

Texas Register

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Texas Register Publications

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512-463-5561

Jack M. Rains Secretary of State

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Dan Procter

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Jody Allen

Typographers

Ann Franklin

Janet McIntosh

Circulation/Marketing

Richard Kallus

Roberta Knight

TAC Editor

Dana Blanton

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Governor—appointments, executive orders, and proclamations

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

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

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings—notices of open meetings

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

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

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

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "13 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 13 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 using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number.

Texas Administrative Code

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

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

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

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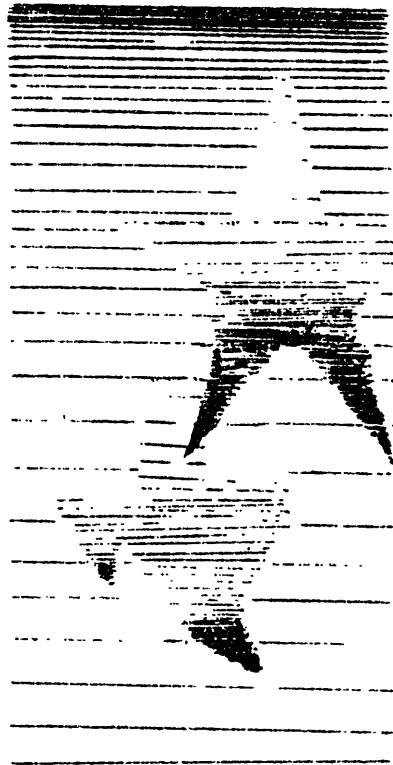
§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

Subscriptions—one year (96 regular issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues are available at \$3 per copy.

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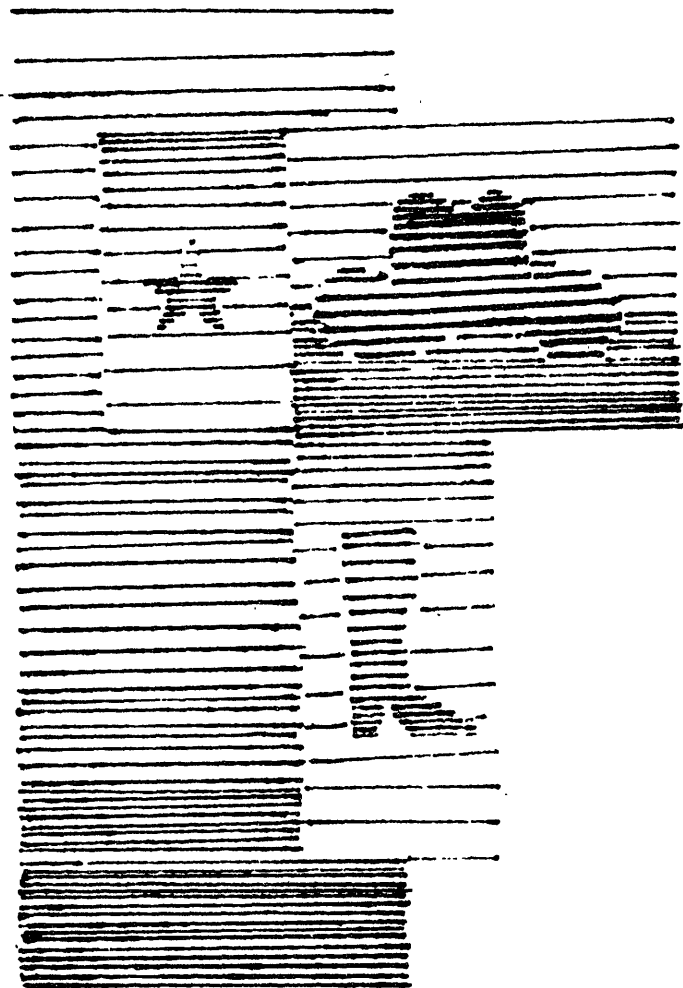
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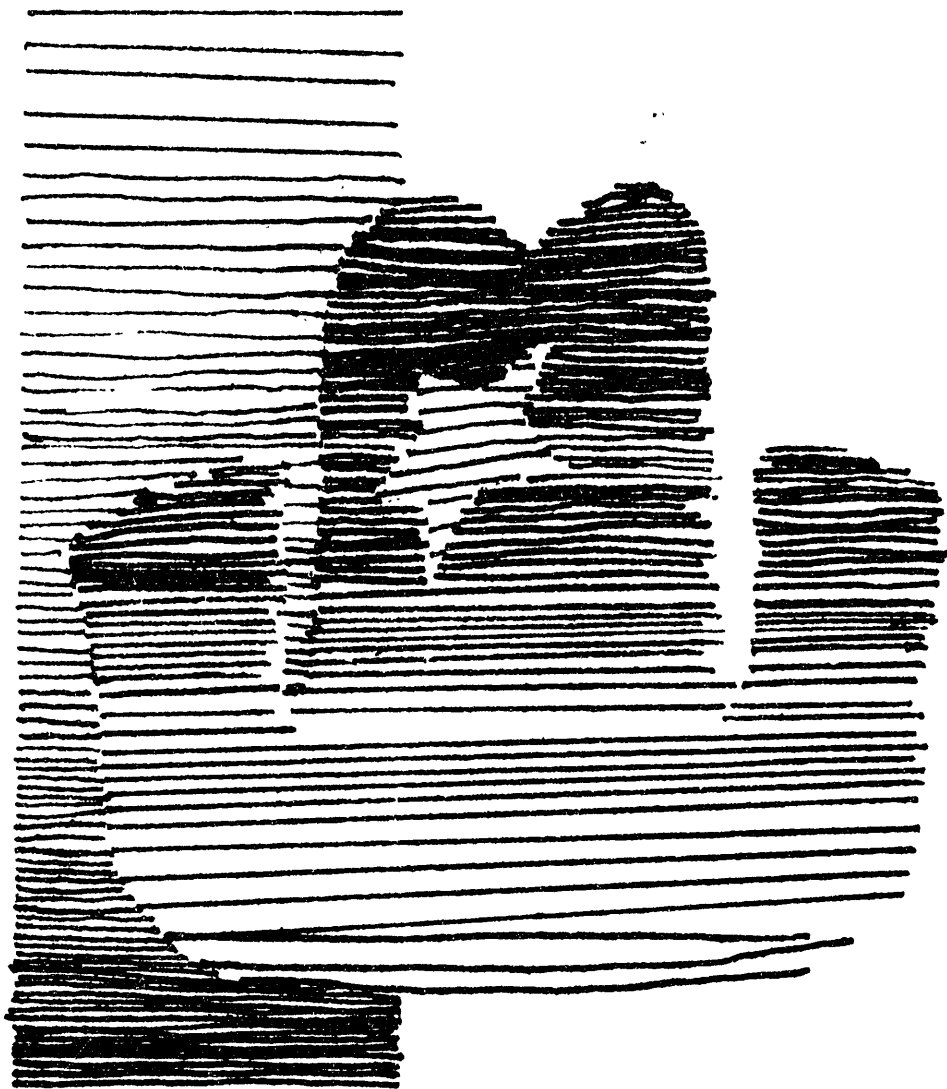
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School: Apollo Jr. High, Richardson

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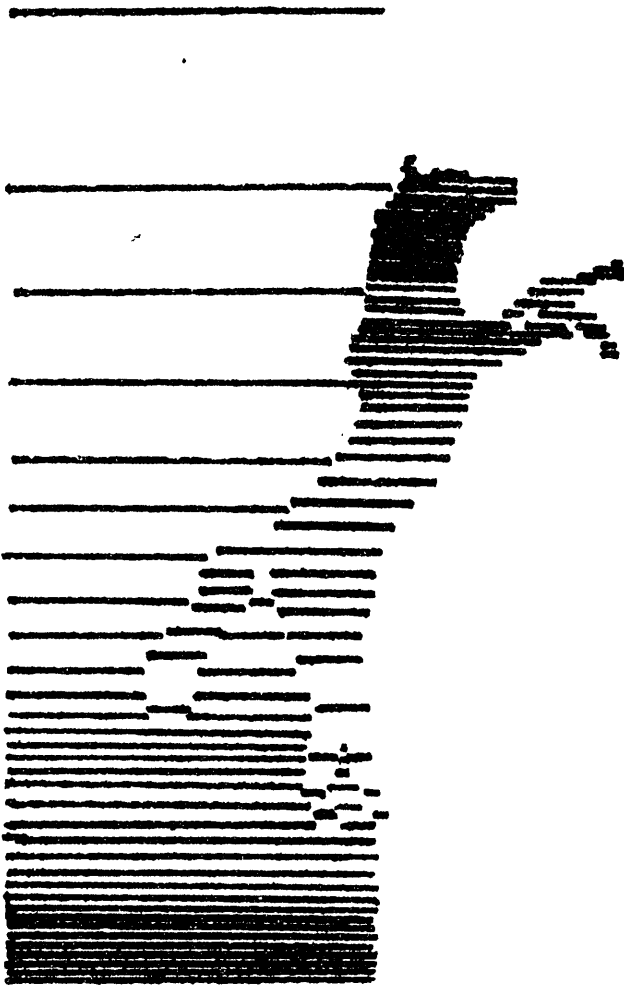
Name: Matt Clawson
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Name: Phebe Su
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School: Apollo Jr. High, Richardson



Name: Lisa Benat
Grade: 9
School: Apollo Jr. High, Richardson



Name: Amy Fessenden
Grade: 9
School: Apollo Jr. High, Richardson

[REDACTED]

Name: Pete Smith
Grade: 9
School: Apollo Jr. High, Richardson

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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 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.291

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.291, for a 60-day period effective September 13, 1988. The text of amended §3.291 was originally published in the May 24, 1988, issue of the *Texas Register* (13 TexReg 2419).

Issued in Austin, Texas on August 12, 1988.

TRD-8808294

Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: September 13, 1988

Expiration date: November 12, 1988

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

• 34 TAC §3.350

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.350, for a 60-day period effective August 16, 1988. The text of amended §3.350 was originally published in the April 22, 1988, issue of the *Texas Register* (13 TexReg 1959).

Issued in Austin, Texas on August 12, 1988.

TRD-8808296

Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: August 16, 1988

Expiration date: October 15, 1988

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

• 34 TAC §3.356

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.356, for a 60-day period effective August 23, 1988. The text of amended §3.356 was originally published in the April 29, 1988, issue of the *Texas Register* (13 TexReg 2063).

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Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

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Expiration date: October 22, 1988

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

Chapter 5. Funds Management (Fiscal Affairs)

Deferred Compensation-Vendor Participation

• 34 TAC §5.113

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §5.113 concerning vendor participation-deferred compensation plan. This section details the various requirements for entities participating in the deferred compensation plan administered by the comptroller.

The amendment is adopted on an emergency basis to give employees the right to transfer their account balances from one vendor to another even though the administrator of the deferred compensation plan may not believe that a transfer is in the best interests of an employee. The amendment also emphasizes the fact that the requirements for vendor participation in the plan are mandatory, not voluntary.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 6252-3b, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the deferred compensation program.

§5.113. Vendor Participation-Deferred Compensation Plan.

(a) Eligibility.

(1) (No change.)

(2) Banks. Each state or national bank desiring to participate in the plan must be domiciled in this state and have its deposits insured by the Federal Deposit Insurance Corporation. Each bank participating in the State of Texas deferred compensation plan, and which has on deposit over \$100,000 in total State of Texas funds, shall [must] provide 100% collateral for all amounts over \$100,000 in accordance with the rules of the State Treasury for state depositories.

(3)-(5) (No change.)

(b) Procedure.

(1) Each prospective vendor shall [must] complete an application in a format to be provided by the plan administrator.

(2) The application shall [must] be accompanied by the following documents:

(A)-(E) (No change.)

(3) If a vendor's name or legal entity changes through merger, sale, dissolution, or any other means, the plan administrator shall [must] be notified within 30 days. The notice shall [must] include a detailed description of the transaction resulting in the change. If the deferred compensation business will no longer be transacted by the same corporation or other legal entity that was an approved vendor, the entity assuming that business shall [must] apply for approval as a vendor within 30 days or transfer all deferred compensation business to another approved vendor.

(c) Review of products and materials.

(1) General provisions.

(A) Any provision in a product or contract that is contrary to a provision in the State of Texas deferred compensation plan shall [must] either be amended to conform to the plan through amendment or endorsement of the product or [the provision must be] separately listed on the State of Texas disclosure form described in §5.114(a) of this title (relating to Disclosure, Representations, and Violations). Amendments are subject to the requirements of acceptance and verification to the same extent as the original product contract.

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

(2) Insurance companies.

(A) The plan administrator shall [will] contact the State Board of Insurance to confirm that insurance policies and/or annuity contracts proposed for use in the deferred compensation plan are the same forms that have been accepted for sale in Texas.

(B) All insurance advertising submitted to the plan administrator for approval shall [will] be sent to the State Board of Insurance for additional review and must conform to the rules of that agency.

(3) Other vendors.

(A) Product contracts shall [will] be reviewed by the plan administrator to insure compliance with the plan and legality.

(B) Any advertising material specifically designed for use in the plan shall [will] be reviewed by the plan administrator for accuracy.

(C) (No change.)

(d) Product approval.

(1) The investments eligible for purchase are fixed and variable annuities; life insurance; mutual funds; or an account with a bank, savings and loan, or credit union. An account with a bank, savings and loan or credit union, or any other investment product not specifically authorized by statute, requires written approval by the plan administrator before it can be offered in the plan.

(2) Upon requesting approval to become a vendor in a plan, the company shall [will] be sent an application package, including a list of items which must be submitted for approval. Upon approval of the application and of the product and any advertising materials, the product approval notice shall [will] be signed by the plan administrator and a copy of the signed notice shall [will] be returned to the vendor.

(3) (No change.)

(4) No vendor shall [may] offer to any state employee any product or product contract that has not been approved by the plan administrator.

(5)-(6) (No change.)

(7) If a product offers a guaranteed rate of return, notice of any change in the rate shall [must] be given to the plan administrator and to all affected participants. No reduction of such rates shall [will] be effective unless such notice is given.

(e) Product advertising.

(1) No vendor shall [may] use any advertising material specifically designed for use in the plan unless prior approval has been received from the plan administrator.

(2) If a vendor does not intend use any printed advertising material specifically designed for use in the plan, it shall [must] provide the plan administrator

with a signed statement to that effect in lieu of requesting approval for any advertising material.

(3) (No change.)

(f) Solicitation of business.

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

(3) Agents or salesmen shall [must] have the appropriate state license for the type of product sold.

(4) Each vendor shall [must] advise the plan administrator of which of the following methods it will use to market its product, and shall [must] provide the plan administrator with the information required for that method.

(A) If the product is sold only through employees of the vendor, that fact shall [must] be stated and no further information is necessary.

(B) If the product is sold through independent agents or contractors through specific authority from the vendor, that fact shall [must] be stated and a list of all authorized agents or contractors shall [must] be provided to the plan administrator and updated by November 1 of each year.

(C) If the product is sold through independent agents or contractors who do not have a contractual relationship with or authorization from the vendor, that fact shall [must] be stated and no further information is necessary.

(5) Each vendor shall [must] designate specific contact personnel who will receive the deferrals, answer questions about account balances, and who will serve as a liaison between the plan administrator and vendor management concerning matters of administration and/or vendor reporting. Each contact person shall [must] notify the plan administrator in writing of any change in the designated personnel, address, or phone number within 30 days of the change.

(6) With the exception of mutual funds, each out-of-state vendor shall [must] designate a responsible individual in Texas as a point of contact for inquiry into any of the business of that vendor in the plan.

(g) Product contracts.

(1) State employee deferrals are initiated by completion of a participation agreement (Form #70-208). No vendor representative may turn in the participation agreement and any required documentation to the employee payroll office; it must be done by the state employee. The participation agreement shall [must] be signed by the new vendor or its designated agent when an initial salary deferral authorization is made, when there is an increase or decrease in the deferral amount, and when

there is a transfer in of a lump-sum payment.

(2) A specimen or duplicate copy of the insurance policy or annuity contract shall [must] be mailed or delivered directly to the participant if the participant requests a copy.

(3) All payments and benefits shall [will] be calculated without regard to the sex of the beneficiary.

(4) For life insurance policies, the following steps shall [must] be taken:

(A) (No change.)

(B) letter of intent to insure issued to participant. The letter of intent shall [must] notify the participant that the effective date of the policy will be the first day of the month in which the first deferral is received by the insurance vendor;

(C) if the participant requests a specimen copy, it shall [must] be delivered to the participant at the same time as the letter of intent;

(D)-(F) (No change.)

(5) The State of Texas is the owner and beneficiary of all deferred compensation products, the amounts contributed to those products, and all earnings. A subaccount should be established for each participant and shall [must] be identified as a State of Texas deferred compensation plan account.

(A) The Employer Identification Number, 74-6000089, and the mailing address of the plan administrator; deferred compensation Section, State Comptroller of Public Accounts, P.O. Box 13528, Austin, Texas 78711, shall [must] be on record with the vendor.

(B) (No change.)

(h) Reporting.

(1) General requirements.

(A) All reports shall [must] be on computer tape or diskette in a format prescribed by the plan administrator, or manually in a format that is data-entry ready and prescribed by the plan administrator.

(B) Any vendor with 50 or more participants shall [must] report by tape or diskette.

(C) The types of products shall be defined and coded as prescribed by the plan administrator.

(D) (No change.)

(2) Reports to the participant.

(A) For life insurance policies, each vendor shall [must] provide each participant with a report not less than once each calendar year. The period covered by the report may be either the calendar year or the policy year.

(B) All other product vendors shall [must] report to participants at least once each calendar quarter and shall [must] include the following information: amount of deferrals, including transfers in; interest earned or accumulated value; any applied product costs or surrender charges; withdrawals; and ending balance/cash value.

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

(3) Reports to the plan administrator.

(A) Mutual funds shall [must] include the price of shares when reporting number of shares the last working day of August or when confirming a distribution to the participant.

(B)-(E) (No change.)

(F) Penalties for late and incomplete reports.

(i) (No change.)

(ii) An incomplete or incorrect report that must be returned to the vendor shall [will] be considered a late report.

(iii) (No change.)

(iv) Any vendor that does not file a report within 45 days after the due date shall [will] be considered a non-filer. Non-filers shall [will] be removed from the program.

(i) Transfer of account balance.

(1) (No change.)

(2) The new vendor shall [must] provide a disclosure form for the new product selected.

(3) The plan administrator shall [will] direct liquidation of the current account, payable to the state, and then endorse payment of the proceeds to the new vendor.

(4) Transfers of account balances may be reviewed and disapproved by the plan administrator if the transfer is not in the best interests of [the participant or] the plan.

(5) The plan administrator may recommend to a participant that a transfer not occur when the plan administrator determines that the transfer

would not be in the best interests of that participant. After receiving such a recommendation, a participant may still transfer his account balance after signing a statement acknowledging the receipt of the plan administrator's recommendation.

(6)[(5)] Any check for a transfer of amounts deferred shall [must] be made payable to the State of Texas so it may be reinvested with another vendor company.

(j) Distribution of deferred compensation accounts.

(1) (No change.)

(2) Authorization of transfers and distributions.

(A) A letter of authorization for the transfer or distribution of deferred compensation funds will be the only authorization signed by the plan administrator. No vendor forms will be completed by the plan administrator and the vendor shall [must] agree to waive additional authorization forms, including signature guarantees by a commercial bank. The plan administrator shall [will] provide each vendor with authorized signatures for transfers and distributions.

(B) (No change.)

(3) Confirmations. All letters authorizing a lump-sum deposit or distribution to a participant or beneficiary shall [must] be acknowledged in a format prescribed by the plan administrator.

(4) Distribution plans.

(A) Each participant shall [must] file a distribution plan with the plan administrator within 30 days of separation from state employment. Failure to file a distribution plan shall [will] result in the plan administrator authorizing an immediate lump-sum distribution to the participant by the vendor.

(B) The distribution plan shall [will] direct the timing and amounts of payments from the participant's [employee's] deferred compensation account. Once designated, the beginning date of distributions shall [may] not be changed.

(C) (No change.)

(D) Distribution plans shall [must] be consistent with the distribution options available under the investment contract in which the participant's [employee's] deferrals are invested.

(5) If a product contract is declared null and void and there is a refund of all deferrals, the refund shall [must] be

made payable to the State of Texas. There can be no personal refunds to a participant.

(6) Vendors shall [must] process disbursements and resolve any administrative problems with the plan administrator within a reasonable length of time, not to exceed 30 days.

(7) Federal taxes.

(A) (No change.)

(B) The vendor shall [must] file all reports required by the Internal Revenue Service when any amounts are distributed to the participant. All distributions to the participant are taxable as ordinary income and should be reported on a W-2 form; they are not considered supplemental wages (Revised Ruling 82-46; Reg 31.6051-1(a)). The employer identification number (EIN) can be that of the plan administrator or the vendor.

(C) The vendor shall [must] accurately determine any amounts to be withheld for taxes based on a W-4 submitted by the participant at the time of a distribution. If no W-4 is provided, the participant should be taxed as if the participant were single with no dependents. TEFRA does not apply to a §457 plan (§35.3504-1, Temporary Employment Tax Regulations, News Release R-982, October 8, 1982); withholding is not by election.

(D) (No change.)

(E) Copies of all reports filed with the Internal Revenue Service shall [must] be mailed to the participant's home address.

(k) The vendor shall reimburse the State of Texas for any financial loss due to the failure of a vendor to process the state's request for a disbursement, transfer of account balance, or a change of product within a reasonable length of time, not to exceed 30 days.

(l) Termination of vendor participation.

(1) A vendor may voluntarily terminate its participation in the State of Texas deferred compensation plan after notifying the plan administrator. Participants shall [must] be given not less than 60 days notice of the vendor's intent so they may select a new vendor. Participants who have not transferred their account balances within a reasonable period may be transferred by the vendor as long as there is no loss of principal, earnings, or other benefits to the participant. Transfers of accounts without participant approval must be approved by the plan administrator.

(2) A vendor that does not have a balance in any deferred compensation ac-

count for 12 consecutive months shall [will] be terminated as a vendor.

(3) (No change.)

Issued in Austin, Texas, on August 15, 1988.

TRD-8808329

Bob Bullock
Comptroller of Public
Accounts

Effective date: August 15, 1988

Expiration date: December 13, 1988

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

◆ ◆ ◆
• 34 TAC §5.114

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §5.114, concerning disclosure, representations, and violations. This section contains requirements concerning the disclosure of investment product information to participants in the deferred compensation plan and provides for remedies if those requirements are violated.

The amendment is adopted on an emergency basis to ensure the full disclosure to participating state employees of the cost of transferring insurance policies from one vendor to another. The amendment also changes the administrative procedures that must be followed when a vendor, agent, or salesman is removed from or restricted in the activities it may perform in the program. Finally, the amendment emphasizes the fact that the disclosure requirements are mandatory, not voluntary.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 6252-3b, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the deferred compensation program.
§5.114. Disclosure, Representations, and Violations.

(a) Disclosure.

(1) Disclosure form.

(A) The plan administrator shall [will] provide a disclosure form to each vendor. The vendor shall [will] complete the form to include basic information for each product offered in the plan.

(i) Basic information common to all products and not dependent on the individual purchaser shall [must] be uniformly stated on all disclosure forms.

(ii) Disclosure of costs and product information that is dependent on the individual purchaser shall [must] be filled in by the vendor representative at the time the state [employee] and the vendor sign the participation agreement and the disclosure form.

(B) Approval and use of disclosure forms.

(i) [Within 60 days after the effective date of this section, or] When requesting approval of a new product to be offered in the deferred compensation plan, each vendor shall [must] submit a proposed disclosure form to the plan administrator.

(ii) A separate disclosure form shall [must] be submitted for each product offered. Two or more products may not be described on the same disclosure form.

(iii) The plan administrator and/or the regulatory agency for the type of product offered shall [will] review the disclosure form to insure that it accurately describes the product offered. If any discrepancy is noted, the plan administrator or the regulatory agency shall [will] contact the vendor to resolve the dispute.

(iv) Upon approval of a disclosure form, the plan administrator shall [will] notify the vendor. The vendor shall then have the approved form reproduced to give to each prospective participant.

(v) (No change.)

(vi) [For a period of six months following the effective date of this section, the vendor may use the proposed disclosure form whether or not approval has been received from the plan administrator. After that date, or upon approval of its disclosure form, whichever is earlier,] A vendor may solicit deferred compensation business only for products for which a disclosure form has been approved by the plan administrator and shall [must] provide each prospective participant a copy of the approved form.

(C) Information that will not conveniently fit in the space allowed on the disclosure form shall [must] be attached to the disclosure form. This includes schedules of payments, charges, cash values, or any other items required to be disclosed.

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

(4) For products with variable interest rates, the disclosure form shall [must] state under current interest rate, the word "variable", and provide a blank for the agent or salesman to provide the current interest rate, to the extent permitted by federal law, and the date for which that rate was effective. A misstatement of the current interest rate by more than 0.25% shall [will] be considered failure to provide a disclosure form.

(5) If an insurance agent sells a state [an] employee an additional or replacement life policy, the agent shall [must] provide his company and the state employee with a statement in writing of sufficient reason why the participant would benefit from an additional or replacement policy. The written statement by the agent shall become a part of the disclosure form.

(A) The written statement for a replacement life policy shall close:

(i) the exact time that will be necessary for the cash value of the replacement life policy to reach the cash value of the original life policy as of the date of the replacement; and

(ii) the earliest possible date on which the participant could withdraw funds from the replacement life policy in the event of financial hardship.

(B)(A) Sufficient reason for an additional or replacement policy shall be determined by the new vendor.

(C)(B) The written statement shall [must] be reviewed by the Plan Administrator before deferral is authorized by the state employee's state agency.

(D) The written statement shall not be deemed to have been provided to a state employee unless the state employee signs the statement. If the state employee refuses to sign the statement, then the agent shall not sell an additional or replacement life policy to that state employee. The agent shall permanently retain a copy of the signed written statement.

(b) (No change.)

(c) Endorsements.

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

(3) The advertising material shall [must] state the relationship between the vendor and the person or organization making the endorsement and the basis for the endorsement.

(d) (No change.)

(e) Remedies.

(1) The plan administrator may cancel product contracts or participation agreements and require a vendor to refund deferrals plus interest when that vendor uses methods to obtain product contracts or participation agreements in violation of this section or §5.113 of this title (relating to Vendor Participation-Deferred Compensation Plan). [Product contracts or participation agreements obtained through methods that violate these sections are subject to rescission and refund of all deferrals plus interest.]

(2) The plan administrator may either remove a vendor from the program or restrict its right to acquire new business when that vendor violates this section or §5.113 of this title (relating to Vendor Participation-Deferred Compensation Plan). If a vendor is removed from the program, the vendor may not resume its participation in the program for at least two calendar years after the

effective date of the removal. [A vendor that violates these sections is subject to removal from the program or a restriction of its right to acquire new business. If removed from the program, the vendor is not eligible to participate in the program again for at least two years.]

(3) **The plan administrator may prohibit an agent or salesman from further solicitation or acceptance of deferred compensation business when that agent or salesman violates this section or §5.113 of this title (relating to Vendor Participation-Deferred Compensation Plan).** If an agent or salesman is prohibited from further solicitation or acceptance of deferred compensation business, the agent or salesman may not resume participation in the program for at least two calendar years after the effective date of the prohibition. [An agent or salesman who violates these sections is subject to a prohibition from further solicitation or acceptance of deferred compensation business. If prohibited from further solicitation or acceptance of deferred compensation business, the agent or salesman is not eligible to participate in the program again for at least two years.]

(4) Possible violations of state insurance or security laws or regulations

shall [will] be referred to the State Board of Insurance or the State Securities Board for action.

(5) **The plan administrator may require a vendor that is removed from the program to [must] transfer all [deferred compensation] product contracts to another vendor remaining in the program without [with no] loss to the State of Texas or participants [the participant].**

(f) Procedure.

(1) **The plan administrator may act without a hearing when necessary to remedy or protect either the deferred compensation plan or its participants from an actual or imminent violation of this section or §5.113 of this title (relating to Vendor Participation Deferred Compensation Plan).** [If a complaint is received concerning any vendor, agent, or salesman, or if the plan administrator has cause to object to the actions of any vendor, agent, or salesman, notice and opportunity for hearing will be afforded the vendor, agent, or salesman before action is taken by the plan administrator. See the comptroller's Rules of Practice and Procedure, §§1.1-1.43 concerning Practice and Procedure.]

(2) **Before the plan adminis-**

trator may remove a vendor from the program or prohibit an agent or salesman from further solicitation or acceptance of deferred compensation business, notice of and opportunity for hearing shall be afforded the vendor, agent, or salesman in accordance with the comptroller's Rules of Practice and Procedure. [Violations of contractual obligations will not be handled through administrative procedures. If a satisfactory agreement cannot be reached, these matters will be referred to the attorney general.]

(3) **In lieu of pursuing administrative remedies, the plan administrator may refer violations of this section or §5.113 of this title (relating to Vendor Participation-Deferred Compensation Plan) or noncompliance with a vendor's contractual obligations to the attorney general for appropriate action.**

Issued in Austin, Texas, on August 15, 1988.

TRD-8808328

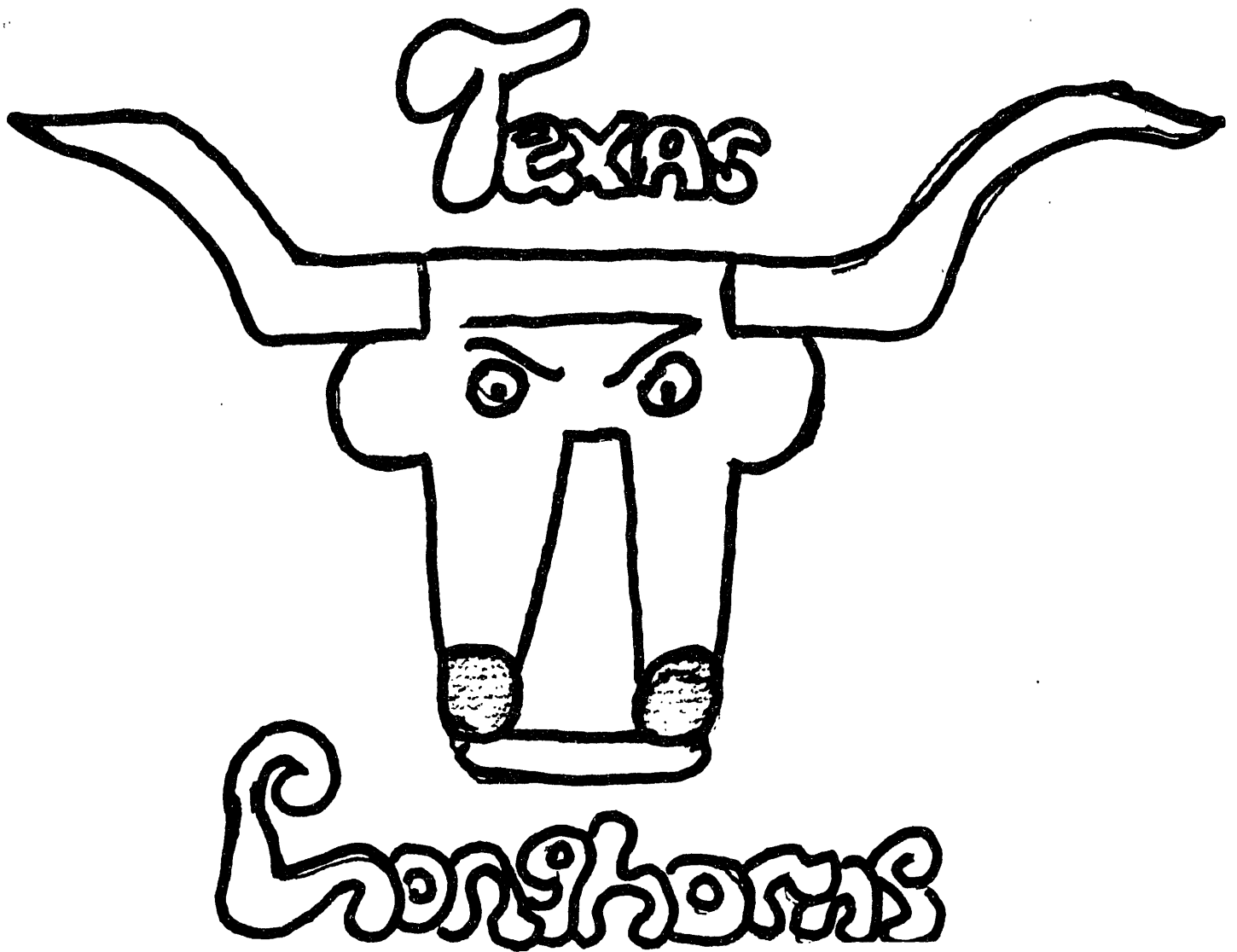
Bob Bullock
Comptroller of Public
Accounts

Effective date: August 15, 1988

Expiration date: December 13, 1988

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





Name: Lukwon McClellan
Grade: 5
School: Stults Road Elementary,
Richardson

1.01, et seq., §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act. §95.505. *Credit Union Department Access to the TSGCU Records and Data.* All information, except statements intended for publication, obtained by TSGCU relative to the financial conditions of credit unions, whether obtained through examination or otherwise, and all files and records to TSGCU relative to that information are confidential and not for public record or inspection. Notwithstanding the foregoing, the books, records, securities, assets, property, papers and other sources of information of the TSGCU shall be at all times subject to examination by the commissioner or his duly authorized representative and the TSGCU shall upon request, promptly furnish such persons full and free access to all such records and information sources. The TSGCU shall furnish to the commissioner such other documents and reports as he may, from time to time, request.

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 August 12, 1988.

TRD-8808269 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §95.506

The Credit Union Department proposes an amendment to §95.506, concerning authority for Texas Share Guaranty Credit Union to examine member credit unions.

John R. Hale, commissioner, 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. Hale 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 TSGCU will have greater authority for examining member credit unions. The anticipated economic cost to individuals who are required to comply with the section as proposed will not be greater than presently exists.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461-1.01, et seq., §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act. §95.506. *Authority* [Authorization by Com-

missioner for the TSGCU] to Examine Credit Unions [Union]. The board of directors of the TSGCU or its duly authorized representatives [representative] may but shall not be required [be authorized by the commissioner] to conduct an examination or audit of any member credit union with prior written notice [upon written request by the board of directors of the TSGCU] to the commissioner. [The commissioner's authorization shall be in writing and may include any specific instructions he deems advisable.] The cost of such examination or audit shall be paid by the member credit union with the approval of the commissioner [TSGCU].

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 August 12, 1988.

TRD-8808268 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §95.508

The Credit Union Department proposes new §95.508, concerning reporting of financial data to Texas Share Guaranty Credit Union by member credit unions.

