article 21.28-A, §7.

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

Filed: March 21, 1988, 9:47 a.m.

TRD-8802883

Tuesday, March 29, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9840-Whether disciplinary action should be taken against Herman Henry Spoede, Waco, who holds a group I, legal reserve life insurance agent's license, a group II health and accident insurance agent's license, and a local recording agent's license issued by the board.

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

Filed: March 21, 1988, 8:48 a.m.

TRD-8802874

Tuesday, March 29, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9833-Whether disciplinary action should be taken against Billy Gilbert Crenshaw, Wichita Falls, who holds a Group I legal reserve life insurance agent's license issued by the board.

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

Filed: March 21, 1988, 8:48 a.m.

TRD-8802873

Tuesday, March 29, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9846-Application for amendment to the Articles of Incorporation of Great American Reserve Insurance Company, Dallas, in regards to director liability.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: March 21, 1988, 8:49 a.m.

TRD-8802872

Wednesday, March 30, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9824-Whether disciplinary action should be taken against Randy Richard Kuhler, Dallas, who holds a Group I legal reserve life insurance agent's license (L0287068) and a Group II, health and accident insurance agent's license (0214858) issued by the board.

Contact: Lisa Lyons, 1110 San Jacinto

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

Filed: March 21, 1988, 8:49 a.m.

TRD-8802871

Wednesday, March 30, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9825-Whether disciplinary action should be taken against Loyd Raymond Rodgers, Chiefford, Florida, Montgomery/Spring, who holds a group I, legal reserve life insurance agent's license and a group II, health and accident insurance agent's license issued by the board.

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

Filed: March 21, 1988, 8:49 a.m.

TRD-8802870

Friday, April 1, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9857-Application for amendment to the Articles of Incorporation of Aston Life Insurance Company, San Antonio, changing its name and in regards to director liability.

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

Filed: March 21, 1988, 8:49 a.m.

TRD-8802869

Friday, April 1, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9861-Application of Sanus Dental Plan of Texas, Inc., Irving, for a certificate of authority to operate a health maintenance organization offering a single health care service plan.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: March 21, 1988, 8:50 a.m.

TRD-8802868

Monday, April 4, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9854-Application of Thomas G. Greer, Houston, for a group I, legal reserve life insurance agent's license and a group II, health and accident insurance agent's license.

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

Filed: March 21, 1988, 8:50 a.m.

TRD-8802867

Monday, April 4, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9844-Whether disciplinary action should be taken against Ina Mutual Insurance Company, Irving, which holds a certificate of authority issued by the board.

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

Filed: March 21, 1988, 8:50 a.m.

TRD-8802866

Monday, April 4, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9837-Application of James Philip Brown, Weatherford, of his group I, legal reserve life insurance agent's license.

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

Filed: March 21, 1988, 8:50 a.m.

TRD-8802865

Monday, April 4, 1988, 5 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9721-Whether disciplinary action should be taken against Jorge M. Delgado, Houston, who holds a group I, legal reserve life insurance agent's license issued by the board.

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

Filed: March 21, 1988, 8:50 a.m.

TRD-8802864

Wednesday, April 6, 1988, 10 a.m. The board will meet in Room 105, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will consider adoption of amendments to 28 TAC §§27.301-27.319, published (13 TexReg 436) concerning rules for the regulation of persons engaged in the business of planning, selling, installing, maintaining, or servicing fire protection sprinkler systems.

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

Filed: March 21, 1988, 9:47 a.m.

TRD-8802882

Friday, April 8, 1988, 9 a.m. The board will meet in Room 414, to consider approval of investments by the Texas Catastrophe Property Insurance Association in a trust for short-term U.S. government securities.

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

Filed: March 21, 1988, 9:48 a.m.

TRD-8802880

Texas Department of Labor and Standards

Thursday, March 31, 1988, 9 a.m. The Air Conditioning and Refrigeration Contractors Advisory Board of the Texas De-

partment of Labor and Standards will meet in Room 103, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will record attendance, adopt agenda, approve minutes, hear staff and task group reports, set a date for the next meeting, and discuss old and new business.

Contact: Steven M. Matthews, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: March 21, 1988, 1:28 p.m.

TRD-8802889

Division of Emergency Management (Department of Public Safety)

Wednesday, March 30, 1988, 1:30 p.m. The State Emergency Management Council for the Division of Emergency Management (Department of Public Safety), will meet in the Emergency Operations Center, DPS Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the council will review state and federal requirements of the superfund amendments and Reauthorization Act, Title III of the Comprehensive Environmental Response Compensation and Liability Act of 1980; consider emergency notification information, LEPC status update, Texas Water Commission presentation on administrative procedures, §313 report-Texas Water Commission, review proposed Title III training program, and consider other council business.

Contact: Mike L. Scott, 5805 North Lamar Boulevard, Austin, Texas 78751, (512) 465-2138.

Filed: March 18, 1988, 11:02 a.m.

TRD-8802839

Manufactured Homeowners Recovery Fund

Friday, March 25, 1988, 10 a.m. The Board of Trustees for the Manufactured Homeowners Recovery Fund will meet in the 11th Floor Conference Room, E.O. Thompson Building, 920 Colorado, Austin. According to the agenda, the board will approve minutes of the last meeting, discuss options for investment management, claims pending, and funds management agreement with the Treasury Department.

Contact: Jennifer Mellett, 920 Colorado, Austin, Texas 78701, (512) 463-3130.

Filed: March 17, 1988, 1:55 p.m.

TRD-8802796

Texas State Board of Medical Examiners

Friday, March 25, 1988, 4 p.m. The Examination Committee of the Texas State Board of Medical Examiners will meet for an emergency agenda revision at 1101 Camino La Costa, Austin. According to the agenda, the committee will discuss visiting professor permit and possible rule amendments. The emergency status is necessary as information just became available on this topic and needs consideration before the next meeting. The matter will be referred to in open session.

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

Filed: March 21, 1988, 4:26 p.m.

TRD-8802907

Texas Department of Mental Health and Mental Retardation

The Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation will meet in the Central Office, 909 West 45th Street, Austin. Dates, times, and agendas follow.

