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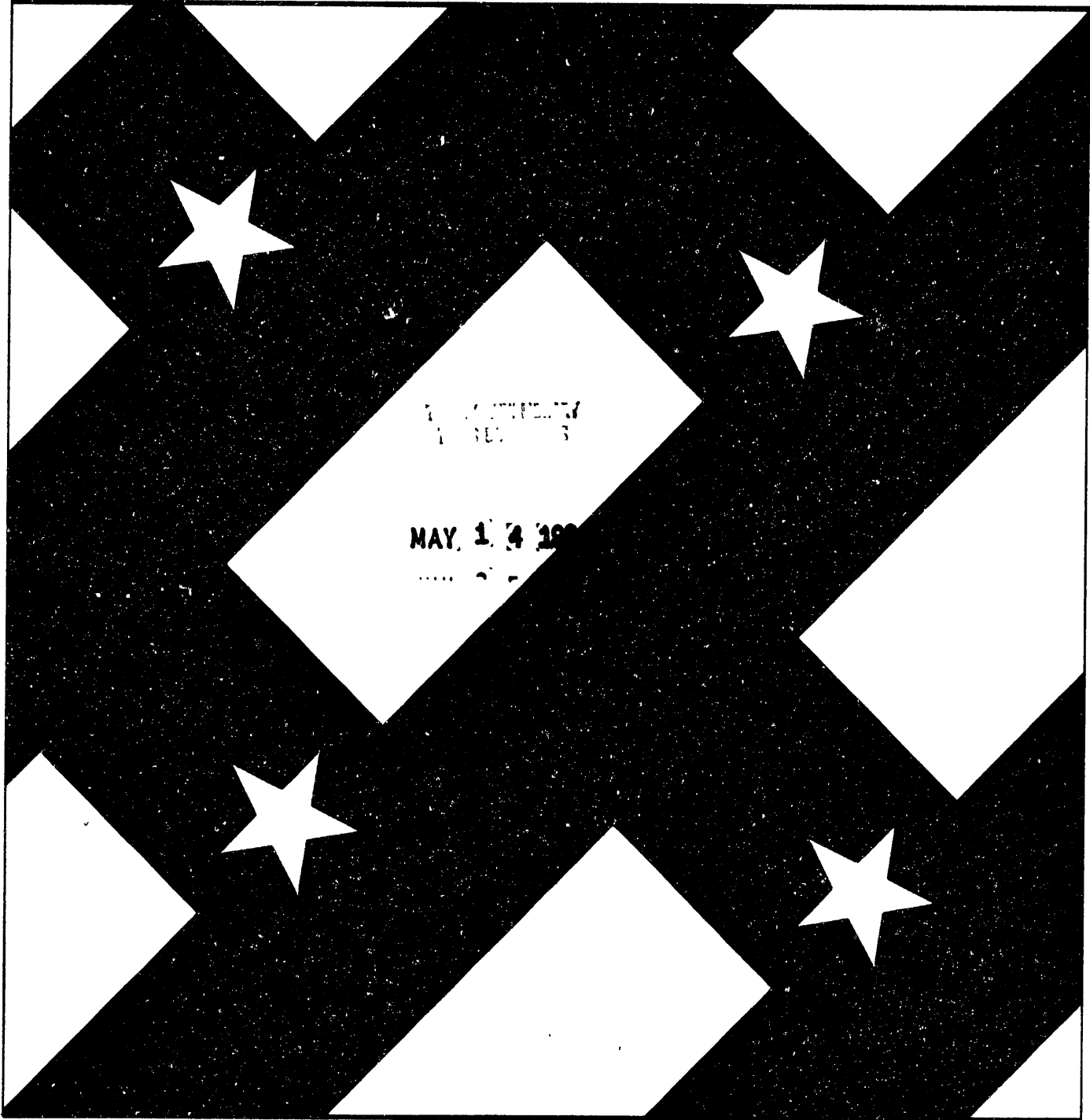
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Texas Register

Volume 9, Number 35, May 11, 1984

Pages 2581 - 2660



MAY 14 1984

Highlights

The State Board of Insurance adopts on an emergency basis a new section concerning examination and corporate custodian and tax.
 Effective date - May 4 page 2587

The Texas Parks and Wildlife Department adopts on an emergency basis a new section

concerning early closure of the shrimping season in gulf waters.
 Effective date - May 16 page 2588

The Texas Health Facilities Commission proposes new sections concerning general criteria for use in certificate of need reviews.
 Proposed date of adoption - July 1 page 2601

**Office of
the Secretary
of State**

Texas Register

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, 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 "9 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 9 TexReg 3"

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule number, or TRD number.

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*,

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



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As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments made and proclamations issued by the governor are also published. Appointments are published in chronological order.

Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.

The Governor

Appointments Made May 1

Texas State Board of Podiatry Examiners

For terms to expire July 10, 1989:

Ben Clark, Jr.
6115 Hunters View Lane
Dallas, Texas 75232

Dr. Clark is replacing Dr. Roger Buehler of Dallas, whose term expired.

Jerry W. Patterson
25692 Cedar Breaks
San Antonio, Texas 78229

Dr. Patterson is being reappointed.

Issued in Austin, Texas, on May 1, 1984.

TRD-844918, Mark White
844919 Governor of Texas

Texas State Board of Dental Examiners

For a term to expire May 10, 1985:

William J. Kemp
Route 1, Box 655
Haskell, Texas 79521

Dr. Kemp is replacing Dr. Neil Morgan of San Antonio, who resigned.

Issued in Austin, Texas, on May 1, 1984.

TRD-844920 Mark White
Governor of Texas

Texas Board of Health

To the Dental Advisory Committee for a term to expire February 1, 1990:

Dr. O. V. Cartwright
805 Burleson
Grand Prairie, Texas 75050

Dr. Cartwright is replacing Dr. James Simmons of Fort Worth, whose term expired.

Issued in Austin, Texas, on May 1, 1984.

TRD-844921 Mark White
Governor of Texas



Appointments Made May 2

State Job Training Coordinating Council

For terms to continue at the pleasure of this governor:

Karen Leslie Simon
4404 Ledgeview
Fort Worth, Texas 76109

Ms. Simon is replacing James E. Dalton, Jr., of Arlington, who resigned.

C. B. Cathey
P.O. Box 871
Hamilton, Texas 76531

Dr. Cathey is replacing Augustine Hernandez of Elsa, who resigned.

Valita F. Waits
P. O. Box 4173
Tyler, Texas 75712

Ms. Waits is being appointed pursuant to Public Law 97-300.

Ruben M. Garcia
P.O. Box 1969
Laredo, Texas

Mr. Garcia is being appointed pursuant to Public Law 97-300.

Eddie Cavazos
2634 Gollihar Road
Corpus Christi, Texas

Representative Cavazos is being appointed pursuant to Public Law 97-300.

Issued in Austin, Texas, on May 2, 1984

TRD-844922- Mark White
844926 Governor of Texas

Heart of Texas Region Mental Health and Mental Retardation Center

To be chairman of the Community Development Block Grant Review Committee for a term to continue at the pleasure of this governor:

Stanley Rentz
214 Courthouse
Waco, Texas 76701

Judge Rentz is replacing Gene Shelton of Lott, who no longer qualifies.

Issued in Austin, Texas, on May 2, 1984.

TRD-844927 Mark White
Governor of Texas

State Ethics Advisory Commission

Under provisions set out in Texas Civil Statutes, (Article 6252-9d), the State Ethics Advisory Commission is authorized to issue written advisory opinions. These opinions may be requested by a person subject to certain enumerated statutes (Articles 6252-9b, 6252-9c, 5428a and 5428b; Texas Election Code, Chapter 14; and the Texas Penal Code, Chapter 36 and Chapter 39) about the application of any of these laws to himself or herself in regard to a specified factual situation.

Requests for opinions and issued opinions are summarized for publication in the *Register*.

Questions or comments on particular submissions, or requests for copies of opinion requests or issued opinions should be addressed to Chairman, State Ethics Advisory Commission, P.O. Box 13485, Austin, Texas 78711-3485. A single opinion request or opinion is free; additional copies are \$1.00 a copy.

Advisory Opinions

AO-1984-6 (AOR-1984-2). If the financial management division of a public entity determines that a travel discount or bonus could not be used for the business of the public entity, the discount or bonus may be used for personal purposes.

TRD-844876

AO-1984-7 (AOR-1984-4). When a registered lobbyist hosts an entertainment event to which he sells tickets resulting in proceeds in excess of the total event, and the event is also attended by a legislator or a member of the executive branch as his nonpaying guest, the lobbyist must report his expenditures for the event if he communicates with the public official to influence legislation or administrative action. The amount that is required to be reported is a question of fact.

TRD-844877

AO-1984-8 (AOR-1984-7). A legislator may accept a contribution of food, liquor, and other beverages for use in his office if he reports the acceptance of such officeholder contributions in accordance with the Texas Election Code, Chapter 14. A legislator may not accept a contribution of food, liquor, and other beverages during the period beginning 30 days before the regular session and continuing through the day of final adjournment. A legislator may

accept those incidental donations of food, liquor, and other beverages which he accepts only as a matter of common courtesy.

TRD-844878

AO-1984-9 (AOR-1984-8). The incidental use of state telephones by state employees to make local personal calls does not violate the Texas Penal Code, §39.01, provided such use does not result in additional costs or damage to the state and generally will not hinder the day-to-day operation of government. Such use of state telephones is not a "misapplication" as contemplated by §39.01.

TRD-844879

AO-1984-10 (AOR-1984-9). A legislator may use his office facilities, supplies, and equipment to support or oppose the adoption of a constitutional amendment when the amendment becomes a ballot issue

TRD-844880

AO-1984-11 (AOR-1984-10). Paying the travel expenses of an expert witness to testify at a legislative committee hearing on a bill is a permissible use of officeholder contributions

TRD-844881

AO-1984-12 (AOR-1984-14). When a member of the legislative or executive branch asks a registered lobbyist to entertain his constituents, guests, or friends, the lobbyist is required to report the cost of the

entertainment, even when the officeholder does not attend, if the expenditures are made by the registrant as a consequence of directly communicating with the officeholder to influence legislation or administrative action.

TRD-844882

AO-1984-13 (AOR-1984-24). If an association that employs a registered lobbyist funds a banquet with the consent of the lobbyist and invites a public official to be its banquet speaker, and if that banquet is an entertainment event that brings about direct communication to influence legislation or administrative action, then the lobbyist must report the expenses that were made for such communication with a member of the legislative or executive branch. These expenses include the speaker's travel, accommodations, and honorarium. Whether the banquet expenses are to be reported in total, on a pro rata basis, or not at all is a question of fact

TRD-844883

AO-1984-14 (AOR-1984-27). A member of the legislature may accept the cassette tape recorder and the Oral Roberts tapes because they do not constitute an economic gain or advantage. Under certain circumstances, the donation would have to be reported as a contribution in accordance with the Texas Election Code, Article 14.01(D)(2).

TRD-844884

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

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

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

Emergency Rules

TITLE 28. INSURANCE Part I. State Board of Insurance

(Editor's note. Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part.)

Powers and Duties Examination and Corporate Custodian and Tax

059.01.15.271

The State Board of Insurance adopts on an emergency basis Rule 059.01.15.271, concerning penalties for the late reporting of quarterly premium tax returns filed pursuant to the Insurance Code, Article 4.10 and Article 4.11, and Texas Civil Statutes, Article 4769, and the late payment of quarterly prepayments of premium taxes assessed under Texas Civil Statutes, Article 4769. The rule sets penalties for first, second, and third late reportings of quarterly tax returns by any insurer, and assesses a penalty of 10% of tax due for failing to pay timely quarterly prepayments of premium taxes assessed under Texas Civil Statutes, Article 4769.

The board finds that an eminent peril to public welfare requires that this rule be adopted on an emergency basis because appropriate penalties should be adopted as soon as possible so that delinquent quarterly premium tax returns and late payments of quarterly prepayments of premium taxes assessed under Texas Civil Statutes, Article 4769, can be expeditious-

ly handled in accordance with law, and so that insurers will be aware of the penalties for late reporting quarterly premium tax returns, for late payments of quarterly prepayments of premium tax returns, and for late payment of quarterly prepayments of premium taxes assessed under Texas Civil Statutes, Article 4769. This is an urgent matter not only for the insurers required to file tax returns, but also for the regulatory process and for the welfare of the public in general.