John R. Hale, commissioner, 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. Hale 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 authority is prescribed for Texas Share Guaranty Credit Union to obtain financial reports. 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 Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461-1.01, et seq., §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act. §95.508. *TSGCU Access to the Member Credit Union Records and Data.* The books, records, securities, assets, property, papers, and other sources of information of each member credit union shall be at all times subject to review or inspection by the TSGCU or its duly authorized representative, and each member credit union shall upon request promptly furnish such person full and free access to all such re-

cords and information sources. Each member credit union shall furnish to the TSGCU such other documents and reports as it may, from time to time, request.

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 August 12, 1988.

TRD-8808267 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 837-9236

◆ ◆ ◆
TITLE 22. EXAMINING
BOARDS

Part IV. Texas
Cosmetology
Commission

Chapter 83. Sanitary Rulings

• 22 TAC 83.1

The Texas Cosmetology Commission proposes an amendment to §83.1, concerning enforcement.

Norman Jenkins, executive director, 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. Jenkins 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 clarify the specific intent of the section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ms. Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.1. *Enforcement.*

(a) (No change.)

(b) To assure compliance with the statutes and regulations governing the operation of schools and salons, the Texas Cosmetology Commission, or its authorized representatives, shall have the right of access to any school or salon at any time that the instruction or practice of cosmetology is being conducted for the purpose of inspecting the premises, and the equipment, supplies, licenses, and all books and records relating to the training or practice of cosmetology. A person who is in violation of the Cosmetology Act, the general rules and

regulations of the commission, or the sanitary rulings of the commission may be enjoined and restrained by a district court from violating said Act or commission rules.

(c) (No change.)

(d) Every cosmetology school or salon, as defined by the statutes to regulate the practice of cosmetology in the state of Texas, shall be given a sanitary rating covering the entire establishment according to the filed floor plan, and must meet the following requirements.

(1) The rating given said school or salon shall be posted in the reception desk area in public view. [The rating given said school or salon shall be posted in a place conspicuous to the public at all times.]

(2) A salon or school operating in violation of these rules and regulations, or which operates with a sanitary rating of less than 80%, shall be issued a notice of violation. If the violation is not corrected in 10 days, an informal hearing may be initiated by the executive director. [No cosmetology school or salon shall be permitted to operate with a grade of less than 80%.]

(3) Violation of any of these rules and regulations, or operating a hair-dressing establishment which fails to receive a sanitary rating of at least 80%, shall be issued a violation. If not corrected in 10 days, an informal hearing could be initiated by the executive director. [shall be of sufficient cause for the revocation of the license. If not corrected within 10 days from the date of issuance, a show cause hearing shall be initiated by the executive director, in accordance with the provisions as established by the statutes regulating cosmetology, codified as Article 8451a, §36(2).]

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 August 15, 1988.

TRD-8808340 Norma L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §83.3

The Texas Cosmetology Commission proposes an amendment to §83.3, concerning proper quarters.

Norman L. Jenkins, executive director, 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 en-

forcing or administering the section.

Mr. Jenkins 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 deletion of a section which no longer serve the purpose for which it was originally intended. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.3. *Proper Quarters.*

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

[(c) Every establishment shall display at its main entrance a sign, or other markings, clearly visible at all times that the establishment is open, indicating that it is a beauty, wig, or specialty salon, or school.]

(c)[(d)] No cosmetology salon or school shall, in any manner, represent or permit a representation to be made in its behalf that it is a barber shop, whether made by use of a display or a device similar to a barber pole or otherwise. It may however, advertise that services for males are available, with the exception of shaving.

(d)[(e)] The use of a beauty establishment as living, dining, or sleeping quarters shall be prohibited. Residential salons shall maintain a separate entrance which shall not open off from the living, dining, or sleeping quarters, and all doors opening into such quarters shall be permanently sealed.

(e)[(f)] Doors and windows shall be effectively screened. Necessary ventilation shall be provided at all times and adequate light shall be provided for the operator.

(f)[(g)] Styling stations, styling bars, dresserettes, or working stations must be kept clean at all times to the sight and touch. All drawers and shelves of the above being used for the storage of rollers, brushes, combs, pins, nets, and equipment must have proper sanitation, and shall not be used for storage of nonrelated cosmetology equipment or supplies. One drawer or cabinet may be designated for storage of personal items.

(g)[(h)] Each booth shall be provided with adequate light fixtures which shall be kept in a sanitary, safe manner.

(h)[(i)] The premises shall be kept free of rodents, vermin, flies, or other similar insects.

(i)[(j)] Equipment such as dryer heads, filters, manicuring table and trays must be kept clean at all times.

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 August 15, 1988.

TRD-8808339 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §83.4

The Texas Cosmetology Commission proposes an amendment to §83.4, concerning toilets-bathrooms.

Norman Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will now indicate that toilet facilities or a public restroom must be made available in all salons. 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 Ms. Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.4. *Toilet-Bathrooms.*

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

(c) Provision must be made for toilet facilities within the salon or a public restroom available. [These provisions shall not apply to cosmetology establishments within a home that were in operation prior to September 1971, unless the ownership changes.]

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 August 15, 1988.

TRD-8808338 Norma L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §83.18

(Editor's note: The text of the following section proposed for repeal will not be published. The

section may be examined in the offices of the Texas Cosmetology Commission or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Cosmetology Commission proposes the repeal of §83.18, concerning creams, lotions, powders, and other cosmetics. The repeal is proposed because this section no longer serves the purpose for which it was originally intended.

Norman Jenkins, executive director, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Jenkins also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the elimination of an unnecessary regulation. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Ms. Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.18. Creams, Lotions, Powders, and Other Cosmetics.

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 August 15, 1988.

TRD-8808337 Norma L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §83.19

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Cosmetology Commission or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Cosmetology Commission proposes the repeal of §83.19, concerning the removal of cream and other cosmetics from container. The repeal is proposed because this section no longer serves the purpose for which it was originally intended.

Norman Jenkins, executive director, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Jenkins also has determined that for each year of the first five years the repeal is in

effect the public benefit anticipated as a result of enforcing the repeal will be the elimination of an unnecessary regulation. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.19. Removal of Cream and Other Cosmetics from Container.

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 August 15, 1988.

TRD-8808336 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §83.20

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Cosmetology Commission or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Cosmetology Commission proposes the repeal of §83.20, concerning the removal of cream and other cosmetics. The repeal is proposed because this section no longer serves the purpose for which it was originally intended.

Norman Jenkins, executive director, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Jenkins also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the elimination of an unnecessary regulation. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.20. Removal of Applied Cosmetics.

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 August 15, 1988.

TRD-8808335 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
Chapter 89. General Provisions

• 22 TAC §89.9

The Texas Cosmetology Commission proposes an amendment to §89.9, concerning student permits.

Norman L. Jenkins, executive 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the amendment will standardize the manner in which student permits are displayed. 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 Janice Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.9. Student Permit. The \$25 non-refundable permit fee shall include one examination fee and a transcript of hours fee. Each student must have a permit with a picture affixed displayed in an album [or a reasonable manner] in the school in which they are enrolled.

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 August 15, 1988.

TRD-8808354 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

• 22 TAC §89.10

The Texas Cosmetology Commission proposes an amendment to §89.10, concerning monthly hour reports.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the amendment will standardize the manner in which monthly hour reports are displayed. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.10. Monthly Hour Report. On a form prescribed by the commission, the school will display the monthly hour report in an album or binder so that the student, under supervision, may review his/her hours [post in a conspicuous place], no later than the 10th day of the month following, a record of hours acquired by each student during the preceding month. Each student enrolled must be given the opportunity to sign or initial the report. The report will be kept available for inspection by the student or a representative of the Texas Cosmetology Commission. One copy of the monthly hour report will be given to the commission inspector each month. The copy must be signed by the school official. Students enrolled in a cosmetology or specialty course are prohibited from preparing hour reports or supporting documents. Student instructors may prepare hour reports.

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 August 15, 1988.

TRD-8808353 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.15

The Cosmetology Commission proposes an amendment to §89.15, concerning definitions of license authorizations. The proposed amendment will indicate that the licensee of student must attach a photograph of him/herself on license or permit.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will eliminate identity confusion regarding licensees and students. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.15. Definitions of License Authorizations.

(a) Instructor license. An instructor license authorizes the holder to instruct in any approved cosmetology school, or program, and practice all phases of cosmetology in a beauty salon or practice any of the specialties in a licensed specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(b) Cosmetologist. A cosmetologist (operator) license authorizes the holder to practice all phases of cosmetology in a beauty salon or any specialties in a specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(c) Wig specialist. A wig specialist certificate authorizes the holder to practice wiggery, hairweaving, or perform eye tabbing in a beauty or specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(d) Manicurist. A manicurist license authorizes the holder to practice manicuring and pedicuring in a licensed beauty or specialty salon. A manicurist shall not treat or remove calluses, soft calluses, or ingrown nails. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(e) Shampoo-conditioning specialist. A shampoo specialist certificate authorizes the holder to practice the art of a shampooing, application of conditioners and rinses, scalp manipulation, and shampooing hair goods in a licensed beauty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license. No other service may be performed. To do so will lead to revocation of a specialty license.

(f) Facial specialist. A facial specialist certificate authorizes the holder to practice facial, application of facial cosmetics, manipulations, eye tabbing, arches, lash and brow tints, and the temporary removal of superfluous hair by the use of depilatory, mechanical tweezers, or wax in a licensed beauty or specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license. No other service may be performed. To do so will lead to revocation of a specialty license.

(g) Hairweaving specialist. A hairweaving specialist certificate authorizes the holder to practice the art of hairweaving in a licensed beauty or specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license. No other service may be performed. To do so will lead to revocation of a specialty license.

(h) Temporary license. A temporary license authorizes the holder of a valid license from another state or nation to practice cosmetology in the State of Texas for 60 days while waiting for a reciprocity clearance or waiting to take the commission examination. A temporary license is not renewable. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(i) Student permit. A student permit authorizes the holder to practice cosmetology only in an approved school, and only after 10% of the required hours for graduation (150 hours for public high school students) are accrued. A photograph of the student approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the permit.

(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 August 15, 1988.

TRD-8808352 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.16

The Texas Cosmetology Commission proposes an amendment to §89.16, concerning license cancellations. The proposed amendment will eliminate confusion as to what services may be performed by license or certificate holders.

Norman L. Jenkins, executive director, 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 govern-

ment or small businesses as a result of enforcing or administering the section.

Mr. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will more clearly define which services may be performed by license or certificate holders. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.16. License Cancellations. A licensee or certificate holder holding one of the licenses or certificates shall only perform the cosmetology services permitted by his/her individual license or certificate [A licensee or certificate holder holding one of the licenses or certificates] listed in §89.15 of this title (relating to Definitions of License Authorizations). A licensee or certificate holder who is found to be performing for a fee or consideration [of] a service for which a person is not licensed or certified is in violation of the statutes, and may have the license they hold canceled. Nothing in these rules and regulations shall be construed to apply to the education activities conducted with any monthly, annual, or other special educational programs of any association utilizing licensed cosmetologists in Texas or elsewhere, from which the general public is excluded. This will apply only to specific day or days of any monthly or other special program of any association of licensed cosmetologists. A licensed cosmetologist from Texas, or any other state, may not, however, hold classes when it is not in conjunction with a bona fide association unless they seek clearance, in writing, from the executive director of the Cosmetology Commission, 10 days prior to said classes.

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 August 15, 1988.

TRD-8808351 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.17

The Texas Cosmetology Commission proposes an amendment to §89.17, concerning instructor applicants. The proposed amendment will notify instructor applicants that a registration form is necessary prior to reentering beauty school.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will notify student instructors that a registration form must be completed prior to reentering beauty school. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.17. Instructor Applicants. The student instructor must have a valid Texas operator's license before reentering beauty school to complete additional 750 hours in cosmetology courses and methods of teaching, and must provide a high school diploma or a GED equivalent and a properly completed registration form prior to reentering beauty school in order to receive hours for the instructor course. [prior to enrollment.] A licensed cosmetologist who can verify three years operator experience in a licensed beauty salon may also qualify for the instructor examination, provided he/she meet the other instructor requirements.

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 August 15, 1988.

TRD-8808350 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.21

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Cosmetology Commission or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Cosmetology Commission proposes the repeal of §89.21, concerning proof of valid hours. The repeal is proposed because the section no longer serves the purpose for which it was intended.

Norman L. Jenkins, executive director, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Jenkins also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the elimination of an unnecessary regulation. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.21. Thirty-six Month Valid Hours.

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 August 15, 1988.

TRD-8808349 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.30

The Texas Cosmetology Commission proposes an amendment to §89.30, concerning the examination application. The proposed amendment will eliminate confusion regarding examination applications.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will define more clearly the procedures for an examination application. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.30. Examination Applications. Application for examination must be filed and processed and the examinee will be notified 10 days prior to his/her examination date. The examination application con-

sists of the verification of the applicant's completion of the total hours required, a current health certificate which includes a tuberculosis test, and a current photograph. [Application for examination must be filed 10 days prior to the first date set by law for examination and verify the applicant has completed the total hours required in the particular course of instruction at that time. The examination application consists of the front portion of the permit with a photograph, the second portion labeled application, and a health certificate not over one year old which includes a tuberculosis test.] A copy of the student permit and photograph must be posted in the school should the student continue to attend and accrue hours between the time of application and date scheduled for exam. The applicant will be required to furnish a valid Texas driver's license, a Texas Department of Public Safety identification card, a military identification card, a school identification card with a picture, or a resident alien card as proof of identification prior to admittance for examination. No other proof will be accepted. Students holding dates scheduled for exam who do not appear without a seven-day notice to the commission of cancellation may be denied scheduling for at least 60 days.

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 August 15, 1988.

TRD-8808348 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.34

The Texas Cosmetology Commission proposes an amendment to §89.34, concerning applicants for licensure through reciprocity. The proposed amendment will eliminate confusion as to the requirements for reciprocity.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will clarify the requirements for application for reciprocity. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.34. *Applicants for Licensure through Reciprocity.*

(a) (No change.)

(b) Any person who seeks licensure in the State of Texas through reciprocity from another nation shall:

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

[(3) furnish a copy of the nation's laws, rules, or regulations which set out the standards for licensure in that country;]

(3)[(4)] furnish notarized English translation and acknowledgment of statutes and other documentation written in another language;

(4)[(5)] furnish notarized letters of employment from past employers (one year of work experience will equal 250 hours of training); and

(5)[(6)] complete his application for reciprocity on a form provided by the commission and submit a \$100 reciprocity fee, plus a license fee.

[(c) An applicant who can meet all of the requirements in subsections (a) and (b) of this section, with the exception of a current license or certificate, may take the examination.]

[(d) An applicant who holds a current license or certificate from another state or nation and meets all requirements in subsections (a) and (b) of this section with the exception of the required number of hours or equivalent work experience, may be examined to prove competence for licensure. An applicant who successfully completes the examination will be issued a license upon submission of the fee required for reciprocity. An applicant who fails to successfully complete the examination will be required to accrue the needed hours in a licensed or approved school of beauty culture. Upon completion of the training the applicant will be eligible for examination. Upon successful completion of the examination and payment of the reciprocal fee, the applicant may be issued a license.]

[(e) An applicant who is aggrieved by the decision of the commission not to grant reciprocity may request a formal commission hearing to review the decision. Such request must be in writing and submitted to the commission within 15 days of the decision not to grant reciprocity.]

[(f) Any commission hearings held as a result of a request for a review shall be conducted in accordance with §89.57 of this title (relating to Disciplinary Hearings), §89.58 of this title (relating to Continuances), §89.61 of this title (relating to Record of Hearings), §89.63 of this title

(relating to Findings and Final Orders), §89.64 of this title (relating to Proceedings for Review), §89.65 of this title (relating to Transmission of Record to Reviewing Court), §89.66 of this title (relating to Informal Disposition), and §89.67 of this title (relating to Enforcement).

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 August 15, 1988.

TRD-8808347 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.35

The Texas Cosmetology Commission proposes an amendment to §89.35, concerning uniforms. The proposed amendment will expand the current uniform code.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will expand the current uniform code to include white dress slacks and white shoes. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.35. *Uniforms.*

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

(c) Applicants for a commission examination must appear in black, brown, [or] navy, or white dress slacks or black, brown, or navy knee length skirt (no jeans), dark colored or white shoes, a clean white shirt or blouse, and a clean white professional type [three quarter length] lab coat with either short or long sleeves, or an all white professional type uniform of washable material with the armpits covered. The attire shall not bear any writing or other identifying marks. Applicants not in the prescribed uniform will not be admitted to the exam floor. Tank tops and bare feet are not allowed. This section becomes effective January 1, 1989 [1988].

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

Issued in Austin, Texas, on August 15, 1988.

TRD-8808346

Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.40

The Texas Cosmetology Commission proposes an amendment to §89.40, concerning cosmetology establishment transfers. The proposed amendment clarifies requirements for establishment transfers.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will expand the requirements to be met when an establishment owner dies or becomes incompetent. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.4. Cosmetology Establishment Transfer. Whenever a cosmetology salon or school [establishment] changes ownership, the salon or school [establishment] shall be officially closed and the new owner shall apply for an original license within 30 [45] days after [of] the change of ownership and meet all necessary current requirements. In the case of school ownership transfers, all facilities must be inspected and approved prior to a student's hours being accepted for credit. Notwithstanding the provisions of this section, when an owner of a salon or school dies or becomes incompetent, the remaining owners (if jointly owned) or the heirs, devisees, executors, administrators, or guardians (if a sole proprietorship), or any combination of the foregoing, may operate the school or salon for the duration of the owner's license. This provision does not excuse noncompliance with other applicable licensing requirements. Any applicable bonding requirements must be maintained in effect. [Notwithstanding the pro-

visions of this section, the next of kin of a cosmetology establishment owner who is deceased may operate that salon or school without further licensing requirements until that license is up for renewal.]

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 August 15, 1988.

TRD-8808345

Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.41

The Texas Cosmetology Commission proposes an amendment to §89.41, concerning the change of location of a salon or school. The proposed amendment will tighten requirements regarding the change of location of a salon or school.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will tighten requirements regarding change of location for a salon or school. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.41. Change of Location of a Salon or School. A salon or school may move and continue to operate with the current license, but must be inspected and approved under the current requirements in the new location. The salon or school owner must notify the commission office in writing of the change of address as soon as the change of address becomes available. [at least 45 days prior to moving and give change of address.]

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 August 15, 1988.

TRD-8808344

Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.43

The Texas Cosmetology Commission proposes an amendment to §89.43, concerning the postings in salon or school. The proposed amendment will list in detail what is needed to be posted in a salon or school. The proposed amendment will list in detail what is needed to be posted in a salon or school.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will more clearly detail what is needed to be posted in a salon or school. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.43. Posted in Salon or School.

(a) The current salon or school license, current commission laws, rules, and regulations, current sanitary rules and regulations, and the last inspection report of the inspector must be posted in all licensed salons or schools in the reception desk area in public view.

(b) In compliance with Texas Civil Statutes, Article 8451a, §28, there must be prominently displayed in each salon and school regulations under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals under this Act. The expense of such a sign is the responsibility of each licensed establishment.

(c) Each licensed establishment at which the instruction or practice of cosmetology is being conducted shall prominently display to the public its normal business hours.

(1) The normal business hours of the establishment must be displayed so as to be visible from the outside of the

business and shall be located at or near the main entrance of the establishment. In lieu of the foregoing requirements, the licensee shall file with the commission a certification of its normal business hours.

(2) The commission, and inspector, or any duly authorized representative of the commission may enter the premises of any licensee to determine whether or not the licensee is in compliance with the Act and the rules of the commission during normal business hours as posted or filed; provided, however, that the commissioner, inspector, or representative shall not be prohibited from entering the licensee's premises at times not so posted or filed where the instruction or practice of cosmetology is being conducted.

(3) In a disciplinary proceeding involving the requirements of this section, the commission shall take official notice of the licensee's normal business hours on file with the commission.

[The current school or salon license, commission rules and regulations, sanitary rules and regulations, and the last inspection report of the inspector shall be posted in all licensed salons or schools in a conspicuous place. In compliance with Texas Civil Statutes, Article 8451a, §28, there must be prominently displayed in each salon and school regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the names, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals under this Act. The expense of such a sign is the responsibility of each licensed establishment.]

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 August 15, 1988.

TRD-8808343 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.47

The Texas Cosmetology Commission proposes an amendment to §89.47, concerning the definition of a facial speciality salon. The proposed amendment will delete a subsection that no longer serves the purpose for which it was originally intended.

Norman L. Jenkins, executive director, 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 en-

forcing or administering the section.

Mr. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will delete a subsection to eliminate an unnecessary regulation. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.47. *Definition of a Facial Specialty Salon.* A facial specialty salon is defined as an establishment where only the following services may be performed. Any other services performed will lead to disciplinary action.

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

[(7) manicuring (must be performed by a manicurist, instructor, or operator).]

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 August 15, 1988.

TRD-8808342 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
• 22 TAC §89.75

The Texas Cosmetology Commission proposes an amendment to §89.75, concerning field trips. The proposed amendment specifies that during field trips services may not be performed at licensed centers or facilities.

Norman L. Jenkins, executive director, 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. Jenkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the proposed amendment will specify that during field trips services may not be performed at licensed centers or facilities. 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 Janis Rebold, Administrative Assistant, 1111 Rio Grande, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§89.75. *Field Trips.* Field trips are permitted under the following conditions for students enrolled in the operator course. The following guidelines are to be strictly adhered to.

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

(6) Allowable activities are limited to:

(A) performing services to nursing home residents, patients confined to hospitals, senior citizen's center, and MHMR centers. Performing services at centers and facilities licensed by the Texas Cosmetology Commission will not be allowed;

(B)-(D) (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 August 15, 1988.

TRD-8808341 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 463-5542

◆ ◆ ◆
Part XI. Board of Nurse
Examiners

Chapter 213. Practice and
Procedure

• 22 TAC §§213.6-213.9, 213.11-
213.13, 213.15-213.17

The Board of Nurse Examiners proposed amendments to §§213.6-213.9, 213.11-213.13, and 213.15-213.17, concerning witness fees and expenses, preliminary notice to respondent, commencement of disciplinary proceedings and filing of charges, respondent's answer, subpoenas, hearing procedure, decision of board, hearings before executive secretary, prehearing conference, and agreed orders. The changes in these sections are mostly editorial in nature, revising the language to read the same as in the Nurse Practice Act as passed during the 70th legislative session.

Louise Waddill, executive 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.

Ms. Waddill also has determined that for each year of the first five years the sections are in

effect the public benefit anticipated as a result of enforcing the sections will be that the nurse, the attorney representing the nurse, and the witness subpoenaed to testify in a formal hearing before the board will be provided clearer guidelines that more closely follow the disciplinary proceedings as outlined in the Nurse Practice Act passed during the 70th legislative session. 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 Louise Waddill, Executive Director, Board of Nurse Examiners, P.O. Box 140466, Austin, Texas 78714.

The amendments are proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

§213.6. Witness Fees and Expenses. A witness who is not a party to the proceeding and who is subpoenaed to appear at a deposition or hearing or to produce books, papers, or other objects, shall be entitled to receive reimbursement for [actual] expenses incurred in complying with the subpoena, either the minimum as set in the APA or the *State of Texas Travel Allowance Guide* issued by the Comptroller of Public Accounts, whichever is greater. [according to the schedule as follows]:

(1) Mileage will be paid at the rate of \$.20 per mile if by private car or the actual fare paid to a regularly scheduled train, bus, or air carrier. In all cases, the fare shall be the lowest available for the particular route or trip in question.

(2) The actual cost of food and lodging, if necessary, not to exceed \$40 a day shall be paid.

(3) A witness fee of \$10 shall be paid.

(4) Mileage and fees to which a witness is entitled under this section shall be paid by the party or agency at whose request the witness appears, on presentation of proper vouchers sworn by the witness.]

§213.7. Preliminary Notice to Respondent.

(a) (No change.)

(b) Such notice shall contain a statement of the **alleged complaint** [charges] against the respondent and a statement that the respondent has 10 days from the date the notice is served to provide the staff with a written response to the **complaint** [charges], together with any other written information showing the respondent's compliance with the Act and the rules, regulations, and orders of the board.

§213.8. Commencement of Disciplinary Proceedings and Filing of Charges [Complaint].

(a) The staff may commence disciplinary proceedings before the board by filing [a] written charges [complaint under oath].

(b) The charges [complaint] shall contain the following information:

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

(c) When the charges are [complaint is] filed, the executive secretary shall serve the respondent with a copy of the charges [complaint] and with a notice of hearing which shall state the date, time, and location of the hearing at which the board will consider the charges [complaint]. The notice of hearing shall also state that the respondent may file a written answer to the charges [complaint] meeting the requirement of §213.9 of this title (relating to Respondent's Answer), within 10 days of receiving the charges [complaint]. In addition, the executive secretary shall enclose with the charges [complaint] and notice of hearing a copy of the rules governing disciplinary proceedings.

(d) The staff may amend the charges [complaint] at any time provided, however, that no amendment of the charges [complaint] shall be effective if filed within 15 days of the hearing unless consented to by the respondent or approved by the executive secretary. A copy of the amended charges [complaint] shall be served on the respondent. The first charges [complaint] filed shall be entitled "charges [complaint]," the first amended charges [complaint] filed shall be entitled "first amended charges [complaint]," and so forth.

§213.9. Respondent's Answer.

(a) The respondent may file an answer to the charges [complaint] and to every amendment thereof.

(b) If an answer is filed by respondent, it shall be filed within 10 days of receiving the charges [complaint] or any amended charges [complaint] provided, however, no answer shall be filed less than five days prior to the hearing unless consented to by the staff or approved by the executive secretary.

(c) The answer shall admit or deny each of the allegations in the charge [complaint] or amendment thereof. If the respondent intends to deny only a part of an allegation, the respondent shall specify so much of it is true and shall deny only the remainder. The answer shall also include any other matter, whether of law or fact, upon which respondent intends to rely for his or her defense.

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

§213.11. Subpoenas.

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

(d) Notwithstanding any other pro-

visions of these sections, the executive secretary may issue a subpoena prior to the filing of charges [a complaint] under §213.8 of this title (relating to Commencement of Disciplinary Procedures and Filing of Charges [Complaint]), if, in the opinion of the executive secretary, such subpoena is necessary to investigate any potential violation or lack of compliance with Texas Civil Statutes, Articles 4513-4518, or the rules, regulations, or orders of the board. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony and/or to compel the production of books, records, papers, or other objects.

§213.12. Hearing Procedure.

(a) (No change.)

(b) Reading of charges [complaint]. At the beginning of each hearing, the staff will read the charges [complaint] and offer for inclusion in the record the charges [complaint], the copy of the notice of hearing, and the copy of the transmittal letter by which the charges [complaint] and notice of hearing were sent to the respondent.

(c) Opening statement of respondent. After the charges have [complaint has] been read and offered for the record, the respondent may make an opening statement responding to the allegations in the charges [complaint].

(d) Presentation of evidence.

(1) The staff will present evidence to support the allegations in the charges [complaint] provided, however, the staff shall have the right not to present evidence if the allegations in the charges [complaint] are admitted.

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

(e)-(g) (No change.)

§213.13. Decision of Board.

(a) Based on the evidence presented at the hearing, the board may:

(1) find the respondent not guilty of the charges;

(2) refuse to admit persons to its examinations;

(3) refuse to issue a license or certificate of registration or to issue a certificate of reregistration;

(4) refuse to issue a temporary permit;

(5) issue a warning;

(6) refer persons to a board approved peer assistance program;

(7) limit the practice;

(8) issue a reprimand with or without stipulations;

(9) suspend a license for any period not to exceed two years;

(10) assess a probation;

(11) **revoke the license or certificate.**

[(1) dismiss the complaint, in whole or in part;

[(2) warn or reprimand;

[(3) deny admission to its examination or deny the issuance or renewal of a license;

[(4) suspend a license;

[(5) revoke a license or permit; or

[(6) probate a suspension or issue a reprimand with such terms and conditions as the board deems appropriate.]

(b) The decision of the board shall be in writing in the form of an order and shall be signed by the executive secretary [a majority of the board. A copy of the order shall be mailed or delivered to the respondent.]

(c) A copy of the order shall be mailed or delivered to the respondent, the respondent's attorney, and the respondent's last known employer as a professional nurse.

(d)[(c)] The decision of the board is final and appealable upon the signing of the written order as provided in subsection (b) of this section where:

(1) the board finds and states in the order that an imminent peril to the public health, safety, and welfare requires immediate effect of the order; and

(2) the order states it is final and effective on the date rendered.

(e)[(d)] A motion for rehearing shall not be a prerequisite for appeal of the decision where the order of the board contains the finding set forth in subsection (d) [(c)] of this section.

§213.15. Hearings Before Executive Secretary.

(a) A hearing before the executive secretary or his/her designate may be conducted after the filing of a [sworn] complaint but before [a] formal charges are filed [board hearing is set].

(b) (No change.)

(c) Disposition may be made in such a proceeding by stipulations, agreed settlement, or agreed [consent] order, [although all dispositions of matter] such agreed order shall not be final and effective until the board members, at a scheduled board meeting, vote to accept the proposed agreed [consent] order.

(d) If the complaint is not resolved at this hearing, or if the board votes to reject the proposed agreed [consent] order, then the board has the right to institute a formal hearing governing the same matter. *§213.16. Prehearing Conference.*

(a) The executive secretary, unilat-

erally or at the request of the staff or respondent, may direct the parties and their attorneys or representatives to appear before the executive secretary or a hearings examiner designated by the executive secretary at a specified time and place for a conference prior to the hearing for the purpose of:

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

(4) limiting, where possible, the number of witnesses whose testimony will be repetitious; and

(5) (No change.)

§213.17. Agreed Orders. Whether or not proceedings have been commenced under §213.8 of this title (relating to Commencement of Disciplinary Proceedings and Filing of Charges [Complaint]) or there is a prehearing conference under §213.16 of this title (relating to Prehearing Conference), the executive secretary may, at any time, enter into an agreed order with any person containing such terms and conditions as the executive secretary may deem reasonable and necessary. Said agreed orders shall not be final and effective until the board members, at a scheduled board meeting, vote to accept the proposed agreed order. If the charge(s) is not resolved at the prehearing conference, or if the board votes to reject the proposed agreed order, then the board has the right to institute a formal hearing governing the same matter.

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 August 9, 1988.

TRD-8808183 Louise Waddill
Executive Secretary
Board of Nurse Examiners

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 835-4880

◆ ◆ ◆
• 22 TAC §213.18

The Board of Nurse Examiners proposes new §213.18, concerning reinstatement hearing. The new section is being proposed to provide clarification and guidance for the nurse whose license to practice professional nursing has previously been revoked in the State of Texas and is seeking to have that license reinstated.

Louise Waddill, executive 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.

Ms. Waddill 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 provide guidance for a nurse who may be seeking to have his/her license to practice professional nursing reinstated in the State of Texas following revocation. This procedure outlines

the requirements and suggested time-frame necessary for presentation of the petition. 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 Louise Waddill, Executive Secretary, Board of Nurse Examiners, P.O. Box 140466, Austin, Texas 78714.

The new section is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law. *§213.18. Reinstatement Hearing.*

(a) A person whose license to practice professional nursing in this state has been revoked under this Act, whether voluntarily or by action of the board, may, after 12 months from the effective date of the revocation, petition the board for reinstatement.

(b) The petition shall be in writing and in the form prescribed by the board. The petition and supporting documentation shall be submitted to the office of the Board of Nurse Examiners at least three weeks prior to the regularly scheduled meeting at which the petition is to be heard. The petitioner will be notified by mail of the time and place of the reinstatement hearing.

(c) Upon investigation and hearing, the board may, at its discretion, grant or deny the petitioner's request to reinstate the license. The burden of proof is on the applicant to prove to the satisfaction of the board that the condition(s) that led to the revocation no longer exists and/or no longer has a bearing on the applicant's professional ability. If the board grants reinstatement, the board may impose reasonable terms and stipulations to be satisfied prior to reinstatement or as stipulations of reinstatement. If the board denies reinstatement, written reasons for denial shall be communicated to the applicant.

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 August 9, 1988.

TRD-8808184 Louise Waddill
Executive Secretary
Board of Nurse Examiners

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 835-4880

Chapter 215. Nurse Education

- 22 TAC §§215.1-215.3, 215.5, 215.7, 215.12, 215.14

The Board of Nurse Examiners proposed amendments to §§215.1-215.3, 215.5, 215.7, 215.12, and 215.14, concerning definitions, new programs, accreditation, administration and organization, faculty qualifications—baccalaureate and master's degree programs, curriculum, and extended campus. The amendments are being proposed to include master's degree programs, their faculty, and students who are in the master's degree nursing programs within the structure of a senior college or university. The inclusion of these amendments will permit the MSN graduate to write the licensure examination for registered nurses.

Louise Waddill, executive 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.

Ms. Waddill also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that they provide an additional avenue for students to study for a career in nursing and expand opportunities for nursing students to study nursing in the home health setting. 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 Louise Waddill, Executive Director, Board of Nurse Examiners, P.O. Box 140466, Austin, Texas 78714.

The amendments are proposed under Texas Civil Statutes, Article 4514, §1, and Article 4518, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing not inconsistent with the provisions of this law. It shall be the duty of the Board of Nurse Examiners to prescribe and publish the minimum requirements and standards for a course of study in programs which prepare professional nurse practitioners.

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

Basic program—An educational unit whose purpose is to prepare practitioners of nursing and whose graduates are eligible to write the National Council Licensure Examination for Registered Nurses.

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

(C) **Master's degree pro-**

gram—A program leading to a master's degree which is the first professional degree in nursing and conducted by an educational unit in nursing within the structure of a senior college or university.

(D)[(C)] **Diploma program**—A program leading to a diploma in nursing conducted by a single purpose school usually under the control of a hospital.

Director—A registered nurse who is responsible for the administration of the nursing program and who meets the requirements as stated in §215.6(c) of this title (relating to Faculty Qualifications—Diploma or Associate Degree Programs) or §215.7(d) of this title (relating to Faculty Qualifications—Baccalaureate and Master's Degree Programs).

Faculty member—An individual employed to teach in the nursing program who meets the requirements as stated in §215.6 of this title (relating to Faculty Qualifications—Diploma and Associate Degree Programs); and §215.7 of this title (relating to Faculty Qualifications—Baccalaureate and Master's Degree Programs).

Survey visit—An on-site visit of a nursing program, including clinical facilities, by a board representative for the purpose of evaluating the program of learning and gathering data to support whether the program is meeting the board's requirements as specified in §§215.1-215.19 of this title (relating to Definitions; New Programs; Accreditation; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate and Master's Degree Programs; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Philosophy and Objectives; Curriculum; Curriculum Changes and Expansion of Nursing Program; Extended Campus; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; and Total Program Evaluation).