Wednesday, March 30, 1988, 9:30 a.m. The Asset Management Subcommittee will consider facility master plan and ASH development plan.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas, (512) 465-4588.

Filed: March 17, 1988, 4:42 p.m.

TRD-8802816

Wednesday and Thursday, March 30 and 31, 1988, 10 a.m. and 7:30 a.m., respectively. The board will hear citizens' comments; approve minutes of the February 18, 1988, meeting; and consider issues on agenda. Deaf interpreters will be available, but will be released if service not requested within first hour of meeting.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas, (512) 463-4588.

Filed: March 17, 1988, 4:41 p.m.

TRD-8802817

Pan American University

Wednesday, March 23, 1988 The Board of Regents of Pan American University met in the Boardroom, Administration Building, Pan American University, Edinburg. Times and agendas follow.

1 p.m. The Building and Grounds Committee approved science building sprinkler system bid and MR&R requests for higher education assistance fund; and considered

informational items.

Contact: Miguel A. Nevarez, Pan American University, (511) 381-2101.

Filed: March 17, 1988, 1:30 p.m.

TRD-8802799

1:15 p.m. The Finance Committee approved consultant contract with National Rural Development and Finance Corporation, increase prices in vending machines, vehicle insurance bids, gas contract, and bank demand depository; and considered informational items.

Contact: Miguel A. Nevarez, Pan American University, (511) 381-2101.

Filed: March 17, 1988, 1:30 p.m.

TRD-8802798

1:30 p.m. The Development Committee presented informational items.

Contact: Miguel A. Nevarez, Pan American University, (511) 381-2101.

Filed: March 17, 1988, 1:30 p.m.

TRD-8802797

1:45 p.m. The Brownsville Committee considered budget changes and informational items.

Contact: Miguel A. Nevarez, Pan American University, (511) 381-2101.

Filed: March 17, 1988, 1:30 p.m.

TRD-8802795

2 p.m. The Academic Affairs Committee approved revised table of programs and considered informational items. The committee also met in executive session to consider personnel items, request for professor emeritus, consideration of tenure of William Wilkinson (PAU-B), status of vice president for business affairs, and hiring of associate vice president.

Contact: Miguel A. Nevarez, Pan American University, (511) 381-2101.

Filed: March 17, 1988, 1:30 p.m.

TRD-8802794

2 p.m. The Academic Affairs Committee submitted a revised agenda to meet in executive session to present board contract review committee consultant. The emergency status was necessary because the personnel matter required board attention.

Contact: Miguel A. Nevarez, Pan American University, (512) 381-2100.

Filed: March 21, 1988, 10:56 a.m.

TRD-8802888

2:15 p.m. The board approved executive session agenda of February 12, 1988, meeting; discussed, considered, and acted on board committee reports and recommendations; considered executive session items, CEED revolving loan fund resolution, leasing space to the Reynaldo Garza Law School, Reynaldo Garza School of Law res-

olution, appointment of committee(s) to study merger possibilities for Pan American University, president's informational items, and set date for next meeting.

Contact: Miguel A. Nevarez, Pan American University, (511) 381-2101.

Filed: March 17, 1988, 1:30 p.m.

TRD-8802793

Board of Pardons and Paroles

Monday-Friday, March 28-31, 1988, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

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

Filed: March 28, 1988, 10:35 a.m.

TRD-8802820

Tuesday, March 29, 1988, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

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

Filed: March 18, 1988, 10:35 p.m.

TRD-8802821

Texas State Board of Pharmacy

Tuesday, April 26, 1988, 9 a.m. The Texas State Board of Pharmacy will meet in Embassy Suites Hotel, 5901 North IH 35, Austin. According to the agenda, the board will conduct a public hearing to consider comments regarding proposed rules 291.31-291.34, 291.36 relating to Class A (community pharmacy) rules, and Class A pharmacies dispensing compounded sterile parenteral and enteral products; rules 291.71-291.76 relating to Class C (institutional pharmacy) rules; and rules 309.2-309.6 relating to generic substitution.

Contact: Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, Suite 110, Austin, Texas 78754, (512) 832-0661.

Filed: March 17, 1988, 2:12 p.m.

TRD-8802801

State Board of Registration for Professional Engineers

Thursday, March 31, 1988, 9:30 a.m. The Ad Hoc Committee for State Registration for Professional Engineers will meet in Suite 201, 124 West Castellano Drive, El Paso. According to the agenda, the committee will review and discuss proposed board rules which will coincide with law revisions effective September 1, 1991.

Contact: Kenneth J. Bartosh, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: March 17, 1988, 1:42 p.m.

TRD-8802791

Texas State Board of Public Accountancy

The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Dates, times, and agendas follow.

Wednesday, March 30, 1988, 2 p.m. The Executive Committee will review personnel matters; consider NASBA regional meeting of June 27 and 28, 1988; discuss C.L.E.A.R. conference in Austin on April 13-15, 1988; consider substantive rule 513.46 concerning certification of corporate franchise tax (initial action) and feasibility of publication of board suspensions and revocations in publications other than the Texas State Board Report; review of information transmitted to the Council of State Governments relating to the National Disciplinary Information System and staff's response to questionnaire by Rep. Richard F. Williamson regarding the purchase of computer and/or telecommunications equipment by state agencies; discuss proposed recommendation for the Texas Guaranteed Student Loan Corporation and other matters coming before the committee.

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

Filed: March 22, 1988, 9:37 a.m.

TRD-8802912

Thursday and Friday, March 31 and April 1, 1988, 9 a.m., daily. The board will approve minutes of the February 25, 1988, meeting; hear report of the Continuing Education Committee and Enforcement Committee; review technical standards review; hear report of the Constructive Enforcement Committee, Long-Range Planning Committee, and Executive Committee; consider action on substantive rules; review request for Attorney General opinions, and

board's financial condition; discuss assumptions to be included in the board's fiscal year 1990-1991 appropriation request; consider ratification of board orders, consent orders, and proposals for decision; discuss implementation of prior board motion to file complaints on individuals and firms who are practicing without licenses; hear report of the Nominating Committee; review certain board communications and future meeting/hearing schedules.