This rule is adopted on an emergency basis under authority of the Insurance Code, Articles 1.04, 1.33, 4.10, 4.11, and 4.13, and Texas Civil Statutes, Article 4769. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to adopt uniform rules for the administration of the Insurance Code. The Insurance Code, Article 1.33, authorizes the State Board of Insurance to adopt rules creating summary procedures for the disposition of routine matters. Routine matters are described in the Insurance Code, Article 1.33, as those which are voluminous, repetitive, believed to be noncontroversial, and of limited interest to persons other than those immediately involved or affected. The subject matter of this rule fits all the definitions of routine matters. The Insurance Code, Article 4.10 and Article 4.11, and Texas Civil Statutes, Article 4769, require the quarterly prepayment of premium taxes. The Insurance Code, Article 4.13, mandates the assessment of a penalty of not more than \$1,000 for failing to make a report required by the Insurance Code, Chapter 4, for more than 30 days. The Insurance Code, Article 4.14, mandates the assessment of a penalty equal to 10% of any amount of premium tax not timely paid by companies taxed under the Insurance Code, Chapter 4. Such a penalty should equally be applied to foreign life companies taxed under Texas Civil Statutes, Article 4769. The Insurance Code, Articles 4.10 and 4.11, and Texas Civil Statutes, Article 4769, authorize the State Board

of insurance to establish such rules, regulations, minimum standards, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of these articles.

.271. Assessment of Penalties for the Late Reporting of Quarterly Premium Tax Returns and for the Late Payment of Quarterly Prepayments of Premium Taxes.

(a) Unless the insurer elects to request a hearing under subsection (g) of this section, or commissioner elects to schedule a hearing under subsection (h) of this section, insurers who are assessed premium taxes under either the Insurance Code, Article 4.10 or Article 4.11, and who fail to file a quarterly premium tax return for more than 30 days after the due date of such return, who agree to accept the penalties of this rule and waive hearing, shall forfeit and pay a penalty under the Insurance Code, Article 4.13, for such failure to timely file, as follows:

(1) first failure to timely file a quarterly tax return—\$250;

(2) second failure to timely file a quarterly tax return, within any period of three consecutive years—\$500;

(3) third failure to timely file a quarterly tax return, within any period of three consecutive years—\$1,000; or

(4) fourth or subsequent failure to timely file a quarterly tax return, within any period of three consecutive years—such penalty as the commissioner deems just and reasonable and is authorized to assess, after notice and hearing, by any article of the Insurance Code.

(b) Unless insurer elects to request a hearing under subsection (g) of this section, or commissioner elects to schedule a hearing under subsection (h) of this section, insurers who are assessed premium taxes under Texas Civil Statutes, Article 4769, and who fail to timely file a quarterly premium tax return, who agree to accept the penalties of this rule and waive hearing, shall forfeit and pay a penalty for such failure to timely file, as follows:

(1) first failure to timely file a quarterly tax return—\$250;

(2) second failure to timely file a quarterly tax return, within any period of three consecutive years—\$500;

(3) third failure to timely file a quarterly tax return within any period of three consecutive years—\$1,000; or

(4) fourth or subsequent failure to timely file a quarterly tax return, within any period of three consecutive years—such penalty as the commissioner deems just and reasonable and is authorized to assess, after notice and hearing, by any article of the Insurance Code.

(c) Unless insurer elects to request a hearing under subsection (g) of this section, or commissioner elects to schedule a hearing under subsection (h) of this section, insurers who are assessed premium taxes under Texas Civil Statutes, Article 4769, and who fail to timely pay any quarterly prepayment of premium taxes, who agree to accept the penalties of this rule and waive hearing, shall forfeit and pay a penalty equal to 10% of the quarterly premium tax prepayment not timely paid, such penalties not to exceed \$10,000, for each such failure to timely pay a quarterly prepayment of premium tax.

(d) The State Board of Insurance hereby authorizes the deputy commissioner, corporate and financial affairs, to take action on matters covered by this rule.

(e) The deputy commissioner, corporate and financial affairs, shall notify in writing each insurer who has failed to timely report a quarterly premium tax return or has failed to timely pay any quarterly prepayment of premium tax of such delinquency and the amount of penalty set by this rule for such violation.

(f) Payment of a penalty after notice from the deputy commissioner, corporate and financial affairs, under subsections (a)-(c) of this section, shall evidence an agreement by the affected insurer as to waiver of a hearing. Upon timely payment, by the insurer of the penalties specified in this rule, the deputy commissioner, corporate and financial affairs, shall, without further proceedings, close the file of the insurer based on the failure to timely report a quarterly premium tax return or failure to timely pay a quarterly prepayment of premium tax.

(g) Any insurer subject to this rule may request a hearing pursuant to the Insurance Code, Article 1.10, in lieu of payment of penalties under this rule.

(h) Nothing in this rule precludes the commissioner of insurance from exercising his discretion to schedule a hearing, under the authority of any provision of the the Insurance Code, to consider the matter of the failure of any insurer to timely report quarterly premium tax returns or to timely pay any quarterly prepayment of premium taxes.

Issued in Austin, Texas, on May 4, 1984

TRD-844992

James W. Norman
Chief Clerk
State Board of Insurance

Effective date May 4, 1984

Expiration date September 1, 1984

For further information, please call (512) 475-2950.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

Gulf Shrimping Season

31 TAC §57.351

The Texas Parks and Wildlife Department adopts on an emergency basis *new* §57.351, providing for an early closure of the shrimping season in gulf (outside) waters of the Texas territorial sea (nine nautical miles). Based on sound biological data, the executive director has determined that there will be an earlier-than-normal (June 1) migration of small brown shrimp from the bays to the Gulf of Mexico.

The purpose of the closed gulf season is to protect brown shrimp during their major period of emigration

from the bays to the Gulf of Mexico, until they reach a larger, more valuable size before harvest, and to prevent waste caused by the discarding of smaller individuals. The executive director found imminent peril to the public welfare required the closure as an emergency measure to prevent waste of the resource.

This new section is adopted on an emergency basis under the Texas Parks and Wildlife Code, §77.062. In April 1978, the Texas Parks and Wildlife Commission delegated to the executive director the duties and responsibilities of opening and closing the shrimping season under this section.

§57.351. Early Closure of the Gulf Shrimping Season. The 1984 general closed season for shrimp as defined in the Texas Parks and Wildlife Code, §77.061(1), extends from 30 minutes after sunset May 16, 1984, to 30 minutes after sunset July 14, 1984.

Issued in Austin, Texas, on May 7, 1984.

TRD-845008

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Effective date: May 16, 1984

Expiration date: July 15, 1984

For further information, please call (512) 479-4861.

Proposed Rules

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

The proposal, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state and local government and small businesses; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority); the text of the proposed action; and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

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

TITLE 25. HEALTH SERVICES Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care Subchapter D. Joint Commission on Accreditation of Hospitals/ Professional and Technical Advisory Committee for Psychiatric Facilities

25 TAC §§405.81-405.83, 405.86-405.88

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Mental Health and Mental Retardation proposes the repeal of §§405.81-405.83 and 405.86-405.88, concerning the joint commission on accreditation of hospitals/professional and technical advisory committee for psychiatric facilities.

The repeal is proposed contemporaneously with a proposed new subchapter on standards of the Texas Department of Mental Health and Mental Retardation (Chapter 405, Subchapter CC of this title), which was

published in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1690). The new subchapter incorporates the substance of the subchapter that would be repealed.

Sue Dillard, Office of Standards and Quality Assurance director, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Ms. Dillard has also determined that the public benefit anticipated as a result of enforcing the repeal as proposed is the clarification of the department's standards by combining all standards in one subchapter. There is no anticipated economic cost to individuals as a result of the repeal.

Written comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, within 30 days of publication.

The repeal is proposed under Texas Civil Statutes, Article 5547-202, § 2.11(b), which provide the commissioner with the authority to promulgate rules of the department subject to the basic and general policies formulated by the Texas Board of Mental Health and Mental Retardation.

§405.81. *Purpose.*

§405.82. *Application.*

- §405.83. *Definitions.*
- §405.86. *Accreditation Survey.*
- §405.87. *Director of Quality and Standards.*
- §405.88. *Distribution.*

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 May 4, 1984.

TRD-844966 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental
Health and Mental Retardation

Earliest possible date of adoption:
June 11, 1984

For further information, please call (512) 465-4670.

Subchapter U. Standards of Quality Services for Residential Facilities for the Mentally Retarded

25 TAC §§405.531-405.540

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Mental Health and Mental Retardation proposes the repeal of §§405.531-405.540, concerning standards of quality of services for residential facilities for the mentally retarded. The repeal is proposed contemporaneously with a proposed new subchapter on standards of the Texas Department of Mental Health and Mental Retardation (Chapter 405, Subchapter CC of this title), which was published in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1690). The new subchapter incorporates the main concepts of the subchapter that would be repealed.

Sue Dillard, Office of Standards and Quality Assurance director, has determined that there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Ms. Dillard has also determined that the public benefit anticipated as a result of the repeal as proposed is the clarification of the department's standards by combining all standards in one subchapter. There is no anticipated economic cost to individuals as a result of the repeal.

Written comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, within 30 days of publication.

The repeal is proposed under Texas Civil Statutes, Article 5547-202, §2.11(b), which provide the commis-

sioner with the authority to promulgate rules of the department subject to the basic and general policies formulated by the Texas Board of Mental Health and Mental Retardation.

- §405.531. *Purposes.*
- §405.532. *Application.*
- §405.533. *Definitions.*
- §405.534. *The Department's Intention of Meeting Standards of Quality of Services on a Priority Basis.*
- §405.535. *Each Residential Facility for the Mentally Retarded Required to Have a Quality Assurance Director.*
- §405.536. *ICF/MR Standards Designated as "First Priority."*
- §405.537. *AC/MR-DD Standards Designated as "Second Priority."*
- §405.538. *Distribution.*
- §405.539. *References.*
- §405.540. *Effective Date.*

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 May 4, 1984.

TRD-844967 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental
Health and Mental Retardation

Earliest possible date of adoption:
June 11, 1984

For further information, please call (512) 465-4670.

Subchapter GG. Prescribing of Psychoactive Drugs

25 TAC §§405.821-405.828

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of Chapter 405, Subchapter GG, §§405.821-405.828, concerning prescribing of psychoactive drugs. The repeal is proposed contemporaneously with the proposal of new Chapter 405, Subchapter GG, concerning prescribing of psychoactive drugs, which incorporates the basic concepts of the rules that are being repealed.

Sue Dillard, Office of Standards and Quality Assurance director, has determined that there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Ms. Dillard has also determined that the anticipated public benefit is more stringent procedures ensuring the appropriate prescribing and monitoring of psycho-

active drugs. Organizationally and substantively, the proposed new subchapter represents an improvement over existing rules that are being repealed. There is no anticipated economic cost to individuals as a result of the repeal.

Written comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, within 30 days of publication.

This repeal is proposed under Texas Civil Statutes, Article 5547-202, §2.11(b), which provide the commissioner with the authority to promulgate rules subject to the basic and general policies of the Texas Board of Mental Health and Mental Retardation.

- §405.821. *Purpose.*
- §405.822. *Application.*
- §405.823. *Definitions.*
- §405.824. *Administration of Psychoactive Drugs.*
- §405.825. *Laboratory Surveillance.*
- §405.826. *Qualification of MR Client Needs for Psychoactive Drugs.*
- §405.827. *Distribution.*
- §405.828. *Review.*

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 May 4, 1984

TRD-844965 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental
Health and Mental Retardation

Earliest possible date of adoption.
June 11, 1984

For further information, please call (512) 465-4670.

25 TAC §§405.821-405.835

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new Chapter 405, Subchapter GG, §§405.821-405.835, concerning prescribing of psychoactive drugs. The new subchapter is proposed contemporaneously with the proposed repeal of existing Chapter 405, Subchapter GG, concerning prescribing of psychoactive drugs.

The purpose of the new subchapter is to provide guidelines to department physicians for the prescribing of psychoactive drugs for TDMHMR clients. The new subchapter updates the terminology and practice guidelines contained in the rules it would replace. It incorporates new monitoring mechanisms in keeping with the suggestions of the court-appointed RAJ Review Panel. In addition to retaining the type of information contained in the existing rules, the proposed new subchapter includes specific provisions for prescribing psychoactive drugs to nonresidential and residential outreach and respite clients.

Prior to proposal, the rules were extensively reviewed by department physicians and other direct care and administrative employees and consultants. The subchapter was approved by the department's Medical Advisory Committee on April 13, 1984. Adoption is pending approval by the RAJ Review Panel and the U.S. Department of Justice.

Sue Dillard, Office of Standards and Quality Assurance director, has determined that for the first five-year period the rules 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 rules.

Ms. Dillard has also determined that the anticipated public benefit is more stringent procedures ensuring the appropriate prescribing and monitoring of psychoactive drugs. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Written comments on the proposal may be submitted to Linda Logan, Rules Coordinator, TDMHMR, P.O. Box 12668, Austin, Texas 78711, within 30 days of publication.

These new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11(b), which provide the commissioner with the authority to promulgate rules subject to the basic and general policies of the Texas Board of Mental Health and Mental Retardation.