§215.2. New Programs.

(a) Phase I: development of a new program.

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

(7) Following the site visit and public hearing, the board may approve, defer action or deny the request.

(A) Approval of the proposal to establish a nursing program will be given when the educational institution has submitted evidence that the nursing program will be based upon sound educational principles, that valid rationale has been documented

for the establishment of the nursing program, that existing nursing programs would not be adversely effected, and that the educational institution is prepared to meet the board's requirements as specified in §§215.1-215.19 of this title (relating to Definitions; New Programs; Accreditation; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate and Master's Degree Programs; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Philosophy and Objectives; Curriculum; Curriculum Changes and Expansion of Nursing Program; Extended Campus; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; and Total Program Evaluation).

(B)-(D) (No change.)

(b) Phase II: planning stage.

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

(c) Phase III: application for initial accreditation.

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

(5) The board shall review the application and supporting evidence at a regularly scheduled meeting. If the program is based upon sound educational principles and is in compliance with the board's requirements as specified in §§215.1-215.19 of this title (relating to Definitions; New Programs; Accreditation; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate and Master's Degree Programs; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Philosophy and Objectives; Curriculum; Curriculum Changes and Expansion of Nursing Program; Extended Campus; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; and Total Program Evaluation), then initial accreditation may be granted.

§215.3. Accreditation.

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

(c) Accreditation procedure. The continuing accreditation status of each program shall be determined annually by the board either on the basis of a survey visit or review of annual report.

(1) Survey visit. Each nursing program will be visited at least every four [three] years after full accreditation has been granted or at any time deemed necessary by the board. A written report of the visit together with the annual report submitted by the director will be reviewed by the board at a regularly scheduled meeting. The

decision of the board concerning the accreditation status of the program will be sent to the director and the chief administrative officer of the controlling institution.

(2) (No change.)

§215.5. Administration and Organization.

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

(e) The program shall be administered by a registered nurse qualified according to §215.6(c) of this title (relating to Faculty Qualifications—Diploma and Associate Degree Programs); and §215.7(d) of this title (relating to Faculty Qualifications—Baccalaureate and Master's Degree Programs).

(f) When the director of the program changes, the administrative officer of the controlling institution shall submit to the board written notification of the change indicating that the new director meets the board's requirements.

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

(3) If the individual to be appointed as acting director does not meet the requirements for director as specified in §215.6(c) of this title (relating to Faculty Qualifications—Diploma and Associate Degree Programs); or §215.7(d) of this title (relating to Faculty Qualifications—Baccalaureate and Master's Degree Programs), approval of the board must be obtained prior to the appointment.

§215.7. Faculty Qualifications—Baccalaureate and Master's Degree Programs.

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

§215.12. Curriculum.

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

(d) The curriculum shall include the following content areas.

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

(4) Nursing. Didactic and clinical instruction shall include, but not be limited to, the areas described as follows:

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

(D) in addition, the baccalaureate and master's degree programs in nursing shall include the following:

(i)-(iii) (No change.)

(e)-(k) (No change.)

(l) Clinical preceptorships may be used for community health, leadership/management, independent study, [and] elective courses, and home health care experiences. When clinical preceptors are used, the following conditions must be met.

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

§215.14. Extended Campus.

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

(d) Educational resources and services of the extended campus shall meet the

same standards as those of the controlling institution and shall meet the board's requirements as stated in §§215.1-215.19 of this title (relating to Definitions; New Programs; Accreditation; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate and Master's Degree Programs; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Philosophy and Objectives; Curriculum; Curriculum Changes and Expansion of Nursing Program; Extended Campus; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; and Total Program Evaluation).

(e)-(g) (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 August 9, 1988.

TRD-8808185 Louise Waddill
Executive Secretary
Board of Nurse Examiners

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 835-4880

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Chapter 217. Licensure and Practice

• **22 TAC §217.11**

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Board of Nurse Examiners or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Board of Nurse Examiners proposes the repeal of §217.11, concerning standards of nursing practice. The Board of Nurse Examiners is proposing the repeal of this section to enable the adoption of a more detailed section that provides clarification to RNs as to the board's definition of the legal standards of nursing practice that would ensure the welfare of the patient/client.

Louise Waddill, executive secretary, has determined that for the first five-year period the proposed repeal 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 repeal.

Ms. Waddill also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal of the existing section will enable the adoption of a clearer definition of the legal standards of nursing practice for the registered nurse. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the repeal may be submitted to Louise Sanders, Executive Secretary, Board of Nurse Examiners, P.O. Box 140466, Austin, Texas 78714.

The repeal is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

§217.11. Standards of Nursing Practice.

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 August 9, 1988.

TRD-8808181 Louise Waddill
Executive Secretary
Board of Nurse Examiners

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 835-4880

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The Board of Nurse Examiners proposes new §217.11, concerning standards of nursing practice. The Board of Nurse Examiners is proposing a new §217.11 concerning standards of nursing practice to provide clarification to RNs as to the board's definition of the legal standards of nursing practice that would ensure the welfare of the patient/client.

Louise Waddill, executive 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.

Ms. Waddill 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 to implement the 1987 legislative changes to the nurse practice act, more clearly defined standards of nursing practice were needed. RNs, employers of RNs, and the public will be provided a clearer definition of the standards of nursing practice. 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 Louise Waddill, Executive Secretary, Board of Nurse Examiners, P.O. Box 140466, Austin, Texas 78714.

The new section is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its pur-

pose and objectives, to regulate the practice of professional nursing, and to determine whether or not an act constitutes the practice of professional nursing not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

§217.11. Standards of Nursing Practice. The responsibility of the Texas Board of Nurse Examiners is to regulate the practice of professional nursing within the State of Texas. The purpose of defining standards of practice is to identify roles and responsibilities of the professional registered nurse in any health care setting and as defined in the Nurse Practice Act. These standards for professional nursing practice shall promote the dignity of the patient/client and protect him or her from incompetent, unethical, or illegal conduct of licensees. The registered professional nurse shall:

(1) know and conform to the laws and regulations governing the practice of professional nursing in the State of Texas;

(2) maintain current licensure and a current address with the board;

(3) verify the current licensure status of nurses in his/her employ or for whom he/she is administratively responsible;

(4) accurately report and document the patient's or client's symptoms, responses, and progress;

(5) verify the accuracy of orders received from a licensed physician or dentist;

(6) accurately transcribe orders throughout the patient's or client's record;

(7) make assignments to other nursing personnel that take into consideration patient safety and that are commensurate with the personnel's educational preparation, experience, and knowledge;

(8) assist personnel under his/her supervision to develop the necessary skills needed for continuing competence in providing for the patient's or client's care, comfort, and safety;

(9) adequately supervise licensed and unlicensed nursing personnel for whom he/she is administratively responsible and comply with Chapter 281, delegation of selected nursing tasks by registered nurses to unlicensed personnel;

(10) delegate to unlicensed personnel nursing tasks that are commensurate with their training, experience, and knowledge of patient safety and comply with Chapter 218, delegation of selected nursing tasks by registered nurses to unlicensed personnel;

(11) be responsible for his/her continuing competence in nursing practice and individual professional growth;

(12) accept nursing assignments that are commensurate with his/her educa-

tional preparation, experience, and knowledge of patient safety or refuse assignments that are not commensurate with said educational knowledge or experience;

(13) assess and evaluate the health status of the patient or client by using assessment data as it relates to the physiological, psychological, and social process of the individual;

(14) evaluate a patient's or client's status and institute appropriate nursing intervention which might be required to stabilize a patient's or client's condition and/or prevent complications;

(15) make nursing judgments and decisions about nursing care for the patient or client by using assessment data to formulate and implement a plan of goals and objectives and to evaluate, refine, and modify the plan as indicated based on the patient's or client's response;

(16) know the rationale for, and the effects of, the administration of medications and/or treatments as prescribed by a licensed physician or dentist;

(17) promote and participate in patient or client education and counseling based on the individual's health needs and illness status, and involve the individual and significant others, when not violating confidentiality, for a better understanding and implementation of immediate and long term health goals;

(18) provide patient or client and significant others, when authorized, with information needed by them to make decisions and choices about promoting, maintaining, and restoring health;

(19) collaborate with other members of related health disciplines in the interest of the patient's or client's health care;

(20) consult and utilize community agencies and resources or continuity of patient or client care; and

(21) practice nursing without discrimination based on age, race, religion, sex, sexual preference, national origin, socioeconomic status, or illness.

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 August 9, 1988.

TRD-8808182 Louise Waddill
Executive Secretary
Board of Nurse Examiners

Earliest possible date of adoption: September 19, 1988

For further information, please call: (512) 835-4880



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 §211.78, §211.79

(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 Commission on Law Enforcement Officer Standards and Education or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Commission on Law Enforcement Officer Standards and Education proposes the repeal of §211.78, concerning minimum training standards for jailers and §211.79, concerning intermediate and advanced training courses. These old sections are to be repealed because they have been completely rewritten as two new sections with the same numbers, respectively.

David M. Boatright, general counsel, 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. Boatright 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 better training for jailers, reserves, and peace officers because of implementation of an updated jailer training course and because of a more efficient system for crediting inservice training. 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 David M. Boatright, General Counsel, Texas Commission on Law Enforcement, Officer Standards, and Education, 1606 Headway Circle, Suite 100, Austin, Texas 78754.

The repeals are proposed under the Texas Government Code, §§415.010(10), 415.031, 415.032, and 415.034, which provides the Texas Commission on Law Enforcement, Officer Standards, and Education with the authority to establish minimum training standards, to establish and maintain curriculum requirements for in-service and advanced courses, and to recognize and prepare voluntary continuing education programs, respectively.

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 August 10, 1988.

TRD-8808299 David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Proposed date of adoption: January 1, 1988

For further information, please call. (512) 834-9222

◆ ◆ ◆
• 37 TAC §§211.71, 211.78, 211.79,
211.100, 211.104

The Texas Commission on Law Enforcement Officer Standards and Education proposes an amendment to §211.104 concerning minimum standards for fire arms proficiency, and proposes new §§211.71, 211.78, 211.79, and 211.100, concerning to independent study, minimum training standards for jailers, in-service training credit for license holders, and in-service training requirements for agencies that appoint peace officers or reserves, respectively.

Ross Schulle, executive staff officer, has determined that there will not be fiscal implications as a result of enforcing or administering §211.71 and §211.79. Mr. Schulle has further determined that there will be fiscal implications as a result of enforcing or administering §§211.78, 211.100, and 211.104. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$26,100 for fiscal years 1989-1993 for §211.100; and \$40,208 for fiscal years 1989-1993 for §211.104. The effect on local government for the first five-year period the sections will be in effect is an estimated additional cost of \$62,100 for fiscal years 1989-1993 for §211.78; \$824,580 for fiscal years 1989-1993 for §211.100; and \$248,238 for fiscal years 1989-1993 for §211.104.

David M. Boatright, general counsel, has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be better training for jailers, reserves, and peace officers because of implementation of an updated jailer training course, because of expanding annual firearms proficiency to include rifles and automatic weapons, and because of 40 hours of mandatory inservice training provided each 24 months by Texas law enforcement agencies to their peace officers. The anticipated economic cost to individuals who are required to comply with the sections as proposed will be none, because all additional costs should be born by law enforcement agencies.

Comments on the proposal may be submitted to David M. Boatright, General Counsel, Texas Commission on Law Enforcement, Officer Standards, and Education, 1606 Headway Circle, Suite 100, Austin, Texas, 78754.

The amendment and new sections are proposed under the following Texas Government Code sections, which provide the Texas Commission on Law Enforcement Officer Standards and Education with the authority, respectively: §211.104 amendment, under Chapter 1062, 70th Legislature, 1987, as it amends Texas Civil Statutes, Article 4413(29aa), by adding to §7 a new subsection (c) and (d), to adopt rules that define weapons proficiency; §211.71, under §415.031 and §415.032, to establish and maintain training programs and to establish minimum curriculum for courses and programs, respectively; §211.78, under §415.010(10) and §415.031, to establish minimum

training standards and to establish and maintain training programs for county jailers, respectively; §211.79, under §415.032 and §415.034, to establish minimum curriculum requirements for inservice and advanced courses and to recognize and prepare voluntary continuing education programs, respectively; and §211.100, under §415.032(b) and §415.034(b), to require agencies to provide continuing in-house instruction for their peace officers and reserves in the recognition of cases involving child abuse or neglect and to require agencies to provide a training program not to exceed 40 hours during 24 months to their peace officers, respectively. *§211.71. Independent Study.*

(a) An independent study course may be conducted either by the commission or with the approval of the commission.

(b) An independent study course is a self-paced study program, which shall:

(1) include any correspondence, taped, or other similar nonclassroom study course; and

(2) be taught in conformity with, and meet, the current lesson guide or learning objectives provided by, or approved by, the commission.

(c) An independent study course and its classroom equivalent shall, upon completion, be awarded the same credit.

(d) Each course will have one or more sponsors assigned, who shall be responsible both for the conduct of the course and for proctoring any examination during the course.

(e) To receive credit for an independent study course, the student must complete each required unit, be tested, and receive a passing grade on any examination required by the lesson guide or learning objectives.

(f) The effective date of this section shall be January 1, 1989.

§211.78. Minimum Training Standards for Jailers.

(a) The minimum training standards for permanent licensing as a jailer on and after January 1, 1989 shall be either:

(1) completion of the "basic county corrections" course;

(2) completion of the "basic county corrections" independent study course;

(3) completion of any required supplementary or remedial training; or

(4) credit for sufficient previous training which is equivalent to that "basic county corrections" course.

(b) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require supplementary or remedial training necessary to equate the previous training to those current standards.

(c) The "basic county corrections" course shall cover the subjects and be taught in accordance with the current learning objectives provided by the commission.

(d) The "basic county corrections" course subjects, with included topics, shall be:

(1) course activities—introduction; classroom notetaking, review, and testing; and history and philosophy;

(2) admissions and releases—admissions; documents, conditions, and liabilities; search of inmates; booking procedures; inventory of inmate's property; identification procedures; orientation of new inmates; issuing clothing, needed supplies, and showering; and, inmate release procedures;

(3) special issues—medical screening record; inmate medical services; classification; and special inmates;

(4) supervising inmates—human relations; communications; handling uncooperative and violent inmates; use of force; investigations; and report writing;

(5) security—facility security; conducting headcounts; cell and tank searches; disturbances, emergencies, and fire procedures; physical control techniques; and transport of inmates;

(6) inmate activities—serving meals; inmate visitation and processing of visitors; inmate mail, packages, and messages; maintenance of inmate money accounts; inmate rehabilitation and other activities; and inmate rights and staff liability.

(e) An agency may, in its discretion, add any other training subjects to the "basic county corrections" course. This optional training may include firearms, emergency medical care, or any other training.

(f) For purposes of this section, the terms "jailer or guard of a county jail", "county jailer", "jailer", "county detention officer", "county corrections officer", and "county correctional officer", are synonymous.

(g) The effective date of this section shall be January 1, 1989.

§211.79. Inservice Training Credit for License Holders.

(a) An inservice training course is any course that is approved as such by the commission and is:

(1) preparatory training in excess of the minimum basic course requirements;

(2) any reactivation course;

(3) not included in any basic course mandated by the commission; or

(4) if an out-of-state course, not part of a basic course as approved by the state or federal agency with jurisdiction similar to that of the commission, such as a peace officer standards and training (POST) agency.

(b) Before approval, the commission may, in the discretion of the executive director, require submission of documentation to support such approval. Approval may be sought from the commission by a school, academy, or agency, or by an individual license holder. The commission may approve full or partial credit for any portion of the training that is reasonably related to the license held. The commission may, in the discretion of the executive director, refuse credit for:

(1) a course completed more than two years before the date the request for such approval was received by the commission;

(2) a course which does not contain a final examination or other skills test, if appropriate;

(3) annual firearms proficiency;

(4) an out-of-state course which is not approved by the appropriate POST;

(5) training of inadequate length;

(6) any training not reasonably related to the license held; or

(7) any preparation and presentation time by an instructor.

(c) Unless expressly waived by the commission, an approved inservice course shall be reported to the commission by a school, academy, or agency on forms provided by the commission and shall include only those who have completed the course and passed the exam or test.

(d) The effective date of this section shall be January 1, 1989.

§211.100. In-service Training Requirements for Agencies that Appoint Peace Officers or Reserves.

(a) Any agency which appoints a peace officer or reserve shall provide to each peace officer or reserve an in-service training course which includes some instruction in the recognition of cases involving abuse or neglect of children as required by law.

(b) Any agency which appoints a peace officer shall provide to each peace officer at least the inservice training program required by this section. The program shall consist of one or more inservice courses that total at least 40 hours during each 24-month period. The first 24-month period shall commence for each peace officer on that officer's date of appointment or on the effective date of this section, whichever is later.

(c) An agency may voluntarily re-

quire of or provide to any peace officer or other person employed or appointed by that agency any additional training that exceeds this required peace officer in-service program.

(d) An agency provides a program or course, for purposes of this section if:

(1) the agency orders or requires attendance and successful completion as a condition of continued employment or appointment and the agency pays all the cost of attendance and provides direct or compensatory time off for attendance; or

(2) the agency requires attendance and successful completion as a condition of continued commissioning and the agency has issued the commission as provided by law to a peace officer who is appointed by another entity.

(e) The in-service training program shall consist of one or more separate courses, each of which shall have a final examination or skills test, as appropriate, which must be passed before course completion credit will be awarded. Any such course shall be reasonably related to the current or prospective duties of each peace officer who attends and at least one such course provided by each agency should include some instruction in recent changes in criminal or civil law.

(f) Unless otherwise provided by law, rule, or agreement, an agency or advisory board responsible for any inservice course shall, within its discretion:

(1) govern the conduct of that course;

(2) control the length, the number of times taught, and the specific content of any course; and

(3) assign any or all officers to attend any particular course.

(g) The effective date of this section shall be January 1, 1989.

§211.104. Minimum Standards for Annual Firearms Proficiency.

(a) For purposes of this section, the term "firearms" shall mean any kind of handgun [or], shotgun, rifle, or fully automatic weapon that is carried by the individual officer in an official capacity on or off duty, and shall not include any other firearm weapon or any baton, tear gas, restraining or non-lethal stunning device, animal, or other nonfirearm weapon. The term "kind" means caliber or gauge and action type. The term "duty ammunition" means only that ammunition required or permitted by the agency to be carried on duty.

(b) This section does not prevent an agency from establishing weapons proficiency standards that exceed the minimum standards of the commission.

(c) The minimum standards for any annual proficiency course of fire shall be:

(1) use of any target capable of being scored;

(2) a minimum passing score of 70% of the total possible score;

(3) for handguns, a minimum of 50 rounds, including at least five rounds of duty ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reloading;

(4) for shotguns, a minimum of five rounds of duty ammunition fired at a range of at least 15 yards;

(5) for rifles, a minimum of 20 rounds of duty ammunition fired at a range of at least 100 yards, however an agency may, in its discretion, allow a range of less than 100 yards if the minimum passing score is raised to 90%;

(6) for fully automatic weapons, a minimum of 30 rounds of duty ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic, short bursts of two or three rounds, and at least five rounds fired semi-automatic, if possible with the weapon;

(7)[5] demonstration of proficiency in the care and cleaning of the weapon used; and

(8)[6] in external inspection by the control officer or a range officer, firearms instructor, or gunsmith designated by that control officer to determine the safety and functioning of the weapon.

(d) Any standard contained in this section may, upon agency request, be waived by the executive director or, if denied and upon petition, may be the subject of an administrative hearing held to determine waiver based upon proof by the agency that its proposal meets or exceeds the commission's standards. Specifically, the annual proficiency course of fire may consist of different short courses that may be fired on one or more days as long as they cumulatively meet or exceed the standards found in this section.

(e) Each agency or entity that employs three or more peace officers shall:

(1) appoint a firearms proficiency control officer who must meet only those qualifications set by that agency;

(2) require each peace officer that it employs to demonstrate firearms proficiency to that control officer at least once each calendar year; and

(3) maintain records of this proficiency which shall not be forwarded to the commission.

(f)[e] The first calendar year to demonstrate firearms proficiency shall be

1988. An amendment to this section only affects an annual proficiency course of fire that begins after the effective date of the amendment.

(g)[f] The effective date of this section shall be January 5, 1988.

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

Issued in Austin, Texas, on August 10, 1988

TRD-8808298 David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Earliest possible date of adoption: January 1, 1989

For further information, please call. (512) 834-9222

◆ ◆ ◆
• 37 TAC §211.78, §211.79

(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 Commission on Law Enforcement Officer Standards and Education or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Commission on Law Enforcement Officer Standards and Education proposes the repeal of §211.78, concerning minimum training standards for jailers and §211.79, concerning intermediate and advanced training courses. These old sections are to be repealed because they have been completely rewritten as two new sections with the same numbers, respectively

David M. Boatright, general counsel, 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. Boatright 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 better training for jailers, reserves, and peace officers because of implementation of an updated jailer training course and because of a more efficient system for crediting inservice training. 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 David M. Boatright, General Counsel, Texas Commission on Law Enforcement, Officer Standards, and Education, 1606 Headway Circle, Suite 100, Austin, Texas 78754.

The repeals are proposed under the Texas Government Code, §§415.010(10), 415.031, 415.032, and 415.034, which provides the Texas Commission on Law Enforcement, Officer Standards, and Education with the authority to establish minimum training standards, to establish and maintain curriculum requirements for in-service and advanced courses, and to recognize and prepare voluntary continuing education programs, respectively.

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 August 10, 1988.

TRD-8808298 David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Proposed date of adoption January 1, 1988

For further information, please call: (512) 834-9222

◆ ◆ ◆
• 37 TAC §§211.71, 211.78, 211.79,
211.100 211.104

The Texas Commission on Law Enforcement Officer Standards and Education proposes an amendment to §211.104 concerning minimum standards for fire arms proficiency, and proposes new §§211.71, 211.78, 211.79, and 211.100, concerning to independent study, minimum training standards for jailers, in-service training credit for license holders, and in-service training requirements for agencies that appoint peace officers or reserves, respectively.

Ross Schulle, executive staff officer, has determined that there will not be fiscal implications as a result of enforcing or administering §§211.71, and 211.79. Mr. Schulle has further determined that there will be fiscal implications as a result of enforcing or administering §§ 211.78, 211.100, and 211.104. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$26,100 for fiscal years 1989-1993 for §211.100; and \$40,208 for fiscal years 1989-1993 for §211.104. The effect on local government for the first five-year period the sections will be in effect is an estimated additional cost of 62,100 for fiscal years 1989-1993 for §211.78; \$824,580 for fiscal years 1989-1993 for §211. 100; and \$248,238 for fiscal years 1989-1993 for §211.104.

David M. Boatright, general counsel, has determined that for each year of the first five years the section as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be better training for jailers, reserves, and peace officers because of implementation of an updated jailer training course, because of expanding annual firearms proficiency to include rifles and automatic weapons, and because of 40 hours of mandatory inservice training provided each 24 months by Texas law enforcement agencies to their peace officers. The anticipated economic cost to individuals who are required to comply with the section as proposed will be none, because all additional costs should be born by law enforcement agencies.

Comments on the proposal may be submitted to David M. Boatright, General Counsel, Texas Commission on Law Enforcement, Officer Standards, and Education, 1606 Headway Circle, Suite 100, Austin, Texas, 78754.

The amendment and new sections are proposed under the following Texas Government Code sections, which provide the Texas Commission on Law Enforcement Officer

Standards and Education with the authority, respectively: section 211. 104 amendment, under Chapter 1062, 70th Legislature, 1987, as it amends Texas Civil Statutes, Article 4413(29aa), by adding to §7 a new subsection (c) and (d), to adopt rules that define weapons proficiency; §211.71, under §415.031 and §415.032, to establish and maintain training programs and to establish minimum curriculum for courses and programs, respectively; §211.78, under §415.010(10) and §415.031, to establish minimum training standards and to establish and maintain training programs for county jailers, respectively; §211.79, under §415.032 and §415.034, to establish minimum curriculum requirements for inservice and advanced courses and to recognize and prepare voluntary continuing education programs, respectively; and §211.100, under §415.032(b) and §415.034(b), to require agencies to provide continuing in-house instruction for their peace officers and reserves in the recognition of cases involving child abuse or neglect and to require agencies to provide a training program not to exceed 40 hours during 24 months to their peace officers, respectively. §211.71. *Independent Study.*

(a) An independent study course may be conducted either by the commission or with the approval of the commission.

(b) An independent study course is a self-paced study program, which shall:

(1) include any correspondence, taped, or other similar nonclassroom study course; and

(2) be taught in conformity with, and meet, the current lesson guide or learning objectives provided by, or approved by, the commission.

(c) An independent study course and its classroom equivalent shall, upon completion, be awarded the same credit.

(d) Each course will have one or more sponsors assigned, who shall be responsible both for the conduct of the course and for proctoring any examination during the course.

(e) To receive credit for an independent study course, the student must complete each required unit, be tested, and receive a passing grade on any examination required by the lesson guide or learning objectives.

(f) The effective date of this section shall be January 1, 1989.
§211.78. *Minimum Training Standards for Jailers.*

(a) The minimum training standards for permanent licensing as a jailer on and after January 1, 1989 shall be either: completion of the "basic county corrections" course;

(2) completion of the "basic county corrections" independent study course;

(3) completion of any required supplementary or remedial training; or

(4) credit for sufficient previous training which is equivalent to that "basic county corrections" course.

(b) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require supplementary or remedial training necessary to equate the previous training to those current standards.

(c) The "basic county corrections" course shall cover the subjects and be taught in accordance with the current learning objectives provided by the commission.

(d) The "basic county corrections" course subjects, with included topics, shall be:

(1) Course activities—introduction; classroom notetaking, review, and testing; and history and philosophy.

(2) Admissions and releases—admissions; documents, conditions, and liabilities; search of inmates; booking procedures; inventory of inmate's property; identification procedures; orientation of new inmates; issuing clothing, needed supplies, and showering; and, inmate release procedures.

(3) Special Issues—medical screening record; inmate medical services; classification; and special inmates.

(4) Supervising inmates—human relations; communications; handling uncooperative and violent inmates; use of force; investigations; and report writing.

(5) Security—facility security; conducting headcounts; cell and tank searches; disturbances, emergencies, and fire procedures; physical control techniques; and transport of inmates.

(6) Inmate activities—serving meals; inmate visitation and processing of visitors; inmate mail, packages, and messages; maintenance of inmate money accounts; inmate rehabilitation and other activities; and inmate rights and staff liability.

(e) An agency may, in its discretion, add any other training subjects to the "basic county corrections" course. This optional training may include firearms, emergency medical care, or any other training.

(f) For purposes of this section, the terms "jailer or guard of a county jail", "county jailer", "jailer", "county detention officer", "county corrections officer", and "county correctional officer", are synonymous.

(g) The effective date of this section shall be January 1, 1989.

§211.79. Inservice Training Credit for License Holders.

(a) An inservice training course is any course that is approved as such by the commission and is:

(1) preparatory training in excess of the minimum basic course requirements;

(2) any reactivation course;

(3) not included in any basic course mandated by the commission; or

(4) if an out-of-state course, not part of a basic course as approved by the state or federal agency with jurisdiction similar to that of the commission, such as a peace officer standards and training (POST) agency.

(b) Before approval, the commission may, in the discretion of the executive director, require submission of documentation to support such approval. Approval may be sought from the commission by a school, academy, or agency, or by an individual license holder. The commission may approve full or partial credit for any portion of the training that is reasonably related to the license held. The commission may, in the discretion of the executive director, refuse credit for:

(1) a course completed more than two years before the date the request for such approval was received by the commission;

(2) a course which does not contain a final examination or other skills test, if appropriate;

(3) annual firearms proficiency;

(4) an out-of-state course which is not approved by the appropriate POST;

(5) training of inadequate length;

(6) any training not reasonably related to the license held; or

(7) any preparation and presentation time by an instructor.

(c) Unless expressly waived by the commission, an approved inservice course shall be reported to the commission by a school, academy, or agency on forms provided by the commission and shall include only those who have completed the course and passed the exam or test.

(d) The effective date of this section shall be January 1, 1989.

§211.100. In-service Training Requirements for Agencies that Appoint Peace Officers or Reserves.

(a) Any agency which appoints a peace officer or reserve shall provide to each peace officer or reserve an in-service training course which includes some instruction in the recognition of cases involving abuse or neglect of children as required by law.

(b) Any agency which appoints a

peace officer shall provide to each peace officer at least the inservice training program required by this section. The program shall consist of one or more inservice courses that total at least 40 hours during each 24-month period. The first 24-month period shall commence for each peace officer on that officer's date of appointment or on the effective date of this section, whichever is later.

(c) An agency may voluntarily require of or provide to any peace officer or other person employed or appointed by that agency any additional training that exceeds this required peace officer in-service program.

(d) An agency provides a program or course, for purposes of this section if:

(1) the agency orders or requires attendance and successful completion as a condition of continued employment or appointment and the agency pays all the cost of attendance and provides direct or compensatory time off for attendance; or

(2) the agency requires attendance and successful completion as a condition of continued commissioning and the agency has issued the commission as provided by law to a peace officer who is appointed by another entity.

(e) The in-service training program shall consist of one or more separate courses, each of which shall have a final examination or skills test, as appropriate, which must be passed before course completion credit will be awarded. Any such course shall be reasonably related to the current or prospective duties of each peace officer who attends and at least one such course provided by each agency should include some instruction in recent changes in criminal or civil law.

(f) Unless otherwise provided by law, rule, or agreement, an agency or advisory board responsible for any inservice course shall, within its discretion:

(1) govern the conduct of that course;

(2) control the length, the number of times taught, and the specific content of any course; and

(3) assign any or all officers to attend any particular course.

(g) The effective date of this section shall be January 1, 1989.

§211.104. Minimum Standards for Annual Firearms Proficiency.

(a) For purposes of this section, the term "firearms" shall mean any kind of handgun [or], shotgun, rifle, or fully automatic weapon that is carried by the individual officer in an official capacity on or off duty, and shall not include any other firearm weapon or any baton, tear gas, restraining or non-lethal stunning device, animal, or other nonfirearm weapon. The term

"kind" means caliber or gauge and action type. The term "duty ammunition" means only that ammunition required or permitted by the agency to be carried on duty.

(b) This section does not prevent an agency from establishing weapons proficiency standards that exceed the minimum standards of the commission.

(c) The minimum standards for any annual proficiency course of fire shall be:

(1) use of any target capable of being scored;

(2) a minimum passing score of 70% of the total possible score;

(3) for handguns, a minimum of 50 rounds, including at least five rounds of duty ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reloading;

(4) for shotguns, a minimum of five rounds of duty ammunition fired at a range of at least 15 yards;

(5) for rifles, a minimum of 20 rounds of duty ammunition fired at a range of at least 100 yards, however an agency may, in its discretion, allow a range of less than 100 yards if the minimum passing score is raised to 90%;

(6) for fully automatic weapons, a minimum of 30 rounds of duty

ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic, short bursts of two or three rounds, and at least five rounds fired semi-automatic, if possible with the weapon;

(7)[5] demonstration of proficiency in the care and cleaning of the weapon used; and

(8)[6] in external inspection by the control officer or a range officer, firearms instructor, or gunsmith designated by that control officer to determine the safety and functioning of the weapon.

(d) Any standard contained in this section may, upon agency request, be waived by the executive director or, if denied and upon petition, may be the subject of an administrative hearing held to determine waiver based upon proof by the agency that its proposal meets or exceeds the commission's standards. Specifically, the annual proficiency course of fire may consist of different short courses that may be fired on one or more days as long as they cumulatively meet or exceed the standards found in this section.

(e) Each agency or entity that employs three or more peace officers shall:

(1) appoint a firearms proficiency control officer who must meet

only those qualifications set by that agency;

(2) require each peace officer that it employs to demonstrate firearms proficiency to that control officer at least once each calendar year; and

(3) maintain records of this proficiency which shall not be forwarded to the commission.

(f)[e] The first calendar year to demonstrate firearms proficiency shall be 1988. An amendment to this section only affects an annual proficiency course of fire that begins after the effective date of the amendment.

(g)[f] The effective date of this section shall be January 5, 1988.

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

Issued in Austin, Texas, on August 10, 1988.

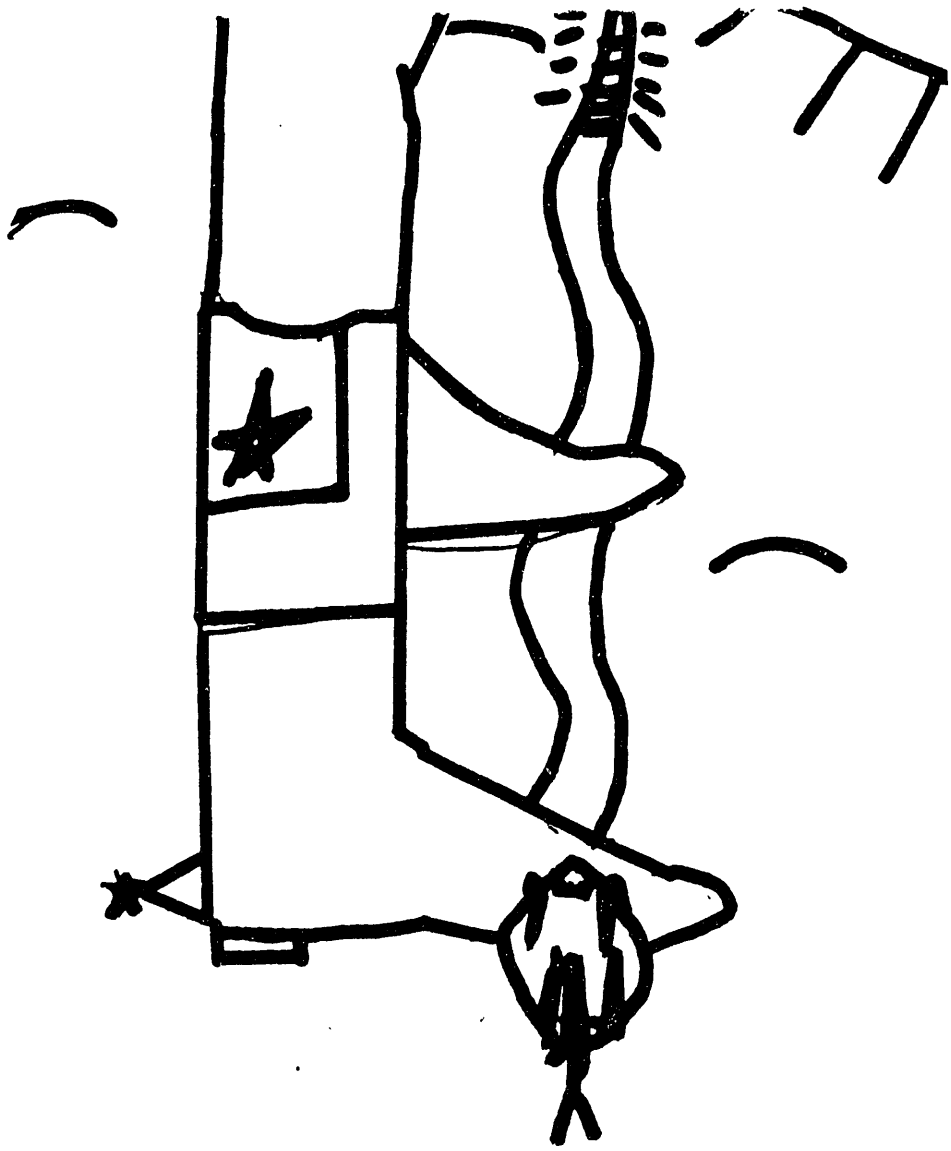
TRD-8808298

David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Earliest possible date of adoption: January 1, 1989

For further information, please call: (512) 834-9222

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Texas is Tuff

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 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 91. Chartering, Operations, Mergers, Liquidations

Organization Procedures

• 7 TAC §91.204

The Credit Union Department adopts §91.204 without changes to the proposed text published in the June 17, 1988, issue of the *Texas Register* (13 TexReg 3001).