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

Filed: March 22, 1988, 9:37 a.m.

TRD-8802911

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, March 30, 1988, 10 a.m. The Hearings Division will consider Docket 8030-Application of Southwestern Bell Telephone Company for revisions to 976 tariff.

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

Filed: March 18, 1988, 2:50 p.m.

TRD-8802845

Wednesday, March 30, 1988, 1:30 p.m. The Hearings Division will consider Docket 8032-Application of Lower Colorado River Authority to change rates.

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

Filed: March 18, 1988, 2:49 p.m.

TRD-8802846

Monday, May 23, 1988, 10 a.m. The Hearings Division will consider Docket 7930-Application of Texas-New Mexico Power Company for approval of standard avoided cost calculation for the purchase of firm energy and capacity from qualified facilities.

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

Filed: March 17, 1988, 2:35 p.m.

Texas Racing Commission

Monday, March 28, 1988, 9 a.m. The Texas Racing Commission will meet in Room 109, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the commission will introduce new

commissioners by acting chairman James H. Clement; consider election of officers and election of the chairman of the commission; approve minutes of the February 29, 1988; review the advertisement for the executive secretary of the commission, publications for advertisement placement, and specifications for commission office space; hear presentation by staff on official responsibilities and duties as a commissioner, presentation by Tony Chamblin, executive vice president of the commission; and consider old business.

Contact: Nancy Fisher, P.O. Box 12080, Austin, Texas 78711, (512) 463-7223.

Filed: March 18, 1988, 4:05 p.m.

TRD-8802847

Railroad Commission of Texas

Monday, March 21, 1988, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas met in emergency session in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the division considered whether to use state funds to plug a leaking well: A.A. Belding, C.R. Dutton, and others; Mark Nasworthy Lease; Well #1; Wildcat Field; Tom Green County. The emergency status was necessary because the well is located within the city limits of San Angelo, causing an imminent threat to the public's health, safety, and welfare.

Contact: Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6830.

Filed: March 21, 1988, 9:31 a.m.

Monday, March 21, 1988, 9 a.m. The Oil and Gas Division submitted an emergency revised agenda to consider using state funds to flush a well that is leaking saltwater to the ground surface and causing an imminent threat to the public's health, safety, and welfare: Unidentified Operator; McCord Lease; Unidentified Well; Shackelford County. The emergency status was necessary because the well is a breakout of an old uncased hole which is flowing saltwater to the ground surface causing an imminent threat to the public's health, safety, and welfare.

Contact: Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6830.

Filed: March 18, 1988, 1:24 p.m.

TRD-8802842

Monday, March 28, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget,

procedure, and personnel matters, including but not limited to discussion, and/or action on the following: management study, oil and gas general counsel, oil field investigator personnel and their operations, the creation and designation of an executive director with related positions and matters, and personnel matters relating to the office of general counsel and special counsel.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7527.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802832

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802831

The Flight Division will consider and act on the division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6787.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802822

The Gas Utilities Division will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Shelley A. Dreiling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7009.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802827

The Office of General Counsel will consider and act on the general counsel's report on division administration, budget, procedures, and personnel matters; including but not limited to discussion and/or action on the following: Hufo Oils, et al v. Railroad Commission C-5937 in the Supreme Court of Texas, Walker Operating, et al v. Federal Energy Regulatory Commission, U.S. Court of Appeals for the 10th Circuit, 85-2683 and 86-2698 et al in relation of Oil and Gas Docket 10-87,017; FERC Orders 500, 500 A-C, and related litigation in the D.C., fifth, third, and seventh circuits.

Contact: Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802827

The Office of Information Services will consider and act on the Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78704, (512) 463-6710.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802829

The Investigation Division will consider and act on the division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828.

Filed: March 18, 1988, 11:26 a.m.

TRD-8802828

LP-Gas Division will consider and act on division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6931.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802826

The Oil and Gas Division will consider Docket 4-91, 710-Application of Pennzoil Company for temporary field rules for the El Huerfano (10,800) Field, Zapata County.

Contact: Lisa Anderson, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802827

The Oil and Gas Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Tim Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7325.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802834

The Oil and Gas Division will consider category determinations under the Natural Gas Policy Act of 1978. §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802833

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802836

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802830

The Office of Special Counsel will consider and act on division director's report relating to state and federal legislation, budget, administrative and personnel matters, and proposed and pending litigation, including but not limited to Railroad Commission of Texas v. HydPro, Cause 423,809.

Contact: Walter E. Lilie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802835

The Surface Mining Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6900.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802825

The Transportation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: C. Tom Clowe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: March 18, 1988, 10:26 a.m.

TRD-8802823

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**Texas Rehabilitation
Commission/Texas
Commission for the Blind**

Monday-Tuesday, March 28-29, 1988, 10 a.m. and 8:30 a.m., respectively. The State Independent Living Council for the Texas Rehabilitation Commission/Texas Commission for the Blind will meet in Conference Room A, Wyndham Southpark Hotel, 4140 Governor's Row, Austin. According to the agenda, the council will hear committee reports, public comments, discuss old and new business, announcements, conduct general discussion, and set a date for the next meeting.

Contact: Mel Fajkus, Texas Rehabilitation Commission, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8277 or Betty Huffman, 4800 North Lamar Boulevard, Austin, Texas 78756, (512) 459-2611.

Filed: March 17, 1988, 1:41 p.m.

TRD-8802792

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**Texas Savings and Loan
Department**

The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, March 29, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of Gibraltar Savings and Loan Association, Houston, Harris County, for a loan office at 2350 Airport Freeway, Suite 210, Bedford, Tarrant County, from which record the commission will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: March 18, 1988, 4:14 p.m.

TRD-8802851

Tuesday, March 29, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of Gibraltar Savings Association, Houston, Harris County, to relocate a loan office from 6969 Boulder, Suite 320, Dallas, Dallas County, to 407 North Cedar Ridge, Suite 120, Duncanville, Dallas County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: March 18, 1988, 4:14 p.m.

TRD-880852

Thursday, March 31, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of Banc Home Savings Association, Midland, Midland County, for a branch office to be located at 7550 Interstate 10 West, San Antonio, Bexar County, from which record the commission will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: March 18, 1988, 4:14 p.m.