§405.821. *Purpose.* The purpose of this subchapter is to establish guidelines and policy for the rational prescribing of psychoactive medications to clients of the Texas Department of Mental Health and Mental Retardation.

§405.822. *Application.*

(a) The provisions of this subchapter apply to all facilities and outreach programs under the jurisdiction of the Texas Department of Mental Health and Mental Retardation.

(b) The provisions of this subchapter do not apply to special medication research projects that have been approved in accordance with the following sections of Subchapter Q of this chapter (relating to Departmental Procedures for the Protection of the Rights of Humans Involved in Research): §405.401 of this title (relating to Purpose), §405.402 of this title (relating to Application), §405.403 of this title (relating to Statement of Philosophy), and §405.404 of this title (relating to Definitions).

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

Chief physician—The clinical director of a state hospital, research institute, or state center, and the medical director of a state school.

Chief physician designer—One physician credentialed by the chief physician to act for and report to the chief physician in matters relating to the prescribing of psychoactive drugs. Such reviewing physician will be other than the prescribing physician. Such a physician shall have in his or her personnel file a curriculum vitae that documents training or experience that qualifies the physician

to assume the chief physician's clinical responsibilities with regard to psychoactive drugs and evaluations.

Client—Any person receiving the services of a facility of the department (includes patients).

Client's record—The client's active problem-oriented record, which is kept in compliance with the department's problem-oriented record system (PORS) or problem-oriented record—mental retardation (POR—MR) system, as applicable.

Commissioner—The commissioner of mental health and mental retardation.

Department—The Texas Department of Mental Health and Mental Retardation.

Facility—Any state hospital, state school, state center, research institute, or other institution of the Texas Department of Mental Health and Mental Retardation, and its respective outreach programs, and any organizational entity that may hereafter be made a part of the department.

Formulary—The departmental manual that lists medications approved for facility use by the Executive Formulary Committee.

Licensed vocational nurse—A person with a current license issued by the Board of Vocational Nurse Examiners to practice vocational nursing, with a copy of such license included in his or her personnel record at the time, who is in good standing with said state board.

Maintenance dose—The minimum dose of medication that will maintain an individual's symptoms in remission.

Medication or drug—Any substance that, when taken into a living organism, may modify one or more of its functions; is recognized as a medicine or remedy used for the treatment of illness or disease; and includes both those legend medicinal substances which can be obtained only when prescribed by a physician and those non-legend or over-the-counter medicinal substances obtainable without prescription.

Nonresidential client—A client receiving less than 24-hour services from a facility who is receiving psychoactive medications from a facility physician.

Pharmacist—A person with a current license issued by the Texas State Board of Pharmacy to practice pharmacy, with a copy of such license included in his or her personnel record at the time, who is in good standing with said state board.

Physician—A person with a current license issued by the Texas State Board of Medical Examiners to practice medicine, with a copy of such license included in his or her personnel record at the time, who is in good standing with said state board; or a person who is a graduate of a medical school or osteopathic school and who possesses an institutional permit issued by the Texas State Board of Medical Examiners.

Polypharmacy—Simultaneous use of more than one neuroleptic drug in treating a client, except as otherwise provided in this subchapter.

Prescription—A written order signed by a physician for dispensing medications for an individual client.

PRN—*Pro re nata* (as occasion arises).

Psychoactive drug—One which exercises direct effect upon the central nervous system and which is capable of influencing and modifying behavior, cognition, and

affective state. Drugs included in these guidelines are Food and Drug Administration (FDA) and Executive Formulary Committee-approved drugs of the following categories:

- (A) antipsychotics (neuroleptics);
- (B) antidepressants;
- (C) agents for control of mania and depression;
- (D) antianxiety agents;
- (E) sedatives, hypnotics, and other sleep-promoting drugs; and
- (F) psychomotor stimulants.

Psychologist—A person with a master's degree or a doctoral degree in psychology who meets the department's requirements for the position held.

Registered nurse—A person with a current license issued by the Board of Nurse Examiners to practice professional nursing, with a copy of such license included in his or her personnel record at the time, who is in good standing with said state board.

Residential client—A client admitted to a facility and who is receiving 24-hour residential services.

Respite care—The care of a person with mental retardation voluntarily within a mental retardation facility for a brief period of time, the purpose of placement being to provide temporary relief or special assistance for the client or the client's family.

TDMHMR Executive Formulary Committee—The committee appointed by the commissioner which meets regularly to revise and update the list of medications approved for use in department facilities.

§405.824. Minimum Standards for Diagnosis and Documentation of Diagnosis When Initiating Psychoactive Medication.

(a) For each client, the physician or interdisciplinary team including the physician shall make a diagnosis or diagnostic impression in accordance with DSM III prior to initiating psychoactive medication.

(b) The physician shall document the diagnostic evaluation in the client's record, including, but not limited to, the following information:

- (1) symptoms and behavioral manifestations that support diagnosis;
- (2) target symptoms and behavioral manifestations for which medication may be prescribed;
- (3) psychiatric assessment;
- (4) medical and psychiatric history; and
- (5) drug history, including but not limited to, a description of:

- (A) drug allergies;
- (B) past response to psychoactive drugs; and
- (C) current drug regimen.

(c) All documentation shall be made in accordance with the procedures of the department's problem-oriented record system (PORS) or the problem-oriented record—mental retardation (POR—MR) system, as applicable.

§405.825. Laboratory and Other Surveillance.

(a) Laboratory screening. Laboratory screening procedures are essential for clients for whom psychoactive drugs are to be prescribed.

(1) The physician shall ensure that each client has the basic screening prior to initiation of therapy with psy-

choactive drugs. These tests should include at least the following:

- (A) hemoglobin count;
- (B) white blood cell count with differential, with notation of platelet count or estimate of platelet count; and
- (C) wide screen biochemical test (such as SMA 12) or best available test to assess hepatic and renal function.

(2) When drug reaction problems (e.g., reaction to lithium, etc.) or potentially complicating conditions (e.g., diabetes) are known, other pretreatment tests should be performed.

(3) In an emergency, lab work must be performed immediately following initiation of drug therapy.

(4) The chief physician shall establish intervals and procedures for laboratory screening of clients on psychoactive drugs; the longest interval shall not exceed six months for residential clients and 12 months for non-residential clients.

(b) Physical assessment. Except in emergencies, prior to initiating therapy with psychoactive drugs, a physician shall conduct a physical assessment of the client, including, but not limited to, vital signs assessment.

(1) Residential clients. A physician shall perform a physical examination.

(2) Nonresidential clients. A physician shall perform a physical examination or shall document in the client's record why a physical examination is deemed unnecessary, e.g., availability of a current physical examination.

(c) Blood levels. The physician shall order blood levels of psychoactive medications as deemed necessary for clients taking such medications. The department offers a drug-blood monitoring service at TRIMS, to be used for clients with treatment problems such as:

- (1) suspected noncompliance;
- (2) suspected toxicity or unexpected side effects (e.g., malignant neuroleptic syndrome);
- (3) unusual dosage levels (e.g., levels exceeding those indicated in the formulary); or
- (4) lack of adequate target symptom improvement after appropriate dosage and treatment period

(d) Testing for organicity. The physician shall conduct a semiannual mental status examination for each client aged 65 and over.

§405.826. General Guidelines for Prescribing Psychoactive Drugs.

(a) Dose and dosage levels. Dose and dosage levels should not exceed those indicated in the formulary. If dose or dosage levels are exceeded, the physician must consult with the chief physician or the chief physician designee and clearly document the consultation and the rationale for the higher dose or dosage in the progress notes of the client's record

(b) Psychoactive medications for nonpsychiatric use. The only exception to the dose and dosage ranges set out in this rule is when a psychoactive drug is prescribed for a condition not contained in DSM III Axes I and II (e.g., phenobarbital for seizures).

(1) In such cases, the use must be one that has been approved by the Food and Drug Administration or

recommended by the Executive Formulary Committee or the manufacturer.

(A) The dose and dosage levels must be within the range recommended by the manufacturer for that use.

(B) If the dose or dosage level for that use is exceeded, the physician shall consult with the chief physician or the chief physician designee initially and as required thereafter and so document in the client's record.

(2) The physician must note on the prescription and on the client's record the condition for which the drug is being prescribed.

(c) Polypharmacy. Simultaneous use of more than one neuroleptic drug in treating clients shall not be permitted, except as provided in this section.

(1) Polypharmacy is permissible only in accord with the following provisions.

(A) The physician initiating polypharmacy shall review the matter with the chief physician or the chief physician designee prior to the administration of the drugs.

(B) The chief physician or chief physician designee shall personally examine the residential client and review the client's record

(C) The chief physician or chief physician designee shall review the record of the nonresidential client and examine the client if possible.

(D) Upon such review and examination, the chief physician or chief physician designee shall keep a record which sets forth the reason for the request and the reasons for his approval or disapproval of the proposed treatment. The physician initiating polypharmacy shall similarly enter a notation in the client's record setting forth the same information.

(2) The physician should not change the drug prescribed without an adequate trial period. Changes of medication shall be documented in the progress record.

(3) When a physician changes a client from one drug to another, a reasonable period of overlapping use may be appropriate. Ordinarily, this overlapping use shall not exceed five days duration. Overlapping use must be documented as such in the client's record.

(4) In no instance shall polypharmacy be used to avoid the single drug dosage range limitation set forth in the formulary

(d) *Pro re nata* medications. A PRN neuroleptic or anti-anxiety medication may be ordered for up to 72 hours with a statement of rationale documented in the progress record. If PRN usage exceeds 72 hours and is used in conjunction with another neuroleptic, the PRN will be considered polypharmacy and subject to the provisions of subsection (c) of this section. If a facility must meet an external standard regarding PRN medications which is more stringent, then the more stringent standard shall prevail.

§405.827. General Guidelines: Monitoring the Prescription of Psychoactive Drugs.

The department's policy in the general area of client care is that all actions will be taken to serve the best interests of its clients. Specifically with regard to the use of psychotropic drugs, the department will rely on the judgment of the following persons in the sequence stated to initiate and then monitor the prescription of such medications:

(1) **Treating physician.** The treating physician shall be responsible for reviewing all medications prescribed for clients in his or her care.

(2) **Chief pharmacist.** The chief pharmacist shall be responsible for ensuring that all pharmacists adhere to the following monitoring procedures:

(A) Prior to dispensing or distributing medication, the pharmacist shall review the prescription for:

- (i) dosage ranges,
- (ii) drug interactions,
- (iii) polypharmacy, and
- (iv) drug allergies.

(B) If the pharmacist discovers a problem not already documented, he may contact the physician for resolution of the problem. If this contact does not resolve the problem or if the contact is not made, the pharmacist will discuss the problem with the chief physician or the chief physician designee who will initiate contact with the physician. If those persons are unavailable, and an emergency exists, this consultation requirement may be suspended for a maximum of 72 hours, during which time medication may be dispensed.

(3) **Chief physician or chief physician designee.** Prescriptions which the pharmacist determines to require review must be approved in writing by the chief physician or the chief physician designee unless an emergency exists. For residential clients, the approval must be documented in the clinical record. For nonresidential clients, the approval must be documented as a written consultation note which shall be added to the clinical record.

(4) **Superintendent, if a physician.** At the request of the chief physician or chief physician designee, the superintendent must approve in writing in the client's record prescriptions which the pharmacist determines require review.

§405.828. General Guidelines: Ongoing Evaluation of Clients Taking Psychoactive Drugs.

(a) **Evaluation of residential clients.** Staff, as indicated in paragraphs (1)-(5) of this subsection, shall evaluate clients taking psychoactive medications and document such evaluations in the client's record at the following intervals:

(1) **Weekly review.** When medication is initiated or changed, the client's target symptoms and behavioral manifestations shall be evaluated and documented in the record by the physician weekly for one month. After the first month, the following staff assigned to the client's treatment team shall conduct the weekly review: either the physician or psychologist or registered nurse or registered pharmacist or licensed vocational nurse.

(2) **Monthly review.** The physician shall review the client's record to assess the effect of medication on target symptoms and behavioral manifestations; to assess side effects; to determine the minimal maintenance dose or reduction of dosage; and to determine the need for continued medication for clients receiving antiparkinsonian drugs.

(3) **Quarterly review.** At each quarter, the monthly review will also include an assessment of each client to determine whether the client's medication regimen should be adjusted.

(A) All clients taking psychoactive medication. At each 90-day review the physician should carefully ex-

amine and document all related aspects of the client's condition, treatment, and/or change in treatment.

(B) Clients taking neuroleptics. In addition to the examination as described in subparagraph (A) of this paragraph, such examinations shall include:

(i) screening for tardive dyskinesia by a physician, registered nurse, or registered pharmacist trained in a recognized examination procedure such as the Abnormal Involuntary Movement Scale (AIMS), Simpson, TRIMS-Smith, etc. Tardive dyskinesia screening confirming abnormalities in involuntary movements which have been conducted by a registered nurse or registered pharmacist shall be repeated by a physician.