The section is adopted because House Bill 5 is already effective and requires adoption of the rule by January 1, 1988. The new rule is adopted in accordance with Article 6252-13b.1, enacted as House Bill 5, 70th Legislature, 1987.

The section provides a period of time within which the commissioner must issue a written notice informing the applicant that the application is complete and accepted for filing, or that the application is deficient, setting out specific additional information that is required. The section sets out a period, beginning on the date the filing of a complete application is received, within which the agency must reach a decision to either approve or deny the permit application. The section also establishes a process for appeals directly to the Credit Union Commission for a timely resolution of any dispute arising from a violation of the periods set forth in this section. The section also includes the applicant's entitlement to reimbursement of filing fees, if any, if the commissioner fails to show good cause for exceeding the periods established by the section. As required by House Bill 5, the commissioner has determined minimum, maximum, and median times for processing completed applications for various forms of authority to engage in particular activities issued by the commissioner, based upon his experience within either the 90 day period beginning June 1, 1987, and ending August 31, 1987, or for periods up to one year preceding August 31, 1987, if the longer period was necessary to establish actual processing times. For applications to incorporate, the periods experienced were 18 days minimum, 113 days maximum, and 65 days median. For amendments to bylaws or articles of incorporation, the periods experienced were one day minimum, 36 days maximum, and five days median. For applications for foreign state credit union branch offices, the periods experienced were 18 days minimum, 208 days maximum, and 45 days median. For applications to in-

vest in fixed assets in excess of 5.0% of total assets, the periods experienced were one day minimum, 17 days maximum, and seven days median. For merger applications, the periods experienced were 11 days minimum, 66 days maximum, and 45 days median. For applications to fill a board vacancy in excess of 60 days, the periods experienced were six days minimum, 14 days maximum, and 10 days median.

The proposed timeframe of 30 days for an approval or denial of a complete application for a permit is deemed reasonable based upon prior experience and is readily attainable. A timeframe of 90 days for approval or denial of a charter application, and 60 days for approval or denial of an application to amend the articles of incorporation or bylaws, pursuant to §2.03(e) and §2.06(b), respectively, of the Texas Credit Union Act, are the only timeframes expressly authorized for exceeding 30 days.

No comments were received regarding adoption of the new section.

This new section is adopted under the provisions of Texas Civil Statutes, Article 2461-1.01, et seq., §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act and Article 6252-13b.1, House Bill 5, which requires the Credit Union Commission to adopt rules regarding the procedures by which the commissioner processes applications and issues licenses or other forms of authority.

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

Issued in Austin, Texas, on August 12, 1988.

TRD-8808271 John R. Hale
Commissioner
Credit Union Department

Effective date: September 2, 1988

Proposal publication date: June 17, 1988

For further information, please call: (512) 837-9236

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 80. Tow Trucks

• 16 TAC §§80.1-80.10

The Texas Department of Labor and Stan-

dards adopts the repeal of §§80.1-80.10, without changes to the proposed text as published in the May 24, 1988, issue of the *Texas Register* (13 TexReg 2427).

The repeals are adopted as proposed so that reorganized, amended sections may be adopted in final form.

The repeals permanently delete sections that will become obsolete when amended sections are adopted in final form.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 6687-9b, which provide the Texas Department of Labor and Standards with the authority to adopt rules regarding minimum insurance and safety for the operation of tow trucks.

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

Issued in Austin, Texas, on August 12, 1988.

TRD-8808308 Joseph L. Huertas
Director, Labor/Licensing
and Enforcement
Texas Department of Labor
and Standards

Effective date: September 2, 1988

Proposal publication date: May 24, 1988

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

TITLE 22. EXAMINING BOARDS

Part IV. Texas Cosmetology Commission

Chapter 83. Sanitary Rulings

• 22 TAC §83.6

The Texas Cosmetology Commission adopts an amendment to §83.6, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2878).

The amended section will specify the times in which a security dog is permitted in a beauty establishment.

The amended section will provide more clarity in its interpretation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil

Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808226 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §83.8

The Texas Cosmetology Commission adopts the repeal of §83.8, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2878).

The repealed section will eliminate unnecessary repetition in the sanitary rulings.

The repealed section will prevent reiteration and repetition in the sanitary rulings.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808225 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §83.15

The Texas Cosmetology Commission adopts an amendment to §83.15, with changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2878).

The amended section will specify detailed instruction when using chemical disinfectants on implements and equipment.

The amended section will provide a more detailed and concise explanation of specific disinfecting procedures and materials.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

§83.15. *Implements.*

(a) Implements shall not be used on or for a patron unless they are clean and sanitary. All metallic instruments with cutting edges shall be kept clean by wiping carefully after each use with cotton saturated with an approved disinfectant solution. Combs and brushes must be sanitized after each client has been serviced.

CHEMICAL CLASSIFICATION	FORM	STRENGTH	USE
Sodium Hypochloride (household bleach)	Liquid	10% solution	Immerse implements in solution for 10 or more minutes*
Quaternary Ammonium Compounds	Liquid or tablet	1:1000 solution	Immerse implements in solution for 20 or more minutes.
Formalin*	Liquid	25% solution	Immerse implements in solution for 10 or more minutes.
Formalin**	Liquid	10% solution	Immerse implements in solution for 20 or more minutes.
Alcohol	Liquid	70% solution	Immerse implements or sanitize electrodes and sharp cutting edges 10 or more minutes.

- * This disinfectant is one that can be highly corrosive to metals.
 ** A flammable, colorless gas with vapors quite irritating to skin, eyes and oral and respiratory tissues.

(b) The following shall be performed when sanitizing implements:

- (1) wash them thoroughly with soap and water;
- (2) plain hot water will be used to rinse and remove all traces of soap;
- (3) implements will be immersed in a wet sanitizer in accordance with subsection (a) of this section.

(c) After sanitizing, combs must be kept in a sterilizer apart from other items. Sanitized implements shall be individually wrapped in cellophane envelopes in a cabinet sanitizer or in ultraviolet ray cabinets until ready for use.

(d) Chemical solutions in sanitizers shall be changed regularly.

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

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

TRD-8808224 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §83.17

The Texas Cosmetology Commission adopts an amendment to §83.17, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2880).

The amended section will establish new requirements for sanitizing equipment in establishments.

The amended section will function to provide more complete and concise sanitation requirements for establishment equipment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808223 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §83.29

The Texas Cosmetology Commission adopts the repeal of §83.29, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2880).

The repealed section will allow for a simultaneously proposed new section to clarify the intent of the section.

The repealed section was not clear in its interpretation.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808222 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



The Texas Cosmetology Commission adopts new §83.29, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2880).

The new section will provide more clarity in its interpretation and purpose.

The new section will provide adequate establishment requirements for shirts and shoes worn in the facility.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808221 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



Chapter 89. General Provisions

• 22 TAC §89.3

The Texas Cosmetology Commission adopts the repeal of §89.3, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2881).

The repeal is adopted in order for an entirely new section to be simultaneously adopted.

The effect of the repeal will be to allow for the clarification of the intent of the new section.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808242 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



The Texas Cosmetology Commission adopts new §89.3, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2881).

The section is adopted in order to clarify the intent of the section and stipulate the disciplinary action to be taken when expired licenses and certificates are found.

The effect of the new section will be to set out specific stipulations as regard to the expiration of licenses and certificates.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808241 Norman L. Jenkins
 Executive Director
 Texas Cosmetology
 Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §89.4

The Texas Cosmetology Commission adopts an amendment to §89.4, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2881).

The amendment is adopted in order to clarify the intent of the section.

The amendment will eliminate confusion due to misinterpretation of the language in the section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808240 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §89.7

The Texas Cosmetology Commission adopts an amendment to §89.7, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2882).

The amended section will clarify what kind of services cannot be performed by students for compensation.

The amended section eliminates confusion evolving from ambiguous terminology.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808238 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §89.8

The Texas Cosmetology Commission adopts an amendment to §89.8, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2882).

The amended section will clarify the intent of this section.

The amended section will eliminate confusion due to misinterpretation of the language in the section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808237 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §89.11

The Texas Cosmetology Commission adopts an amendment to §89.11, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2883).

The amendment provides for greater clarification and interpretation in the event of time clock failure.

The amended section will provide detailed instructions to the beauty schools or programs during time clock failures.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808236 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §89.12

The Texas Cosmetology Commission adopts an amendment to §89.12, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2883).

The amended section will clarify the location at which all commission rules and regulations shall be displayed.

The amended section will provide greater interpretation as to the location at which commission rules and regulations shall be displayed.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808235 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512) 463-5542



• 22 TAC §89.15

The Texas Cosmetology Commission adopts an amendment to §89.15, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2883).

The amended section will require verification of all current franchise taxes to be forwarded to the Texas Cosmetology Commission.

The amended section will provide the inclusion of all proper franchise tax payment requirements and verification to be forwarded to the Texas Cosmetology Commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808234 Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988
For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.27

The Texas Cosmetology Commission adopts an amendment to §89.27, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2884).

The amendment will clarify the intent of the section.

The amended section will function as a clearer interpretation of registration procedures.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808233
Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988
For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.39

The Texas Cosmetology Commission adopts an amendment to §89.39, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2884).

The amended section will adopt all salon square footage and equipment requirements.

The amended section will spell out all necessary square footage and equipment requirements as well as licensing requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808232
Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988
Proposal publication date: June 10, 1988
For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.51

The Texas Cosmetology Commission adopts an amendment to §89.51, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2885).

The amended section will allow cosmetology services to be rendered to the deceased according to legal and proper procedures.

The amended section will treat cosmetology services performed on the deceased in the same fashion as on the incapacitated.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808231
Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988
For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.52

The Texas Cosmetology Commission adopts an amendment to §89.52, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2885).

The amended section will notify consumers that a prescribed form must be completed and submitted to Texas Cosmetology Commission prior to any investigation of such.

The amended section will establish a standard form and procedures to follow when filing a consumer complaint.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808230
Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission
Effective date: September 1, 1988
Proposal publication date: June 10, 1988
For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.53

The Texas Cosmetology Commission adopts an amendment to §89.53, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2886).

The amendment clarifies the intent of the section.

The amendment will provide a better understanding and interpretation of this section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808229
Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988
For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.56

The Texas Cosmetology Commission adopts the repeal of §89.56, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2886).

The repealed section will eliminate an unnecessary rule, as this issue is determined by policies of the school.

The repealed section will provide schools with the flexibility in dealing with student name tags.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808228

Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512)
463-5542

◆ ◆ ◆
• 22 TAC §89.76

The Texas Cosmetology Commission adopts new §89.76, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2886).

The new section will establish legal rights for schools to maintain separate facilities for supplemental training.

The new section will provide schools with the opportunity to expand their training facilities.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

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

TRD-8808227

Norman L. Jenkins
Executive Director
Texas Cosmetology
Commission

Effective date: September 1, 1988

Proposal publication date: June 10, 1988

For further information, please call: (512)
463-5542

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Part X. Texas Funeral
Service Commission

Chapter 203. Licensing and
Enforcement-Specific
Substantive Rules

• 22 TAC §203.20

The Texas Funeral Service Commission adopts an amendment to §203.20, without changes to the proposed text as published in the June 28, 1988, issue of the *Texas Register* (13 TexReg 3276).

The amendment will set standards whereby the agency will be able to inspect documents required to be retained to discover violations of the law.

The amendment allows for exemptions to the section in specific circumstances.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil

Statutes, Article §5, which provide the Texas Funeral Service Commission with the authority to promulgate rules and regulations.

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

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

TRD-8808293

Larry A. Farrow
Executive Director
Texas Funeral Service
Commission

Effective date: September 2, 1988

Proposal publication date: June 28, 1988

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

◆ ◆ ◆
TITLE 25. HEALTH
SERVICES

Part I. Texas Department
of Health

Chapter 31. Special
Supplemental Food Program
for Women, Infants, and
Children

• 25 TAC §31.1

The Texas Department of Health adopts under federal mandate an amendment to §31.1, concerning *Federal Register* regulations on Special Supplemental Program for Women, Infants, and Children (WIC).

The amendments to subsection (a) incorporate changes to 7 Code of Federal Regulations, Part 246, made by the United States Department of Agriculture during the past year. The changes published in the *Federal Register* and the effective dates are as follows: *Federal Register* dated June 4, 1987, covering school lunch and child nutrition, effective June 4, 1987; *Federal Register*, dated July 2, 1987, covering the formula by which the department allocates food funds to state agencies, effective October 1, 1987; and the *Federal Register* dated January 27, 1988, covering the formula by which the department allocates funds for administrative and program services to state agencies, effective April 1, 1988.

The amendments to subsection (c) incorporate recent changes to the United States Department of Agriculture poverty income guidelines to be used by the department in determining the income eligibility of persons applying to participate in the WIC program. The changes are found in the *Federal Register* dated May 17, 1988 and became effective on July 1, 1988.

The amendments to subsections (a) and (c) are adopted under federal mandate for the following reasons. Under federal and state enabling legislation (The Child Nutrition Act of 1966, as amended, 42 USCA 1786, The Omnibus Hunger Act of 1985, and Acts 1985, 69th Legislature, Chapter 150, Title II), the WIC program is 100% federally funded and governed by federal regulations. Funds are made available to department by federal grant. The federal statute (42 USCA 1786),

the federal regulations (7 Code of Federal Regulations Part 246), and the federal grant (Federal-State Special Supplemental Food Program Agreement) authorize the United States Department of Agriculture to make the funds available to the department to administer the WIC program in the State of Texas, provided that the department administers the program in accordance with the federal regulations. Therefore, the department, under federal mandate, adopts by reference the previous mentioned *Federal Register* regulations on the dates specified.

The amendment is adopted under the following statutes and regulations which provide the Texas Board of Health with the authority to adopt rules covering the Special Supplemental Food Program for Women, Infants, and Children: Texas Civil Statutes, Article 4414b, §1.05; and the Omnibus Hunger Act of 1985, Acts 1985, 69th Legislature, Chapter 150, Title II; Texas Codes Annotated, Human Services, Chapter 33; the Child Nutrition Act of 1966, 42 USCA §1786; and 7 Code of Federal Regulations Part 246.

§31.1. *Federal Register Regulations on Special Supplemental Food Program for Women, Infants, and Children.*

(a) The Texas Department of Health adopts by reference the United States Department of Agriculture final regulations on the Special Supplemental Food Program for Women, Infants, and Children (WIC). These regulations are contained in the *Federal Register* publication entitled, Special Supplemental Food Program for Women, Infants, and Children, dated Wednesday, February 13, 1985, as amended.

(b) (No change.)

(c) The Texas Department of Health adopts by reference the United States Department of Agriculture poverty income guidelines covering the Special Supplemental Food Program for Women, Infants, and Children, which were published in the *Federal Register*, Volume 52, Number 94, Friday, May 15, 1987, which became effective July 1, 1987, and which were amended July 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 August 11, 1988.

TRD-8808253

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

Effective date: July 1, 1988.

Proposal publication date: N/A

For further information, please call: (512)
465-2640

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter G. Worker's Compensation Insurance

Standards for Accident Prevention Services

• 28 TAC §5.6105

The State Board of Insurance adopts new §5.6105, with changes to the proposed text as published in the July 1, 1988, issue of the *Texas Register* (13 TexReg 3331).

Section 5.6105 concerns inspections to be conducted to determine the adequacy of accident prevention services being provided by any insurer writing workers' compensation insurance in the state of Texas. This new section is necessary to set forth standards and procedures under which the inspections will be conducted and reports processed. The inspections are required by statute and are intended to gather information to determine if accident prevention services are being rendered to insureds and if these services are reasonably commensurate with risks, exposure, and experience of policyholders. For clarity, the board has changed the introductory language before paragraph (2)(D)(i)-(x) to read: "Information on the worksheet will include the following:". In order to clarify that inspectors will be examining a policyholder's files only to the extent necessary to evaluate accident prevention services, the board has changed paragraph (2)(E) to provide that, at the time of evaluation, the insurer must make the completed worksheets available to the inspector and have account files available to verify information on the worksheets. In response to comments, the board has changed the first sentence of paragraph (2)(B), has added a sentence at the end of paragraph (2)(B), has added a sentence after the first sentence in paragraph (2)(C), has added wording to paragraph (2)(D)(v), and has changed the second sentence in paragraph (2)(F).

The new section describes the procedures under which the State Board of Insurance will conduct periodic evaluations of the accident prevention facilities of each insurer writing workers' compensation insurance in the state of Texas. The new section prescribes records and procedures which each insurer must make available for review and evaluation.

Submitting comments for the proposed section was Hartford Insurance Company. Objecting against the proposed section were Alliance of American Insurers, American General Fire and Casualty Company, Maryland Casualty, Orion Insurance Group, State Farm Insurance Company, and Texas Employers Insurance.

Commenters complained that experience rating data is not always conveniently available to some insurers required to provide information for evaluation. In response to this comment the board has changed the first sentence of paragraph (2)(B) to require infor-

mation based on data processing records or other comparable records if data processing records are not available, rather than information based on experience rating data. Commenters urged that this section should omit references to account files or should include a method for assuring confidentiality of policyholder accounts. In response to this comment, the board has added a sentence at the end of paragraph (2)(B) declaring that the board has determined that such lists contain confidential and proprietary information, and review of such lists shall be restricted to personnel of the State Board of Insurance, and the board has inserted a sentence after the first sentence in paragraph (2)(C) stating that the director of loss control regulation shall return such a list to the company at the time that the director selects the accounts to be evaluated and specifies each account for which the company must prepare an evaluation worksheet. One commenter argued that the section should not require a company to include a date of last visit on the evaluation worksheet for policyholders so small that the cost of visiting would exceed the benefit provided. In response to this comment, the board has changed paragraph (2)(D)(v) to provide that the company shall provide the date of last visit or direct communication. Commenters complained that the language of the section unfairly assigns responsibility on the insurer for notification and arrangement for inspections and places the insurer in a role of quasi-enforcer of accident prevention requirements on policyholders. In response to this comment, the board has changed the second sentence in paragraph (2)(F) to provide that the representative of the insurer shall be afforded the opportunity of accompanying the inspector, rather than to require that such a representative shall accompany the inspector. Commenters recommended that paragraph (5) should contain a cross-reference to other sections. The board responds that to include all possible cross-references would clutter the section with unnecessary verbiage. Commenters recommended that the section should provide that criteria for action by the director of loss control regulation should be less subjective and that the selection of accounts for evaluation should be done either by the insurer or on a purely random basis. The board responds that the objective of the actions and methods prescribed by this section is to provide for inclusion of accounts and information representative of all factors appropriate for evaluation. One commenter requested that subparagraph (2)(C) include criteria for selection of accounts to be evaluated. The board responds that, the director will make selections designed to provide information necessary for evaluation of compliance with the Insurance Code, Article 5.76-1. One commenter urged that the insurer receive notification of any complaint or other subject for evaluation before any visit or inspection from the board. The board responds that the present wording of the section is designed to enable the director of loss control regulation to pursue information in whatever manner will yield the most accurate and fair evaluation.

The amendment is adopted under the Insurance Code, Article 5.76-1(e), which authorizes the State Board of Insurance to promulgate reasonable rules and regulations for the enforcement of requirements that any insurer writing workers' compensation insurance in

the state of Texas shall provide accident prevention facilities and shall render accident prevention services for policyholders.

§5.6105. *Evaluation and Inspection of Accident Prevention Facilities and Services.* At least every two years, the State Board of Insurance will conduct an evaluation of the accident prevention facilities and services of each insurer writing workers' compensation insurance in the state of Texas.

(1) Location of evaluations.

Evaluations will be conducted at the insurer's home office, division office, regional office, or office closest to Austin, unless otherwise arranged through mutual consent between the Director of Loss Control Regulation for the State Board of Insurance and a representative of the insurer. Companies out of state with no office in Texas will be required to bring necessary files to Austin. The insurer shall bring all account files selected by the Director of Loss Control Regulation from all company offices to the selected evaluation location. All affiliated companies of an insurer shall be evaluated at the same time and place.

(2) Notification/preparation.

(A) The director of loss control regulation will notify each company of a proposed date 60 days in advance of the evaluation for that company.

(B) At least 45 days prior to the date set for the evaluation, the insurer must provide the director of loss control regulation with a list of policyholder accounts, by premium grouping, based on the individual company's most current data processing records or other comparable records if data processing records are not available. The list must be separated by affiliated insurance companies. The State Board of Insurance has determined that such lists contain confidential and proprietary information, and review of such lists shall be restricted to personnel of the State Board of Insurance.

(C) Upon receipt of this list, the director of loss control regulation or a State Board of Insurance inspector will select those accounts to be evaluated, notify the company, and specify each account for which an evaluation worksheet must be prepared by the company. At that time, the director shall return such list to the company. Worksheet forms will be provided to the company at the time the accounts to be evaluated are identified.

(D) The company will have at least 30 days from the time the accounts are selected to complete the worksheets. Information on the worksheet will include the following: ♦

(i) identification of account and location;

(ii) governing classification and best hazard index;

(iii) estimated annual premium;

(iv) description of operations;

(v) date of last visit or direct communication;

(vi) accident data;

(vii) loss potential of risk;

(viii) recommendations submitted for loss control;

(ix) training program information; and

(x) industrial hygiene/health services.

(E) At the time of evaluation, the insurer must make the completed worksheets available to the inspector and have account files available to verify information on the worksheets.

(F) If considered necessary, the inspector may visit a job site to make further evaluation of the accident prevention services provided. If requested by the inspector, the representative of the insurer shall make the necessary notifications and arrangements, and shall be afforded the opportunity to accompany the inspector. If the director of loss control regulation for the State Board of Insurance considers it appropriate, the inspector will make the visit without notifying the insurer.

(3) Conduct of the evaluation. The inspector will work with a responsible management member or a designated representative in the evaluation of the adequacy of the accident prevention services provided to policyholders. The evaluation will be conducted in two parts. Part One will consist of the review and analysis of company records and a determination of how accident prevention services are made available to policyholders. Part Two will consist of an exit briefing on the preliminary results of the evaluation.

(4) Records and procedures to be reviewed. The following are necessary records and procedures which the insurer must make available for review and evaluation.

(A) Qualifications of field safety representatives. The insurer shall make available, at the beginning of the evaluation, a list of personnel performing the duties of a field safety representative. The list will include the name, office location, designation as employee or contractor, and statement of qualifications pursuant to the provisions of this subchapter. The inspector will review the qualifications of all personnel performing duties of a field safety representative.

(B) Availability of services.

The insurer shall make available examples of procedures by which policyholders are informed of the availability of accident prevention services. Also to be reviewed are the procedures followed by the company regarding requests for accident prevention services by insureds.

(C) Accident prevention facilities. The inspector will review the adequacy of facilities available to render accident prevention services required pursuant to §5.6101 of this title (relating to Facilities and Field Representatives).

(D) Accident prevention services. The inspector will review the mechanisms and procedures by which the appropriate accident prevention service is determined under the guidelines outlined in §5.6102 of this title (relating to Accident Prevention Services). The insurer shall maintain a record of all accident prevention services rendered to each policyholder.

(E) Other data. The inspector may review other data or information in the evaluation of the adequacy of accident prevention services. Such information may include but is not limited to: accident/claims notification procedures, accident investigation and analysis, examples of cost savings for policyholders as a result of safety practices, and follow-up efforts on recommendations made to policyholders.

(F) Worksheet/policyholder files. A detailed review of completed worksheets will be made to ascertain the adequacy and quality of accident prevention services.

(5) Accident prevention reports. Upon completion of the inspection, the inspector will prepare a written report and forward the report to each company. The report will reflect the inspector's observations, conclusions, and analysis of the adequacy of the company's accident prevention services as required by the Insurance Code, Article 5.76-1. When appropriate, recommendations for improvement will be a part of the report.

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

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

TRD-8808246 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: September 18, 1988

Proposal publication date: July 1, 1988

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

Part II. Industrial Accident Board

Chapter 42. Medical Benefits

Subchapter B. Medical Cost Containment

• 28 TAC §§42.105, 42.110, 42.115

The Industrial Accident Board adopts new §§42.105, 42.110, and 42.115, with changes to the proposed text published in the June 3, 1988, issue of the *Texas Register* (13 TexReg 2728).

The new sections establish guidelines for fair and reasonable fees and charges for medical, hospital, and pharmaceutical goods and services rendered under the Workers' Compensation Act. They are adopted pursuant to Senate Bill 1355, 70th Legislature, 1987. These sections constitute new Subchapter B, entitled Medical Cost Evaluation, of new Chapter 42, Medical Benefits.

The board held a public hearing on July 1, 1988, to take testimony on these sections. In response to public comment, the sections were amended and adopted on July 5, 1988.

In §42.105 the board adopts the *Official Medical Fee Guidelines for Services Rendered Under the Texas Workers' Compensation Act*, as amended, by reference. This document is available for inspection at the office of the Texas Register, and the Austin office of the Industrial Accident Board.

New §42.105 is changed by defining the guideline for fair and reasonable charges for covered medical goods and services to be the lesser of (1) the provider's usual fees and charges; or (2) the fees and charges established by the relative value scale, a subsection of the official medical fee guideline. This was done in accordance with Texas Civil Statutes, Article 8306, §7b(b).

New §42.105 is changed by increasing the conversion factors set out in the Relative Value Scale to the following amounts: medicine: \$7.90; surgery: \$205.64; radiology (total units): \$16.75; pathology: \$1.90; and anesthesiology: \$41.48.

These amendments were recommended by the Health Care Advisory Committee and the Subcommittee on Physicians' Fees and Charges, created by the board to assist in establishing the guidelines pursuant to Texas Civil Statutes, Article 8307, §7b(i), (j), and (k). The recommendations were based primarily on fees and charges data submitted by health care provider members of the committees. Dissenting opinions were voiced by insurance carrier representatives during the board's public hearing; however, these opinions were discounted because the data submitted by the carriers was not comprehensive, lacked statistical accuracy, and had not been presented earlier to the advisory committees.

New §42.105 is changed by amending the Special Therapeutic Services subsection of the Medicine Section of the Relative Value Scale in two ways. Chiropractors and physical therapists shall be required to bill according to the procedures and CPT codes listed in the special therapeutic services subchapter of the medicine section (97000 CPT Code series), to include office visits in this section.

Chiropractors and physical therapists may bill under other codes contained within the relative value scale if the procedures fall within their scope of practice, and if the bill is accompanied by a report explaining the reasons for the unusual billing. This amendment was recommended by the Health Care Advisory Committee, on the grounds that the special therapeutic services subchapter of the medicine section more accurately describes physical medicine treatments. The amendment also permits physical medicine providers access to other codes contained within the relative value scale when accompanied by a report explaining the unusual billing.

Office visits listed under CPT Codes 97000 and 97100 shall be thirty minutes in duration and include examination, evaluation, treatment, and report. Chiropractic office visits shall include a manipulation/adjustment (specific documentation is required if no manipulation/adjustment is included in the chiropractic office visit). Modalities and procedures may be billed separately, if applicable, by using a unit value of 1.8 for modalities and 2.0 for procedures. Consequently, the following CPT Codes, which represent increments of office visit billing time, are deleted: 97050, 97101, 97200, and 97201. This amendment was the unanimous recommendation of the Health Care Advisory Committee and the subcommittees on Chiropractic Care and Physical Therapy, on the grounds that adjunctive billing of modalities and procedures relating to office visits, as opposed to billing by increments of time, more accurately reflected physical medicine practice patterns.

New §42.105 is changed by increasing the cost of the guideline to \$12.50, to include postage and handling.

New §42.110 is changed by defining the guideline for the fair and reasonable charge for covered hospital services to be the lesser of (1) the provider's usual fees and charges; or (2) the fees and charges established by the method for determining per diem and ancillary service rates. This was done in accordance with Texas Civil Statutes, Article 8306, §7b(b).

New §42.110 is changed by increasing the ancillary services rate, the adjusted percentage that is added to each hospital's ratio of costs to charges rate (RCC Rate), from 8% to 15%. The Health Care Advisory Committee had recommended that the board increase the percentage from 8% to 10%. The board adopted the 15% rate to more accurately reflect costs of RN training and capital outlay (costs not allowed in the Medicare RCC allowance), and inflation which has occurred between the cost reporting period and the present.

New §42.110 is changed by increasing the cost of the guideline to \$12.50, to include postage and handling.

New §42.115 is changed by defining the guideline for the fair and reasonable charge for covered pharmaceuticals to be the lesser of (1) the provider's usual charge; or (2) the fees and charges established in the brand-name and generic formulas adopted by the board. This was done in accordance with Texas Civil Statutes, Article 8306, §7b(b).

New §42.115 is changed by amending the formulas for determining charges for brand-name and generic pharmaceuticals, as fol-

lows: brand-name pharmaceuticals: average wholesale price (AWP) times 1.1 plus \$4.00; generic pharmaceuticals: average wholesale price (AWP) times 1.4 plus \$7.50.

The board adopted the Health Care Advisory Committee's unanimous recommendation for the generic pharmaceutical formula. After considering a dissenting minority report issued by the subcommittee on pharmaceuticals, and a comparative analysis prepared by the consumer representative member of the Health Care Advisory Committee, the board decided to amend the Health Care Advisory Committee's recommendation for the brand-name pharmaceutical formula (AWP times 1.4 plus \$3.75).

New §42.115 is changed by providing that the *Medispan* publications, *Prescription Pricing Guide* and the *Generic Buying and Reimbursement Guide*, shall be used to determine average wholesale prices for brand-name and generic pharmaceuticals. The average wholesale price shall be updated by the monthly *Medispan* publications. This pricing guide was recommended unanimously by the subcommittee on Pharmaceuticals and the Health Care Advisory Committee.

New §42.115 is changed by adding a new subsection (e), encouraging the prescription of generic pharmaceuticals whenever medically appropriate and available. This was done in response to testimony by pharmacists and carriers that generic pharmaceuticals, while substantially less expensive, are rarely prescribed.

New §42.115 is changed by adding subsection (f), reiterating the injured worker's statutory right to freely choose medical treatment, including pharmaceuticals. This was done in response to testimony that some carriers are infringing upon this right by directing injured workers to certain pharmaceutical suppliers.

New §42.115 is changed by setting a charge of \$1.00 for the guideline, reflecting the board's actual cost.

Public comment was received in writing and in testimony at a public hearing held on July 1, 1988. Comment has been organized according to subject matter.

Regarding the guidelines in general, several persons testified that no guidelines should be established until a Texas data base has been established. One commenter found the proposed guidelines vague and difficult to interpret.

Regarding the medical fee guideline, several commenters expressed dissatisfaction with any attempt to regulate physicians, arguing that the guidelines did not account for distinctions in skill and length of practice. One commenter asserted that the California relative value scale (from which the board's proposed medical fee guideline has been adapted) had been found to restrain trade by the Federal Trade Commission. Several persons criticized the California scale as outdated, and intended to serve as a minimum, not maximum, guideline for fees. Other persons found the California scale acceptable, if used with the appropriate conversion factors. Comments were directed only to the proposed conversion factor for surgery: one speaker found it too high, while another deemed it appropriate.

One speaker declared that chiropractors

should not be held to the same scale as medical doctors and physical therapists; another insisted on chiropractors, right to be paid at the same rate as other providers.

Characterizing it as more descriptive of their practice, physical therapists urged the board to substitute the Physical Therapy Reimbursement Guideline, developed by the University of Texas at Galveston, for the proposed regulation for this provider group under the physical medicine section of the medical fee guideline.

Regarding the hospital fee guideline, one commenter decried the establishment of any guideline for hospital fees as an infringement on the right to contract. Another asserted that the statutory criteria of fair and reasonable was the only permissible basis for reimbursement. Others recommended postponing adoption of the guideline until data collection is completed, or until the end of the 71st legislative session.

Several commenters recommended alternatives to the proposed guideline, including: uniformly discounting all current charges; substituting Blue Cross/Blue Shield negotiated rates for the proposed usual and customary rates; using a flat rate scale; freezing costs for one to two years; establishing a state-wide rate-setting commission; and containing costs by regulating utilization, e.g., preadmission review, mandatory second opinion for surgery, extended stay review, and peer review to evaluate treatment.

Commenters requested additional regulations regarding timely payment, appeal, and regular adjustment of the guideline.

The board's proposed ratio of cost to charges was specifically criticized as unclear; dated; requiring revision of present cost systems; failing to distinguish between urban and rural facilities; tending to reward inefficiency; and unresponsive to such items as capital costs, bad debts, federal income tax, malpractice costs, charity care, and losses incurred through other government programs. One commenter asserted that reimbursement should be based on charges alone.

Commenters speculated that the projected cost of containment could run as high as 53%, resulting in hospitals refusing to treat workers' compensation patients, shifting costs to other patients, laying off personnel, reducing the quality of care, and especially among rural hospitals, closing their doors.

Regarding the pharmaceutical fee and durable goods guideline, one commenter hypothesized a 40% reduction in pharmaceutical costs with the regular prescription of generic drugs. Another supported the proposed guideline for pharmaceuticals. Two commenters remarked that the suppliers of durable medical goods had not been invited to participate in the advisory committees.