TRD-8802853

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Texas Senate

Wednesday, March 30, 1988, 9 a.m. The Select Committee on Medicaid and Family Services for the Texas Senate will meet in Room 104, John H. Reagan Building, Austin. According to the agenda, the committee will discuss recommendations to improve Medicaid services.

Contact: Bryan Sperry, Office of the Lt. Governor, Room G-31, State Capitol, Austin, Texas 78711, (512) 463-0010.

Filed: March 21, 1988, 2:48 p.m.

TRD-8802892

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Sunset Advisory Commission

Thursday, March 24, 1988, 10 a.m. The Sunset Advisory Commission met for an emergency agenda revision in the Senate Chamber, State Capitol, Austin. According to the agenda, the commission approved minutes; discussed Senate Bill 298 (Medicaid lien provision); discussed and adopted rules; discussed public hearing schedule; presented staff reports and public testimony on the Poultry Improvement Board, Governor's Commission on Physical Fitness, Natural Fiber and Food Protein Commission, Texas Guaranteed Student Loan Corporation, and Texas Surplus Property Agency; considered other business; and set the proposed date for the next meeting, May 5-6, 1988. The emergency status was necessary due to the urgent need to discuss Senate Bill 298.

Contact: Jeri Kramer, 105 West 15th Street, Room 305, Reagan Building, Austin, Texas 78711, (512) 463-1300.

Filed: March 21, 1988, 2:05 p.m.

TRD-8802891

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**The University of Texas at
Austin**

Friday, March 25, 1988, 3 p.m. Intercollegiate Athletics for Women of the University of Texas at Austin will meet in Bellmont

Hall, 606 Conference Room, 21st and San Jacinto Streets, U.T. Campus, Austin. According to the agenda, the university will approve minutes of the previous meeting, hear announcements and information reports, and discuss old and new business.

Contact: Donna A. Lopiano, Bellmont Hall, 606 Conference Room, 21st and San Jacinto Streets, U.T. Campus, Austin, Texas 78701, (512) 471-7693.

Filed: March 21, 1988, 4:03 p.m.

TRD-8802904

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Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Tuesday, March 29, 1988, 10 a.m. The commission will meet in Room 118, to consider water district bond issue, use of surplus funds, establishing separate voting precincts, water rate matters, sewer rate increase, water utility rate increase, amendment to certificate of convenience and necessity, proposed water quality permits, amendments, and renewals, hazardous waste permits, water use applications, extension of time applications, and forfeiture and abandonment of permit and certificate of adjudication.

Contact: Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

Filed: March 17, 1988, 11:39 a.m.

TRD-8802789

Wednesday, March 30, 1988, 10 a.m. The commission will meet in Room 118, to consider motion for rehearing regarding examiner's proposal for decision on application by Houston 290 Joint Venture.

Contact: Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

Filed: March 18, 1988, 4:07 p.m.

TRD-8802848

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Regional Meetings

**Meetings Filed March 17,
1988**

The Bexar Appraisal District, Appraisal Review Board, will meet at 141 Lavaca, San Antonio, on March 25, 1988, at 9 a.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, met in the Brazos Center, 3232 Briarcrest Drive, Bryan, on March 24,

1988, at 1:30 p.m. Information may be obtained from Leon Bawcom, (409) 822-6467.

The Coastal Bend Council of Governments, Membership, will meet in the Commissioner's Courtroom, County Courthouse, 901 Leopard, Corpus Christi, on March 25, 1988, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The Region VIII Education Service Center, Board of Directors, met at the Education Service Center, Mt. Pleasant, on March 24, 1988, 7 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75455.

The Hale County Appraisal District, Board of Directors, met at 302 West Eight, Plainview, on March 24, 1988, at 8 p.m.. Information may be obtained from Linda Jaynes, 302 West Eight Street, Plainview, Texas 79072, (806) 293-4226.

The Lamar County Appraisal District, Regular Board, met at 1523 Lamar Avenue, Paris, on March 21, 1988, at 5 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The West Central Texas Council of Governments, Executive Committee, met at 1025 East North Tenth Street, Abilene, on March 23, 1988, 12:45 p.m. Information may be obtained from Brad Helbert, (915) 672-8544.

TRD-8802772

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Meetings Filed March 18,
1988

The Austin-Travis County Mental Health and Mental Retardation Center, Finance and Control Committee met in Suite 501, 611 South Congress Avenue, Austin, on March 23, 1988, at noon. The Board of Trustees met at the same address, in Suite 107, on March 24, 1988, 7 a.m. and will meet again on March 31, 1988, at noon. Information may be obtained from Sharon Taylor, (512) 447-4141.

The Barton Springs-Edwards Aquifer Conservation District, Temporary Board of Trustees, met in Suite F, 909 North Loop 4, Buda, on March 21, 1988, at 7 p.m. Information may be obtained from Larry G. Hada, 909 North Loop 4, Suite F, Buda, Texas 78610, (512) 282-8441.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, met in emergency session at 405 West 28th Street, Bryan, on March 24, 1988, 3:30 p.m. Information may be obtained from Leon Bawcom, (409) 822-6467.

The Capital Area Rural Transportation System (CARTS), Board of Directors, met in the Conference Room, 5021 East First Street, Austin, on March 24, 1987, 9:30

a.m. Information may be obtained from Edna M Burroughs, 5021 East First Street, Austin, Texas 78702, (512) 478-7433.

The Colorado River Municipal Water District, Board of Directors, met at 400 East 24th Street, Big Spring, on March 24, 1988, at 10 a.m. Information may be obtained from O. H. Ivie, P.O.Box 869, Big Spring, Texas 79721, (915) 267-6341.

The Dallas Area Rapid Transit, Performance Review Committee met in the DART Office, 601 Pacific Avenue, Dallas, on March 21, 1988, at 2 p.m. The Planning and Development Committee, and Board, met at the same location on March 22, 1988, at 2 p.m. and 6:30 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Deep East Texas Council of Governments, Board of Directors, met in the Coldspring Community Center, Coldspring, on March 24, 1988, at 11 a.m. Information may be obtained from Katie Bayliss, 274 East Lamar Street, Jasper, Texas 75901, (409) 384-5704.