(ii) such determinations and actions as are described in paragraph (5)(A) and (B) of this subsection.

(4) **Semiannual review.** At every other quarterly review, each client aged 65 and over shall receive a mental status examination.

(5) **Review for clients suspected to be refractory to neuroleptic drugs.** The physician shall conduct a clinical reassessment and/or laboratory studies of clients whose mental illness appears to be refractory to treatment with different types of neuroleptic drugs at different levels.

(A) The physician shall determine whether:

- (i) the current medication regimen should be continued,

- (ii) the medication regimen should be changed,

- (iii) the dosage level should be increased based on documented clinical observation,

- (iv) the route of administration should be changed, or

- (v) further evaluation of the client's condition or reassessment of diagnosis should be conducted.

(B) If, following such reassessment and/or laboratory studies and a consultation with the chief physician or the chief physician designee, it is determined that the client is not receiving benefits from a medication and is in fact refractory to it:

- (i) the determination that the client is refractory shall be documented in the client's record, and

- (ii) the medication must be discontinued.

(b) **Evaluation of nonresidential clients.** The physician shall evaluate nonresidential clients taking psychoactive medication no less than every six months

(1) All nonresidential clients taking psychoactive drugs. The physician should carefully examine the client and document all aspects of the client's condition and treatment, and/or change in treatment.

(2) Nonresidential clients taking neuroleptics. For clients taking neuroleptics, this examination shall include:

(A) screening for tardive dyskinesia by a physician, registered nurse or registered pharmacist trained in a recognized examination procedure such as the Abnormal Involuntary Movement Scale (AIMS), Simpson, TRIMS-Smith, etc.

(B) such determinations and actions as described in subsection (a)(5)(A) and (B) of this section.

§405.829. Guidelines for Prescribing Neuroleptic Drugs (e.g., Haldol (haloperidol), Navane (thiothixene), Prolixin (fluphenazine), Quide (piperacetazine), Lovitane (lox-

pine succinate), *Moban (molindone hydrochloride)*, *Mellaril (thioridazine hydrochloride)*, *Thorazine (chlorpromazine hydrochloride)*, *Serentil (mesoridazine)*, *Trilafon (perphenazine)*, *Stelazine (trifluoperazine)*).

(a) Neuroleptics for clients with a diagnosis of psychosis. Maintenance levels of neuroleptic medication should be sufficient to prevent relapse of acute psychotic symptoms and permit clients to function optimally in mental health programs, work activities, and social settings.

(1) Such levels should not be in excess of those necessary to achieve the results in this subsection, in order to reduce untoward side effects related to dosage.

(2) Adjustment of medication levels upward or downward should reflect a considered judgment by the physician of the potential benefits to be obtained by a given dosage level versus the risk of such side effects.

(b) Neuroleptics for clients without a diagnosis of psychosis. Physicians shall prescribe neuroleptics for nonpsychotic conditions in accordance with the provisions of this subchapter and the following guidelines:

(1) Extreme violence or aggression. Long-term use of antipsychotic drugs in management of extremely violent, aggressive clients is generally not warranted. The use of neuroleptics should be limited to short-term management in which the sedating properties of neuroleptics can be utilized.

(2) Anxiety. The use of neuroleptic drugs to treat anxiety in nonpsychotic individuals should be avoided because of the potential development of tardive dyskinesia. Long-term treatment of anxiety with neuroleptic drugs should be avoided. The use of a neuroleptic drug to treat anxiety should only be considered in the following cases:

(A) when a history of substance abuse is present; or

(B) when there is a history of intolerance to the antianxiety agents, or

(C) when a therapeutic response is not obtained with the antianxiety drugs.

(c) Neuroleptic side effects. All side effects shall be documented in the client's record, and side effects that are considered problems, such as those requiring medication regimen adjustment, shall be documented as problems.

§405.830. Guidelines for Prescribing Psychoactive and Other Related Drugs (Other Than Neuroleptics).

(a) Antiparkinsonian drugs (e.g., *Artane (trihexphenidyl hydrochloride)*, *Akineton (biperiden)*, *Benadryl (diphenhydramine)*, *Cogentin (benztropine mesylate)*, *Symmetrel (amantadine hydrochloride)*). Antiparkinsonian agents are effective in treating drug-induced dystonias, akathisias, and parkinsonism.

(1) The physician should attempt to discontinue antiparkinsonian drugs as soon as possible when their use is for treatment of neuroleptic side effects

(2) The long-term use of antiparkinsonian agents should be restricted to those clients who redevelop parkinsonian-like symptoms upon being removed from antiparkinsonian agents.

(b) Antidepressants (e.g., *Asendin (amoxapine)*, *Elavil (amitriptyline hydrochloride)*, *Triavil (perphenazine and amitriptyline hydrochloride)*, *Norpramin (desipramine hydrochloride)*, *Sinequan (doxepin hydro-*

chloride), *Tofranil (imipramine)*, *Ludiomil (maprotiline hydrochloride)*, *Surmontil (trimipramine maleate)*, *Vivactil (protriptyline hydrochloride)*, *Desyrel (trazodone)*, *Aventyl (nortriptyline hydrochloride)*). In clients with a history of heart disease and in the elderly, careful attention should be paid to the cardiotoxic effects of antidepressants.

(c) Lithium. Before instituting lithium therapy, a complete assessment must be obtained for residential and nonresidential clients:

(1) Examination and laboratory screening. In the physical examination, special attention should be given to the cardiac, renal, and thyroid function. The appropriate laboratory studies should be done, including T4, TSH, BUN, creatinine and SGOT, serum electrolytes, CBC, UA, ECG, and pregnancy testing for all females physiologically and anatomically capable of childbearing.

(A) If the result of the serum creatinine determination is abnormally high, a creatinine clearance should be done. An abnormal creatinine clearance should contradict lithium therapy unless an internal medicine consultant states otherwise.

(B) If the serum creatinine determination is normal and lithium therapy is initiated, repeat the serum creatinine at the end of one month and periodically thereafter as the client's condition indicates.

(2) Plasma levels. When initially placing clients on lithium, the physician shall regularly assess lithium plasma levels: acutely after five days following initiation and then weekly (or more often if deemed necessary) for three weeks or until stabilized. Clients maintained on long-term lithium should be followed with plasma levels approximately every two to three months. In addition, the physician should ensure adequate intake of fluids and salt. Caution should be observed in clients who are on diuretics or salt-restricted diets since diuretics and salt-restrictions may be contraindications to lithium therapy. Plasma lithium levels should not exceed 1.5 milliequivalents per liter

(d) Hypnotics (e.g., *Amytal (amobarbital)*, *Nembutal (pentobarbital)*, *Luminal (phenobarbital)*, *Noctec (chloral hydrate)*, *Dalmane (flurazepam)*). The use of hypnotics in clients is discouraged, especially in nonresidential clients.

(1) The bedtime use of sedatives, synthetic hypnotics, or antianxiety agents should be short-term only. An automatic stop order, not to exceed seven days, should be employed when it is deemed absolutely essential that these drugs be used.

(2) In addition, the documentation of failure of other interventions in treating insomnia or clinical justification for not attempting other interventions should be recorded in the progress notes of the client's record before such drugs are ordered.

(e) Minor tranquilizers and antianxiety agents (e.g., *Tranxene (clorazepate dipotassium)*, *Librium (chlor diazepam)*, *Valium (diazepam)*, *Ativan (lorazepam)*, *Serax (oxazepam)*, *Verstram (prazepam)*, *Xanax (alprazolam)*, *Equanil (meprobamate)*, *Vistaril (hydroxyzine)*). The effectiveness of continuous administration of minor tranquilizers and antianxiety agents in the treatment of anxiety has not been established. However, use of the drugs for a short period of time may be useful.

(1) It is recommended that clients who have been on such medications for more than three months should have a careful review of their needs and should be taken off slowly to prevent withdrawal effects. As noted in paragraph (2) of this subsection, the treatment of symptoms of anxiety by minor tranquilizers in those clients receiving neuroleptic drugs is not warranted.

(2) Clients being treated for other psychiatric disorders with tricyclics or neuroleptics should not simultaneously be given minor tranquilizers and anti-anxiety agents, unless the specific target anxiety symptoms have been documented to be unresponsive to the treatment of the illness itself by the specific agent, i.e., lithium or tricyclics.

(f) Stimulants. Generally, stimulants are not used for the treatment of depression. When stimulants are used in the treatment of depression, documentation in the progress record must establish the rationale.

§405.831. Special Considerations: Clients with Tardive Dyskinesia. Clients receiving neuroleptic medication may, for the purposes of this section, be divided into two groups: clients who show no manifestation of tardive dyskinesia and clients who do. There are no known ways of preventing tardive dyskinesia in clients who receive long-term treatment with neuroleptics, nor is there a generally satisfactory treatment for the disorder. The physician can best deal with the dilemma associated with the chronic administration of neuroleptics by using a flexible approach, assessing and documenting the need for continuing neuroleptics, involving the client and his legally authorized representative, if any, in discussions concerning the treatment, avoiding all unnecessary medications, and being alert to the risk of tardive dyskinesia. For clients with a diagnosis of tardive dyskinesia, the following guidelines shall apply:

(1) **Diagnosis.** When a physician diagnoses or suspects tardive dyskinesia in a client, the following sequential procedure for management is recommended. This is a general outline, and variations in the treatment plan may be warranted according to specific needs of the individual client.

(A) Repeated clinical examinations for the abnormal movements and neurological and dental evaluations may be required to make a diagnosis of tardive dyskinesia. Consultation with a colleague may be advisable in doubtful cases.

(B) Once the physician has arrived at a diagnosis of tardive dyskinesia, this should be conveyed to the client and his legally authorized representative, if any. The relevant aspects of this syndrome should be explained, including the fact that the symptoms are usually not incapacitating and that they are reversible on discontinuing neuroleptics in over one-third of clients with dyskinesia.

(C) The diagnosis of tardive dyskinesia and the duration (if known) and severity of symptoms should be recorded in the client's record.

(2) **Trial of neuroleptic withdrawal.** After tardive dyskinesia is diagnosed, the physician should attempt to discontinue the neuroleptic medication gradually. A trial of neuroleptic withdrawal in clients with tardive dyskinesia is important for assessing the need for continuing the drugs as well as for reversing the dyskinesia.

(A) The physician need not reduce the dose immediately if the client has active psychotic symptoms, but should try to begin lowering the neuroleptic dose as soon as the client's psychiatric condition improves sufficiently.

(B) A possible exception to this trial of neuroleptic withdrawal or dose reduction in dyskinesia is a client who continues to be actively psychotic and in whom any dose reduction is likely to result in further worsening of mental symptoms.

(C) The physician should document the reasons for not reducing the medications in the client's record.

(D) The physician may often wish to add an anti-anxiety agent such as a benzodiazepine during this period of neuroleptic withdrawal to reduce the intensity of psychiatric and dyskinetic symptoms in at least some clients. If neuroleptic discontinuation results in an aggravation of symptoms that are of an unacceptable severity, the physician may resume the previous dosage if it is felt that the benefit/risk ratio weighs in favor of continued treatment. He should, however, document this experience in the client's record.

(E) Treatment without neuroleptics may be difficult in a number of clients, especially schizophrenics. Various other forms of therapy (psychotherapy, ECT, sedatives, milieu therapy, etc.) may be considered.

(3) **Administering neuroleptics to clients with tardive dyskinesia.** Neuroleptics are the most effective temporary suppressors of dyskinesia. However, since these drugs have been responsible for tardive dyskinesia, their use in clients with dyskinesia must be cautious.

(A) Patients with tardive dyskinesia may need to be treated with neuroleptics under the following specific circumstances:

(i) If neuroleptic reduction produces a significant aggravation of psychiatric symptoms that does not respond to other forms of treatment.

(ii) If history suggests a high risk of psychotic relapse on discontinuing neuroleptics.

(B) For cases cited in subparagraph (A)(i) and (ii) of this paragraph, administering neuroleptics will be justified. The physician is advised to follow certain suggestions:

(i) The reasons for prescribing neuroleptics to dyskinetic clients should be documented.

(ii) A risk/benefit discussion should occur between the physician, the client and his legally authorized representative, if any. Such discussion should be documented in the client's record.

(C) Additional considerations in administering neuroleptics to a client with tardive dyskinesia include:

(i) A type of neuroleptic that was not given to a particular client in the past may be preferred. Although all of the currently available neuroleptics carry some risk of inducing tardive dyskinesia, certain neuroleptics could be better or worse for individual clients.

(ii) The lowest dose of the drug that is effective for the particular client should be used.

(iii) The clinical status of the client may change and the lowest effective dosage may sometimes be higher or lower depending on many factors.