Comment was received from the following persons: Carl Abdalian, Executive Director, AMI Danforth Hospital; Charles Adair, President and Owner, Perfect Tens Electromedicine Products, and representing Frank V. Smith III; William D. Adams, Assistant Vice President, Valley Baptist Medical Center; Peter Armato, Government Relations Director, Greater Houston Hospital Council; George Aubert, D.C., Texas Chiropractic Association; Brian S. Barbe, Executive Director, AMI Heights Hospital; Thomas L. Bay, Director, Prospective Payments of AMI, Houston; Richard Beck, Director of Public Affairs, Texas Pharmaceutical Association; Timothy A. Beckett, Associate Executive Director/Finance, Humana Hospital, San Antonio; Mel Bishop, Executive Director, AMI Westbury Hospital; Jo Bradley, Aetna Casualty and Surety; Gloria Katherine Branson, National Anesthesia Associates/Tens Associates, Ltd.; Bonnie Brooks, Vice President, TIRR Systems, representing Healthcare Financial Management Association; Stoney Burke, Medical Service Coordinator, TEIA; Rick Canady, Executive Vice President and Chief Financial Officer, Baptist Hospitals in Southeast Texas; Doris Clark, R.N., AMI Medical Plaza Hospital; Phillip L. Coppage, Executive Director, AMI Medical Arts Hospital; Paul K. Crafts, Executive Director, AMI Park Plaza Hospital; Dean Dickson, Furr's Inc., Furr's Cafeterias, Southwest Airlines; Larry S. Edwards, Medical Services Manager, TEIA; John Elliot, Assistant Administrator - Finance, Citizens Medical Center; Scott D. Evans, FACHE, Executive Director, AMI Round Rock Community Hospital; Harold Freeman, Legislative Affairs, Texas Medical Association; John C. Garvas, President, Dallas-Fort Worth Hospital Council; John D. Gay, Vice President, Finance, Memorial Care Systems, and Vice President, Memorial Hospital Association, Houston; Larry Graham, Executive Director, AMI Terrell Community Hospital, Inc.; G. Tucker Grau, Executive Director, AMI Brownsville Medical Center; John C. Grossmeier, Executive Director, AMI Mid-Jefferson County Hospital; Paula Hagan, Counsel, Presbyterian Hospital of Dallas; Arlin Hall, Hospital Financial Planner, Brackenridge Hospital; Andrew M. Harris, CEO, Colorado Fayette Medical Center; Evelyn Hartman, The Remedy Company; Hector Hernandez, Executive Director, AMI Doctors Hospital of Laredo; Jonny F. Hipp, Executive Director, AMI Alice Physicians and Surgeons Hospital; Phillip D. Hurley, Executive Director, AMI Parkway Hospital; Jamie Roy Jacoby, Director of Finance, Kimble Hospital; Anders Johnson, Regional Director, Occupational Urgent Health Care Systems; Kathleen Johnson, Claims Supervisor, Medical Cost Evaluation, Argonaut Insurance Company; Bryant H. Krenek, Jr., Executive Director, AMI Nacogdoches Medical Center Hospital; Jerry R. Kincade, Executive Director, AMI Medical Arts Hospital; Philip M. Kremer, Director, Central Business Office, Humana;

Richard C. Lawson, Counsel, American Insurance Association; B. E. Leissner, Texas Pharmacists Association; Philip J. Leonard, Texas Neurological Society; James D. Marshall, Utica Mutual Life Insurance Company; Harlis McMurry, Director, Medical Services, Liberty Mutual Insurance Company; Dennis C. Millirons, Hospital Executive, Santa Rita Health Care Corporation; C. Richard Mills, Medical Cost Containment, National Medical Audit; John L. Mims, Executive Director, McAllen Medical Center; Ann Moreno, R.N., B.S. N, Director of Medical Audits, Baptist Hospital (Orange); Roy L. Murray, President, Texas Association of Medical Equipment Dealers; Ann Newstead, Texas Physical Therapy Association; Ken Noteboom, Executive Director, AMI; Walter J. Ornsteen, Executive Director, AMI Twelve Oaks Hospital; James E. Pears, FACHE, President/Administrator, Marshall Memorial Hospital; Kenneth W. Poteete, Administrator, Georgetown Hospital, Texas Hospital Association; R. Mark Probst, D.O., F.A.A.F.P., Family Medicine Associates, P.A.; Shirley Whittington Pruitt, Responsive Providers, Inc.; W. A. (Al) Rampmeier, Consultant, Texas Hospital Association; Thomas H. Rockers, President and Chief Executive Officer, Santa Rosa Healthcare Corp.; Clay W. Ross, Chief of Staff, Valley Baptist Medical Center; Wayne Sawyer, Physical Therapy; Simon Scholts, Chief Financial Officer, Irving Healthcare Association; T. D. Shapiro, Executive Director, AMI Odessa Women's and Children's Hospital; J. Barry Shevchuk, Chief Executive Officer, Houston Northwest Medical Center; Luis G. Silva, Executive Director, AMI Park Place Hospital; Steve Spelsner, Chief Financial Officer, AMI Riverside Hospital, Inc.; Mitchell A. Smith, Controller, Spring Branch Memorial Hospital; Ronald L. Smith, FACHE, President, Harris Methodist Health System; Allan C. Sodnuck, Chief Executive Officer, Spohn Kleberg Memorial Hospital; Neal Sommers, Financial Risk Management, Internal Audit; Gerry Storey, President and owner, All Medical Rents and Sales; Dr. Ty Talcott, Accent Chiropractic Clinic; Bridgett Taylor, Manager of Governmental Relations, Hermann Hospital; J. J. Thorneberry, First Vice President, Texas Association of Medical Equipment Dealers; John A. Tietsen, Assistant Vice President, Methodist Hospital, Houston; Terry Townsend, CAE, President/CEO, Texas Hospital Association; Steve Turner, Executive Director, AMI Medical Plaza Hospital; Joe Walton, Director, Patient Account Services, Daughters of Charity Health; Frederick J. Wanner, Claims Manager, Argonaut Insurance Company; Byron Ward, Insurance Claims, Hartford Insurance Group and American Insurance Association; Wilson J. Weber, Executive Director, AMI Alvin Community Hospital; Warren Wilkey, Executive Director, AMI Katy Hospital; Joe Willems, Claims Manager, TEIA, Health Care Advisory Committee; Jeanette Winfree, Physical Therapy Association,

Special Advisory Committee for Physical Therapy; Steve Woerner, Executive Director, AMI North Texas Medical Center; Donald P. Wilcox, General Counsel, Texas Medical Association.

The agency incorporated much of the comment received into the amended sections adopted here, as noted above. Other concerns will be addressed in the near future when the agency adopts §§42.5-42.75 (comprising subchapter A of Chapter 42); §§42.125-42.170 (amending subchapter B of Chapter 42); and §§42.305-42.315 (comprising subchapter D of Chapter 42), published as proposed sections on July 19, 1988 (13 TexReg 3566).

The agency disagrees with other comments, and declines to act upon them, as follows. In light of the board's commitment to implement Senate Bill 1355 by September 1, 1988, and full compliance with statutory procedures for implementation, the board discounts all comments on the inappropriateness and/or untimeliness of adoption of the guidelines.

The California Relative Value Scale is adopted as an interim measure, pending replacement with data collected from Texas providers for fiscal year 1988. As noted above, the conversion factors have been revised to more accurately reflect current Texas costs and charges, and are adopted with reservation, subject to revision as data is collected.

The board has decided to reject physical therapists' request for a separate guideline for physical therapy due to uncertainty as to whether chiropractors would be allowed access to that guideline. Until this issue has been resolved by the attorney general's office, the board declines to adopt a separate guideline for physical therapy.

The specific allegation that the California relative value scale was found by the FTC to restrain trade requires qualification. Such a finding was made regarding a RVS adopted by the California Medical Association, but the scale, as adopted and implemented by the California Workers' Compensation Commission, has never been found in restraint of trade.

After due consideration of all suggested alternatives to the proposed method for containing hospital costs, the board reaffirms the original proposal, with the modifications noted above.

The board is in complete agreement with comments on the need for regulation of utilization, and will publish proposed guidelines for utilization in the near future.

Regarding certain commenters, projections of reductions in hospital revenue resulting from application of the guideline, the board responds that there can be no clear indicators of the actual effect of the guideline until after implementation, monitoring, and measurement. The Texas Reha-

bilitation Commission, which uses a similar guideline for hospital charges, has informed the board that hospitals have not expressed dissatisfaction with application of their guideline. The board also finds it significant that the representatives of the Texas Hospital Association have testified that hospitals commonly engage in substantial cost-shifting from other, less-profitable areas to the workers' compensation insurance system.

Finally, the board encourages the suppliers of durable medical goods to participate in the dialogue accompanying regulation of their area of practice by submitting their comments in writing to the chairman of the Special Advisory Committee on Pharmaceuticals, with copies to the board.

The sections are adopted under Texas Civil Statutes, Article 8307, §4(a), which authorize the Industrial Accident Board to adopt rules necessary to administer the workers' compensation act, and Article 8306, §7b, which specifically authorizes the board to adopt rules to implement medical cost containment.

§42.105. Official Medical Fee Guidelines.

(a) The *Official Medical Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act* is the lesser of:

(1) the provider's usual fees and charges; or

(2) the fees and charges established by the relative value scale, a subsection of the official medical fee guideline.

(b) The Relative Value Scale is adapted from the *1988 Official Medical Fee Schedule for Services Rendered under the California Workers' Compensation Laws*, and is adopted by reference.

(c) The board will publish the relative value scale as the *Official Medical Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act*. The guideline will be reviewed and revised periodically, as necessary.

(d) Copies of the guideline will be available upon written request to the Administrator, Medical Cost Evaluation Division, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704-1287.

(e) The charge for the guideline shall be \$12.50. This charge may be revised periodically, as necessary.

§42.110. Official Hospital Fee Guideline and Method for Determining Per Diem and RCC Rates.

(a) The *Official Hospital Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act* is the lesser of:

(1) the provider's usual fees and charges; or

(2) the fees and charges established by the method for determining per diem and ancillary service rates.

(b) The board adopts the following method for determining per diem and ancillary service rates for hospitals:

(1) Per diems: Charges for room rates (per diems) will be paid according to the average cost per patient day for inpatient routine services (room, board, and general duty nursing) and/or the average cost per day in special care units submitted annually by Texas hospitals to the Health Care Financing Administration (Medicare Cost Reports, HCFA Form 2552, Supplemental Worksheet D-1, Part II) times the number of days billed.

(2) Ancillary Services.

(A) The board will compute for each hospital in Texas a combined ratio of total costs to total charges (RCC Rate) for all ancillary services provided by an individual hospital based on the settled cost reports (Medicare Cost Reports, HCFA Form 2552, Worksheet C) submitted annually by Texas hospitals to the Health Care Financing Administration. The combined RCC rate is computed by dividing total costs by total charges.

(B) The carrier will determine the fair and reasonable payment for ancillary services provided and billed by a hospital by multiplying the hospital's RCC rate times the total charges billed, then increasing the adjusted total by 15%.

(c) The board will publish the per diems and RCC rates in the *Official Hospital Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act*. The guideline will be reviewed and revised periodically, as necessary.

(d) Copies of the guideline will be made available upon written request to: Administrator, Medical Cost Evaluation Division, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704-1287.

(e) The charge for the guideline shall be \$12.50. This charge may be revised periodically, as necessary.

§42.115. Official Pharmaceutical Fee Guidelines.

(a) The *Official Pharmaceutical Fee Guidelines for Services Rendered Under the Texas Workers' Compensation Act* is the lesser of:

(1) the provider's usual charge; or

(2) the charges established in the brand-name and generic formulas adopted by the board.

(b) The formulas adopted by the board for establishing fair and reasonable fees and charges for brand-name and generic pharmaceuticals are:

(1) Brand-name pharmaceutical formula: average wholesale price (AWP) times 1.1 plus \$4.00

(2) Generic pharmaceutical formula: average wholesale price (AWP) times 1.4 plus \$7.50

(c) The board will determine the average wholesale price (AWP) for brand-name and generic pharmaceuticals through the monthly Medispan publications, *Prescription Pricing Guide and Generic Buying and Reimbursement Guide*.

(d) The charge for the pharmaceutical fee guideline shall be \$1.00. This charge may be revised periodically, as necessary.

(e) The board encourages the prescription of generic equivalents to brand-name drugs when such prescription is medically appropriate and available.

(f) All injured employees entitled to benefits under the Texas Workers' Compensation Act are entitled to immediate access to pharmaceutical goods and services.

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

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

TRD-8808257

Scott McAnally
Executive Director
Industrial Accident Board

Effective date: September 1, 1988

Proposal publication date: June 3, 1988

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.296

The Comptroller of Public Accounts adopts an amendment to §3.296, with changes to the proposed text published in the May 20, 1988, issue of the *Texas Register* (13 TexReg 2358).

The amendment allowed the tax-free sale of the type feed normally consumed by farm and ranch animals without the necessity of the seller having to inquire what type animal the feed is being purchased for or where the animal is located. When and under what circumstances exemption certificates should be accepted was also discussed, as well as the comptroller's position on the tax responsibilities of persons buying and holding plants for resale. The reference to worms, lady bugs, and mantises as work animals was deleted; not because these creatures are taxable when used on a farm in the production of

crops, but because agricultural use has diminished to the extent that mention in the section is no longer warranted.

The changes correct procedural requirements concerning the requirements for exemption certificates in connection with sales of food normally consumed by farm and ranch animals or by wildlife.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the controller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.296. *Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer.* (Texas Tax Code §151.316).

(a) Sales tax is not due on the receipts from sales of, and the storage, use or consumption of, the following.

(1) Horses, mules, work animals, and any form of animal life of any kind, the products of which ordinarily constitute food for human consumption.

(A) (No change.)

(B) The term "work animals" shall include any animal exclusively used in the following.

(i) The production of food for human consumption or other agricultural products held for sale in the regular course of business. Examples: plow animals or sheep dogs.

(ii) (No change.)

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

(2) Hay, corn, oats, and any other type feed normally consumed by farm and ranch animals, animals which are held for sale in the regular course of business, and wildlife.

(A) Included in this section is feed for animals covered by paragraph (1) of subsection (a) of this section, feed for animals held for breeding purposes whose offspring are held for sale in the regular course of business, and wildlife. Feed purchased for an animal that might normally be kept as a pet is taxable. Pets would normally include, but not be limited to, dogs, cats, rabbits, hamsters, and tropical fish.

(B) All persons selling the type feed that is normally consumed by farm and ranch animals or wildlife may sell the feed tax free without an exemption certificate. Persons selling food for an animal that might normally be kept as a pet should collect sales tax or accept a valid and properly completed resale or exemption certificate from the purchaser.

(3) Seeds and annual plants, the products of which either ordinarily constitute food for human consumption, are used to produce feed for animals exempted by this section, or are to be sold in the regular course of business. An exemption certificate is not required when purchasing these items.

(4) Fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business. However, when these particular items are used in commercial storage facilities or other storage facilities which are not operated exclusively by the owner or are not located on the farm or ranch, the exemption is lost, and the tax must be remitted on the sales price of such items. Fertilizer is taxable if sold for use on lawns, home gardens, or for any uses other than those listed in this paragraph. See subsection (d) of this section regarding exemption certificates.

(5) Machinery or equipment used or employed on farms or ranches exclusively.

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

(b) Sales tax is not due on machinery, and equipment exclusively used in the processing, packing, or marketing of agricultural products by the original producer at a location operated by the original producer exclusively for processing, packing, or marketing his own products.

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

(c) Persons purchasing trees, shrubs, and ornamental plants for resale are presumed to be marketing these products rather than fostering their growth. The presumption may be overcome by showing that actions were taken which did more than maintain the products prior to sale. An example would be replanting a shrub in a bigger container to encourage growth. Machinery, equipment, and other tangible personal property purchased to maintain the plants prior to sale are taxable.

(d) All persons engaged in the business of selling items which are exempted in this section from the sales tax must obtain an exemption certificate from their customers as provided in the Tax Code, §151.155. The certificate may be a blanket certificate covering all purchases only when the items being sold are of a type or quantity which would not generally be used except on a farm or ranch. An example would be farm machinery or fertilizer purchased in bulk. Exemption under this section, the seller may either obtain an exemption certificate for each item which qualifies for exemption or obtain a certificate at the time the customer makes an exempt purchase initially and keep that certificate on file. When sub-

sequent exempt purchases are made, the invoice must be stamped with the words, "Exempt agricultural purposes" and the customer must sign the invoice.

(e) All medications, tonics, restoratives, or other therapeutic preparations for farm and ranch animals which are used exclusively on a farm or a ranch are exempt from sales and use tax, (for example, drenches and vaccines). See subsection (d) of this section regarding exemption certificates.

(f) A farm or ranch is defined as one or more tracts of land used, either wholly or in part, in the production of crops, livestock, and/or other agricultural products held for sale in the regular course of business. This includes feed lots, dairy farms, commercial orchards, commercial nurseries, and similar commercial agricultural operations. Farm or ranch does not include home gardens or timber operations.

(g) The terms machinery or equipment shall include:

(1) expendable supplies, such as hand tools, baling wire and binders twine;

(2) lubricants for farm machinery and for motor vehicles not licensed for highway use;

(3) nuts, bolts, washers, and other hardware. It shall also include materials used on or in buildings, structures, or structural components which are classified as machinery or equipment;

(4) repair or replacement parts used exclusively on farm or ranch machinery or equipment. This shall include tractor tires, tires used on motor vehicles not licensed for highway use, and tires specifically designated by the manufacturer for farm use or off-highway use only;

(5) machinery and equipment used exclusively to maintain equipment which qualifies for exemption under this section;

(6) those items specifically designed to be assembled into a machine, such as parts of a pumping system or portable irrigation systems;

(7) fenceposts, cattleguards, gates, and chutes. However, fenceposts, gates and cattleguards used to enclose private driveways, home lawns, gardens, pools, etc., do not qualify for exemption from tax. These items purchased by persons operating commercial nurseries and greenhouses and similar commercial operations for the purpose of preventing trespassing by the public do not qualify for exemption from tax; and

(8) the following items and the materials used to build, construct, or fabricate these items (these items are classified as equipment and are therefore exempt), provided they meet the qualifications set in this section and have not been previously excluded:

(A) fences, pens, gates, cattleguards, and chutes used in connection with raising livestock or production of agricultural products;

(B) storage facilities specifically designed for and which can only be used to store bulk fungible commodities regardless of whether they are of a portable or fixed nature. Typical facilities on farms or ranches include petroleum products storage tanks, grain storage bins, refrigerated storage structures for unprocessed fruit, silos, and vehicle-mounted fertilizer spreaders or feed mills (not licensed for highway use). General purpose facilities which are used to store bulk fungible commodities, farm produce or equipment do not qualify for exemption from tax. Only those facilities which can not be used for any purpose other than the storage of fungible goods qualify as farm equipment;

(C) buildings and structures which are essentially an item of equipment or machinery necessary for agricultural production if the structure is specifically designed for such use, and the structure cannot be economically used for any other purpose. For example, automated laying houses, farrowing houses, and commercial greenhouses.

(h) Sales tax is due on the sale of computer hardware when sold for use on farms and ranches unless specifically designed as a part of production equipment, such as a computer-operated feed mixing device. Computer software which is designed specifically to aid in the production, processing, packing, or marketing of agricultural products of the original producer qualifies for a sales tax exemption. Computer software used for but not limited to household budgeting, payrolls, bookkeeping, educational, or recreational purposes is taxable.

(i) Buildings and structural components and/or the materials used to build, construct, or fabricate the following facilities are not exempt from the limited sales and use tax.

(1) Buildings include any structure or edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which may be to provide storage, shelter, or housing, or to provide working, office, or sales space (for example, houses, offices, barns, storage facilities, warehouses, garages, and stores).

(2) Structural components include those parts of a building or machinery in, on, or adjacent to a building, relating to the operation or maintenance of the building (for example, air conditioning or heating systems). However, if the sole justification for installation is to meet humidity or temperature requirements essen-

tial for the operation of other machinery or the processing of plants, animals, or foodstuffs, the structural component is exempt.

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

Issued in Austin, Texas, on August 12, 1988.

TRD-8808326

Bob Bullock
Comptroller of Public
Accounts

Effective date: September 4, 1988

Proposal publication date: May 20, 1988

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

Chapter 5. Funds Management (Fiscal Affairs)

Funds Accounting—Accounting Policy Statements

• 34 TAC §5.160

The Comptroller of Public Accounts adopts new §5.160, without changes to the proposed text published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2891). The section adopts the incorporation by reference of "Accounting Policy Statements 1988."

The accounting policy statements were issued to provide procedures and guidelines to state agencies processing documents through the Financial Accounting and Control for Texas System (FACTS). Each accounting policy statement contains legal references, a background section, comptroller requirements and state agency requirements, and divisions to contact if more information is needed.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4344, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the fiscal concerns of the state.

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

Issued in Austin, Texas, on August 15, 1988.

TRD-8808330

Bob Bullock
Comptroller of Public
Accounts

Effective date: September 4, 1988

Proposal publication date: June 10, 1988

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

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 §211.70, §211.77

The Texas Commission on Law Enforcement Officer Standards and Education adopts new §211.70 and §211.77, with changes to the proposed text as published in the April 5, 1988, issue of the *Texas Register* (13 TexReg 1603).

The two completely rewritten sections are necessary to replace old §211.77, which contained the minimum training standards for both peace officers and reserves. Now, §211.70 will have the updated minimum training standards for reserves and §211.77, the updated minimum training standards for peace officers.

After repeal of the old §211.77, the new sections will describe the subjects and topics for the basic peace officer training course and the basic, intermediate, and advanced reserve training courses. Section 211.77 also describes the three new supplementary training courses necessary to augment the academic training available in colleges and universities in the state and it requires completion of a new supplementary peace officer training course for out-of-state officers. It also places a two-year limit on the viability of peace officer training. Section 211.70 replaces the existing permanent reserve license with conditional reserve licenses which are issued after completion of at least the basic reserve course but which expire after two years if intermediate training has not been completed or after four years if full peace officer training has not been completed. This has the effect of raising, over time, the minimum training standard for reserves to the same as peace officers.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, §411.010(10), which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to establish minimum standards relating to competence and reliability, including education and training standards for peace officers and reserves. §§211.70. *Minimum Training Standards for Reserves.*

(a) The minimum training standards for permanent licensing for a reserve on and after January 1, 1989, shall be:

(1) completion of the current basic peace officer course;

(2) successful completion of the 10 college level law enforcement courses,

including the seven transfer curriculum courses and the three supplementary courses of the Texas peace officer sequence;

(3) completion of any specifically required supplementary or remedial training; or

(4) credit for sufficient previous training which is equivalent to the current basic peace officer course, including specifically, completion of one each of the separate reserve component courses which together meet or exceed the learning objectives of the basic peace officer course.

(b) On and after January 1, 1989, the commission shall issue one of the following licenses to an applicant who meets all other reserve licensing standards, including the appropriate state examination:

(1) a permanent peace officer license to a reserve applicant who meets the full peace officer training standard and who has passed the peace officer exam; or

(2) a conditional reserve license to an applicant who has passed the reserve exam and who:

(A) under the professional training path, has received credit for at least the 145-hour basic reserve course; or

(B) under the academic path, has successfully completed at least the seven courses known as the criminal justice transfer curriculum with law enforcement emphasis and the third course, known as Texas peace officer skills, from the Texas peace officer sequence.

(c) A conditional reserve license expires if the holder has not received credit for the following training, or successfully completed the following courses, under each respective path, within the specified time from the conditional license date:

(1) under the professional training path:

(A) the 131-hour intermediate reserve course within two years; or

(B) both the 131-hour intermediate and the 124-hour advanced reserve courses within four years; and

(2) under the academic path:

(A) the Texas peace officer laws course within two years; or

(B) both the Texas peace officer laws and procedures courses within four years.

(d) In any event, a conditional reserve license will expire after four years if the holder has not passed the peace officer

exam and, if it has expired after four years, such license will never be reinstated or reissued. If it has expired after two years, the commission may reinstate an expired conditional reserve license for the balance of the original four year period, but only if the holder has been reported to the commission as having successfully completed either the 131-hour intermediate reserve course or the Texas peace officer laws course, under each respective path.

(e) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require specific supplementary or remedial training necessary to equate the previous training to those current standards.

(f) However, if the previous training is out-of-state, the applicant must complete the supplementary peace officer training course in addition to any out-of-state training which may have been credited.

(g) Each reserve course, basic, intermediate, and advanced, shall cover the subjects and be taught in accordance with the current instructor guides provided by the commission.

(h) The basic reserve course shall consist of 145 hours of instruction, including the following subjects and topics:

(1) course activities—introduction to the course; and classroom notetaking, review, and testing;

(2) investigative patrol—United States Constitution and Bill of Rights; Code of Criminal Procedure; use of force; and arrest, search, and seizure;

(3) skills training—firearms; and emergency medical care; and

(4) miscellaneous—traffic direction and control; crowd control; and courtroom demeanor and testimony.

(i) The intermediate reserve course shall consist of 131 hours of instruction, including the following subjects and topics:

(1) course activities—introduction to course; and classroom note taking, review, and testing; and

(2) investigative patrol—Penal Code; community relations; basic investigation; field notetaking; report writing; and use of reports.

(j) The advanced reserve course shall consist of 124 hours of instruction, including the following subjects and topics:

(1) course activities—introduction to the course; and classroom notetaking, review, and testing;

(2) patrol—introduction to patrol; preparation for patrol; communications; crime prevention and public service; and preventive patrol and traffic law enforcement; and

(3) investigative patrol—Family Code; Alcoholic Beverage Code; Dangerous Drugs and Controlled Substances Acts; civil law and process; and law enforcement driving.

(k) Successful completion of Law Enforcement #1 before February 1, 1989, shall meet the requirements of successful completion of the Texas peace officer skills course under subsection (b)(2)(B) of this section. However, this only applies to the initial issuance of a conditional reserve license under that subsection, based on an application received before February 1, 1991. In addition to the other expiration provisions of this section, any conditional license that was issued under the provisions of this subsection will expire if the holder has not received credit within two years for those learning objectives found within the Texas peace officer skills course which are not covered in Law Enforcement #1.

(1) On and after January 1, 1989, an applicant for a conditional reserve license, who has met the minimum training standards for reserves, must pass the required state licensing examination before two years has elapsed after meeting those standards. If not, training or courses that would otherwise meet the minimum standards of this section must be supplemented by completion of the supplementary peace officer training course. The executive director may, in his discretion, determine the exact date of completion or credit in unusual or questionable cases.

(m) The effective date of this section shall be January 1, 1989.
§211.77. Minimum Training Standards for Peace Officers.

(a) The minimum training standards for permanent licensing as a peace officer on and after January 1, 1989, shall be, either:

(1) completion of the 400-hour basic peace officer course;

(2) successful completion of the 10 college level law enforcement courses, seven of which are known as the criminal justice transfer curriculum with law enforcement emphasis as described in subsection (g) of this section and three of which are supplementary courses known as the Texas peace officer sequence, as described in subsection (i) of this section;

(3) completion of any specifically required supplementary or remedial training; or

(4) credit for either any sufficient previous training which is equivalent to the 400-hour course, or specifically, for one each of the three separate reserve component courses:

- (A) the 145-hour basic;
- (B) the 131-hour intermediate; and
- (C) the 124-hour advanced.

(b) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require specific supplementary or remedial training necessary to equate the previous training to those current standards.

(c) However, if the previous training is out-of-state, the applicant must complete the supplementary peace officer training course in addition to any out-of-state training which may have been credited.

(d) The basic peace officer course shall consist of a minimum of 400 hours of instruction, covering the subjects and taught in accordance with the current instructor guides provided by the commission.

(e) The basic peace officer course shall include the following subjects and topics:

(1) course activities—introduction to the course; and classroom notetaking, review, and testing;

(2) patrol—introduction to patrol; preparation for patrol; communications; crime prevention and public service; preventive patrol; and traffic law enforcement;

(3) investigative patrol—United States Constitution and Bill of Rights; Code of Criminal Procedure; Penal Code; use of force; Family Code; Alcoholic Beverage Code; Dangerous Drugs and Controlled Substances Acts; civil law and process; arrest, search, and seizure; community relations; investigations; field notetaking; report writing; and use of reports;

(4) skills training—firearms; law enforcement driving; and emergency medical care; and

(5) miscellaneous—traffic direction and control; crowd control; and courtroom demeanor and testimony.

(f) To be acceptable under this section, the transfer curriculum courses and the supplementary law enforcement courses shall be taught in accordance with the current guidelines and illustrative transfer course outlines provided by the Texas Higher Education Coordinating Board. For purposes of this section, the term "successful completion" shall, when applied to an

academic course, mean a passing grade from an academic institution of either:

(1) C or better, unless the course is only offered pass/fail; or

(2) pass, in a course only offered pass/fail by the institution.

(g) The seven transfer curriculum courses, which are known as the criminal justice transfer curriculum with law enforcement emphasis and which are necessary under this section, shall include the following subjects and topics:

(1) crime in America—American crime problems in historical perspective; social and public policy factors affecting crime; impact and trends; social characteristics of specific crimes; and prevention of crime;

(2) introduction to criminal justice—history and philosophy of criminal justice and ethical considerations; crime defined: its nature and impact; overview of criminal justice system: law enforcement; court system; prosecution and defense; trial process; and corrections;

(3) fundamentals of criminal law—nature of criminal law; philosophical and historical development; major definitions and concepts; classification of crime; elements of crimes and penalties (using Texas statutes as illustrations); and criminal responsibility;

(4) the courts and criminal procedure—the judiciary in the criminal justice system; structure of American court system; prosecution; right to counsel; pre-trial release; grand juries; adjudication process; types and rules of evidence; and sentencing;

(5) police systems and practices—the police profession in the criminal justice system; organization of law enforcement systems; the police role; police discretion; ethics; police community interaction; and current and future issues;

(6) criminal investigation—investigative theory; collection and preservation of evidence; sources of information; interview and interrogation; uses of forensic sciences; and case and trial preparation; and

(7) legal aspects of law enforcement—sources of police authority; police responsibilities; constitutional constraints; laws of arrest, search, and seizure; case studies in arrest, search, and seizure; and police liability.

(h) The supplementary law enforcement courses shall include the following topics within each respective course:

(1) law enforcement #1 (66 hours)—firearms training and qualification; emergency medical care; traffic direction and control; and crowd control; and

(2) law enforcement #2 (124 hours)—course activities; introduction to patrol; preparation for patrol; crime preven-

tion and public service; communications; preventive patrol and traffic law enforcement; Family Code; Alcoholic Beverage Code; Dangerous Drugs and Controlled Substances Acts; civil law and process; and law enforcement driving.

(i) The 10 college level law enforcement courses shall be the seven transfer curriculum courses of subsection (g) of this section and the three supplementary courses which are known as the Texas peace officer sequence. That sequence shall include the following topics within each respective course:

(1) Texas peace officer laws (a minimum of 77 contact hours)—traffic law enforcement; intoxicated driver; offenses against the person and family; offenses against property; offenses against public order and decency; offenses against public health, safety, and morals; use of force; Family Code; Alcoholic Beverage Code; and civil law, process, and liability;

(2) Texas peace officer procedures (a minimum of 77 contact hours)—patrol procedures; dangerous drugs and controlled substances; controlled substances identification; recognizing and handling abnormal persons; traffic collision investigation; notetaking and report writing; introduction to vehicle operation; traffic direction; crowd control; and jail operations (booking procedures); and

(3) Texas peace officer skills (a minimum of 92 contact hours)—patrol procedures; traffic stops; mechanics of arrest; firearms safety; and emergency medical care.

(j) Completion of the 145-hour basic reserve course shall substitute as credit for Law Enforcement #1. Credit for, or successful completion of, either the 124-hour advanced reserve course or the 124-hour Law Enforcement #2 course shall substitute as interchangeable credit for the other. Successful completion of both Law Enforcement #1 and Law Enforcement #2 before February 1, 1989, shall meet the requirements of successful completion of the Texas peace officer sequence for an applicant whose application is received by the commission before February 1, 1991.

(k) On and after January 1, 1989, an applicant for a permanent peace officer license, who has met the minimum training standards for peace officers, must pass the required state licensing examination before two years has elapsed after meeting those standards. If not, training or courses that would otherwise meet the minimum standards of this section must be supplemented by completion of the peace officer reactivation course. The executive director may, in his discretion, determine the exact date of completion or credit in unusual or questionable cases.

(l) The effective date of this section shall be January 1, 1989.

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

Issued in Austin, Texas, on August 10, 1988.

TRD-8808300

David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Effective date: January 1, 1989

Proposal publication date: April 5, 1988

For further information, please call: (512) 834-9222



• 37 TAC §211.77

The Texas Commission on Law Enforcement, Officer Standards, and Education adopts the repeal of §211.77, without changes to the proposed text as published in the April 5, 1988, issue of the *Texas Register* (13 TexReg 1606).

This section is replaced by one completely rewritten §211.77, and one new §211.70, which will be the minimum training standards for peace officers and reserves, respectively.

After repeal, §211.77 will be replaced by new §211.70 and §211.77.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Government Code, §411.010(10), which provides the Texas Commission on Law Enforcement, Officer Standards, and Education with the authority to establish minimum standards relating to competence and reliability, including education and training standards for peace officers and reserves.

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

Issued in Austin, Texas, on August 10, 1988.

TRD-8808301

David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Effective date: January 1, 1989

Proposal publication date: April 5, 1988

For further information, please call: (512) 834-9222



Part VIII. Commission on Fire Protection Personnel Standards and Education

Chapter 233. Minimum Standards Manual

Minimum Standards for Fire Service Instructor Certification

• 37 TAC §233.41

The Commission on Fire Protection Personnel Standards and Education adopts the repeal of §233.41, without changes to the proposed text published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2897).

The repeal is needed in order to adopt standards for fire service instructors that are compatible with national standards for fire service instructors, which will standardize training for instructors.

The repeal will eliminate obsolete language and allow the commission to adopt a new section based on national standards.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the Act that created the Commission on Fire Protection Personnel Standards and Education.

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

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

TRD-8808177

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

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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



Minimum Standards for Fire and Arson Investigative Personnel

• 37 TAC §233.61

The Commission on Fire Protection Personnel Standards and Education adopts an amendment to §233.61, without changes to the proposed text published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2899).

The section is needed to comply with language in House Bill 278, 70th Legislature, 1987, relating to fire and arson investigation personnel.

The amendment will provide Texas citizens with additional fire and arson investigative

personnel which should cause a reduction in arson fires and provide arson awareness information to the public.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the Act that created the Commission.

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

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

TRD-8808172

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

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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



• 37 TAC §§233.62-233.64

The Commission on Fire Protection Personnel Standards and Education adopts the repeal of §§233.62-233.64, without changes to the proposed text published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2899).

The repeal is required in order for the commission to adopt more appropriate sections for continuing education through training programs or college programs that address current fire service education needs.

The repeal removes obsolete provisions and allows the commission to adopt new sections which reflect the education and training needed for advance fire and arson investigator certification. Individuals expressed their opinion that this section was obsolete and should be amended or repealed in order to adopt a new section.

The agency agrees with the comments.

The repeal is adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the Act that created the Commission on Fire Protection Personnel Standards and Education.

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

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

TRD-8808173

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

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

Minimum Standards for Fire Prevention Personnel

• 37 TAC §233.101, §233.102

The Commission on Fire Protection Personnel Standards and Education adopts the repeal of §233.101 and §233.102, without changes to the proposed text published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2901).