The Denton Central Appraisal District, Board of Directors, met in emergency session at 3911 Morse, Denton, on March 1, 1988, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse, Denton, Texas 76205, (817) 566-0904.

The Mental Health and Mental Retardation Regional Center of East Texas, Board of Trustees, met in the Boardroom, 2323 West Front Street, Tyler, on March 24, 1988, at 4 p.m. Information may be obtained from Richard J. DeSanto, P. O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

The Jack County Appraisal District, Board of Directors, met at the Los Creek Office Building, 216-D South Main, Jacksboro, on March 22, 1988, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Gregg Appraisal District, Board of Directors, will meet at 2010 Gilmer Road, Longview, on March 25, 1988, at 9:30 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Gulf Bend Mental Health and Mental Retardation Center, Board of Trustees, met at 1404 Village Drive, Victoria, on March 24, 1988, at noon. Information may be obtained from Donald L. Polzin, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

The Kendall County Appraisal District, Board of Directors, met at 207 East San Antonio Street, Boerne, on March 23, 1988, at 7 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Lower Colorado River Authority,

Audit and Budget, Energy Operations, Finance and Administration, Natural Resources, and Planning and Public Policy Committees, met at 3700 Lake Austin Boulevard, Austin, on March 23, 1988, at 9 a.m. The Board of Directors, met at the same location on March 24, 1988, at 9 a.m. and 1:30 p.m. Information may be obtained from Thomas G. Mason, 3700 Lake Austin Boulevard, Austin, Texas 78703, (512) 473-3200.

The Martin County Appraisal District, Board of Directors, will meet in the Appraisal Office, 708 West St. Anna, Stanton, on March 31, 1988, at 7 p.m., rescheduled from March 3, 1988. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The Panhandle Ground Water Conservation District 3, Board of Directors, will meet in the Water District Office, 300 South Omohundro, White Deer, on April 4, 1988, at 7:30 p.m. Information may be obtained from Gary L. Walker, P.O. Box 637, White Deer, Texas 79097.

The Plateau Region Outer Parkway Corporation, Board of Directors, met in Suite C-300, 1301 Capital of Texas Highway, Austin, on March 21, 1988, at 10 a.m. Information may be obtained from Jimmy Clayton, 1301 Capital of Texas Highway, Suite C-300, Austin, Texas 78746, (512) 328-8211.

The Trinity River Authority of Texas, Ten Mile Creek Regional Wastewater System Right-of-Way Committee, met at 5300 South Collins, Arlington, on March 24, 1988, 10:30 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

TRD-8802819

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Meetings Filed March 21,
1988

The Coastal Bend Council of Governments, will meet at 2910 Leopard, Corpus Christi, on March 25, 1988, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The Panhandle Regional Planning Commission, Board of Directors, met in the Conference Room, 2736 West 10th Street, Amarillo, on March 24, 1988, at 1 p.m. Information may be obtained from Pamela Neilsen, (806) 372-3381.

The San Jacinto River Authority, Board of Directors, will meet in the Conference Room, Lake Conroe Office Building, Highway 105 West, Conroe, on March 30, 1988, at 2 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111.

The South Texas Private Industry Council, will meet in the Zapata Community Center, Zapata, on March 31, 1988, at 4 p.m. Information may be obtained from Ruben M. Garcia, P.O. Box 1757, Laredo, Texas 78044.

The Tarrant Appraisal District, Board of Directors, will meet at 2309 Gravel Drive, Fort Worth, on March 25, 1988, at 9 a.m. Information may be obtained from Olive Miller, 2309 Gravel Drive, Fort Worth, Texas 76118, (817) 284-0024.

TRD-8802863

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Meetings Filed March 22,
1988

The Harris County Appraisal District, Board of Directors, will meet on the Eighth Floor, 2800 North Loop West, Houston, on March 28, 1988, at 10 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Hunt County Tax Appraisal District, Board of Directors, met in the Boardroom, 4801 King Street, Greenville, on March 24, at noon. Information may be obtained from Joe Pat Davis or Jeanette Jordan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on March 30, 1988, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

TRD-8802908

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In Addition

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

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

Texas Adult Probation Commission Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Adult Probation Commission furnishes this notice of consultant contract award. The request for proposals was published in the January 19, 1988, issue of the *Texas Register* 13 TexReg 357).

Description of Services. The contractor will develop curriculum which will be used by Texas Adult Probation Commission staff trainers and others to train adult probation officers. Project activities will include developments of lesson plans and training materials; collection of resource documents; identification of instruction techniques; and gearing the curriculum to the adult learner.

Name of Contractor and Value of Contract. The contractor selected was Geraldine F. Nagy, P.O. Box 591, Bastrop, Texas 78602.

Effective Date of Contract. The contract began March 21, 1988, and will run to December 27, 1988. The value of the contract is \$14,300.

Due Date of Reports. Reports will be provided on an individual basis as needed in accordance with requirements of the contract.

Issued in Austin, Texas, on March 17, 1988.

TRD-8802838 Virginia Grote
Administrative Secretary
Texas Adult Probation Commission

Filed: March 18, 1988

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

Texas Commission on Alcohol and Drug Abuse Notice of Public Hearings

The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, as amended by Public Law 98-509) requires annual public hearings on the intended use of federal funds allocated under the alcohol, drug abuse, and mental health block grant. Additionally, the state, through Texas Civil Statutes, Article 6252-13e, mandates that agencies responsible for administering block grant funds must hold public hearings in four locations once every two years as a mechanism for public input on development of the agency's budget request for the next biennium. Consistent with these mandates, the Texas Commission on Alcohol and Drug Abuse is holding public hearings in April. The purpose of these hearings is to take testimony regarding the commission's intended use of federal funds for fiscal year 1989 and the commission's legislative appropriations request for the 1990-1991 biennium. Concurrently with these hearings, comments will be taken on the provision of substance abuse services pursuant to state plan requirements mandated by Texas Civil Statutes, Article 5561c-2a.

Specific comments will be solicited on the following issues: the intended use of public funds for substance abuse services; the magnitude of the substance abuse problem; and, the current availability of and need for substance abuse services.