(iv) The drug may be given in a divided daily dose schedule rather than in a single large daily dose. In some clients the dysknetic symptoms may be better controlled by administering a neuroleptic in small divided doses.

(v) A periodic and careful review of the client's mental status and the severity of his dyskinesia should be done and the findings recorded.

(4) Antiparkinsonian agents. Drugs such as Artane (trihexyphenidyl hydrochloride), Akineton (biperiden), and Cogentin (benztropine mesylate), which are all anticholinergic agents used to treat parkinsonian symptoms, may aggravate tardive dyskinesia. There is little justification for maintaining dysknetic clients on these drugs, unless their withdrawal is found to produce marked and persistent aggravation of dyskinesia.

(5) Other treatments for dyskinesia. A number of pharmacologic and other treatments have been tried in dysknetic clients. Of these, anticholinergic and dopaminergic drugs have no place in the clinical treatment of tardive dyskinesia. Sedatives, such as benzodiazepines, may have a beneficial effect in some clients.

§405.832. Additional Considerations: Special Populations.

(a) Clients taking more than one drug. Special caution must be given to the addition of psychoactive drugs for those clients who are taking other medications. All clients or parent/guardian, as appropriate, should be advised of the medication prescribed and the strength given, its drug effects, and side effects, and clients taking more than one drug should be advised of possible drug interactions.

(b) Pregnant clients. All drugs not essential to the well being of the mother or fetus during pregnancy should be eliminated.

(1) If the clinical state of the client mandates the continued use of a psychoactive drug, consultation with an obstetrician and, as needed, a psychiatrist should be obtained and recorded in the client's record.

(2) The client or parent/guardian, as appropriate, should be informed of the potential adverse effects on the fetus.

(3) Lithium treatment should be avoided during pregnancy, especially during the first trimester. However, as a severe affective episode may present a significant danger to both the mother and the fetus, there may be occasions when the potential benefits of the treatment with lithium outweigh the risks. In such circumstances, plasma levels should be measured more frequently and dosage decreased or, if possible, discontinued two weeks prior to delivery to allow fetal lithium clearing. Also, in such women, sodium intake should not be restricted without weekly lithium monitoring.

(c) Children/adolescents. In cases in which large doses of psychoactive drugs not usually recommended for pediatric use are warranted, justification and consultation with a psychiatrist, preferably a child psychiatrist, must be documented in the client's record.

(d) Elderly. As a general rule, older clients need lesser doses of lithium, neuroleptics, and antidepressants. Extra caution in prescribing sedatives and benzodiazepines should be taken. Many elderly clients have additional medical problems such as hypertension and dehydration,

and the potential for drug interactions is increased because of the medication for these concurrent conditions.

(e) Clients with alcohol or drug dependency. The use of psychoactive drugs should be avoided in alcoholic clients except for the purposes of detoxification. Depression and anxiety in chemically dependent individuals need special attention before psychoactive drugs are used. Documentation of target symptoms and response must be recorded in the progress record along with the rationale of the use of the medication in the chemically dependent person.

(f) Nonresidential clients. The appropriate dosage range of neuroleptics for nonresidential clients (whether for treatment or acute psychotic symptoms or for maintenance purposes) is essentially the same as that for residential clients, although the maintenance dosage for most nonresidential clients will generally be substantially less than that necessary for an acutely ill residential client. Such dosage should be based on a thorough evaluation of the client from a psychiatric as well as a physical standpoint. Special care should be exercised before changing the medication level of a nonresidential client for whom the lowest effective dosage level has been found. The clinical status of the client may change and the lowest effective dosage may sometimes be higher or lower depending on many factors. The nonresidential client, by definition, is not constantly monitored by the physician within a controlled setting. The client's status as a member of the community and his relationship with family, friends, and coworkers should not be jeopardized unless both client and physician have a clear understanding of the risk/benefit ratio involved in a dosage change.

(g) Clients receiving residential outreach services with private prescribing physician. The prescribing of psychoactive drugs with private prescribing physician shall be in conformance with §405.829 of this subchapter (relating to Guidelines for Prescribing Neuroleptic Drugs), §405.830 (relating to Guidelines for Prescribing Psychoactive and Other Related Drugs (Other Than Neuroleptics)), §405.831 (relating to Special Considerations: Clients with Tardive Dyskinesia), §405.832 (relating to Additional Considerations: Special Populations), and §405.833 (relating to Auditing the Prescription of Psychoactive Drugs and Related Procedures), and the following provisions:

(1) The facility will obtain consent to release information to and to obtain information from the private prescribing physician.

(2) The facility will assign staff to liaison relevant information to the client and/or family/guardian, as appropriate, and to the private prescribing physician.

(3) The facility will work with the private prescribing physician and will ensure compliance with the standards as outlined in §405.824 (relating to Minimum Standards for Diagnosis and Documentation of Diagnosis when Initiating Psychoactive Medication); §405.825 of this title (relating to Laboratory and Other Surveillance); and §405.826 of this title (relating to General Guidelines for Prescribing Psychoactive Drugs).

(4) The facility will ensure the following ongoing evaluation of clients taking psychoactive medication is performed.

(A) Trained staff will evaluate and document in the client's record weekly any changes in the target

symptoms and behavioral manifestations. This information will be communicated to the prescribing physician.

(B) The facility will work with the prescribing physician and will ensure a review of the client's record and related information to assess the effect of medication on target symptoms and behavioral manifestations, side effects, to determine the minimal maintenance dose or reduction of dosage, and to carefully examine and document all aspects of the client's condition, treatment, and/or change in treatment no less than every six months. This review shall be documented in the client record.

(C) For clients taking neuroleptics, this six-month examination shall include:

(i) screening for tardive dyskinesia by a physician, registered nurse, or registered pharmacist trained in a recognized examination procedure such as the Abnormal Involuntary Movement Scale (AIMS), Simpson, TRIMS-Smith, etc.

(ii) such determinations and actions as described in subsection (a)(4)(A) and (B) of §405.828 (relating to General Guidelines: Ongoing Evaluation of Clients Taking Psychoactive Drugs)

(h) Clients receiving respite services. The prescribing of psychoactive drugs for clients receiving respite services shall be in conformance with the rules of this subchapter, excluding §405.824 (relating to Minimum Standards for Diagnosis and Documentation of Diagnosis When Initiating Psychoactive Medication) and §405.825 (relating to Laboratory and Other Surveillance), and the following provisions:

(1) The facility will obtain consent to release information to and to obtain information from the private prescribing physician.

(2) When a client is receiving respite services, the respite facility physician will review the current psychoactive medication regime. Relevant medical history and information will be obtained. Laboratory screening and other surveillance will be ordered as indicated. If the psychoactive medication regime is within the limits of this section, the facility physician may choose to order the psychoactive medication as currently prescribed.

(3) If the psychoactive medication regime is not within the limits of this rule, the physician will confer with client and/or family/guardian of the client, as appropriate, to inform them of the departmental rule on psychoactive medications. If the psychoactive medication regime is not within the limits of this subchapter, the physician may choose not to order the psychoactive medication as currently prescribed or may choose to order the psychoactive medication following procedures in §405.826 (relating to General Guidelines for Prescribing Psychoactive Drugs).

(i) Clients with medical problems. Some psychoactive drugs are contraindicated or must be used with special caution for clients assessed to have physical disorders. DSM III Axis III diagnoses must be made and taken into consideration when psychoactive drugs are prescribed.

(j) Clients with mental retardation. The physician may prescribe psychoactive drugs for clients with mental retardation in accordance with this subchapter and the following provisions:

(1) Clients should be treated with psychoactive drugs only for a diagnosis of psychosis or other disorder

for which psychoactive drug therapy is appropriately utilized and not for behavioral problems. In general, mental retardation with behavioral disturbance is not a "psychotic disorder," and the necessity for the use of psychoactive drugs in the retarded client must be substantiated either:

(A) by a diagnosis of psychosis or other disorder for which psychoactive drug therapy is appropriately utilized; or

(B) by a clearly defined and recorded need for psychoactive drug use adjunctive to other nonmedical behavior management procedures; or

(2) Except for emergency situations, psychoactive medications are initially prescribed only after the following:

(A) other treatment interventions are provided;

(B) behavioral baselines are obtained; the diagnosis and/or need for adjunctive use in behavior management plan is substantiated by diagnostic data recorded in the client's record on an ongoing basis; and

(C) the behavior and diagnosis for which the medication is indicated has been reviewed in an interdisciplinary meeting in which treatment alternatives have been reviewed and considered.

§405.833 Auditing the Prescription of Psychoactive Drugs and Related Procedures. The medication profile committee shall audit the use of psychoactive drugs and related procedures, including laboratory screening of clients taking psychoactive drugs, in accordance with this subchapter and §405.31 (relating to Medication Profile Committee, Medication Use and Prescribing Practices; Committee for Formulation of Systemwide Standards) of Subchapter B of this chapter (relating to Administration of Medications).

(1) The chief pharmacist will select for audit a minimum of 30 client records per month and in smaller facilities, a minimum of 10% of the records of clients on psychoactive medications per month.

(2) The medication profile committee will review each record for appropriateness of drug regimen with particular attention to compliance with the provisions of this subchapter using Attachment A, "Audit Guidelines," which is herein adopted by reference, with copies available from the Texas Department of Mental Health and Mental Retardation, P. O. Box 12668, Austin, Texas 78711. At each meeting, the medication profile committee will prepare a summary of the number of deviations noted and the outcome of the review process in the following format:

Apparent Deviation	% of Total Examined	Acceptable Justification	Unacceptable Justification
12	30%	8	4
3	10%	2	1

These reports will be forwarded to the chief physician of the facility for review and, when indicated, corrective action.

(3) The minutes or portion of the minutes applicable to the audit will be maintained in a file in the office of the chief physician or the director of quality assurance of each facility, subject to outside inspection or review only upon authorization by the commissioner.

(4) Committees such as the Executive Formulary Committee or other duly appointed departmental body will, upon request by the commissioner, be authorized to review a representative number of minutes to determine facilities' compliance with these rules.

§405.834. Distribution.

(a) The provisions of this subchapter shall be distributed to all members of the Texas Board of Mental Health and Mental Retardation; deputy commissioners and directors of the central office; superintendents and directors of all department facilities; and RAJ vs. Miller panel members.

(b) The superintendent or director of each department facility shall provide a copy of this subchapter to each physician who provides medical care to clients of the facility and to other appropriate staff members.

§405.835. Review. This subchapter will be reviewed at regular intervals approximately biannually to incorporate new information as it develops regarding the use of psychotropic drugs.

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 May 4, 1984

TRD-844964 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental
Health and Mental Retardation

Earliest possible date of adoption
June 11, 1984

For further information, please call (512) 465-4670.

**Part V. Texas Health Facilities
Commission**

A notice appeared in the May 8, 1984, issue of the *Texas Register* indicating that the following proposals would appear in this issue. The proposed date of adoption for the documents is July 1, 1984.