The repeal removes language that became obsolete due to passage of House Bill 278, 70th Legislature, 1987, and also is necessary in order to adopt a new section to comply with House Bill 278, 70th Legislature, 1987.

The repeal deletes obsolete language and allow the commission to adopt a section that tracks language in House Bill 278, 70th Legislature, 1987.

No comments were received regarding adoption of the repeal.

The repeals are adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the Act that created the commission.

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

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

TRD-8808176 Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

The Commission on Fire Protection Personnel Standards and Education adopts new §233.101 and §233.102, without changes to the proposed text published in the *Texas Register* (13 TexReg 2901).

More emphasis is placed on public education for fire prevention as the population increases in Texas. The new sections will provide basic skills for fire prevention personnel to administer public education courses in fire prevention to Texas citizens for promoting fire safety both at work and in the home.

The new sections provide minimum training standards for all fire prevention personnel so they are well equipped to provide public education in fire prevention.

No comments were received regarding adoption of the new sections.

The sections are adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules

for the administration of the Act that created the commission.

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

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

TRD-8808175 Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

• 37 TAC §§233.108-233.110

The Commission on Fire Protection Personnel Standards and Education adopts the repeals of §§233.108-233.110, without changes to the proposed text as published in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2901).

The repeal removes obsolete language in order to adopt a new section that will meet today's needs for continuing education through technical training or college courses for fire prevention personnel.

The repeal eliminates existing obsolete language and allows the commission to adopt language that addresses today's fire prevention needs.

Several individuals and associations requested that the commission repeal obsolete sections.

The agency agreed with the comments.

The repeals are adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules to administer the Act that created the commission.

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

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

TRD-8808174 Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

Aircraft Crash and Rescue Fire Fighter Standards

• 37 TAC §233.142

The Commission on Fire Protection Personnel Standards and Education adopts an

amendment to §233.142, without changes to the proposed text published in the *Texas Register* (13 TexReg 2901).

The amendment is needed to comply with Federal Aeronautics Administration new training requirements for aircraft crash and rescue personnel which should provide for more effectively trained personnel during all types of airplane emergencies.

The amendment lists new training requirements that all aircraft crash and rescue personnel must complete to obtain state certification with the first two years of initial employment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the Act that created the commission.

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

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

TRD-8808180 Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

Miscellaneous Fees

• 37 TAC §233.160, §233.161

The Commission on Fire Protection Personnel Standards and Education adopts new §233.160 and §233.161, without changes to the proposed text published in the June 10, 1988, *Texas Register* (13 TexReg 2903).

The sections are needed to comply with requirements in House Bill 278, 70th Legislature, 1987, which requires the commission to collect certain fees.

The sections list fee charges for copying that follows state law, and also list fees for commission manual and lesson plans that are required in House Bill 278, 70th Legislature, 1987.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the Act that created the commission.

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

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

TRD-8808178

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

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

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Chapter 237. Fire Fighters
Safety Equipment

Fire Fighters Boots

• 37 TAC §237.11

The Commission on Fire Protection Personnel Standards and Education adopts new §237.11, without changes to the proposed text published in the June 10, 1988, *Texas Register* (13 TexReg 2903).

The section is required to comply with language in House Bill 278, 70th Legislature, 1987, which addresses fire fighters protective boot requirements.

The section designates the type of boots paid fire fighters must use if boots are purchased after May 16, 1988.

No comments were received regarding adoption of the new section.

The new section is adopted under the Government Code, Title 4, Executive Branch, Chapter 416, §416.007(1), which provides the commission with the authority to adopt rules for the administration of the act that created the commission.

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

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

TRD-8808179

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

Effective date: August 31, 1988

Proposal publication date: June 10, 1988

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

TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE

Part I. Texas Department
of Human Services

Chapter 85. General Licensing
Procedures

Subchapter JJJ. Court-ordered
Social Studies

• 40 TAC §§85.6050-85.6052

The Texas Department of Human Services adopts new §§85.6050-85.6052, with changes to the proposed text published in the April 12, 1988, issue of the *Texas Register* (13 TexReg 1706). In response to public comments, the department made changes to the proposed text to clarify the intent of the rules.

The adoption of the proposal is justified to comply with §11.12(b) of the Texas Family Code, which requires the department to develop minimum qualifications for people conducting court-ordered social studies and to establish minimum standards, guidelines, and procedures for the studies.

The proposal will function by requiring people who are qualified to conduct the studies to be licensed/certified in their professional fields. The appropriate licensing/certifying entity will maintain an up-to-date register of members, investigate complaints against them, and act on the investigation findings.

The department received 64 written and 18 oral comments regarding the adoption of the proposal. The following groups submitted comments: National Association of Social Workers; Women Together; Texas Council on Family Violence; Texas Association for Counseling and Development; Lipstet, Singer, Hirsch and Wagner (Attorneys at Law); Texas Association for Marriage and Family Therapy; Texas Children's Rights Coalition; Marriage and Family Therapy Certifying Association; Adams, King, and Skolnick (Attorneys at Law); Orozco, Rule, Locke and Quinn; P.C. (Attorneys at Law); Texas Psychological Association; Texas State Board of Examiners of Professional Counselors; Pastoral Education and Family Counseling Center; District Court Judges; Harris County Juvenile Probation Department Family Court Services; Tarrant County Domestic Relations Office Family Court Services; Dallas County Family Court Services; Comal County District Court; Moore County Court at Law; and Bastrop County District Clerk.

Five people stated that in §85.6051(a)(1) the requirement for licensure/certification as a mental health professional was unclear because it did not specify the professions that are covered under "mental health professional." Seven people stated that the requirement was too restrictive, while three contended that the requirement was not restrictive enough.

In response, the department changed the requirement to state that the person had to be licensed/certified in an appropriate professional field or had to be a member of an appropriate professional organization (when the field is not regulated under state statutes). "Appropriate professional fields" and "appro-

priate professional organizations" were also defined. These modifications ensure that there is an entity (either a regulatory agency or a professional organization) able and willing to maintain a register of qualified persons, investigate complaints, and take appropriate action. In addition, it leaves continuing education and professional development requirements up to the appropriate regulatory agency or professional organization.

The department does not believe that making the requirement more restrictive would be in the best interest of the children involved in court-ordered social studies. Courts request social studies at their discretion. Several district judges pointed out that it would be difficult if not impossible to find persons qualified under more restrictive provisions to do these social studies, particularly in rural areas. These same experienced judges also pointed out that persons such as probation officers routinely conduct excellent social studies in their jurisdictions, yet they would not be qualified under more restrictive provisions.

Six people commented that in §85.6051(a)(2) the requirement for either a master's degree and 2 years of relevant experience or a bachelor's degree and 5 years of relevant experience was too high; however, five persons thought it too low.

Those people who believed that the requirements were too high generally thought too many years of experience were required. In addition, some were confused about whether this experience specifically related to court-ordered social studies. A few people recommended that years of experience be translated into a specific number of social studies completed. In the adopted rules, the department tried to clarify that evaluation experience would meet the requirement; experience would not have to relate specifically to court-ordered studies. Options for both the master's and bachelor's level person were added so that a person could qualify to conduct court-ordered studies without direct supervision on the basis of a specific number of studies previously completed under direct supervision.

Those people who believed the requirements were too low generally objected to a bachelor's level person conducting a study without the direct supervision of a master's level person. The department believes that restricting court-ordered social studies in this way would not be in the children's best interests. It would eliminate competent people and make finding a "qualified" person difficult, and possibly expensive, in many parts of the state.

Three people indicated that in §85.6051(b) the degree of supervision required for a bachelor's level person without previous experience should be strengthened. The department responded by requiring the experience to be within the context of a social service agency or organization or in the direct employ of a person who meets the minimum qualifications.

Three people commented that the provisions in §85.6051(c) for "grand-fathering" people now conducting the studies should be dropped entirely or at least made more restrictive. Three people specifically supported "grand-fathered" provisions; two suggested that experience be stated in terms of studies completed. This was done in the adopted

rules. One person noted that these people should be recognized, not "permitted to apply," for recognition. The adopted rule clarifies that this was the department's intent by stating that these people register with the court and that the court investigates any complaints and determines continuing eligibility.

The department does not believe that restricting or eliminating the "grandfather" clause is in the children's best interests. People who have provided these services to the courts in the past will be able to continue to work with the courts, which are best able to determine their qualifications.

Two people noted that the conflict of interest provision in §85.6052(1) was unclear. These recommendations have been incorporated in the adopted rule.

Four people noted that §85.6052(2), regarding communication with the attorneys, was unclear and did not cover the attorneys' roles with parties in a disputed suit and the attorney ad litem. These recommendations have been incorporated in the adopted rule.

Four people noted that §85.6052(3), which required reporting abuse and neglect and other violations of state and federal law, was unclear and in some instances could place an undue burden on the investigator. This section was deleted because the requirement to report abuse and neglect is covered in statute and does not need to be in rule material. The department agreed that reporting other violations and alleged violations sets up a situation making it difficult, if not impossible, for an investigator to be sure that he was meeting the rule. Because of the deletion, the rules following have been renumbered accordingly.

One person suggested that we clarify the responsibility of the investigator when he has evaluated only one party in a disputed custody case. This comment was incorporated under the adopted rule 85.6052(4).

Two people noted that "outside the court's jurisdiction" in §85.6052(5) was unclear. The provisions here were intended to apply to any situation in which another investigator becomes involved in the study, usually because of physical distance. The section was clarified in response to these comments.

Six comments were received regarding §85.6052(7) and (8), concerning the social study (and qualifications requirements) in step-parent adoptions. The commenters stated that requirements should be waived or be less stringent in these cases. In the adopted rules, the qualifier "unless otherwise directed by the court" has been added to make the original intent clear. The court may determine that no study or an abbreviated study is appropriate at its discretion. One commenter urged more "flexibility"; the department hopes that the clarified rule emphasizes the court's discretion in these matters.

Another person urged that provisions of the appropriate statute be restated in §85.6052. This was not done because these provisions already have the force of law.

Three people recommended that the department's regulations on adoption social studies in the Minimum Standards for Child-placing Agencies be included as guidelines. These comments were incorporated in §85.6052(8) with these standards to be followed, except when the court directs otherwise.

Another person recommended that the terms "investigator" and "investigation" be changed to "evaluator" and "evaluation." This comment was not incorporated. The term used corresponds with the terminology in the statute.

One person recommended that §85.6052 include specific requirements to consider information from the child's school, including physical school records. This was not included because the focus and purpose of these social studies differ. At its discretion, the court may require specific information if appropriate to the individual case.

The following new sections are adopted under the Family Code, Title 2, Chapter 11, which provides the department with the authority to regulate court-ordered social studies.

§85.6050. Definitions. The following terms, when used in this subchapter, have the following meaning unless the context clearly indicates otherwise:

Appropriate professional field—A mental health field, regulated under state statutes, that has a licensing/certifying entity able and willing to:

(1) maintain an up-to-date register of licensed/certified individuals who meet minimum qualifications and are available to conduct court-ordered social studies.

(2) investigate any complaints against persons who activities are regulated by the licensing/certifying entity in regard to the conduct of social studies in a timely manner that meets department requirements.

(3) take appropriate action on the licensing/certification of the individual against whom a complaint has been made, based on the findings of complaint investigations.

Appropriate professional organization—An organization of professionals in a mental health field, not regulated under state statutes, requiring licensure/certification and able and willing to:

(1) maintain an up-to-date register of organization members who meet minimum qualifications and are available to conduct court-ordered social studies.

(2) investigate any complaints against members in regard to the conduct of social studies in a timely manner that meets department requirements.

(3) take appropriate action on the organization membership of the individual against whom a complaint has been made, based on the findings of complaint investigations.

Full-time experience—At least 30 hours per week. Part-time experience is counted as a percentage of full-time experience.

Mental health field—An area of practice focusing on normal and abnormal human development and personal and interpersonal relationship skills.

§85.6051. Minimum Qualifications.

(a) A person qualified to conduct a court-ordered social study in a suit affecting the parent-child relationship must:

(1) be licensed or certified in an appropriate professional field or, if the profession is not regulated under state statutes requiring licensure/certification, be a member of an appropriate professional organization; and

(2) have completed, as a minimum, one of the following conditions:

(A) a master's degree from an accredited college or university and:

(i) 2 years of professionally supervised full-time experience that includes evaluating physical, intellectual, social, and psychological functioning and needs and the potential of the social and physical environment (present and/or prospective) to meet these needs; or

(ii) at least 10 court-ordered social studies under the supervision of a person meeting one of the minimum qualifications. Direct supervision must be provided within the context of employment in a social service organization or agency or direct employment by a person meeting the minimum qualifications.

(B) a bachelor's degree from an accredited college or university and:

(i) 5 years of professionally supervised full-time experience that includes evaluating physical, intellectual, social, and psychological functioning and needs and the potential of the social and physical environment (present and/or prospective) to meet these needs; or

(ii) at least 20 court-ordered social studies under the supervision of a person meeting one of the minimum qualifications. Direct supervision must be provided within the context of employment in a social service organization or agency or direct employment by a person meeting the minimum qualifications.

(3) Licensing/certifying entities and professional organizations in appropriate fields not regulated under state statutes requiring licensure/certification must file with the department a notice of intent and ability to comply with these regulations.

(b) A person with a bachelor's degree from an accredited college or university may conduct court-ordered social studies if he is directly supervised by a person meeting one of the minimum qualifications. Direct supervision must be provided within the context of employment in a social service organization or agency or direct employment by a person meeting the minimum qualifications. These studies must be approved by both the person making the study and the person providing the required supervision.

(c) If, by August 31, 1988, a person has completed at least 20 court-ordered social studies in suits affecting the parent-child relationship within the period from

September 1, 1983, to August 31, 1988, he is not required to meet these minimum qualifications. He must register his qualifications and willingness to conduct social studies with the appropriate court(s). The court(s) is responsible for investigating any complaints in regard to the conduct of social studies and for determining the person's continuing eligibility to provide these services to the court.

(d) Persons qualifying under these regulations offering to provide these services must complete a registration form provided by the department. They must file this form with the appropriate court(s).

(e) Persons wanting to complain about the conduct of a court-ordered social study must contact the appropriate court to determine the appropriate complaint investigating entity.

§85.6052. *Conducting the Social Study and Writing the Report.* Investigators must meet the following requirements when conducting the study and writing the report:

(1) If the investigator has a conflict of interest with any party in a disputed suit or if he may be biased by previous knowledge other than that obtained in a court-ordered investigation, he must disqualify himself or present any issues or concerns to the court before accepting an appointment. An investigator who has previously investigated a case may make all subsequent investigations, unless the court finds that the investigator is biased.

(2) If the investigator needs to discuss substantive issues about a case with an attorney representing a party seeking custody in a disputed case, he must communicate (orally or in writing) with all attorneys representing these parties and any ad litem attorney. Communications between an investigator and an attorney ad litem are not subject to this rule.

(3) The investigator must verify, to the extent possible, all statements of fact pertinent to the study. Sources of information and verification must be noted in the study.

(4) The basis for the investigator's conclusion or recommendation must be stated in the study. An investigator who

has investigated only one side of a disputed case must refrain, unless otherwise directed by the court, from making a custody recommendation. He may state whether or not the party he has investigated appears to be suitable for custody.

(5) If more than one investigator is required to complete a study, all investigators and all aspects of the study are subject to the same requirements as the social study as a whole. Copies of these regulations as well as all relevant information and specific directions must be included in the request. The name and qualifications of the person(s) conducting any part of the study also must be included in the report.

(6) The investigator's name and the provisions under which he is qualified must be noted in the study.

(7) Unless otherwise directed by the court, a social study conducted on contested child custody cases must be conducted according to the "Guidelines for Court Connected Child Custody Evaluation," published by the Association of Family and Conciliation Courts and reprinted with permission by the Texas Department of Human Services.

(8) Unless otherwise directed by the court, a social study related to an adoption must be conducted according to the requirements of the department's Minimum Standards for Child-placing Agencies, Section 5100, Adoptive Readiness Review, standards 5100.1 and 5100.2; Section 5200, Adoptive Home Study, standards 5200.3, 5200.4, and 5200.5.

(9) The department may develop and distribute other applicable guidelines in the future.

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

Issued in Austin, Texas, on August 10, 1988.

TRD-8808113
Martin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: September 1, 1988

Proposal publication date: April 12, 1988

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

Part IX. Texas Department on Aging

Chapter 273. Transportation Service Standards

Statutes and Regulations

• 40 TAC §273.1

The Texas Department on Aging adopts an amendment to §273.1, without changes to the proposed text as published in the May 17, 1988, issue of the *Texas Register* (13 TexReg 2312).

The change in the effective date of this publication was needed to assure that it corresponded with the effective dates of other rules promulgated by the Texas Department on Aging for the coming program year (fiscal year 1988).

Changing of the effective date will result in earlier implementation of the provisions of this section and will enhance the delivery of transportation services across the state.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

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

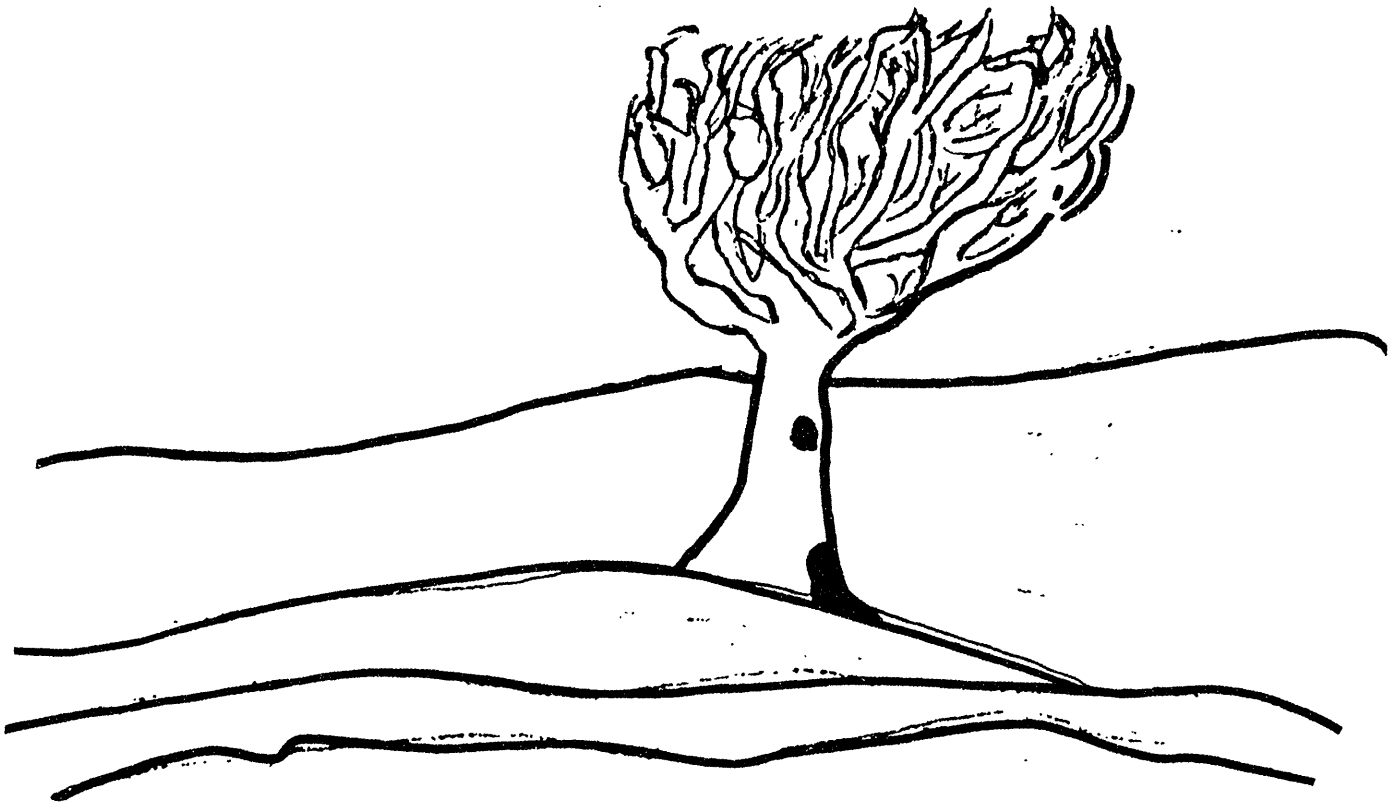
Issued in Austin, Texas, on August 11, 1988.

TRD-8808262
O. P. (Bob) Bobbitt
Executive Director
Texas Department on
Aging

Effective date: September 2, 1988

Proposal publication date: May 17, 1988

For further information, please call: (512) 444-2727



Name: Chancy Jones
Grade: 5
School: Stults Road Elementary,
Richardson

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*.

Texas Adult Probation Commission

Friday, August 19, 1988, 10 a.m. The Commission for the Texas Adult Probation Commission will meet for an emergency agenda revision in Room 202, Texas Law Center, State Bar Building, 1414 Colorado, Austin. According to the agenda, the commission will request to use judicial district funds to purchase facilities, utilities and equipment; and executive session to discuss personnel issues.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: August 15, 1988, 10:55 a.m.

TRD-8808366

Automated Information and Telecommunications Council

Friday, August 19, 1988, 10 a.m. An Open Meeting for the Automated Information and Telecommunications Council will be held in Room 106, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the council will approve minutes; hear executive director's report; procurement definition policy discussion; status report on development and publication of procedures; proposed operating budget for fiscal year 1989; committee reports; approve criminal justice evaluation report; procurement-industrial accident board mini-computer \$750,000; and future business.

Contact: Evelyn Hector, 510 South Congress Avenue, Austin, Texas 78701, (512) 463-5530.

Filed: August 15, 1988, 4:50 p.m.

TRD-8808385

Texas School for the Deaf

Saturday, August 20, 1988, 9:15 a.m. The Policy Committee for the Texas School for the Deaf will meet in the Conference Room,

1102 South Congress Avenue, Austin. According to the agenda, the committee will review policies Section B, school governance; C, business and support services; D, personnel; and F, students.

Contact: Sheila O'Leary

Filed: August 11, 1988, 2:03 p.m.

TRD-8808207

Saturday, August 20, 1988, 10 a.m. The TSD Governing Board for the Texas School for the Deaf will meet in the Governing Boardroom, 1102 South Congress Avenue, Austin. According to the agenda, the board will approve minutes from the June 17, 1988, meeting; hear from individuals of the audience wishing to make a report; consider business requiring board action, and business for information purposes; meet in executive session; and hear comments from board members.

Contact: Sheila O'Leary

Filed: August 11, 1988, 2:03 p.m.

TRD-8808207

Texas State Board of Dental Examiners

Thursday, August 25, 1988, 9:30 a.m. The Texas State Board of Dental Examiners will meet in the Board Meeting Room, Sixth Floor, Baylor College of Dentistry, 3302 Gaston Avenue, Dallas. According to the agenda, the board will consider request for variances from direct supervision rule; hear reports of board committees; accept License 11,837 for cancellation; discuss budget and finance and upcoming meetings; and executive session to discuss pending litigation. If the agenda items are not complete, the board will meet at 8:30 a.m. on Friday, August 26, 1988.

Contact: William S. Nail, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754, (512) 834-6021.

Filed: August 11, 1988, 2:47 p.m.

TRD-8808214

Employees Retirement System of Texas

Tuesday, August 23, 1988, 9 a.m. The Board of Trustees for the Employees Retirement System of Texas will meet in Room 401, ERS Building, 18th and Brazos Streets, Austin. According to the agenda, the board will review and approve board minutes; discuss and act on investment counseling services proposal; consider and act on investment advisory committee appointment; discuss and act on actuarial services proposal; set interest rate and approve interest amount transferred from interest account to benefit increase reserve account; certify estimated state contribution amounts for retirement and insurance to state comptroller and treasurer; approve interest accounts transfers to employees saving and retirement annuity reserve and state accumulation accounts; consider and act on emergency and proposed amendments to trustee rules §81.1 and §81.7(g); certify election results and appointment of group insurance advisory committee members; elect board chairman and vice-chairman; appeals of Jose Ochoa and Thomas G. Sharpe; discuss and act on proposed operating budget; status report on state auditor's management letter; executive director's report; executive session; action resulting from executive session; and date for next trustee meeting.

Contact: James T. Herod, 18th and Brazos Streets, Austin, Texas 78705, (512) 476-6431, ext. 178.

Filed: August 12, 1988, 11:11 a.m.

TRD-8808272

Texas Employment Commission

Tuesday, August 23, 1988, 12:30 p.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda, the commission will consider prior meeting notes, approve minute to fund rework parking lot in Pasadena and Texarkana, and construct new agency-owned building in

Temple; internal procedures of commission appeals; consider and act on higher level appeals in unemployment compensation cases listed on commission Docket 34; and set next meeting date.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: August 15, 1988, 2:27 p.m.

TRD-8808377

Office of the Governor

Monday, August 22, 1988, 10 a.m. The Criminal Justice Division for the Office of the Governor will meet in the Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the division will hold a briefing for prospective applicants wishing to apply for a grant to renovate and operate the old Bexar County jail for the incarceration of inmates. The briefing will explain the grant process and answer specific questions posed earlier, in writing, by prospective applicants.

Contact: Ken Carter, 201 East 14th Street, Austin, Texas 78711, (512) 463-1919.

Filed: August 12, 1988, 4:49 p.m.

TRD-8808325

Tuesday, August 23, 1988, 1 p.m. The Select Committee on Education for the Governor's Office will meet in Room 1, ESC, 1900 West Schunior, Edinburg. According to the agenda, the committee will hold public testimony. Those individuals who have called the office in advance will be taken first come first served within the group. Others who wish to testify will then be heard. Invited testimony will precede all testimony. If those wishing to testify have been heard prior to the posted time for adjournment, the committee will adjourn early.

Contact: Margaret La Montagne, 707 Sam Houston Building, Austin, Texas 78711, (512) 463-1834.

Filed: August 11, 1988, 2:09 p.m.

TRD-8808209

Wednesday, August 24, 1988, 9 a.m. The Select Committee on Education for the Governor's Office will meet in ESC Room A, 1314 Hines, San Antonio. According to the agenda, the committee will hold public testimony. Those individuals who have called the office in advance will be taken first come first served within the group. Others who wish to testify will then be heard. Invited testimony will precede all testimony. If those wishing to testify have been heard prior to the posted time for adjournment, the committee will adjourn early.

Contact: Margaret La Montagne, 707 Sam Houston Building, Austin, Texas 78711, (512) 463-1834.

Filed: August 11, 1988, 2:09 p.m.

TRD-8808210

Tuesday, August 30, 1988, 10:30 a.m. The Select Committee on Education for the Governor's Office will meet in the Ballroom, Texas Tech University, Boston and 15th Streets, Lubbock. According to the agenda, the committee will hold public testimony. Those individuals who have called the office in advance will be taken first come first served within the group. Others who wish to testify will then be heard. Invited testimony will precede all testimony. If those wishing to testify have been heard prior to the posted time for adjournment, the committee will adjourn early.

Contact: Margaret La Montagne, 707 Sam Houston Building, Austin, Texas 78711, (512) 463-1834.

Filed: August 11, 1988, 2:09 p.m.

TRD-8808211

Wednesday, August 31, 1988, 10 a.m. The Select Committee on Education for the Governor's Office will meet at the Thomas Rivera Conference Center, Union East University Drive, University of Texas, El Paso. According to the agenda, the committee will hold public testimony. Those individuals who have called the office in advance will be taken first come first served within the group. Others who wish to testify will then be heard. Invited testimony will precede all testimony. If those wishing to testify have been heard prior to the posted time for adjournment, the committee will adjourn early.

Contact: Margaret La Montagne, 707 Sam Houston Building, Austin, Texas 78711, (512) 463-1834.

Filed: August 11, 1988, 2:09 p.m.

TRD-8808212

Wednesday, September 7, 1988, 10 a.m. The Select Committee on Education for the Governor's Office will meet in the Constellation Room, University Hilton, 4800 Calhoun, Houston. According to the agenda, the committee will hold public testimony. Those individuals who have called the office in advance will be taken first come first served within the group. Others who wish to testify will then be heard. Invited testimony will precede all testimony. If those wishing to testify have been heard prior to the posted time for adjournment, the committee will adjourn early.

Contact: Margaret La Montagne, 707 Sam Houston Building, Austin, Texas 78711, (512) 463-1834.

Filed: August 11, 1988, 2:09 p.m.

TRD-8808213

Texas Department of Health

Friday, August 19, 1988, 4:30 p.m. The Environmental Health Committee for the

Texas Department of Health will meet in Suite 213, Guest Quarters Suite Hotel, 303 West 15th Street, Austin. According to the agenda, the committee will discuss request for a waiver from compliance with migrant labor housing rule requiring facilities with second story sleeping quarters to have a permanently affixed exterior ladder or a second stairway; approve executive summary concerning regulation of on-site sewerage facilities; proposed rule to adopt a memorandum of understanding concerning jurisdiction over sludge from municipal wastewater treatment; final adoption of rules establishing definitions and standards for the processing and bottling of bottled drinking and vended water; and discuss amendments to the rules concerning asbestos abatement in public buildings.

Contact: Kris Lloyd, 303 West 15th Street, Suite 213, Austin, Texas, (512) 458-7484.

Filed: August 11, 1988, 4:21 p.m.

TRD-8808256

Various committees for the Texas Department of Health will meet at 1100 West 49th Street, Austin. Dates, times, agendas, and room numbers follow.

Saturday, August 20, 1988, 8 a.m. The Executive Committee of the Texas Board of Health will meet in Room M-749, commissioner's office, to discuss item of procedure for upcoming board of health meeting and ratification of release of easement.

Contact: Kris Lloyd, 303 West 15th Street, Suite 213, Austin, Texas, (512) 458-7484.

Filed: August 11, 1988, 4:21 p.m.

TRD-8808248

Saturday, August 20, 1988, 8:30 a.m. The Chronically Ill and Disabled Children's Services and Maternal and Child Health Committee will meet in Room G-107 to approve chronically ill and disabled childrens services cardiovascular center site visit reports as recommended by the cardiovascular advisory committee; approve memorandum of understanding concerning coordination of services to disabled persons; proposed amendments to the rules concerning the newborn screening program and coordination with CIDCS (discussion item only); and update chronically ill and disabled childrens services program activities.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808245

Saturday, August 20, 1988, 9:30 a.m. The Alternate Care Committee will meet in Room T-604 for proposed revisions to the kidney health program rules; proposed rules concerning annual reporting requirements by calendar year basis for licensed abortion facilities; final adoption of amendments to the rules concerning dietitian licensure; and final adoption of amendments to the rules

concerning respiratory care practitioner certification requirements.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808254

Saturday, August 20, 1988, 9:30 a.m. The Personnel Committee will meet in Room T-507 for appointments to the advisory committee on MR facilities.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808247

Saturday, August 20, 1988, 10 a.m. The Nursing Homes Committee will meet in Room T-604 to consider proposed amendment to the rules concerning minimum licensing standards for nursing homes covering the rights and privilege to maintain a supply of controlled drugs in the emergency kit; final adoption of the rule concerning a memorandum of understanding relating to hospitals and long term care facilities; final adoption of the rule concerning a memorandum of understanding relating to protective services for the elderly; and proposed rule concerning certification standards for alzheimers and related diseases.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808250

Saturday, August 20, 1988, 10 a.m. The Public Health Promotion Committee will meet in Room T-407 for final adoption of the rule concerning a memorandum of understanding relating to the exchange and distribution of public awareness information; and update on year three of the three-year plan.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808251

Saturday, August 20, 1988, 10:30 a.m. The Budget Committee will meet in Room T-507 to consider proposed rules concerning state legalization impact assisting grant (sliag).

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808244

Saturday, August 20, 1988, 10:30 a.m. The Hospitals Committee will meet in Room G-107 to consider proposed amendments to the rules concerning hospital licensing standards; and final adoption of the rule amending the hospital licensing standards concerning special care facilities.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808252

Saturday, August 20, 1988, 11 a.m. The Legislative Committee will meet in Room G-107 to update emergency medical services trauma legislation; and update proposed legislation for the 70th legislative session.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808255

Saturday, August 20, 1988, noon. The Texas Board of Health will meet in Room T-610 to approve minutes, hear commissioners report, aids update, memorial resolution for Helen Farabee; ratify easement release; medicare survey process; board committee reports; proposed rules on kidney health, abortion facilities, state legalization impact assistance grant, sledge from municipal wastewater treatment, hospital licensing standards, controlled drugs in emergency drug kits in long term care facilities and alzheimers and related diseases; final rules concerning dietitians, respiratory care practitioners, bottled drinking and vended water; hospital licensing standards concerning special care facilities; memoranda of understanding (hospitals and long term care facilities, protective services for the elderly, and pubic awareness information exchange and distribution); chronically ill and disabled childrens services and cardiovascular centersite reports; memorandum of understanding concerning coordination of services to disabled persons; request for waiver from compliance with migrant labor housing rule; executive summary concerning regulation of on-site sewerage facilities; appointments to advisory committee on mentally retarded facilities; announcements and comments.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808249

Texas Housing Agency

Tuesday, August 23, 1988, 7 p.m. The Finance and Audit Committee for the Texas Housing Agency will meet in Suite 300, THA Conference Room, 811 Barton Springs Road, Austin. According to the agenda, the committee will consider and possibly act on fiscal year 1989 budget; quarterly reports; Ernst and Whinney audit; request for proposal for 1988 audit; computer contract RFQ; underwriters contract; bond counsel selection policy; minority bond counsel participation plan; multi-family co-managers; single family co-

managers; bank trustees; HUD multi-family partnership proposal; and interchange series.

Contact: Timothy Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: August 15, 1988, 4:22 p.m.

TRD-8808384

State Board of Insurance

The Commissioners Hearing Section for the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Room numbers, agendas, dates, and times will follow.

Friday, August 19, 1988, 11 a.m. The board will meet in Room 414, to consider extension of time period for action to be taken on motion for rehearing in respect to board order 53069 on the application of Sand and Surf Condominium Council of Co-Owners and others for review of action on the Texas Catastrophe Property Insurance Association.

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

Filed: August 11, 1988, 4:19 p.m.