At these hearings, preliminary reports of the intended use of funds for federal fiscal year 1989 (beginning October 1, 1988) will be provided, along with relevant budget information.

Four public hearings have been scheduled at the following times and places: April 11, 1988, 10 a.m.-noon, Sandy Oaks Project, Community Room, 804 Jordan Street, Nacogdoches; April 12, 1988, 10 a.m.-noon, North Central Texas Council of Governments, Centerpoint II, Second Floor Boardroom, 616 Six Flags Drive, Arlington; April 13, 1988, 5-7 p.m., Rio Grande Council of Governments, The Centre, Second Floor Conference Room, 123 Pioneer Plaza, El Paso; April 14, 1988, 5-7 p.m. Cameron County Commissioners Courtroom, Administration Building, Fourth Floor, Cameron County Courthouse, 964 East Harrison, Brownsville.

Representatives from the Texas Commission on Alcohol and Drug Abuse will be present to explain the planning process and consult with and receive comments from interested citizens and affected groups. All written and oral comments will be considered in the preparation of the final plan and budgets.

Preliminary intended use reports and relevant budget information can be obtained from all regional councils of governments or by contacting the Texas Commission on Alcohol and Drug Abuse, Bob Dickson, Executive Director, 1705 Guadalupe Street, Austin, Texas 78701-1214, (512) 463-5510, contact person: Becky Davis. Comments will be accepted through May 1, 1988.

Issued in Austin, Texas, on March 18, 1988.

TRD-8802884 Bob Dickson
Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: March 21, 1988

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

State Banking Board Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by the Trust Company of Texas, Dallas, the hearing previously scheduled for March 24, 1988, has been cancelled.

Issued in Austin, Texas, on March 16, 1988.

TRD-8802768 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: March 16, 1988

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Texas Department of Commerce
Weekly Report on the 1988 Allocation
of the State Ceiling on Certain Private
Activity Bonds

The Tax Reform Act of 1986 (the "Tax Act") imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1988 is \$834,100,000.

State legislation, Senate Bill 1382, Chapter 1092, Acts of the 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 for 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 is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, March 7, 1988-March 11, 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 the Act as of March 11, 1988: \$190, 185,425

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under the Act as of March 11, 1988: \$208,525, 000

Total amount of state ceiling remaining unreserved for the \$347,541,700 subceiling for all other bonds under the Act as of March 11, 1988: \$0

Total amount of the \$834,100,000 state ceiling remaining unreserved as of March 11, 1988: \$398,710,425.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from March 7, 1988-March 11, 1988: none

Comprehensive listing of bonds issued and delivered as pursuant to the act from March 7, 1988-March 11, 1988: None.

Issued in Austin, Texas, on March 15, 1988.

TRD-8802788 J.W. Lauderback
Executive Director
Texas Department of Commerce

Filed: March 17, 1988

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Texas Department of Community
Affairs
Notices of Public Hearing

The Texas Department of Community Affairs (TDCA) announces that a public hearing will be held pursuant to the Energy Conservation and Production Act, Weatherization Assistance for Low-Income Persons Program, 42 United States Code 6861 *et seq.* The purpose of the public hearing is to receive comments on proposed contractor(s) desiring to undertake the weatherization activities as authorized by the Weatherization Assistant for Low-Income Persons (WAFLIP) Program in the lower valley census tracts of the county of El Paso. Contractors will include those eligible entities that respond to the request for proposals (RFP) announced in the March 8, 1988, issue of the *Texas Register* (13 TexReg 1204).

The public hearing will be held at 10:30 a.m. on Thursday, April 7, 1988, in the West Texas Council of Governments Conference Room. The WTCOG address is 123 Pioneer Plaza, Suite 210, El Paso, Texas. For additional information, contact Lucio Varela, Director of Program Support, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711, (512) 834-6006.

Issued in Austin, Texas, on March 21, 1988.

TRD-8802878 Roger A. Coffield
General Counsel
Texas Department of Community Affairs

Filed: March 21, 1988, 9:44 a.m.

For further information, please call (512) 834-6016.

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The Texas Department of Community Affairs (TDCA) announces that a public hearing will be held pursuant to the Energy Conservation and Production Act, Weatherization Assistance for Low-Income Persons Program, 42 United States Code 6861 *et seq.* The purpose of the public hearing is to receive comments on proposed contractor(s) desiring to undertake the weatherization activities as authorized by the Weatherization Assistant for Low-Income Persons (WAFLIP) Program in the lower valley census tracts of the county of Dallas. Contractors will include those eligible entities that respond to the request for proposals (RFP) announced in the March 8, 1988, issue of the *Texas Register* (13 TexReg 1204).

The public hearing will be held at 1 p.m. on Tuesday, April 5, 1988, in the North Central Texas Council of Governments Boardroom. The WTCOG address is 123 Pioneer Plaza, Suite 210, El Paso, Texas. For additional information, contact Lucio Varela, Director of Program Support, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711. (512) 834-6006.

Issued in Austin, Texas, on March 21, 1988.

TRD-8802877 Roger A. Coffield
General Counsel
Texas Department of Community Affairs

Filed: March 21, 1988, 9:44 a.m.

For further information, please call (512) 834-6016.

Texas Education Agency Public Hearing Announcement

A public hearing will be held before the State Board of Education Committee for Finance and Programs on the proposed state plan for federal vocational education funding, fiscal years 1989-1990, starting at 9:30 a.m., on Friday, April 8, 1988, in Room 1-104 of the William B. Travis Building, 1701 North Congress Avenue, in Austin. This hearing is being held for the purpose of affording all segments of the public, independent school districts, postsecondary institutions, interested organizations, and groups an opportunity to present their views and make recommendations regarding the state plan. This document is the general application required to be submitted by the state to the United States Department of Education by May 1, 1988, in order for Texas to receive federal vocational education funds for fiscal years 1989-1990.