Chapter 513. Criteria

Subchapter A. General Criteria for Use in Certificate of Need Reviews

§§513.1, 513.3, 513.5, 513.7, 513.9, 513.11, 513.13, 513.15, 513.17, 513.19, 513.21
(proposed for repeal)

§§513.1, 513.3, 513.5, 513.7, 513.9, 513.11, 513.13, 513.15, 513.17, 513.19, 513.21
(proposed new)

Subchapter D. Criteria for Use in Reissuance of Certificate of Need Reviews

§513.51, §513.53
(proposed for repeal)

§513.51, §513.53
(proposed new)

**Chapter 515. Commission Review of Applications
Subchapter A. Parties to Commission Review of Applications**

§§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21, 515.23
(proposed for repeal)

§§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21
(proposed new)

Subchapter B. Hearing Requirements

§§515.31, 515.33, 515.35, 515.37, 515.39, 515.41, 515.43, 515.45, 515.47, 515.49
(proposed for repeal)

§§515.31, 515.33, 515.35, 515.37, 515.39, 515.41
(proposed new)

Subchapter C. Hearing Procedures

§§515.61, 515.63, 515.65, 515.67, 515.69, 515.71, 515.73, 515.75, 515.77, 515.79, 515.81, 515.83, 515.85, 515.87
(proposed for repeal)

§§515.61, 515.63, 515.65, 515.67, 515.69, 515.71, 515.73, 515.75, 515.77, 515.79, 515.81, 515.83, 515.85, 515.87
(proposed new)

Subchapter D. Evidence

§§515.101, 515.103, 515.105, 515.107, 515.109, 515.111, 515.113, 515.115, 515.117, 515.119
(proposed for repeal)

§§515.101, 515.103, 515.105, 515.107, 515.109, 515.111, 515.113, 515.115, 515.117, 515.119, 515.121, 515.123, 515.125, 515.127, 515.129, 515.131
(proposed new)

Chapter 517. Commission Action on Applications and Other Matters

§§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47, 517.49
(proposed for repeal)

§§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47
(proposed new)

Chapter 519. Health Systems Agency Rules of Review

Subchapter A. Purpose and Definitions

§519.1, §519.3
(proposed for repeal)

Subchapter B. Application Review by Health Systems Agency

§§519.11, 519.13, 519.15
(proposed for repeal)

Subchapter C. Written Recommendation of Health Systems Agency

§§519.21, 519.23, 519.25
(proposed for repeal)

Subchapter D. Criteria

§519.31, §519.33
(proposed for repeal)

Chapter 523. Forfeiture

§§523.1, 523.3, 523.5, 523.7
(proposed for repeal)

§§523.1, 523.3, 523.5, 523.7, 523.9
(proposed new)

Chapter 525. Enforcement

Subchapter A. Violation of the Act

§§525.1, 525.3, 525.5, 525.7, 525.9, 525.11, 525.13, 525.15
(proposed for repeal)

§§525.1, 525.3, 525.5, 525.7, 525.9, 525.11, 525.13, 525.15
(proposed new)

- Chapter 527. Miscellaneous Provisions**
Subchapter A. Computing Time Periods
§527.1
 (proposed for repeal)
§§527.1
 (proposed new)
Subchapter B. Records of the Commission
§527.11, §527.13
 (proposed for repeal)
§527.11, §527.13
 (proposed new)
Subchapter C. Commission Publications
§§527.21, 527.23, 527.25
 (proposed for repeal)
§§527.21, 527.23, 527.25
 (proposed new)
Subchapter D. Transitional Provisions
§527.31, §527.33
 (proposed for repeal)
§527.31
 (proposed new)

Chapter 513. Criteria
**Subchapter A. General Criteria for Use
 in Certificate of Need Reviews**

25 TAC §§513.1, 513.3, 513.5, 513.7, 513.9,
 513.11, 513.13, 513.15, 513.17, 513.19,
 513.21

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§513.1, 513.3, 513.5, 513.7, 513.9, 513.11, 513.13, 513.15, 513.17, 513.19, and 513.21, concerning general criteria for use in certificate of need reviews. The repeal is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures, and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and

regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §513.1. *Commission Use of Criteria.*
- §513.3. *Medical Service Area.*
- §513.5. *Health-Care Requirements of the Medical Service Area.*
- §513.7. *Relationship to Existing or Approved Services and Facilities.*
- §513.9. *Less Costly or More Effective Alternatives.*
- §513.11. *Personnel.*
- §513.13. *Economic Feasibility.*
- §513.15. *Relationship to Plans.*
- §513.17. *Special Requirements.*
- §513.19. *Special Requirements for Conserving Energy.*
- §513.21. *Space Not Utilized After Construction.*

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 April 27, 1984

TRD-844746 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
 July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§513.1, 513.3, 513.5, 513.7, 513.9, 513.11, 513.13, 513.15, 513.17, 513.19, and 513.21, concerning general criteria for use in certificate of need reviews. These new rules are necessary to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in

effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new rules are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§513.1. Commission Use of Criteria.

(a) The commission shall apply, as appropriate, the following general criteria in conducting a review for a certificate of need application. These general criteria will be used, as appropriate, in reviewing all projects, with the exception of certificate of need applications involving an HMO or certificate of need applications solely proposing to correct safety, licensing, accreditation, or certification deficiencies.

(b) Criteria form the basis of review by providing measures against which various aspects of the proposed project are compared. Not all criteria may be relevant in a particular case. When a project compares favorably with all of the established criteria against which it is properly measured, the applicant shall receive a certificate of need. When a project compares unfavorably with one or more of the criteria against which it is properly measured, the application for a certificate of need may be denied. The applicant shall present information in the application as requested and/or evidence of facts through prepared testimony which addresses each relevant criterion and each subpart of the criterion so as to prove that the criterion is satisfied. Failure of the applicant to address all relevant criteria may result in the denial of a certificate of need application. The burden of producing evidence is on the applicant.

§513.3. Medical Service Area. The application shall identify and reasonably establish a medical service area for the proposed project. The applicant shall address at least the following factors:

- (1) historical patient origins and destinations;
- (2) projected patient origins and destinations;
- (3) physician staffing, admitting, or referral patterns;
- (4) geographic or other barriers affecting access to the site of the project;
- (5) the service trade area (as established by the appropriate planning agency(ies)) in which the project is to be located; and
- (6) the location, density, and characteristics of the population groups to be served by the project.

§513.5. Health-Care Requirements of the Medical Service Area. The project shall be necessary to meet the health-care requirements of the medical service area and shall be accessible to patients in the medical service area. The applicant shall address at least the following:

- (1) the population trends and vital rates for the city, county, health service area, and the medical service area;
- (2) the accessibility of the proposed project to all patients in the medical service area and the methods utilized by the applicant to promote accessibility;
- (3) the contribution of the proposed project in meeting the health-care requirements of all medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services, particularly those health-care requirements identified in the applicable health systems plan, annual implementation plan, and state health plan as deserving of priority;
- (4) the inadequacies of existing health-care delivery systems serving the population of the medical service area, as they relate to the proposed project;
- (5) how the project will meet all or part of the perceived inadequacies in the existing health-care delivery system;
- (6) why the applicant facility is an appropriate facility to provide the proposed project;
- (7) the estimated numerical demand for the proposed project;
- (8) the quality of care provided by applicant or the facility as represented by the most recent licensure, accreditation, or certification status report(s); and
- (9) how the proposed project will correct any specific deficiencies identified in the reports in paragraph (8) of this section.

§513.7. Relationship to Existing or Approved Services and Facilities.

(a) The proposed project shall not significantly adversely affect existing facilities or services of the health-care system serving or approved to serve the medical service area. The project shall not create an uneconomical or unnecessary duplication of services and facilities serving or approved to serve the medical service area. The proposed project shall integrate with the existing facilities and services serving or approved to serve the medical service area. The applicant shall address at least the following:

- (1) the existing or approved facilities and services serving or approved to serve the medical service area that are similar or comparable to the proposed project, and their locations;

(2) the utilization of comparable services and facilities serving or approved to serve the medical service area;

(3) the relationship of the proposed project to necessary ancillary or support services;

(4) the coordination agreements for shared services with other facilities as they relate to the project; and

(5) how the project will accomplish appropriate and effective integration with other services and facilities of the health-care system serving or approved to serve the medical service area, while fostering competition among those services and facilities.

(b) In addressing paragraphs (1)-(5) of subsection (a) of this section, the applicant shall specify the site location of the proposed project within the identified medical service area.

§513.9. Less Costly or More Effective Alternatives. The project's approach to providing health-care services shall be less costly or more effective than other methods which are available or which have been approved to be developed. The applicant shall address at least the following:

(1) why alternative methods of providing the service which are available to the applicant are not less costly or more effective;

(2) why existing or proposed methods of providing the service are not less costly or more effective;

(3) the availability of resources (including funds for capital and operating need) for the provision of the services proposed to be provided, and the availability of alternative uses of such resources for the provision of other health services; and

(4) the impact of project costs on operational costs and charges of the facility or service.

§513.11. Personnel. The applicant shall have the capability of adequately staffing and operating the project. The project shall not have a material adverse effect on the staffing of existing facilities and services serving or approved to serve the medical service area. In areas of personnel scarcity, documentation shall be provided of recruitment outside the shortage area and the results of that recruitment. The applicant shall address at least the following:

(1) the nursing personnel, allied health personnel, and management personnel required to insure compliance with licensing, accreditation, or certification requirements;

(2) the physicians and physician specialties required to meet the physician staffing requirements of the project;

(3) the physicians available who have agreed to utilize the project;

(4) the availability of the physicians, nurses, allied health professionals, and management personnel necessary to staff the project, and the availability of alternative uses of such health personnel and management personnel for the provision of other health services;

(5) the methods to be used to obtain the physicians and other personnel necessary to staff the project; and

(6) the extent to which the applicant will participate, directly or indirectly, with educational institutions

to enhance the quality of education or training of health personnel in the area or contribute substantially to the overall health personnel supply, including institutional programs for the training of doctors of medicine and osteopathy.

§513.13. Economic Feasibility. The proposed project shall be economically feasible to finance and to operate. The applicant shall address at least the following:

(1) the reasonableness of the project cost, as defined in §505.1 of this title (relating to Definitions);

(2) the start-up costs, including at least the following:

(A) staff recruitment, and

(B) deficit operation until expected revenue is realized;

(3) the source and method of revenue to finance the project. In addition, if applicable, the applicant shall address the following:

(A) when revenue bonds are one source of funds, the adequacy of past revenues for operations and debt repayment and the total amount of the bond issuance to be utilized to fund the project; or

(B) when general obligation bonds are one source of funds, the sufficiency of the tax base to sustain repayment and the total amount of the bond issuance to be utilized to fund the project;

(4) the terms of the financing to include at least the following:

(A) interest;

(B) principal;

(C) restrictions on additional debt;

(D) period of indebtedness;

(E) total annual debt service requirements;

(F) total long-term debt service requirements;

and

(G) other relevant terms of the financing as applicable;

(5) financial information to include audited or notarized financial statements for the most recent three years and a one year *pro forma* operating budget. The financial information shall include operating revenues, deductions from operating revenues (including contractual adjustments, bad debt, and charity service), operating expenses, nonoperating revenue and expenses, net income, assets, liabilities, net worth or fund balance, and other pertinent financial information, all as determined by generally accepted accounting principles, sufficient for the commission to determine at least the following:

(A) the availability of funds for capital and operating requirements;

(B) the projected break-even operation of the project;

(C) projected date of break-even; and

(D) method of projecting break-even (the break-even methodology should incorporate, at a minimum, the fixed costs, variable costs, and projected revenue associated with the proposed project).

§513.15. Relationship to Plans. The commission shall consider the consistency of the project with the applicable existing plans, including:

(1) the state health plan;

- (2) the appropriate health systems plan and annual implementation plan; and
- (3) the short-range development plan (three years) and the long-range development plan of the applicant.

§513.17. Special Requirements.

(a) The commission shall consider the special requirements and circumstances of facilities that:

- (1) provide substantial services to indigents;
- (2) provide a substantial portion of services to persons residing outside the immediate medical service area in which the facility is located;
- (3) provide services to rural or sparsely populated areas; and
- (4) provide biomedical and behavioral research programs designed to meet national requirements.

(b) The special requirements or circumstances of the project must be identified. In addressing paragraphs (1)-(3) of subsection (a) of this section, the applicant shall identify the numbers of persons presently served and to be served in the medical service area, the health service area, the contiguous health service areas, the state, and areas outside the state.

§513.19. Special Requirements for Conserving Energy. The commission shall consider the special requirements and circumstances of facilities that propose projects involving energy conservation.

§513.21. Space Not Utilized After Construction.

(a) When a proposed construction and/or renovation project requiring a certificate of need will result in an area which will not be utilized within one year after completion of the project, the applicant shall address the following:

- (1) the specific planned use for the area;
- (2) when the facility anticipates a requirement for the use of the area and whether that projection is consistent with the facility's development plans; and
- (3) whether the construction or renovation that results in the unutilized area is consistent with the appropriate health systems plan, annual implementation plan, and state health plan.

(b) The commission shall consider all other relevant criteria in addition to the foregoing when reviewing an application for certificate of need which will result in an area which will not be utilized within one year after completion of the construction and/or renovation project.

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 April 27, 1984

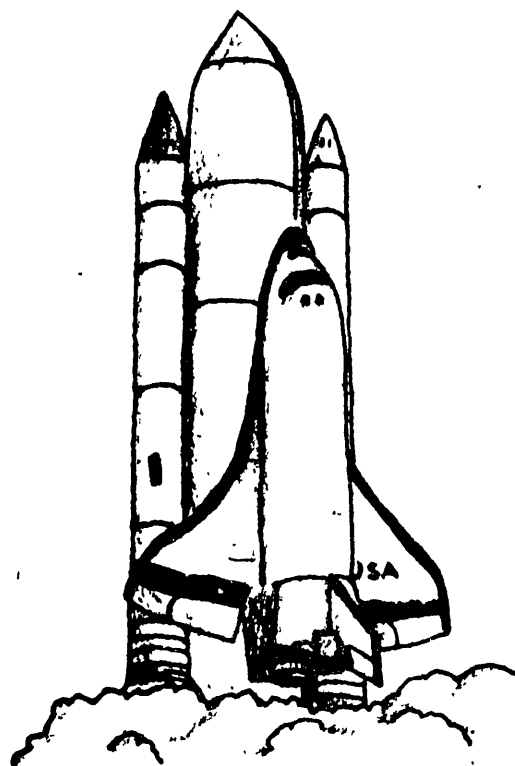
TRD-844747

W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.