TRD-8808258

Tuesday, August 23, 1988, 9 a.m. The board will meet in Room 342 to consider Docket 10003, whether disciplinary action should be taken against Jesse William Evans, Waco, who holds a Group I legal reserve life insurance agents license and a Group II health and accident insurance agents license issued by the board.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808360

Tuesday, August 23, 1988, 9 a.m. The board will meet in Room 353 to consider Docket 9892, whether disciplinary action should be taken against Jim Jordan, Dallas, Fricso, Lewisville, who holds a Group I legal reserve life insurance agents license, a Group II health and accident insurance agents license, and a local recording agents license issued by the board.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808359

Tuesday, August 23, 1988, 10 a.m. The board will meet in Room 414 to consider amendment to Rule P-27 of the Title Manual (28 TAC §9.1); consider instructions to the Texas Catastrophe Property Insurance Association, concerning what constitutes an insurable risk and a new risk; board orders on several different matters as itemized on

the complete agenda; personnel; and litigation.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808381

Tuesday, August 23, 1988, 1:30 p.m. The board will meet in Room 342 to consider Docket 9839, whether disciplinary action should be taken against Gene Raymond Holifield, Beaumont, who holds a Group I legal reserve life insurance agents license and a Group II health and accident insurance agents license issued by the board.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808358

Wednesday, August 24, 1988, 9 a.m. The board will meet in Room 353 to consider Docket 9986, whether disciplinary action should be taken against Joel Lief Peterson Goucher, Amarillo, who holds a Group I legal reserve insurance agents license and a local recording agents license issued by the board.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808357

Wednesday, August 24, 1988, 1:30 p.m. The board will meet in Room 342 to consider Docket 9978, whether disciplinary action should be taken against Glen Harold Riehl, Bullard, who holds a Group I legal reserve life insurance agents license and a Group II health and accident insurance agents license.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808356

Friday, August 26, 1988, 1:30 p.m. The board will meet in Room 342 to consider Docket 10018, application of Gerry Lynn Anderson, Pasadena, for a Group I legal reserve life insurance agents license.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808355

Monday, August 29, 1988, 9 a.m. The board will meet in Room 342 to consider Docket 10017, whether disciplinary action should be taken against Fredrick Eugene Mattox, Beaumont, who holds a Group I legal reserve life insurance agents license

and a Group II health and accident insurance agents license issued by the board.

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

Filed: August 15, 1988, 11:09 a.m.

TRD-8808361

Texas Department of Labor and Standards

Tuesday, August 23, 1988, 9 a.m. The Task Force on Pressure Relief Valves for the Texas Department of Labor and Standards will meet at the Houston Dow Center, 400 West Belt South, Houston. According to the agenda, the task force will call order, approve agenda, approve minutes of the June 21, 1988, meeting, and review assignments.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: August 15, 1988, 11:56 a.m.

TRD-8808372

Tuesday, August 23, 1988, 1 p.m. The Task Force on Rewrite of the Texas Boiler Law for the Texas Department of Labor and Standards will meet in the Houston Dow Center, 400 West Belt South, Houston. According to the agenda, the task force will call order, approve agenda, approve minutes of the June 21, 1988, meeting, and review assignments.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: August 15, 1988, 11:56 a.m.

TRD-8808373

Texas State Library and Archives Commission

Thursday, August 25, 1988, 2 p.m. The Records Management and Preservation Advisory Committee for the Texas State Libraries and Archives Commission will meet in Room 314, Lorenzo de Zavala State Archives and Library Building, 1201 Brazos Street, Austin. According to the agenda, the committee will review personnel committee recommendations about retention of personnel records, status of records center expansion, discuss micrographics survey, consider new direction for the committee, and other business brought before the committee.

Contact: Susan Tennison, P.O. Box 2960, Austin, Texas 78769, (512) 450-4557.

Filed: August 15, 1988, 10:59 a.m.

TRD-8808362

Board of Pardons and Paroles

Monday, August 22-26, 1988, 1:30 p.m. daily, except 11 a.m. on Friday. A three member panel for 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 releasees 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: August 12, 1988, 11:28 a.m.

TRD-8808265

Tuesday, August 23, 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: August 12, 1988, 11:27 p.m.

TRD-8808264

State Pension Review Board

Friday, August 26, 1988, 9:30 a.m. The Investment Review Committee for the State Pension Review Board will meet in Fiesta Room "A", Convention Center, San Antonio. According to the agenda, the committee will discuss future projects.

Contact: Betty J. Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: August 12, 1988, 11:20 a.m.

TRD-8808273

Friday, August 26, 1988, 10:30 a.m. The State Pension Review board will meet in Fiesta Room "A", Convention Center, San Antonio. According to the agenda, the board will call order and roll call; invocation; read and adopt minutes of previous meeting; executive directors; hear subcommittee reports; consider old and new business; and hear announcements and invitations for audience participation.

Contact: Betty J. Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: August 12, 1988, 11:20 a.m.

TRD-8808274

Texas State Board of Public Accountancy

Wednesday, August 24, 1988, 9 a.m. The Continuing Education Committee for the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will review exemption requests and forms which have been submitted to the committee; review CE hours submitted by licensees who have received a board sanction for noncompliance with CE requirements; review requests for additional credit for published articles and books; review sponsor registrations; requests for CE credit from unregistered sponsors; review statistical report concerning CE; review definitions relating to Continuing Education; and review dates for the next meeting and other matters coming before the committee.

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

Filed: August 15, 1988, 10:56 a.m.

TRD-8808364

Wednesday, August 24, 1988, 9 a.m. The Technical Standards Review Committee for the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will discuss computer system change to provide follow-up on closed complaints.

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

Filed: August 15, 1988, 10:56 a.m.

TRD-8808375

Thursday, August 25, 1988, 9 a.m. The Entry and Reentry Screening Committee for the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will ratify approved applications for registration of partnerships and professional corporations; consider applications for reinstatement of CPA certificates; ratify previously approved applications under §§12-14; consider nonroutine applications under §§12-14; informal conferences for individuals requesting an appearance before the committee; review convictions reported by licensees on their 1988 renewal notices; review information relating to DPS criminal background investigation reports; review request for surrender of CPA certificates under §12(a) of the Act; review plans for the November 1988 swearing-in ceremony; and review licensing statistics and other matters coming before the board.

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

Filed: August 15, 1988, 10:56 a.m.

TRD-8808364



Public Utility Commission of Texas

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

Thursday, August 25, 1988, 10 a.m. The division will consider Docket 8289-petition of the City of Panorama Village, for termination of mandatory extended area service between the Cities of Panorama Village and New Waverly.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808220

Thursday, September 15, 1988, 1:30 p.m. The division will consider Docket 8266-petition of the general counsel of the Public Utility Commission of Texas for an inquiry concerning the reasonableness of the rates of Central Telephone Company of Texas.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808223

Wednesday, October 12, 1988, 10 a.m. The division will consider Docket 82603-joint application of Brazos Electric Cooperative, Inc. and Texas Utilities Electric Company to assign certificate rights to Comanche Peak Generating Station.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808219

Thursday, October 13, 1988, 10 a.m. The division will consider Docket 8140-Application of Southwestern Bell Telephone Company to eliminate eight party rural exchange service, to merge information terminal service with single party business line service, and to clarify the availability of grandfathered rotary hunting within El Paso County.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808324

Thursday, November 3, 1988, 10 a.m. The division will consider Docket 8285-application of Brazos Electric Power Cooperative, Inc. and Texas Utilities Electric Company for partial transfer of certificate of convenience and necessity.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757,

(512) 458-0100.

Filed: August 11, 1988, 3:17 p.m.

TRD-8808319

Friday, November 4, 1988, 10 a.m. The division will consider Docket 8286-application of Brazos Electric Power Cooperative and Dickens Electric Cooperative, Inc. for partial transfer of certificate of convenience and necessity.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808318

Tuesday, November 8, 1988, 10 a.m. The division will consider Docket 8287-application of Brazos Electric Power Cooperative, Inc. and Gate City Electric Cooperative, Inc., for partial transfer of certificate of convenience and necessity.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808317

Monday, December 12, 1988, 10 a.m. The division will consider Docket 8218-inquiry of the commission into the WATS prorate credit.

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

Filed: August 11, 1988, 3:17 p.m.

TRD-8808316



Railroad Commission of Texas

Monday, August 22, 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, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7777.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808283

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 12970, Austin, Texas 78711, (512) 463-7251.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808282

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors.

Contact: C. Tom Clowe, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: August 12, 1988, 11:06 a.m.

TRD-8808286

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 12970, Austin, Texas 78711, (512) 463-7087.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808285

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: Vicki Dimego, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808276

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 12970, Austin, Texas 78753, (512) 463-7010.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808287

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 12970, Austin, Texas 78711, (512) 463-6828.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808288

The Legal Division will consider and act on the Legal Division's report on division administration, budget, procedures, and personnel matters; proposed and pending liti-

gation, including but not limited to discussion and/or action on the following: FERC Orders 500, 500 A-C, and related litigation in the D.C., Fifth, Third, and Seventh Circuits; and Northwest Central Pipeline Corporation v. State Corporation Commission of the State of Kansas, et al., Cause 86-1856, United States Supreme Court and Missouri Pacific Railroad Company, et al v. Railroad Commission of Texas, Cause A-86-CA-406, U.S. District Court, Western District of Texas.

Contact: G. Gail Watkins, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

Filed: August 12, 1988, 11:05 a.m.

TRD-8808278

LP-Gas Division will consider and act on division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petra, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6931.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808279

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: Sonia O'Neal, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7325.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808280

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 12970, Austin, Texas 78711, (512) 463-7055.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808284

The Oil and Gas Division submitted a revised agenda to consider whether a hearing should be convened to examine cementing and reporting practices of the Western Company of North America, to determine whether such practices complied with commissioner rules and requirements and whether Western Company of North America violated Texas Natural Resources Code Annotated 91.143 and to consider whether enforcement and penalty actions should be initiated.

Contact: Sonia O'Neal, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6848.

Filed: August 12, 1988, 11:07 a.m.

TRD-8808302

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 12970, Austin, Texas 78711, (512) 463-6981.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808275

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 12970, Austin, Texas 78711, (512) 463-6976.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808289

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 12970, Austin, Texas 78711, (512) 463-6900.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808277

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: G. Gail Watkins, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7122.

Filed: August 12, 1988, 11:04 a.m.

TRD-8808281

Thursday, August 25, 1988, 9 a.m. The Oil and Gas Division will consider Docket 10-87,017.

Contact: William Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6924

Filed: August 12, 1988, 11:07 a.m.

TRD-8808290

Texas Rural Communities

Thursday, September 1, 1988, 9 a.m. The Board of Directors for the Texas Rural Communities will meet at 314 Highland Mall Boulevard, Austin. According to the agenda, the board will approve minutes; hear loan policy formation committee report; consider 1986-1987 audit; hear general manager's report on student loans, farm and ranch loans, TRC investments, and office activities updates; National Association of Rural Rehabilitation corporations annual meeting; purchase of computer; nominating committee report; elect officers; and set date of next meeting.

Contact: Jim Bacon, 314 Highland Mall Boulevard, Suite 103, Austin, Texas 78752, (512) 458-1003.

Filed: August 12, 1988, 11:31 a.m.

TRD-8808292

Special Task Force on Rural Health Care Delivery in Texas

Tuesday, August 16, 1988, 1 p.m. The Manpower Subcommittee for the Special Task Force on Rural Health Care Delivery in Texas met in emergency session in Room 2B 152, Texas Tech Health Sciences Center, Lubbock. According to the agenda, the subcommittee held a work session to discuss physician and nursing manpower shortages in rural areas and make recommendations to the full committee. The emergency status was necessary as a date fitting everyone's schedule was not decided until August 9, 1988.

Contact: Sam Gorena, P.O. Box 13206, Austin, Texas 78711, (512) 463-0809.

Filed: August 11, 1988, 11:45 a.m.

TRD-8808206

School Land Board

Tuesday, August 16, 1988, 10 a.m. The School Land Board met in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, for an emergency agenda revision. The emergency status was necessary for timely distribution of funds to royalty and working interest owner. According to the agenda, the board reviewed applications to lease highway right of way for oil and gas.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78711, (512) 463-5016.

Filed: August 11, 1988, 4:01 p.m.

TRD-8808243

Sunset Advisory Commission

Thursday-Friday, August 25-26, 1988, 10 a.m. and 9 a.m., respectively. The Sunset Advisory Commission will meet in the Senate Chamber, State Capitol Building, Austin. According to the agenda, the commission will approve minutes from last meeting; review proposed legislation on the Interagency Council on Health Fitness, Texas Surplus Property Agency, Texas Indian Commission, and Natural Fibers and Food Protein Commission; make initial decisions on recommendations for the Texas Human Rights Commission, Metropolitan Transit Authority of Harris County, Corpus Christi Regional Transit Authority, and the State Property Tax Board, on Thursday. On Friday the commission will complete any unfinished business from the previous day, hear staff report and public testimony on the Texas Department of Labor and Standards.

Contact: Jeri Kramer, 105 West 15th Street, Room 305, Austin, Texas 78701, (512) 463-1300.

Filed: August 15, 1988, 2:01 p.m.

TRD-8808376

Texas A&M University System

Saturday, August 13, 1988, 8 a.m. The Board of Regents for Texas A&M University System met in emergency session at the MSC Annex, Texas A&M University, College Station. According to the agenda, the board authorized the chancellor to appropriate funds and award a contract for the construction of a parking lot to be located at Texas A&M University; and considered a second parking lot. The emergency status was necessary as it was the only time members of the board were available and the meeting accelerated the completion date of critically needed parking spaces on the campus.

Contact: Vickie Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: August 12, 1988, 11:09 a.m.

TRD-8808291

Texas State University System, Board of Regents

Thursday, August 18, 1988, 1:30 p.m. The Building Committee for Texas State University System, Board of Regents, met in the Second Floor Conference Room, Briscoe Administration Building, Sul Ross

State University, Alpine. According to the agenda, the committee reviewed construction projects and documents for the four universities in the system including awarding of contracts for the Peabody Building at SHSU and the Academic-Computer Resource Building at SRSU; cancelled contracts on the Jackson-Shaver Halls at SHSU and the Sterry-Falls Halls at SWTSU; approved preliminary plans for the new science building at SWTSU and Jackson-Shaver and Estill Halls at SHSU; approved purchase orders for certain repairs; demolition of the sorority house at SWTSU; settlement of the dispute on the Liberal Arts Building at SWTSU; and approved real estate acquisitions at SHSU and selected consultants.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808217

Thursday-Friday, August 18-19, 1988, 1:30 p.m. and 8:30 a.m., respectively. The Texas State University System, Board of Regents, met in the Second Floor Conference Room, Briscoe Administration Building, Sul Ross State University, Alpine. According to the agenda, the committee reviewed matters of the board and the four universities in the system, including all matters reviewed by the Building Committee and submitted to the full board; all matters reviewed by the Curriculum Committee and submitted to the full board; all matters reviewed by the Finance Committee and submitted to the full board; personnel actions including new employees, promotions, resignations, terminations, and special appointment for any system employee including the presidents and executive director; budgetary changes at each university and the system office; contract approvals at each university and the system office; acceptance of gifts; admission requirements, fees, rules and regulations, and other changes.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808218

Thursday, August 18, 1988, 2:30 p.m. The Curriculum Committee for Texas State University System, Board of Regents, met in the Second Floor Conference Room, Briscoe Administration Building, Sul Ross State University, Alpine. According to the agenda, the committee reviewed curriculum needs and requests for the four universities in the system including twelfth and fourth day class reports; new degree programs and program changes; new course offerings; course deletions and changes; out-of-state and out-of-country course offerings and admission standards.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808216

Thursday, August 18, 1988, 3:15 p.m. The Finance Committee for Texas State University System, Board of Regents, met in the Second Floor Conference Room, Briscoe Administration Building, Sul Ross State University, Alpine. According to the agenda, the committee reviewed financial matters of the system office and the four universities in the system, including legislative appropriation requests for fiscal years 1989-1990 and 1990-1991; and selected financial advisory and bond counsel.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: August 11, 1988, 3:13 p.m.

TRD-8808215

University Interscholastic League

Wednesday, August 17, 1988, 10 a.m. The State Executive Committee (three member panel) for the University Interscholastic League met in Room 2.102, Thompson Conference Center, UT Campus, 26th and Red River Streets, Austin. According to the agenda, the committee heard alleged violations of UIL rules by school personnel.

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

Filed: August 16, 1988, 4:20 p.m.

TRD-8808313

The University of Texas at Austin

Friday, August 19, 1988, 1 p.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin, will meet at the Radisson Hotel, 700 San Jacinto Street, Austin. According to the agenda, the council will meet in executive session, introduce new council members, meet in open session, approve minutes of the May 2, 1988, meeting, consider items from executive session, schedules, awards, academics, budget, new business, tickets and ticket prices, construction, development, and old business.

Contact: Haila Kauffman, P.O. Box 7399, Austin, Texas 78713.

Filed: August 15, 1988, 11:33 a.m.

TRD-8808367

Texas Water Commission

Tuesday, August 23, 1988, 9 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will

consider West Point Pepperell, Inc., Iselin Mill, P.O. Box 311807, New Braunfels, Texas 78131-1807, who has applied to the commission for renewal of Permit 01216 which authorizes a discharge of treated process wastewater effluent at a volume not to exceed an average flow of 1,250,000 gallons per day from its Iselin Plant textile mill. The permit also has provisions for disposal of effluent by irrigation of company owned grassland. The Iselin Mill is located between McQueeney Road and the Guadalupe River, bounded on the south by the Comal-Guadalupe County line and on the north partially by the City of New Braunfels' wastewater treatment plant, Comal County. The effluent is discharged into the Guadalupe River in Segment 1804 of the Guadalupe River Basin.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: August 12, 1988, 3:56 p.m.

TRD-8808316

Monday, August 29 1988, 9 a.m. The Texas Water Commission will meet in Room 512, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss joint application by Trinity River Authority of Texas and City of Houston for an extension of time to complete construction of Wallisville Dam, authorized under Certificate of Adjudication 08-4261 and 08-4248. The certificates authorize completion of construction of Wallisville Dam on the Trinity River, Trinity River Basin, Chambers County, creating a 51,600 acre-foot reservoir to be used for domestic, municipal, industrial, and irrigation purposes.

Contact: Gloria Vasquez, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Filed: August 12, 1988, 3:56 p.m.

TRD-8808314

Wednesday, September 7, 1988, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will determine whether emergency order 88-24E, issued on August 11, 1988, by the commission to Joy D. Hawley or Robert D. Hawley doing business as Clear Creek Water Company, should be affirmed, modified, or set aside by the commission. The order requires Joy D. Hawley or Robert D. Hawley to immediately provide continuous and adequate water service to every customer currently or previously provided water service within Clear Creek Water Company's certificated service area granted in water CCN 11876, including the Cedar View Estates Subdivision, in Henderson County.

Contact: Christopher G. Gee, P.O. Box 13087, Austin, Texas 78711, (512) 463-808069

Filed: August 12, 1988, 3:56 p.m.

TRD-8808379

Thursday, September 22, 1988, 10 a.m. The Office of Hearings Examiner for the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will

consider West Point Pepperell, Inc., Iselin Mill, P.O. Box 311807, New Braunfels, Texas 78131-1807, who has applied to the commission for renewal of Permit 01216 which authorizes a discharge of treated process wastewater effluent at a volume not to exceed an average flow of 1,250,000 gallons per day from its Iselin Plant textile mill. The permit also has provisions for disposal of effluent by irrigation of company owned grassland. The Iselin Mill is located between McQueeney Road and the Guadalupe River, bounded on the south by the Comal-Guadalupe County line and on the north partially by the City of New Braunfels' wastewater treatment plant, Comal County. The effluent is discharged into the Guadalupe River in Segment 1804 of the Guadalupe River Basin.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: August 12, 1988, 3:56 p.m.

TRD-8808315

Regional Meetings

Meetings Filed August 11, 1988

The Cherokee County Appraisal District, Board of Directors, met at 107 East Sixth Street, Rusk, on August 18, 1988, at 2:30 p.m. Information may be obtained from S. R. Danner, P.O. Box 494, Rusk, Texas 78785, (214) 683-2296.

The Golden Crescent Regional Review Committee, Regional Review Committee, will meet in the GCRPC Boardroom, Building 102, Regional Airport, Victoria, on August 25, 1988, at 1 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Harris County Appraisal District, Board of Directors, met on the Eighth Floor, 2800 North Loop West, Houston, on August 17, 1988, at 2 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Hays County Appraisal District, Appraisal Review Board, will meet in the Municipal Building, 632A East Hopkins, San Marcos, on August 19, 1988, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632A East Hopkins, Municipal Building, San Marcos, Texas 78666, (512) 754-7400.

The High Plains Underground Water Conservation District, 1, Board of Directors, will meet in the Conference Room, 2930 Avenue Q, Lubbock, on August 23, 1988, at 6 p.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Hunt County Tax Appraisal District, Board of Directors, met in emergency session in the Boardroom, Tax Appraisal District, 4801 King Street, Greenville, on August 11, 1988, at 7 p.m. Information may be obtained from Joe Pat Davis or Linda S. Haynes, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Texas Municipal Power Agency, Board of Director's Special Meeting, was held on the Fourth Floor City Council, Conference Room, Garland City Hall, Garland, on August 16, 1988, 4 p.m. Information may be obtained from Jim Bailey, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013.

The West Central Texas Council of Governments, Regional Review Committee, will meet in WCTCOG Offices, 1025 East North 10th Street, Abilene, on September 1, 1988, at 10:30 a.m. Information may be obtained from Jim Compton, P. O. Box 3195, Abilene, Texas 79604.

TRD-8808204

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Meetings Filed August 12, 1988

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson Avenue, Jourdanton, on August 18, 1988, at 1:30 p.m. Information may be obtained from Vernon A. Warren, (512) 769-2730.

The Bexar Appraisal District, Board of Directors, met in emergency session at 535 South Main, San Antonio, on August 15, 1988, at 5 p.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Bosque County Appraisal District, Appraisal Review Board, met at the Appraisal District Office, 104 West Morgan, Meridian, on August 16, 1988, at 9 a.m. Information may be obtained from Billye McGehee, P.O. Box 393, Meridian, Texas 76665, (812) 435-2305.

The Cass County Appraisal District, Board of Directors, met at the Appraisal District Office, 400 North Main, Linden, on August 15, 1988, 7 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (214) 756-7574.

The Dallas Area Rapid Transit, Planning and Development Committee of the Whole, and Mobility Impaired Committee, met in the Boardroom, DART Headquarters, 601 Pacific Avenue, Dallas, on August 16, 1988, at 2 p.m. and 4 p.m. Information may be obtained from Nancy McKethan, (214) 658-6237.

The Education Service Center, Region X, Board of Directors, met at the Prestonwood County Club, 15909 Preston, Dallas, on August 17, 1988, at 1:15 p.m. Information may be obtained from Joe Farmer, 400 East

Spring Valley, Richardson, Texas 75801, (214) 231-6301.

The Education Service Center, Region XV, Board of Directors, met at 612 South Irene Street, San Angelo, on August 18, 1988, at 1:30 p.m. Information may be obtained from Clyde Warren.

The Edwards County Appraisal District, Appraisal Review Board, will meet at the New County Annex Building, Rocksprings, on September 9, 1988, at 8 a.m. Information may be obtained from Natalie McNealy, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-4189.

The Edwards Underground Water District, Special Board of Directors and Audit Committee, met at 1615 North St. Mary's Street, San Antonio, on August 16, 1988, at 9 a.m. and 12:15 p.m., respectively. Information may be obtained from Thomas P. Fox, 1615 North St. Mary's Street, San Antonio, Texas 78215, (512) 222-2204.

The Heart of Texas Council of Governments, Executive Committee, met in the HOTCOG Conference Room, 320 Franklin, Waco, on August 18, 1988, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Hunt County Appraisal District, Appraisal Review Board, met in the Boardroom, Hunt County Tax Appraisal District, 4801 King Street, Greenville, on August 16, 1988, at 9 a.m. Information may be obtained from Joe Pat Davis or Linda S. Haynes, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lower Colorado River Authority, Audit and Budget Committee, Energy Operations Committee, Planning and Public Policy Committee, Finance and Administration Committee, and Natural Resources Committee met at 3700 Lake Austin Boulevard, Austin, on August 17, 1988, at 9 a.m. The Board of Directors will meet at the same location on August 18, 1988, at 9 a.m. Information may be obtained from Thomas G. Mason, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283.

The Lower Rio Grande Valley Development Council, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on August 18, 1988, at 1:30 p.m. Information may be obtained from Robert A. Chandler, 4900 North 23rd Street, McAllen, Texas 78550, (512) 682-3481.

The Mills County Appraisal District, will meet in the Jury Room, Mill County Courthouse, Goldthwaite, on August 25, 1988, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The North Central Texas Council of Governments, Executive Board, met on the Second Floor, Centerpoint Two, 616 Six

Flags Drive, Arlington, on August 18, 1988, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Rio Grande Valley Municipal Water Authority, Board, will meet at the Chamber of Commerce, 311 East Tyler, Harlingen, on August 25, 1988, at 7 p.m. Information may be obtained from Ersel G. Lantz, 3505 Boca Chica, Suite 303, Brownsville, Texas 78520, (512) 542-8764.

The Texas Water Conservation Association Risk Management Fund, Underwriting Committee of the Board of Trustees, met at the Harris-Galveston C.S. D., 1660 Bay Area Boulevard, Friendswood, on August 16, 1988, at 4 p.m. Information may be obtained from Leroy Goodson, 206 San Jacinto Building, Austin, Texas 78701, (512) 472-7216.

TRD-8808259

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Meetings Filed August 15, 1988

The Austin-Travis County Mental Health and Mental Retardation Center, Operation and Planning Committee, will meet in Mr. Brubakers Office, 611 South Congress Avenue, Austin, on August 19, 1988, at 7:30 a.m. Information may be obtained from Sharon Taylor, (512) 447-4141.

The Bastrop County Appraisal District, Board of Directors, met in the District Office, 1200 Cedar Street, Bastrop, on August 18, 1988, at 7:30 p.m. Information may be obtained from Lorraine Perry, (512) 321-3925.

The Blanco County Appraisal District, Appraisal Review Board, will meet in the Courthouse Annex, Johnson City, on August 19, 1988, at 2 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas, (512) 868-44624.

The Education Service Center, Region III, Board of Directors, met at the Ramada Inn, 3901 Houston Highway, Victoria, on August 18, 1988, at 11:30 a.m. Information may be obtained from Julius D. Cano.

The Education Service Center, Region XIV, Board of Directors, will meet at 1850 State Highway 351, Abilene, on August 25, 1988, at 5:30 p.m. Information may be obtained from Taressa Huey, Route 1, Box 70-A, Abilene, Texas 79601, (915) 676-8201.

The Gregg Appraisal District, Board of Directors, will meet at 2010 Gilmer Road, Longview, on August 24, 1988, at 10:30 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Houston-Galveston Area Council, Board of Directors, met for an emergency agenda revision in the Fourth Floor Confer-

ence Room, 3555 Timmons, Houston, on August 16, 1988, at 10 a.m. Information may be obtained from Sallie Sosa, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200.

The Martin County Appraisal District, Board of Directors, will meet at 708 West St. Anna, Stanton, on September 6, 1988, at 7 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The Mental Health and Mental Retardation Center of East Texas, Executive Committee, Board of Trustees, met at First City National Bank, Tyler, on August 18 1988, at 11 a.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

The Mills County Appraisal Review Board, will meet at the Courthouse, Goldthwaite, on August 24, 1988, at 8 a.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas, (915) 648-2253.

The Texas Municipal League Risk and Insurance Management Services, Board of Trustees, Self-Insurance Funds, will meet at the Lakeway Resort, Austin, on August 21-22, 1988, at 1 p.m. and 9:30 a.m., respectively. Information may be obtained from Carole A. Loughlin.

The San Antonio-Bexar County Metropolitan Planning Organization, Steering Committee, will meet at City Hall, San Antonio, on August 22, 1988, at 1 p.m. Information may be obtained from David F. Pearson, Room 101, Courthouse, San Antonio, Texas 78205, (512) 227-8651.

The Tyler County Appraisal District, Appraisal Review Board, will meet at 806 West Bluff, Woodville, on August 22-26, 1988, at 9 a.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas, (409) 283-3736.

The Upper Leon River Municipal Water District, Board of Directors, will meet at the General Office of the Filter Plant, Proctor Lake, Comanche County, on August 25, 1988, at 6:30 p.m. Information may be obtained from Gayle C. Pirkle, Box 67, Comanche, Texas 76442, (817) 879-2258.

TRD-8808331



**Meetings Filed August 16,
1988**

The Kendall County Appraisal District, Board of Directors, will meet at 207 East San Antonio Street, Boerne, on August 19, 1988, at 7 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

TRD-8808395



In Addition

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

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

Texas Air Control Board Request for Public Comment

The Texas Air Control Board (TACB) announces the availability of the agency's proposed research plan for fiscal year 1989 for public review and comment. The board's Monitoring the Research Committee reviewed the plan on August 12, 1988, and is now making it available for public comment.

The main areas proposed for research are: further work on the causes and effects of visible air pollution, with principal efforts in the Dallas area; and work on toxic air contaminants, with principal effort wither on continued development of a biological sentinel system to detect the effects of exposure or on an epidemiological study of the effects of visible air pollution.

Copies of the proposed plan are available for inspection at and can be obtained from the agency's central office of the TACB, Research Division, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Public comment may be submitted to the TACB central office through 5 p.m. on September 14, 1988. Comments received by that time will be considered prior to any final decision on the proposed plan.

Issued in Austin, Texas on August 16, 1988.

TRD-8808312 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: August 12, 1988

For further information, please call (512) 451-5711, ext. 354.

Texas Department of Commerce Request for Proposals

This request for proposal is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Texas Department of Commerce (TDOC) requests offers from qualified companies/individuals for consulting services and to conduct a statewide target industry study to be used by TDOC for external marketing activities. The study will identify industries most suitable and likely to locate in the state broken out by the state's six geographic regions: border, plains, central corridor, metroplex, East Texas, and the Gulf Coast.

The applicant selected to conduct the study must demonstrate the necessary qualifications and experience listed in the qualifications section and will be required to perform the various services and generate the reports listed in the scope of service section. The acceptance of an offer by TDOC, made in response to this request, will be based on its evaluation of cost and other factors described below.

Objectives of TDOC's Targeting Efforts. The Texas Department of Commerce wishes to: identify specific in-

dustry groups within each of the state's six economic regions with the greatest likelihood to locate in each region; develop a target marketing program around those industries to be used in TDOC's efforts to attract industries to the state; and follow-up with technical assistance to each of the regions as necessary in developing a target marketing program for the industries identified in the study as having the greatest likelihood to locate in the respective regions.

Scope of Services. The successful candidate will be required to render the following services and reports: produce an economic profile that highlights the unique characteristics of each of the state's six regions. Each profile should include information on industry mix, industries with the greatest potential for growth, and information on key locational factors including labor, markets, transportation, and supplier resources; identify United States industries that show the greatest potential for growth and likelihood for expanding or relocating; based on the unique characteristics of each of the regions and a comprehensive review of industries with the greatest projected growth, select those industries whose locational requirements most closely match up with the resources of the six regions; from the initial screening process, identify at least two industry groups for each economic region that will be used by TDOC for intensive promotional efforts; prepare target industry profiles for each of the industries selected for intensive promotional efforts to include information on industry growth data, key site selection criteria, each region's locational advantage for attracting firms within the industry, and characteristics of a representative facility in the particular target industry group; develop a marketing strategy for each of the target industries, including identifying likely company candidates for each target industry group; and prepare a final presentation to TDOC on the findings of the study and advise on ways to maximize the agency's effectiveness in assisting each of the regions develop target market programs.

In addition to the above services and reports, the contractor will provide TDOC with the detailed economic data used in compiling each region's profile on computer diskette (see first item under Scope of Services, as previously listed).

Further, in obtaining information on each of the six economic regions, the contractor will be expected to rely on existing information resources including, but not limited to TDOC, State Occupational and Information Coordinating Council, State Comptroller's Office, and the Texas Employment Commission. Additional region-specific data will be obtained through written surveys and discussions with key economic development and business representatives in each of the regions.

Qualifications. Each company submitting an offer must present evidence or otherwise demonstrate to the satisfaction of TDOC that such company; has experience in conducting target industry studies, preferably, at a statewide level; has access to the most current economic data for compiling accurate economic profiles of the state's various economic regions; maintains or has access to a

data base of key locational requirements of industries by four-digit SIC code; has the capability to match the locational requirements of industries with the resources of each of the region's various resources; has the ability to identify company candidates for a target marketing effort by the state; has the ability to identify high growth industries at a four-digit SIC code level of detail; and has experience in preparing a marketing plan for recruitment campaigns.

In addition to meeting the previously listed requirements, please submit with your proposal: a description of the methodology and proposed work plan to be used in conducting the target industry study; a copy of a similar study done by your company in recent years; information on staffing for the project; names and phone numbers of recent clients whom we can call for reference; the proposed fee amount for providing the desired services, broken out according to how the fee will be applied (i.e., professional services, clerical services, postage, travel, etc.); and the length of time necessary to complete the project.

Your response must be received no later than 5 p.m. September 1, 1988. We anticipated entering into the resulting contract on or about September 26, 1988. Responses received after this date and time will not be considered.

TDOC reserves the right to accept or reject any or all offers submitted in response to this request and to negotiate modifications necessary to improve the quality or cost effectiveness of any offer received. TDOC is under no legal obligation to enter into a contract with any offer on the basis of this request and intends any material provided herein only as a means of identifying the scope of services requested.

The state assumes no responsibility for expenses incurred in preparing responses to this solicitation. Please address your responses to Bob Farley, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, (512) 320-9657.

Issued in Austin, Texas on August 15, 1988.

TRD-8808332 J. W. Lauderback
Executive Director
Texas Department of Commerce

Filed: August 15, 1988

For further information, please call (512) 320-9666

Texas Department of Community Affairs

Extension for Notice of Request for Proposals

The Texas Department of Community Affairs (TDCA), administering agency for the Texas Energy Crisis Program, announces an extension of the deadline for the receipt of responses to the request for proposals soliciting applicants to administer the Federal Fiscal Year 1988 Dallas County Area Energy Crisis Program. The amount of funds currently available is \$243,651.

In the previous public notice published in the *Texas Register* on August 12, 1988, (13 TexReg 4005), the deadline for receipt of proposals by TDCA was 5 p.m., August 31, 1988. The new deadline is 5 p.m., September 7, 1988.

For a request for proposals packet or additional information regarding this notice, please contact J. Al Almaguer, Texas Department of Community Affairs, P. O. Box 13166, Austin, Texas 78711-3166, (512) 834-6033.

To help ensure proper coordination, all oral requests for RFP packets are to be followed with written correspondence to TDCA.

Issued in Austin, Texas on August 11, 1988.

TRD-8808303 Roger A. Colfield
General Counsel
Texas Department of Community Affairs

Filed: August 12, 1988

For further information, please call (512) 834-6010

Comptroller of Public Accounts

Gasoline and Alcohol Mixture Determination of Credits Allowable for October-December 1988

Pursuant to the Tax Code, §153.123, the Comptroller of Public Accounts is required to publish the credit against the gasoline tax allowable for the first sale or use of gasoline and alcohol mixture blended from products produced in a state allowing a reciprocal credit for Texas-produced products.