Individuals who wish to speak at the hearing shall register by calling Mark Butler, Program Planning Division, at (512) 463-9512. Copies of the proposed plan are available upon request. It is requested that individuals wishing to testify shall limit their comments to four minutes at the hearing. This limit may be reduced depending upon the number of individuals wishing to speak. It is also requested that individuals wishing to testify shall ensure that 30 written copies of their testimony are received by 5 p.m., Thursday, April 7, 1988. Copies should be mailed to Mark Butler, Texas Education Agency, Program Planning Division, Room 5-110, 1701 North Congress Avenue, Austin, Texas 78702.

Issued in Austin, Texas, on March 17, 1988.

TRD-8802861 W. N. Kirby
Commissioner of Education

Filed: March 18, 1988, 4:01 p.m.

For further information, please call (512) 463-9212.

Texas Department of Health Notice of Public Hearings

The Interagency Council on Early Childhood Intervention (ECI) announces public hearings on its plan for expenditure of the \$5.5 million allocated to the Council through the United States Department of Education. The money is supplemental to state dollars that finance programs for developmentally delayed infants and toddlers. The plan will be available for review prior to the hearings at the local ECI programs or at the state office in Austin. Call Mary Elder, ECI Administrator, (512) 465-2671 or write the Early Childhood Intervention Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Hearings are scheduled as follows: March 31, 1988, 11 a.m.-1 p.m., Texas Department of Human Services, John H. Winters Building, 701 West 51st Street, Austin, Texas (Contact Debbie Fisher - (512) 465-2671); April 6, 1988, 11 a.m. - 1 p.m., Easter Seal Rehabilitation Center, 2203 Babcock Road, San Antonio, Texas (Contact John Delgado - (512) 532-5158); April 13, 1988, 10:30 a.m. - 12:30 p.m., Region I Education Service Center, 1900 West Schunior Street, Edinburg, Texas (Contact Maria Elena Galvan - (512) 383-0121); April 19, 1988, 11 a.m. - 1 p.m., Beaumont I.S.D., Administration Building, Board Room, 3395 Harrison Avenue, Beaumont, Texas (Contact Julie Smith - (409) 985-5851); April 21, 1988, 11:30 a.m. - 1:30 p.m., Texas Tech Law School Court Room, Indiana

at 19th Street, Lubbock, Texas (Contact Gloria Galey or Ann Wood - (806) 766-1171).

Issued in Austin, Texas, on March 17, 1988.

TRD-8802814 Patti Patterson, M.D.
Chairperson for the Early Childhood
Intervention Council
Texas Department of Health

Filed: March 17, 1988

For further information, please call (512) 465-2671.

Request for Proposals

In accordance with the Maternal and Infant Health Act of 1985, Texas Civil Statutes, Article 4447y, the Texas Department of Health invites requests for proposals designed to provide comprehensive maternity care programs for low income pregnant women with high risk medical conditions, and for the health care of these infants. The proposals must meet the requirements and rules established by the Board of Health for this Maternal and Infant Health Care Program in 25 Texas Administrative Code §§37.231-37.243. The department plans to award a limited number of new contracts for the coming year. The deadline for the submission of proposals to the Department will be 5 p.m., April 25, 1988.

Proposals will be reviewed based on criteria outlined in §37.234 of the program rules covering contracts and written agreements. A copy of the rules are included in the application packet. Funding will begin in September, 1988, and may not extend past August 31, 1989.

Persons interested in applying for funds may receive an application packet by writing to Walter P. Peter, Jr. M.D., Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on March 17, 1988.

TRD-8802815 Robert A. MacLean, M.D.
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: March 17, 1988

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

State Board of Insurance Public Hearings

Notice is hereby given that a public hearing will be held under Docket 1574 before the State Board of Insurance at 10 a.m., April 6, 1988, in Room 105 of the John H. Reagan Building at 105 West 15th Street in Austin. The hearing will consider adoption of amendments to 28 TAC §§27.301-27.319, concerning rules for the regulation of persons engaged in the business of planning, selling, installing, maintaining, or servicing fire protection sprinkler systems. The amendments were published as a proposal with accompanying information in the January 26, 1988, issue of the *Texas Register* (13 TexReg 436). The hearing will be held in accordance with the legal authority and jurisdiction provided in the Insurance Code, Article 5.43-3, §3 and §7, and will involve the provisions of Article 5.43-3. The hearing and procedure will be governed by the provisions of the Administrative Procedure and Texas Register Act, (Texas Civil Statutes, Article 6252-13a) and the rules of practice and procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Subchapter A).

Please direct inquiries regarding this hearing to Ernest A. Emerson, State Fire Marshal, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 837-1428.

Issued in Austin, Texas, on March 21, 1988.

TRD-8802881 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: March 21, 1988, 9:48 a.m.

For further information, please call (512) 837-1428.

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Notice is hereby given that a public hearing will be held under Docket 1576 before the State Board of Insurance at 2 p.m. on Friday, April 8, 1988, in Room 414 of the State Insurance Building at 1110 San Jacinto Boulevard in Austin. The hearing will consider possible approval of investments by the Texas Catastrophe Property Insurance Association in a trust for short-term U.S. government securities. The hearing will be held in accordance with the legal authority and jurisdiction provided in, and will involve the provisions of, the Insurance Code, Article 21.49, and 28 TAC §5.4001(c)(1)(B)(iii). The hearing and procedure will be governed by the provisions of the Administrative Procedure and Texas Register Act, (Texas Civil Statutes, Article 6252-13a) and the rules of practice and procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Subchapter A).

Please direct inquiries regarding this hearing to G.J. Jones, Deputy Insurance Commissioner for Property Insurance, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 463-6235.

Issued in Austin, Texas, on March 21, 1988.

TRD-8802879 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: March 21, 1988, 9:48 a.m.

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

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Texas Savings and Loan Department Notice of Applications

Notice is hereby given that application has been filed with the savings and loan commissioner of Texas by First Texas Savings Association for approval to establish and operate remote service unit(s) at the following location(s): 7-Eleven Stores, Stop N Go, Kroger, Safeway, Albertson, Alpha Bowl stores, American Wholesale Club, Blackland Properties, Don Carter All Star Lanes, Hyatt Regency, Showplace Lanes, Six Flags Over Texas, Sunny's Food Store, Traders Village, and Troy Marketing.