Subchapter D. Criteria for Use in Reissuance of Certificate of Need Reviews

25 TAC §513.51, §513.53

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §513.51 and §513.53, concerning criteria for use in reissuance of certificate of need reviews.

This repeal is necessary to adopt new sections which will clarify existing operational practices, policies, and procedures. The effect of the proposed repeal would be to allow the adoption of new sections which would clarify the agency's requirements for determining whether good cause exists to reissue a certificate of need.

Carol S. Daniels, deputy administrator, has determined that for the first five year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies,

procedures, and regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections, determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§513.51. *Need Not Adjudicated.*

§513.53. *Criteria for Reissuance.*

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 April 27, 1984

TRD-844748 W. G. Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940

The Texas Health Facilities Commission proposes new §513.51 and §513.53, concerning criteria for use in reissuance of certificate of need reviews. These new rules are necessary to clarify existing operational practices, policies, and procedures. The effect of the new rules, if adopted, would be to clarify the agency's requirements for determining whether good cause exists to reissue a certificate of need.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In

addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new rules are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§513.51. *Need Not Adjudicated.* In considering a petition for reissuance, the commission will not readjudicate the question of whether need exists for the project.

§513.53. *Criteria for Reissuance.* The commission shall determine whether good cause exists to reissue the certificate of need through an examination of the following:

(1) a descriptive list of all predevelopment activities undertaken during the 180 days after the order became administratively final;

(2) the reason(s) the former certificate holder did not commence development within 180 days after the order became administratively final; and

(3) a projected schedule for development and completion of the project, together with evidence that the schedule can reasonably be met

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 April 27, 1984

TRD-844749 W. G. Kirklín
 Chairman
 Texas Health Facilities
 Commission

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July 1, 1984

For further information, please call (512) 475-6940.

Chapter 515. Commission Review of Applications

Subchapter A. Parties to Commission Review of Applications

25 TAC §§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21, 515.23

(Editor's note The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin)

The Texas Health Facilities Commission proposes the repeal of §§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21, and 515.23, concerning parties to commission review of applications. These repeals are necessary to adopt

new rules which will delete all references to Health Systems Agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Services Act, § 1536, to terminate HSA operations; clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination.

The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would advise potential applicants that HSA review is no longer required, clarify the agency's regulatory requirements for filing as a party or interested person to an application, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is to permit the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Austin, Texas 78731, through 5 p. m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, § 2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §515.1. *Request to Become a Party.*
- §515.3. *Participation of Interested Person.*
- §515.5. *Rights and Responsibilities of a Party.*
- §515.7. *Rights and Responsibilities of an Interested Person*
- §515.9. *Form of Request to Become a Party.*
- §515.11. *Copies of Request Forwarded to Other Persons*
- §515.13. *Timely Party Request—Certificate of Need Applications.*
- §515.15. *Timely Party Request—Other Types of Applications and Petitions.*
- §515.17. *Admission of Party.*
- §515.19. *HSA as a Party—Certificate of Need Applications*

§515.21. *Commission as a Party.*

§515.23. *Applicant as a Party.*

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 April 27, 1984.

TRD-844751

W. G. Kirklín
Chairman
Texas Health Facilities
Commission

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For further information, please call (512) 475-6940.

25 TAC §§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21

The Texas Health Facilities Commission proposes new §§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, and 515.21, concerning parties to commission review of applications.

These new sections are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required, to clarify the agency's regulatory requirements for filing as a party or interested person to an application, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin,

Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§515.1. Request to Become a Party. A person may request admission as a party to the commission review of an accepted application by filing a request to become a party. When applications are joined, a separate request to become a party must be filed on each application in which party status is desired. In the event that an application(s) is redated and reaccepted by the commission, all parties shall be automatically accorded continuing party status. When the request is in the proper form and has been timely filed pursuant to this subchapter, the hearing officer shall admit the person filing the request as a party.

§515.3. Request to Become an Interested Person. A person who has not been admitted as a party may attend a hearing on an application and present evidence as an interested person by filing a request to become an interested person. When applications are joined, a separate request to become an interested person must be filed on each application in which interested person status is desired. In the event that an application(s) is redated and reaccepted by the commission, all interested persons shall be automatically accorded continuing interested person status. When the request is in the proper form and has been timely filed pursuant to this subchapter, the hearing officer shall admit the person filing the request as an interested person.

§515.5. Rights and Responsibilities of a Party. A party to an application has the right to participate in prehearing conferences, present evidence, raise objections, cross-examine witnesses at a hearing, and appeal a ruling of the commission as provided by law. Transcription costs shall be apportioned among the parties to an application with the exception of the commission.

§515.7. Rights and Responsibilities of an Interested Person. An interested person may present evidence regarding the application. The applicant and parties may cross-examine witnesses presented by an interested person. An interested person may not cross-examine the witnesses of the applicant and parties, object to evidence presented by the applicant or parties, or appeal a decision rendered by the commission. An interested person may be represented by counsel. An interested person is not responsible for sharing in the costs of the transcription of the hearing.

§515.9. Form of Request to Become a Party or Interested Person. The form of the request to become a party or interested person to an application must substantially meet the following criteria:

- (1) identify the status (party or interested person) sought;
- (2) identify the subject application;
- (3) contain the name of the person intending to become a party or interested person to the application and his representative;
- (4) contain the name of the facility, if any, the person represents or has some interest in;
- (5) identify the legal owner of the facility listed in paragraph (4) of this section;
- (6) specify the reasons why the applicant should or should not be granted the relief sought;
- (7) contain an affirmation that a copy of the request has been mailed by certified mail, return receipt requested, or hand-delivered to the applicant, other parties, and interested persons; and
- (8) contain an affirmation of truth and acknowledgment as it appears in the following:

I do solemnly swear or affirm that the information, dates, and representations submitted and included in this request to become a party (or interested person) are, in each and every respect, true, accurate, and correct to the best of my knowledge, and no misrepresentations of any nature are contained herein.

Movant's Signature

Facility Name (If Any)

The State of _____

County of _____

Subscribed and sworn to before me, the undersigned authority, by _____ to certify which witness my hand and seal of office, this the _____ day of _____, 19_____

Notary Public in and for the State of _____

(or other official duly authorized to take acknowledgments)

§515.11. Copies of Request Forwarded to Other Persons. A copy of the request to become a party or interested person must be forwarded to the applicant and other parties or interested persons by certified mail, return receipt requested, or hand-delivered.

§515.13. Timely Party or Interested Person Request—Certificate of Need Applications. The commission shall consider a request to become a party or interested person to a certificate of need application as timely filed when the request is received at the commission's office on or before 5 p.m. on the 30th calendar day after the dating and acceptance of the certificate of need application.

§515.15. Timely Party or Interested Person Request—Other Types of Applications and Petitions. The commission shall consider a request to become a party or interested person to all other types of applications or petitions to be timely filed when the request is received at the commission's office by 5 p.m. on the 10th day after notice of the application or petition is published in the *Texas Register*.

§515.17. Admission of Party or Interested Person. The hearing officer shall give written notification of the

admission of a person as a party or interested person to the person admitted, the applicant, and other parties or interested persons.

§515.19. Commission as a Party. The chairman may admit the commission as a party to a certificate of need application on or before 5 p.m. on the 30th calendar day after the dating and acceptance of the application. In the case of any other type of application or petition, the chairman may admit the commission as a party to the application or petition on or before the 10th day after notice of the application or petition is published in the *Texas Register*. The chairman shall provide written notice to all parties or interested persons of the admission of the commission as a party.

§515.21. Applicant as a Party. The commission shall consider the applicant a party.

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 April 27, 1984

TRD-844750 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter B. Hearing Requirements

25 TAC §§515.31, 515.33, 515.35, 515.37, 515.39, 515.41, 515.43, 515.45, 515.47, 515.49

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§515.31, 515.33, 515.35, 515.37, 515.41, 515.43, 515.45, 515.47, and 515.49, concerning hearing requirements. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations; clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would advise potential applicants that HSA review is no longer required, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is to permit the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§515.31. Petition for Hearing on Certificate of Need Application.

§515.33. Contested Certificate of Need Application.

§515.35. Uncontested Certificate of Need Application.

§515.37. Other Contested Applications or Petitions.

§515.39. Other Uncontested Applications or Petitions.

§515.41. Hearing on a Certificate of Need Application.

§515.43. Hearings on Other Applications or Petitions.

§515.45. Hearing Waiver on Applications or Petitions.

§515.47. Place and Time of Hearings.

§515.49. Application Dismissal.

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 April 27, 1984

TRD-844752 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
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For further information, please call (512) 475-6940.

25 TAC §§515.31, 515.33, 515.35, 515.37, 515.39, 515.41

The Texas Health Facilities Commission proposes new §§515.31, 515.33, 515.35, 515.37, 515.39, and 515.41, concerning hearing requirements. These new

rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new rules are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§515.31. Contested Application or Petition. The commission shall consider an application or petition contested when a person has been admitted by the hearing officer as a party or interested person to the application or petition, or when there are joined applications.

§515.33. Uncontested Application or Petition. The commission shall consider an application or petition uncontested when no person has been admitted as a party or interested person, and when the application is not joined with another application.

§515.35. Hearing on an Application or Petition. The commission shall conduct a hearing on an application or petition when the hearing on the application or petition

has not been waived pursuant to commission Rule 515.37 (§515.37 of this title (relating to Hearing Waiver on Applications or Petitions)). When a hearing is conducted, the applicant(s), parties, and interested persons shall attend the hearing and present evidence on the application (see §§515.119, 515.121, 515.123, 515.125, 515.127, 515.129, and 515.131 of this title (relating to Evidence)).

§515.37. Hearing Waiver on Applications or Petitions. The commission may review an application or petition without a hearing when a written agreement to waive hearing and a stipulation of fact have been executed by the chairman, the applicant, parties, and interested persons. Waivers shall be considered by the chairman only upon the expiration of the period for timely filing of party and interested person requests. In considering a request to waive a hearing, the commission may require that the applicant provide additional information regarding the relationship of the proposed project to commission criteria. Such information shall be requested no later than the 10th day following the deadline for party and interested person requests, and must be submitted under oath by the applicant no later than 12 days prior to the scheduled hearing date. Rulings on hearing waivers will be made following the commission's receipt and review of any requested additional information. In considering a request to waive hearing, the chairman shall consider the recommendation of the hearing officer.

§515.39. Place and Time of Hearings. Hearings before the commission will be held at the offices of the commission unless another location is specified by the chairman. Hearings shall be open to the public. The time of the hearing shall be specified by the chairman or his designee.

§515.41. Application Dismissal. The chairman may dismiss an application or petition for want of prosecution.

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 April 27, 1984

TRD-844753 W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption.

July 1, 1984

For further information, please call (512) 475-6940.

Subchapter C. Hearing Procedures

25 TAC §§515.61, 515.63, 515.65, 515.67, 515.69, 515.71, 515.73, 515.75, 515.77, 515.79, 515.81, 515.83, 515.85, 515.87

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§15.61, 15.63, 15.65, 15.67, 15.69, 15.71, 15.73, 15.75, 15.77, 15.79, 15.81, 15.83, 15.85, and 15.87, concerning hearing procedures.

This repeal is necessary to adopt new sections which will delete all references to health systems agencies (HSA's) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, and clarify existing operational practices, policies, and procedures. The effect of the proposed repeal would be to allow the adoption of new sections which would advise potential applicants that HSA review is no longer required, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §15.61. *Duties of the Hearing Officer.*
- §15.63. *Rules of Procedure.*
- §15.65. *Transcription of Hearing.*
- §15.67. *Waiver of Transcription.*
- §15.69. *Prehearing Conference.*
- §15.71. *Prehearing Motions.*
- §15.73. *Motion to Postpone Certificate of Need Hearing.*
- §15.75. *Motions to Postpone Hearing on Other Applications and Petitions.*
- §15.77. *Motion to Reschedule a Certificate of Need Hearing.*
- §15.79. *Motions During Hearing.*
- §15.81. *Rulings on Motions.*

- §15.83. *Conduct and Decorum.*
- §15.85. *Agreement to Be in Writing.*
- §15.87. *Reopened Hearings.*

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 April 27, 1984.

TRD-844754 W. G. Kirklín
Chairman
Texas Health Facilities
Commission

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July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§15.61, 15.63, 15.65, 15.67, 15.69, 15.71, 15.73, 15.75, 15.77, 15.79, 15.81, 15.83, 15.85, and 15.87, concerning hearing procedures.

These new sections are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, and to clarify existing operational practices, policies, and procedures. The effect of the new sections would be to advise potential applicants that HSA review is no longer required, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules also provide more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the

Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§515.61. *Duties of the Hearing Officer.* The hearing officer assigned to an application shall conduct the hearing, shall keep a complete record of each hearing, and shall transmit the record, including a recommendation on the application, to the commission when completed. The hearing officer shall have the authority to administer oaths, to examine witnesses, to receive evidence, to rule upon the admissibility of evidence, to issue subpoenas during the course of a hearing, to recess a hearing, and to take other actions consistent with the Act, commission rules, and the APA, in order to provide a fair, just, and proper hearing.