The Comptroller of Public Accounts has determined that \$.04 per gallon credit for the first sale or use of gasoline and alcohol mixture blended with alcohol produced in Texas from Texas products will be available for the months of October-December 1988.

No credit will be allowed to be claimed for the first sale or use in October-December 1988, of a gasoline and alcohol mixture blended from alcohol produced outside of Texas.

Inquiries should be directed to the Tax Correspondence Division, Comptroller of Public Accounts, Austin, Texas 78774, or (512) 463-4600, toll free anywhere in Texas, 1-800-252-5555.

Issued in Austin, Texas on August 12, 1988.

TRD-8808327 Bob Bullock
Comptroller of Public Accounts

Filed: August 15, 1988

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

Texas Education Agency

Request for Applications

This request for applications is filed in accordance with Texas Civil Statutes, Article 6252-11c.

Description. The Texas Education Agency requests applications for the fourth year development of staff development modules for improving the utilization of varying strategies to enhance the teaching of mathematics for Grades PK-12 teachers pursuant to the provisions of the Education for Economic Security Act (EESA), Title II. The focus of the modules will be on using innovative concrete materials and problem solving strategies to provide opportunities for students to learn the essential elements of the state mathematics curriculum. Contracts will be awarded for the development of two modules: nine-12 Algebra and Pk-two Measurement.

The development of the modules will be contracted to one or more entities. Each module should be submitted as a separate application. Each contractor may apply to develop one or more modules. Eligible applicants include any school district, education service center, college or univer-

sity, private company, nonprofit organization, or individual.

Dates of Project. The project starting date will be October 14, 1988. The project ending date will be June 30, 1989.

Project Amount. The maximum funding for this project is \$80,000 (approximately \$40,000 per module).

Further Information. A copy of the complete request for application may be obtained by calling or writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

For clarifying information about this request, contact Dr. Cathy Seeley, Director of Mathematics, or Donna Chicoine, Mathematics Staff Development Project Director, Division of General Education, Texas Education Agency, (512) 463-9585.

Deadline for Receipt of Applications. The deadline for submitting an application is 5 p.m., September 21, 1988.

Issued in Austin, Texas on August 12, 1988.

TRD-8808322 W. N. Kirby
Commissioner of Education

Filed: August 12, 1988

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



The Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Department of Commerce are requesting applications to conduct three limited regional planning projects for occupational education and training programs. The projects will be expected to establish regional boundaries, form regional planning committees, examine the planning role of local advisory committees, and develop labor market information systems to use for producing a list of priority occupations and related programs for the region. The state agencies will select three separate applicants to conduct projects in three separate labor market areas of the state which are not currently receiving regional planning project funds.

One currently project is being funded in the six counties of the Upper Rio Grande service delivery area (El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, and Brewster counties). A second current project is being funded in the three counties of the San Antonio metropolitan statistical area (Bexar, Comal, and Guadalupe counties). The third current project is being funded in the nine counties of the Northeast Texas service delivery area (Lamar, Delta, Hopkins, Red River, Franklin, Titus, Morris, Bowie, and Cass counties).

Applicants that are selected to conduct a project may receive up to \$75,000 each. Only public educational institutions (public independent school districts, education service centers, public community colleges, public technical institutes, public colleges, and public universities) and private industry councils in Texas which are not included in the three currently funded regional planning project regions may apply for project funds. To apply, these entities must form a cooperative within a clearly defined project region based upon one or more multi-county Job Training Partnership Act service delivery areas, state planning areas, or multi-county metropolitan statistical areas.

The last day on which applications will be accepted for review is October 7, 1988. The contract is expected to be awarded no later than November 1, 1988, and will end June 30, 1989.

Applications will be judged on the basis of the quality of the technical component, the quality of the management component, and the adequacy and appropriateness of the project budget.

Copies of the RFA (RFA 701-89-028) may be obtained by contacting the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

Issued in Austin, Texas on August 11, 1988.

TRD-8808321 W. N. Kirby
Commissioner of Education

Filed: August 12, 1988

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



Governor's Office of Budget and Planning

Availability of Proposed Energy Extension Service Plan

The Texas Energy Extension Service (EES) Plan for 1988-1989 has been developed by the Governor's Energy Management Center (GEMC) and is available for review and comment by interested persons.

The EES was created in June 1977 when Congress enacted the National Energy Extension Service Act (Title V of Public Law 95-39). The Act directed states to design a program, using existing organizations, to provide small energy users with personalized technical assistance and information on energy conservation matters. The proposed state plan continues programs currently under way and is designed to provide services that complement and supplement but do not duplicate other energy conservation efforts of the state and private sector. The 1988-1989 EES plan incorporates oil overcharge funds designated by the Texas Legislature for the Texas Energy Extension Service, Alternative Energy, and Public-Private Partnership programs.

Copies of the state plan are available on request by writing or calling: Christina E. Roitsch, Governor's Energy Management Center, P.O. Box 12428, Austin, Texas 78711, (512) 463-1931. Public comments will be received in writing at the same address until September 19, 1988.

Issued in Austin, Texas on August 11, 1988.

TRD-8808260 Ron Lindsey
Director
Governor's Office of Budget and Planning

Filed: August 12, 1988

For further information, please call (512) 463-1931



Texas Department of Health

Notice of Intent to Revoke Certificates of Registration

The Bureau of Radiation Control, Texas Department of Health, filed a complaint against the following registrants, pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8. The agency intends to revoke the certificates of registration, order the registrants to cease and desist use of radiation machine(s), and order the registrants to divest themselves of such equipment, presenting evidence satisfactory to the Bureau of Radiation Control that they have

complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the items in the complaints are corrected within 30 days of the date of the complaints, no orders will issue. The complaints are as shown following this notice.

This notice affords the opportunity for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the items in the complaints are not corrected, the certificates of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a. m. to 5 p.m. (except holidays).

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against Gary Rassner, D.D.S., 9099 (Registrant), holder of Certificate of Registration Number 11.10175.

Texas Regulations for Control of Radiation (TRCR) 12.11(b) requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in Schedule 12.31 of TRCR. The fee shall be received each year on or before the last day of the expiration month of the certificate of registration. On May 18, 1987, the Registrant was billed \$102 for the fee due on Certificate of Registration Number 11-10175 covering the period from June 1987-May 1988. On February 4, 1988, the agency informed the registrant of the delinquency of payment, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of the fee has not been received.

On May 16, 1988, the registrant was billed \$102 for the fee due on Certificate of Registration Number 11-10175 covering the period from June 1988-May 1989. Payment of the fee has not been received.

TRCR 42.8 requires that the registrant shall notify the agency in writing within thirty days of any change which would render the information contained in the certificate of registration no longer accurate. On February 10, 1988, the registrant notified the agency of office closure and subsequent transfer of ownership of the registered radiation machines on or about March 31, 1987.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation 13.8(b)*, requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of radiation machine(s) or any other machines in his possession, and further that the registrant, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, either disable any machine(s) in his possession or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against M. Berry Owen, D.D.S., 210 East Fifth Street, Tyler, Texas 75701, (the registrant),

holder of Certificate of Registration Number 7-05426.

Texas Regulations for Control of Radiation (TRCR) 12.11(b) requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in Schedule 12.31 of TRCR. The fee shall be received each year on or before the last day of the expiration month of the certificate of registration. On July 15, 1986, the registrant was billed \$102 for the fee due on Certificate of Registration Number 7-05426 covering the period from August 1986-July 1987. On April 29, 1987, the agency informed the registrant of the delinquency of payment, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of the fee has not been received.

On September 17, 1988, the registrant was billed \$102 for the fee due on Certificate of Registration Number 7-05426 covering the period from August 1987-July 1988. Payment of the fee has not been received.

TRCR 42.8 requires that the registrant shall notify the agency in writing within thirty days of any change which would render the information contained in the certificate of registration no longer accurate. Returned mail received by the agency on August 14, 1987, revealed that the registrant had changed address. On September 25, 1987, the agency notified the registrant of the requirement and enclosed application for certificate of registration for the registrant's use in meeting the requirement. On December 4, 1987, the agency again notified the registrant of the requirement, by certified mail, and provided an application. Receipt of the certified mail was acknowledged on January 4, 1988. Notification of change of address has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation 13.8(b)*, requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with of the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the items above are corrected within 30 days of the date of this Complaint, no order will issue.

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against Brandon White, D.D.S., 1924 West Seventh Street, Texarkana, Texas 75501, (the registrant), holder of Certificate of Registration Number 7-03720.

Texas Regulations for Control of Radiation (TRCR) 12.11(b) requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in Schedule 12.31 of TRCR. The fee shall be received each year on or before the last day to the expiration month of the certificate of registration. On October 18, 1985, the registrant was billed \$40 for the fee due on Certificate of Registration Number 7-03720 covering the period from June 1985-May 1986.

On May 15, 1986, the registrant was billed \$61 for the fee due on Certificate of Registration Number 7-03720 covering the period from June 1986-May 1987. Payment of the fee has not been received.

On May 18, 1987, the registrant was billed \$61 for the fee due on Certificate of Registration Number 7-03720 covering the period from June 1987-May 1988. Payment of the fee has not been received.

On May 27, 1988, the registrant was billed \$61 for the fee due on Certificate of Registration Number 7-03720 covering the period from June 1988-May 1989. Payment of the fee has not been received.

TRCR 42.8 requires that the registrant shall notify the agency in writing within thirty days of any change which would render the information contained in the certificate of registration no longer accurate. Returned mail received by the agency indicated that the registrant had changed address. All attempts to contact the registrant were unsuccessful.

TRCR 42.7(a) requires that the registrant shall file application for renewal in accordance with TRCR 42.3. On May 9, 1988, the agency obtained a current mailing address and notified the registrant that Certificate of Registration Number 7-03720 was due to expire on June 30, 1988. Application for renewal was enclosed with the notice for the registrant's use in meeting the requirement. On June 30, 1988, Certificate of Registration Number 7-03720 expired. Application for renewal has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the fee is paid within 30 days of the date of this Complaint, no order will issue.

Issued in Austin, Texas on August 12, 1988.

TRD-8808309 Robert A. MacLean
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: August 12, 1988

For further information, please call (512) 835-7000

Notice of Revocation of Certification of Registration

The Texas Department of Health, having duly filed a complaint pursuant to *Texas Regulations for Control of Radiation* Part 13.8, has revoked the following certificate of registration. Eberhard-Clarke Dental Group, 11-14550, Houston, June 10, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a. m.-5 p.m. (except holidays).

Issued in Austin, Texas on August 12, 1988.

TRD-8808310 Robert A. MacLean
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: August 12, 1988

For further information, please call (512) 835-7000

Texas Department of Human Services Notice of Contract Increase

This notice of contract increase is filed in accordance with Texas Civil Statutes, Article 6252-11c. A notice of award of a consultant contract was published in the October 9, 1987 issue of the *Texas Register* (12 TexReg 3735), and a notice of a prior increase was published in the March 22, 1988, issue of the *Texas Register* (13 TexReg 1404). The contract was effective October 1, 1987, and was scheduled to expire August 31, 1988.

Description of Contract: The contract is for follow-up programming, modifications, testing, training, and technical assistance for components of the family self-support automation/streamlining project using a MAPPER based application.

Description of Contract Modification: The department intends to modify the contract to extend the contract termination date from August 31, 1988 to September 30, 1988 and to pay the contractor for additional programming to be performed in September to the client outreach and service delivery components of the automated system. These programming services are necessary to prepare for implementation of the refocused employment services programs in three of the department's administrative regions during state fiscal year 1989.

Contractor Identification: The contractor is Edward N. Jones, Jr., 2503 Forest Bend, Austin, Texas 78704.

Total Value of the Contract Increase: The contract is being increased by \$7,000 from \$80,850 to \$87,850.

Issued in Austin, Texas on August 15, 1988.

TRD-8808334 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: August 15, 1988.

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

Legislative Budget Board Budget Execution Order-TDMHMR

In conformance with Government Code, §317.005, the Legislative Budget Board met on August 10, 1988, and approved without change the Governor's Budget Execution Proposal related to the transfer of funds to the Texas Department of Mental Health and Mental Retardation (TDMHMR) as published in the *Texas Register* on July 15, 1988. This order is effective on August 10, 1988, the date of final action by the Legislative Budget Board. A copy of the order follows. The Legislative Budget Board also approved a plan for expenditure of funds in accordance with the provisions of Rider 35, (b), Article II, pages 56-57, of Senate Bill 1, Acts of the 70th Legislature, 1987, Second Called Session (the General Appropriations Act), which is necessary for implementation of the budget execution order.

As authorized by Texas Government Code, §317.002(c) and §317.002(b)(2) (House Bill 7, 70th Legislature, 1987, Second Called Session), I propose to use budget execution authority to make available and distribute to the Texas Department of Mental Health and Mental Retardation

(TDMHMR) during the fiscal year ending August 31, 1988, certain funds appropriated to TDMHMR by the Texas Legislature pursuant to Senate Bill 1, 70th Legislature, 1987, Second Called Session, for the fiscal year ending August 31, 1989, and to allow TDMHMR to use such appropriations for different or additional purposes. I find an emergency exists in that TDMHMR requires such funds in order to provide TDMHMR with the additional funds needed for compliance with the settlement agreements entered into by TDMHMR in R.A.J.vMiller, Cause Number C-A-3-74-394-H in the United States District Court for the Northern District of Texas, and Lelsz v Kavanagh, Cause Number C-A-3-85-2412-H in the United States District Court for the Northern District of Texas.

TDMHMR will need approximately \$31.7 million above current appropriations for the remainder of the fiscal year ending August 31, 1988, in order to comply with such settlement agreements. In order to make such funds available, I propose the following:

(1) I propose to make available and to distribute to TDMHMR for the fiscal year ending August 31, 1988, the following appropriations out of the General Revenue Fund Number 001 to TDMHMR for the fiscal year ending August 31, 1989:

- 2. State Mental Hospitals
 - a. Campus Based Residential Treatment and Habilitation \$2,171,870
 - c. Utilities..... \$ 473,270
- 9. State Schools for the Mentally Retarded
 - a. Campus Based Residential Treatment and Habilitation \$8,418,586
 - c. Utilities..... \$ 589,412

These funds shall be distributed in the following line items for TDMHMR for the fiscal year ending August 31, 1988, and used for the different or additional purposes shown:

- 2. State Mental Hospitals
 - a. Campus Based Residential Treatment and Habilitation \$2,171,870
- 8. Program Administration (Mental Retardation)\$ 393,622
- 9. State Schools for the Mentally Retarded
 - a. Campus Based Residential Treatment and Habilitation \$8,418,586
- 21. Central Administration
 - a. General Administration..... \$ 473,270
 - b. Program Standards and Quality Assurance\$ 138,620
 - c. Client Services and Rights Protection \$ 37,170
- 22. Field Support
 - a. Financial Management..... \$ 20,000

In the event all of the funds that are the subject of this proposal are not expended by TDMHMR during the fiscal year ending August 31, 1988, the balance of such funds will be restored to the respective TDMHMR appropriations for the fiscal year ending August 31, 1989.

(2) Part (b) of Rider 35 to the appropriations to TDMHMR in Senate Bill 1, 70th Legislature, 1987, Second Called Session, appropriates \$20 million of the funds generated by the sale of the Austin State School Annex and the Leander Rehabilitation Center property to TDMHMR, contingent upon the occurrence of certain events. An implementation plan has been adopted by the

United States District Court for the Northern District of Texas in Lelsz v Kavanagh and has been certified by the Attorney General in a letter of June 2, 1988, to Governor Bill Clements to be feasible and to have resolved such litigation. Further, legislation authorizing sales of such properties has been adopted by the Texas Legislature (Senate Bill 52, 70th Legislature, 1987, Second Called Session) and such sales have been approved by the Board of TDMHMR and shall take place before August 31, 1988. The provisions of Rider 35 provide that no more than one-half of the funds authorized or appropriated thereby may be expended in the fiscal year ending August 31, 1988, however.

I propose to make available and distribute to TDMHMR for the fiscal year ending August 31, 1988, the \$10 million of such funds that otherwise would not be available until the fiscal year ending August 31, 1989. In accordance with the provisions of Rider 35, the Board of TDMHMR and the Legislative Budget Board must approve a plan for expenditure of these funds prior to their expenditure.

Issued in Austin, Texas on July 8, 1988.

TRD-8805205 William P. Clements, Jr.
Governor

Filed: August 11, 1988

For further information, please call (512) 463-1778

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Budget Execution Order-Texas Adult Probation Commission

In conformance with Government Code, §317.005, the Legislative Budget Board met on August 10, 1988, and approved without change the Governor's Budget Execution Proposal to transfer to fiscal year 1989 funds appropriated to the Texas Department of Texas Adult Probation Commission (TAPC) for fiscal year 1988 and authorize TAPC to spend the monies to fund an additional 270 caseload positions in its electronic monitoring programs and an additional 680 caseload positions in its intensive supervision programs as published in the *Texas Register* on July 29, 1988. This order is effective on August 10, 1988, the date of final action by the Legislative Budget Board. A copy of the order follows.

As authorized by Texas Government Code, §317.002(c) and §317.002(b)(2) (House Bill 7, 70th Legislature, 1987, Second Called Session), budget execution is hereby proposed: to make available and distribute to the Texas Department of Texas Adult Probation Commission (TAPC) during the fiscal year ending August 31, 1988, certain funds appropriated to TAPC by the Texas Legislature pursuant to Senate Bill 1, 70th Legislature, 1987, Second Called Session, for the fiscal year ending August 31, 1988; and to give to TAPC authority to spend or obligate the expenditure of such funds for different or additional purposes than those for which such funds were appropriated. I find an emergency exists in that counties throughout the state of Texas currently face severe conditions of overcrowding in their jails. This proposal will help alleviate such overcrowding in that distribution of such funds will provide TAPC with the additional monies needed to fund an additional 270 caseload positions in its electronic monitoring programs and an additional 680 caseload positions in its intensive supervision programs.

Accordingly, I propose to make available and distribute to TAPC for the fiscal year ending August 31, 1989, the following appropriations out of the General Revenue Fund Number 001 to TAPC for the fiscal year ending August 31, 1988:

3. State Aid

- a. Per Capita State Aid.....\$2,003,850

These funds shall be distributed in the following line item for TAPC for the fiscal year ending August 31, 1989, and used for the purpose shown:

Adult Probation Commission

3. State Aid

- f.\$2,003,850

I hereby certify that this proposal has been reviewed by legal counsel and found to be within my authority.

Issued in Austin, Texas on July 21, 1988.

TRD-8808307 William P. Clements, Jr.
Governor

Filed: August 12, 1988

For further information, please call (512) 463-1778



Budget Execution Order-Board of Pardons and Paroles

In conformance with the Government Code, §317.005, the Legislative Budget Board met on August 10, 1988, and approved without change the Governor's Budget Execution Proposal to transfer to fiscal year 1989 funds appropriated to the Board of Pardons and Paroles (BPP) for fiscal year 1988 for parole selection and supervision and to authorize the BPP to increase the parole approval rate and provide intensive supervision for designated releases and to expand the parole-in-absentia program as published in the *Texas Register* on July 29, 1988. This order is effective on August 10, 1988, the date of final action by the Legislative Budget Board. A copy of the order is as follows.

As authorized by Texas Government Code, §317.002(c) and §317.002(b)(2) (House Bill 7, 70th Legislature, 1987, Second Called Session), budget execution authority is hereby proposed: to make available and distribute to the Board of Pardons and Paroles (BPP) during the fiscal year ending August 31, 1989, certain funds appropriated to BPP by the Texas Legislature pursuant to Senate Bill 1, 70th Legislature, 1987, Second Called Session, for the fiscal year ending August 31, 1988; and to give to BPP authority to spend or obligate the expenditure of such funds for different or additional purposes than those for which such funds were appropriated. I find an emergency exists in that counties throughout the state of Texas currently face severe conditions of overcrowding in that distribution of such funds will provide BPP with the additional funds needed to increase the parole approval rate for subsequent special review cases and provide intensive supervision at a 25-to-1 ratio for designated releases in this category and to expand the parole-in-absentia program to expedite the release of inmates serving shorter terms either directly from county jails or shortly after arrival at Texas Department of Correction facilities.

Accordingly, I propose to make available and distribute to BPP for the fiscal year ending August 31, 1989, all unexpended balances from the following appropriations out of the General Revenue Fund Number 001 to BPP for the fiscal year ending August 31, 1988, which are estimated to be:

Board of Pardons and Paroles

- 4. Parole Selection\$ 329,000
- 5. Parole Supervision.....\$1,400,000

These funds shall be distributed in the following line items for BPP for the fiscal year ending August 31, 1989:

Board of Pardons and Paroles

- 4. Parole Selection\$ 329,000
- 5. Parole Supervision.....\$1,400,000

In addition to transfers authorized by Rider 7 to the appropriations to BPP in Senate Bill 1, 70th Legislature, 1987, Second Called Session, I propose that BPP may transfer up to 10% of the amount of each line item of its appropriations for the fiscal year ending August 31, 1989, to the appropriation for line item 7, Intensive Supervision, for the fiscal year ending August 31, 1989, and spend or obligate the expenditure of such transferred funds for the purposes explained in this proposal.

I hereby certify that this proposal has been reviewed by legal counsel and found to be within my authority.

Issued in Austin, Texas on July 21, 1988.

TRD-8808305 William P. Clements, Jr.
Governor

Filed: August 12, 1988

For further information, please call (512) 463-1778



Budget Execution Order-Texas Department of Corrections

In conformance with the Government Code, §317.005, the Legislative Budget Board met on August 10, 1988, and approved without change the Governor's Budget Execution Proposal to authorize the Texas Department of Corrections to spend funds not to exceed \$9,170,520 for the purpose of constructing five trusty camps as published in the *Texas Register* on July 29, 1988. This order is effective on August 10, 1988, the date of final action by the Legislative Budget Board. A copy of the order is as follows.

As authorized by Texas Government Code, §317.002(b)(2) (House Bill 7, 70th Legislature, 1987, Second Called Session), budget execution authority is hereby proposed to give to the Texas Department of Corrections (TDC) authority to spend or obligate the expenditure of funds transferred by TDC pursuant to Rider 8, Senate Bill 1, 70th Legislature, 1987, Second Called Session, for different or additional purposes than those for which such funds were appropriated. I find an emergency exists in that counties throughout the state of Texas currently face severe conditions of overcrowding in their jails. This proposal will help alleviate such overcrowding in that distribution of such funds will provide TDC with the additional funds needed to construct five trusty camps.

Accordingly, I propose that TDC shall have the authority to spend or obligate the expenditure of funds in an amount not to exceed \$9,170,520 that have been transferred by TDC pursuant to such Rider 8 for the purpose of constructing five trusty camps and that such funds shall be distributed in the following line item out of General Revenue Fund Number 001 for the fiscal year ending August 31, 1989:

- 11. Construction of Five Trusty Camps.....\$ 9,170,520

This action is separate from and in no way affects the authority granted to TDC to transfer appropriations for the fiscal year ending August 31, 1988, to appropriations for the fiscal year ending August 31, 1989, for purposes of operating additional capacity pursuant to such Rider 8.

I hereby certify that this proposal has been reviewed by legal counsel and found to be within my authority.

Issued in Austin, Texas on July 21, 1988.

TRD-8808306 William P. Clements, Jr.
Governor

Filed: August 12, 1988

For further information, please call (512) 463-1778

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**Permian Basin Regional Planning
Commission**

Request for Proposal

The Permian Basin Regional Planning Commission is requesting proposals for an audit of all activities and programs of the commission for a three-year period beginning October 1, 1987-September 30, 1988, and including the fiscal years ending September 30, 1989, and September 30, 1990. This request is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The audit must be conducted under the guidelines of generally accepted auditing standards, attachment P, and other guidelines as set forth in the proposal request package. The contract will be awarded on the basis of the firm's experience, firm size, and the audit cost per year.

Proposal request packages may be obtained by contacting K. Dale Miller, Financial Officer, Permian Basin Regional Planning Commission, P.O. Box 6391, ATS, Midland, Texas 79711. All proposals must be received no later than 5 p.m. central daylight time, on September 9, 1988.

Issued in Midland, Texas, on August 10, 1988.

TRD-8808320 Ernie Crawford
Executive Director
Permian Basin Regional Planning
Commission

Filed: August 12, 1988

For further information, please call (915) 563-1061

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**Railroad Commission of Texas
Public Notice**

Notice is hereby given that an application for authority to charge a toll by the Long Island Bridge Company, Inc. and John R. Freeland, Co-Applicants, P.O. Box 2586, McAllen, Texas 78502 was filed on May 10, 1988, before the Railroad Commission of Texas in Docket 003632ZZCW pursuant to Texas Civil Statutes, Article 1473. The applicant seeks authority to charge all users of the Long Island Swing Bridge, located across the Intercoastal Canal Waterway between Long Island and Port Isabel, as follows: \$3.50 for motorized vehicles, including passenger cars, recreational vehicles, and motorcycles; \$4.50 for all motorized vehicles in excess of two tons.

All interested persons affected by this toll application that wish to participate in the commission consideration of this application may do so only by filing a written protest, intervention in opposition, or intervention in support, on or before Monday, October 10, 1988, at 5 p.m. by writing the Docket Services Section—Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967.

Please include in the written pleading the Docket (003632ZZCW) in all responses. A copy of such pleading should also be sent to the applicant.

Notice is further given that this case has been set for a pre-hearing conference pursuant to 16 TAC §5.425 as follows: November 1, 1988, 10 a.m., examiner, Karen W. Kornell, reporter, Bright, Fuller, and Associates, at the Railroad Commission Offices, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. For room assignment, on the date of the hearing please check the bulletin board in the first floor lobby.

The failure of any party to appear at the pre-hearing conference shall not in any way affect their status as a party. The purpose of the pre-hearing conference will be to formulate issues and consider: the alignment of parties by the examiner according to their classification and relationship to this proceeding, and the designation of representative persons to receive personal service of all further pleadings, notices, correspondence, and orders; the simplification of issues; the possibility of the parties stipulating to certain facts in order to avoid the unnecessary introduction of proof; the procedure at the hearing; and such other matters as may aid in the simplification of the proceeding and the disposition of the matters in controversy.

Issued in Austin, Texas on August 8, 1988.

TRD-8808297 G. Gail Watkins
Director, Legal Division
Railroad Commission of Texas

Filed: August 12, 1988

For further information, please call (512) 463-7187

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**Secretary of State
Texas Register Office Move**

The *Texas Register* office will move on September 16, 1988, to the James Earl Rudder State Office Building, 1019 Brazos Street, Austin. Beginning Monday, September 19, 1988, state agency regulations, meeting notices, and other documents should be filed at the Register's new location in Room 245 of the former TEA Building. The move will not interrupt the filing routine, with the exception of electronic submissions.

Telecommunications equipment will be dismantled on September 16, 1988. No issue will be published on September 23, 1988.

The Register's phone number and post office box number will not change.

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**Texas Water Development Board
Applications Received**

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board: Greater Texoma Utility District, 5100 Airport Drive, Denison, Texas 75020, received July 27, 1988, increase in financial assistance in the amount of \$25,000 from the water supply account of the Water Development Fund; Millsap Water Supply Corporation, P.O. Box 158, Millsap, Texas 76066, received April 21, 1988, financial assistance in the amount of \$770,000 from the water supply account of the Water Development Fund; City of Snyder, P.O. Drawer GG, Snyder, Texas 79549, received July 13, 1988, financial assistance in the amount of \$1,375,000 from the water supply account and \$1,375,000 from the water quality enhancement account, both of the Water Development Fund; City of Gatesville, 110 North Eighth, Gatesville,

Texas 76528-1499, received July 21, 1988, financial assistance in the amount of \$330,000 from the water supply account of the Water Development Fund; City of Mercedes, P.O. Box 837, Mercedes, Texas 78570, received July 21, 1988, financial assistance in the amount of \$800,000 from the water quality enhancement account of the Water Development Fund; City of Alvin, 216 West Sealy, Alvin, Texas 77511, received April 20, 1988, financial assistance in the amount of \$2,900,000 from the State Water Pollution Control Revolving Fund; Brazos River Authority, P.O. Box 7555, Waco, Texas 76714-7555, received May 20, 1988, financial assistance in the amount of \$12,145,000 from the State Water Pollution Control Revolving Fund; City of Houston, P.O. Box 1562, Houston, Texas 77251-1562, received May 20, 1988, financial assistance in the amount of \$192,500,000 from the State Water Pollution Control Revolving Fund; Texas Agricultural Experiment Station, College Station, Texas 77843-2147, grant requests received May 10, 1988, for \$14,820, May 13, 1988, for \$32,214, and May 13, 1988, for \$18,105 from the Water Research and Planning Fund; Edwards Aquifer Research and Data Center, Southwest Texas State University, San Marcos, Texas 78766-4616, received May 12, 1988, grant request in the amount of \$18,284 from the Water Research and Planning Fund; Texas Agricultural Experiment Station, 6500 Amarillo Boulevard West, Amarillo, Texas 79106, received May 12, 1988, grant request in the amount of \$51,867 from the Water Research and Planning Fund; Texas Agricultural Experiment Station, 1380 A&M Circle, El Paso, Texas 79927, received May 12, 1988, grant request in the amount of \$30,220 from the Water Research and Planning Fund; Upper Guadalupe River Authority, P.O. Box 1278, Kerrville, Texas 78029-1278, received May 12, 1988, grant request in the amount of \$26,200 from the Water Research and Planning Fund; Center for Remote Sensing, Texas Christian University, P.O. Box 30798, Fort Worth, Texas 79968, received May 13, 1988, grant request in the amount of \$9,990 from the Water Research and Planning Fund; Ms. Patricia W. Dickerson, P.O. Box 80460, Midland, Texas 79709, received May 13, 1988, grant request in the amount of \$44,608 from the Water Research and Planning Fund; Center for Environmental Processes and Water Resources Research, The University of Texas at El Paso, Texas 79968-0500, received May 13, 1988, grant request in the amount of \$22,310 from the Water Research and Planning Fund; Texas Agricultural Experiment Station, Blackland Research Center, Temple, Texas 76502, received May 13, 1988, grant request in the amount of \$20,000 from the

Water Research and Planning Fund; University of Texas at San Antonio, San Antonio, Texas 78285-0601, received May 13, 1988, grant request in the amount of \$34,500 from the Water Research and Planning Fund; Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767, received May 13, 1988, grant request in the amount of \$89,250 from the Water Research and Planning Fund; CH2M Hill, 3410 Far West Boulevard, Suite 200, Austin, Texas 78731, received May 13, 1988, grant request in the amount of \$30,400 from the Water Research and Planning Fund; Center for Urban Water Studies, School of Engineering and Applied Science, Southern Methodist University, Dallas, Texas 75275, received May 13, 1988, grant request in the amount of \$19,960 from the Water Research and Planning Fund; Institute of Applied Sciences, University of North Texas, P.O. Box 13078, Denton, Texas 76203-3078, received May 13, 1988, grant request in the amount of \$19,875.30 from the Water Research and Planning Fund; University of Texas at El Paso, El Paso, Texas 79968, received May 13, 1988, grant request in the amount of \$17,914 from the Water Research and Planning Fund; Department of Civil Engineering and Center for Research in Water Resources, Bureau of Engineering Research, University of Texas at Austin, 10100 Burnet Road, Austin, Texas 78758-4497, received May 13, 1988, grant request in the amount of \$20,950 from the Water Research and Planning Fund; James Miertschin and Associates, Inc., Engineering and Environmental Consultants, P.O. Box 162305, Austin, Texas 78716-2305, received May 13, 1988, grant request in the amount of \$34,850 from the Water Research and Planning Fund; Galveston County Water Authority, P.O. Box 1651, Texas City, Texas 77592-1651, received May 13, 1988, grant request in the amount of \$50,000 from Water Research and Planning Fund; and Colorado River Municipal Water District, P.O. Box 869, Big Springs, Texas 79721, received February 9, 1988, grant request in the amount of \$24,520 from the Water Research and Planning Fund.

Additional information concerning this matter may be obtained from M. Reginald Arnold II, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas on August 10, 1988.

TRD-8808187 M. Reginald Arnold, II
Executive Administrator
Texas Water Development Board

Filed: August 10, 1988

For further information, please call (512) 463-7847



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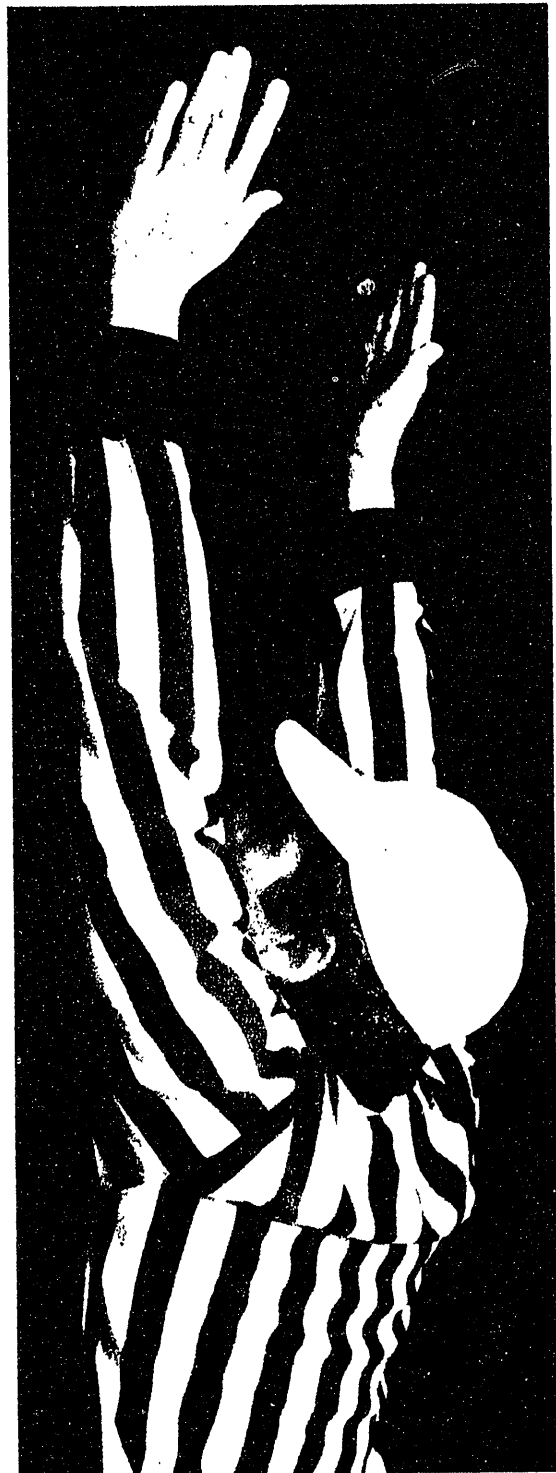
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