The applicant association asserts that the security of the association's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the above application must file a written protest with the commissioner within 10 days following publication. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to §§53.11-53.16 of the rules of the Texas Savings and Loan Department. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the department's offices in the Finance Commission Building, 2601 North Lamar Boule-

vard, Suite 201, Austin, Texas.

Issued in Austin, Texas, on March 18, 1988.

TRD-8802855 Laura M. Hale
General Counsel
Texas Department of Savings and Loan

Filed: March 18, 1988, 4:15 p.m.

For further information, please call (512) 479-1250.

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Notice is hereby given that application has been filed with the savings and loan commissioner of Texas by Majestic Savings Association for approval to establish and operate remote service unit(s) at the following location(s): 5314 Arapaho, Dallas, Dallas County.

The applicant association asserts that the security of the association's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the above application must file a written protest with the commissioner within 10 days following publication. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to §§53.11-53.16 of the rules of the Texas Savings and Loan Department. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the department's offices in the Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin, Texas.

Issued in Austin, Texas, on March 18, 1988.

TRD-8802854 Laura M. Hale
General Counsel
Texas Department of Savings and Loan

Filed: March 18, 1988, 4:15 p.m.

For further information, please call (512) 479-1250.

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Secretary of State Notice of Preclearance

The Secretary of State submitted the 1988 Primary Finance Rules, published as 1 TAC §§81.100-81.131, in the November 27, 1987, issue of the *Texas Register* (12 TexReg 4438), to the United States Department of Justice for preclearance under the Voting Rights Act of 1965, §5, as amended, on February 16, 1988. Preclearance was obtained from the United States Department of Justice on February 29, 1988, and the rules are being implemented for the 1988 Primary and Primary Runoff.

Issued in Austin, Texas, on March 16, 1988.

TRD-8802755 Randall H. Erben
Assistant Secretary of State

Filed: March 16, 1988

For further information, please call (512) 463-5650.

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Texas Water Commission Enforcement Orders

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

ing information is submitted.

An enforcement order was issued to Rotocast Plastic Products, Inc. on March 16, 1988, assessing \$8,600 in administrative penalties.

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

Issued in Austin, Texas, on March 16, 1988.

TRD-8802774 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: March 16, 1988

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



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

An enforcement order was issued to the City of Mineral Wells on March 16, 1988, assessing \$4,350 in administrative penalties.

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

Issued in Austin, Texas, on March 16, 1988.

TRD-8802776 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: March 16, 1988

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



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

An enforcement order was issued to Alexa Enterprises, Inc., doing business as Engel Utility Company on March 16, 1988, assessing \$9,250 in administrative penalties, \$7,250 suspended, and imposing stipulated penalties.

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

Issued in Austin, Texas, on March 16, 1988.

TRD-8802775 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: March 16, 1988

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



Texas Water Development Board Request for Proposals

The Texas Water Resources Finance Authority (authority) is requesting proposals from underwriters, to serve as senior managing underwriter and/or co-managing underwriter, on a revenue bond issue to be sold for the purpose of using the revenue bond proceeds to acquire approximately \$406,000,000 Texas Water Development Fund portfolio will be used to defease the outstanding Texas waster development fund bonds. In addition, alternatives should be provided to defease the outstanding bonds and the board's primary obligation on the Palmetto Bend Reservoir project. A third alternative would be to defease the outstanding bonds, primary obligation of the board on the Palmetto Bend Reservoir project, and the board's secondary obligation on the Palmetto Bend Reservoir project.

Evaluation and Selection. The authority is requesting proposals from a number of firms through an individual invitation based on those firms' known expertise and qualifications. These firms will be given greater consideration because of their existing knowledge of the Texas Water Development Board's bond portfolio and the need to expeditiously award the contract.

It is requested that the following information be provided in writing: the qualifications and performance of your firm as an underwriter of fixed rate issues; the qualifications of your firm to act as a remarketing agent in variable rate issues; the names, qualifications, and experience of the individuals that your firm would assign to the authority's proposed revenue bond issue; and the commitment of your firm to continue participation as an underwriter of tax exempt issues for a three to five year period. We would expect a written confirmation of this commitment from the chief executive officer of your firm; a list of marketing concerns for a first time revenue bond issue by a first time issuer; if your firm is interested in serving as senior underwriting manager, please provide specific recommendations for structuring the transaction, including the benefits to be derived by either the Texas Water Development Board and/or the authority; for 1987 to date, list your firm's five largest senior managed revenue refunding issues; and a statement regarding the commitment of your firm to minority and women business participation within you firm. We are interested specifically in the number and percentage of minority and women employees in your firm by level of responsibility; and the ability of your firm to participate as managing or co-managing underwriter without violating any rule relating to net capita or financial responsibility imposed by law or regulation. We would expect the disclosure of any matter involving the violation or settlement of charges of having violated any regulation of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board, any state security regulatory body, any self-regulatory body, or any state or federal criminal statute within the past three years. The authority will award contracts based on an evaluation of the previously listed criteria.

Closing Date. Four copies of the proposals are due by noon, central standard time, Tuesday, April 5, 1988, at the Development Fund Manager's Office, 1700 North Congress Avenue, Stephen F. Austin Building, Room 516, Austin, Texas 78701. Informal oral discussion may be set up upon request on Wednesday, April 20, 1988, from 8 a.m. to 5 p.m. at the Texas Water Development Board, 1700 North Congress Avenue, Room 513F, Austin, Texas 78701. Oral presentation will be limited to 30 minutes, including time for questions from the authority. Any written material used in an oral presentation should be limited

to an amount readable in 15 minutes and should be submitted together with a request to make an oral presentation, at least five days in advance of your appearance. Seven copies of the written material should be provided at the discussion.

Contact Person. Questions regarding the proposal should be directed to George Janning, (512) 476-4372 of First Southwest Company, or Larry Catuzzi, (713) 853-2200 of Underwood Neuhaus Company, Incorporated, Financial Advisors.

Issued in Austin, Texas, on March 21, 1988.

TRD-8802875 M. Reginald Arnold II
Executive Administrator
Texas Water Development Board

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For further information, please call (512) 463-7850.