§515.63. *Rules of Procedure.* The hearing officer, in conducting hearings, shall utilize procedures set out in the Act, commission rules, and the APA. When the Act, commission rules, and the APA fail to address specific procedural issues, the hearing officer shall utilize the Texas Rules of Civil Procedure as a procedural guide.

§515.65. *Transcription of Hearing.* A written transcript is required of all hearings. The commission shall be furnished the original copy of the transcript without charge. Parties, excluding the commission, shall share the costs of the original copy of the transcript equally. If any party or any interested person desires a copy of the transcript, one may be obtained from the court reporter at the established rate agreed upon by the commission and the court reporter. The commission will designate the court reporter to prepare the transcript.

§515.67. *Waiver of Transcription.* In contested applications, the chairman, the applicant, and parties may, by written agreement, waive the requirement of a written transcription of the hearing on an application. In uncontested applications, the agreement to waive transcription shall be dictated into the record by the hearing officer. The commission shall electronically record the proceedings when the transcription requirements have been waived.

§515.69. *Prehearing Conference.* The assigned hearing officer may direct the applicant, parties, and interested persons to appear at a specified time and place for a conference prior to the hearing for the purpose of considering:

- (1) the simplification of issues;
- (2) the making of stipulations;
- (3) the procedures to be followed at the hearing;
- (4) the identification and limitation of the number of witnesses;
- (5) the exchange of prepared testimony and exhibits;
- (6) matters to be officially noticed; and
- (7) other matters which may expedite the hearing.

§515.71. *Prehearing Motions.* Prior to a hearing, a party may present motions to the commission. A motion shall be in writing, shall be made under oath, shall set forth the relief sought, and shall state the grounds upon which it is made. The movant shall submit the motion

to the commission and provide a copy of the motion to the parties and interested persons.

§515.73. *Motion to Postpone Certificate of Need Hearing.* An applicant or party, by written motion prior to hearing, may request postponement of a hearing on a certificate of need application for a reasonable period not to exceed 45 days from the original hearing date. The chairman or his designee may postpone a hearing on a certificate of need application on a showing of good cause.

§515.75. *Motions to Postpone Hearing on Other Applications and Petitions.* An applicant or party, by written motion prior to hearing, may request that the chairman postpone a hearing on any other type of application or petition pending before the commission. The chairman or his designee may postpone a hearing on such an application or petition on a showing of good cause.

§515.77. *Motion to Reschedule a Certificate of Need Hearing.* An applicant or party, by written motion, may request rescheduling of a hearing on a certificate of need application to a date 46 or more days after the original date of hearing. In granting a motion to reschedule a hearing on a certificate of need application, the chairman shall redate and reaccept the application and schedule a hearing for a date not less than 65 days and no more than 95 days after the redating and reacceptance of the application.

§515.79. *Motions During Hearing.* An applicant, party, or interested person, during the course of a hearing, may present motions to the hearing officer. A motion shall be in writing or dictated into the record, shall set forth the relief sought, and shall state the grounds upon which it is made.

§515.81. *Rulings on Motions.* The chairman or his designee shall rule on all prehearing motions. The commission shall rule on motions for rehearing. When a motion is presented during a hearing, the hearing officer shall either rule on it or present it and a recommendation to the chairman for a ruling.

§515.83. *Conduct and Decorum.* A person attending a proceeding before the commission shall exhibit proper decorum, courtesy, and respect for the commission and its staff.

§515.85. *Agreement to Be in Writing.* Agreements among the applicant, the parties, and the commission must be in writing and filed with the commission or dictated into the record at a hearing.

§515.87. *Reopened Hearings.*

(a) An applicant, party, or interested person may request that a hearing on an application be reopened after adjournment by filing with the commission a sworn written motion which states the reasons why the hearing should be reopened. The motion must be filed with the commission at least 48 hours prior to the open meeting at which the commission is scheduled to consider the application. A copy of the motion must be delivered to the parties and interested persons prior to filing the motion with the commission.

(b) The chairman may, on his motion or on the motion of a party or interested person, and after consideration of the assigned hearing officer's recommendation on

the motion, require that the hearing on an application be reopened. The party or interested person seeking to reopen the hearing must establish that good cause exists to reopen the hearing.

(c) The chairman shall have the authority to limit evidence at the reopened hearing to particular matters and issues considered relevant. The chairman may require publication of notice of the reopened hearing by the party or interested person requesting the reopened hearing. Notice of the reopened hearing shall be published at the time and in the manner prescribed by the chairman. The party or interested person shall furnish the commission two copies of the newspaper page immediately after publication.

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 April 27, 1984.

TRD-844755 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter D. Evidence

25 TAC §§515.101, 515.103, 515.105,
515.107, 515.109, 515.111, 515.113,
515.115, 515.117, 515.119

(Editor's note. The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§515.101, 515.103, 515.105, 515.107, 515.109, 515.111, 515.117, and 515.119, concerning evidence. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations, clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, will allow the adoption of new rules which will advise potential applicants that HSA review is no longer required, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §515.101. *Burden of Proof.*
- §515.103. *Rules of Evidence*
- §515.105. *Sworn Testimony.*
- §515.107. *Limiting the Number of Witnesses.*
- §515.109. *Official Notice.*
- §515.111. *Prepared Testimony.*
- §515.113. *Depositions.*
- §515.115. *Subpoenas.*
- §515.117. *Discovery.*
- §515.119. *Nonparty Witness and Mileage Fees.*

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 April 27, 1984.

TRD-844756 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

25 TAC §§515.101, 515.103, 515.107,
515.109, 515.111, 515.113, 515.115,
515.117, 515.119, 515.121, 515.123,
515.125, 515.127, 515.129, 515.131

The Texas Health Facilities Commission proposes new §§515.101, 515.103, 515.105, 515.107, 515.109, 515.111, 515.113, 515.115, 515.117, 515.119, 515.121, 515.123, 515.125, 515.127, 515.129, and 515.131, concerning evidence.

These new sections are necessary to delete all references to health systems agencies (HSAs) in recogni-

tion of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations, to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new sections would be to advise potential applicants that HSA review is no longer required, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the enforcing the rules as proposed is greater clarity for the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules also will provide more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§515.101. Burden of Proof. The burden of proving entitlement, by a preponderance of the evidence, to the relief requested in an application or other matter properly before the commission shall be on the applicant or moving party.

§515.103. Rules of Evidence. Hearings before the commission shall be conducted in accordance with the provisions outlined in the APA, except where such provisions are inconsistent with the Texas Health Planning and Development Act, Texas Civil Statutes, Article 4418h

§515.105. Sworn Testimony. A witness shall be orally sworn prior to presenting testimony. A witness shall also execute a written oath.

§515.107. Limiting the Number of Witnesses. The hearing officer may limit the number of witnesses testify-

ing at a hearing when it appears necessary to avoid cumulative and unduly repetitious testimony.

§515.109. Official Notice. Official notice may be taken at a hearing of judicially cognizable facts and generally recognized facts within the area of the commission's specialized knowledge. Before or during the hearing, the hearing officer shall notify the parties of the material to be officially noticed, including staff memoranda or data. The hearing officer shall afford the parties an opportunity to contest the material noticed.

§515.111. Discovery.

(a) Upon proper motion by any party and the submission of two copies of a proposed discovery order prepared in substantial compliance with the commission's authorized form, the chairman may issue an order to compel any or all of the various discovery available pursuant to the APA, §14a. The procedures for seeking, objecting to, ordering, and making discovery pursuant to this rule will be governed by the APA, §14a, and by this rule. A motion to compel discovery pursuant to this rule must be filed with the commission and received by all other parties to the proceeding no later than the 37th day following the dating and acceptance of the application(s). The party from whom discovery is requested shall, no later than the 44th day following the dating and acceptance of the application(s), file with the commission and all other parties to the proceeding, a written response to the motion. The response shall state, with respect to each item or category of items:

- (1) that inspection or other requested action will be permitted as requested; or
- (2) an objection giving specific reasons why discovery should not be permitted.

(b) If objections are filed, the chairman or his designee may conduct, upon request of any party to the proceeding or on his own motion, a hearing on the motion. In ruling on the motion, the chairman shall determine whether good cause exists to order discovery and may make any of the kind of orders permitted by the Texas Rules of Civil Procedure, §186b. In the case of failure of a party to comply with an order issued pursuant to this rule, the chairman may seek enforcement by suspending processing of the application until the applicant complies or by striking status as a formal party until the party complies.

§515.113. Depositions. Upon proper motion by any party and the submission of two copies of a proposed commission to take a deposition prepared in substantial compliance with the commission's authorized form, the chairman may issue a commission to require that the deposition of a witness be taken. The procedures for seeking, ordering, and enforcing commissions to take depositions will be governed by the APA, §14, and by this rule. A motion to issue a commission must be filed with the commission and received by all other parties to the proceeding no later than the 37th day following the dating and acceptance of the application(s). The other parties to the application may file with the commission a response to the motion no later than the 44th day following the dating and acceptance of the application(s). In ruling on the motion, the chairman shall determine whether good cause exists to issue the commission requiring the deposition.

The commission issued may authorize the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, any books, records, papers, accounts, or documents as may be necessary and proper for the purposes of the proceeding. In the case of failure to comply with a commission issued pursuant to this rule, the chairman may seek enforcement pursuant to the APA, §14(n), may suspend processing of the application until the applicant complies, or may strike status as a formal party until the party complies.

§515.115. Subpoenas.

(a) Upon proper prehearing motion by any party and the submission of two copies of a proposed subpoena prepared in substantial compliance with the commission's authorized form, the chairman may issue a subpoena to require the attendance of a witness, and the production of any books, records, papers, accounts, or documents at a commission hearing as may be necessary and proper for the purposes of the proceeding. The procedures for seeking, ordering, and enforcing subpoenas will be governed by the APA, §14, and by this rule. A motion to issue a subpoena must be filed with the commission and received by all other parties to the proceeding no later than the 37th day following the dating and acceptance of the application(s). The other parties to the application may file with the commission a response to the motion no later than the 44th day following the dating and acceptance of the application(s). In ruling on the motion, the chairman shall determine whether good cause exists to issue the subpoena(s).

(b) Upon proper motion and the submission of two copies of a proposed subpoena prepared in substantial compliance with the commission's authorized form presented during the course of a hearing, the hearing officer may issue a subpoena to require the attendance of a witness and the production of any books, records, accounts, papers, or documents as may be necessary and proper for the purposes of the proceeding. The procedures for seeking, ordering, and enforcing subpoenas will be governed by the APA, §14, and by this rule. In ruling on a motion to issue a subpoena, the hearing officer shall first determine whether good cause exists for failure to request the subpoena(s) pursuant to subsection (a) of this section and, if so, whether good cause exists to issue the subpoena(s).

(c) In the case of failure to comply with a subpoena issued pursuant to subsection (a) or subsection (b) of this rule, the chairman may seek enforcement pursuant to the APA, §14, may suspend processing of the application until the applicant complies, or may strike status as a formal party until the party complies.

§515.117. Nonparty Witness and Mileage Fees.

(a) A witness or deponent who is not a party (or an employee, agent, or representative of a party) and who is subpoenaed or otherwise compelled to attend a commission hearing, to attend a proceeding to give a deposition, or to produce books, records, papers, accounts, documents, or other objects that may be necessary and proper for the purposes of the hearing or proceeding is entitled to receive:

(1) transportation costs as follows:

(A) mileage of \$.20 per mile for going to and returning from the place of the hearing or the place where the deposition is taken if the place is more than 25 miles one way from the person's city of residence; or

(B) the actual cost of air (lowest available fare, but not to exceed coach fare) and ground transportation for going to and returning from the place of the hearing or the place where the deposition is taken; and

(2) other costs as follows:

(A) a fee of \$10 per day, plus

(B) any actual out-of-pocket expenses incurred in attending the hearing or the proceeding (e.g., lodging, meals, parking fees, or taxi fares), but not to exceed \$75 per day.

(b) To secure payment of the fees identified in subsection (a) of this section, the person requesting the attendance of the witness or deponent must, when filing a motion for the issuance of a subpoena or a commission to take a deposition, deposit with the commission the funds estimated to accrue pursuant to subsection (a) of this section.

§515.119. Required Prepared Testimony. On all certificate of need applications which are either contested by one or more formal parties or joined and on which the hearing has not been waived pursuant to commission rules, the direct testimony of all witnesses (including all expert reports or other exhibits to be offered through the witness) for the applicant(s) and the party(ies) shall be reduced to writing, sworn to, and filed with the commission and received by all other applicants and/or parties no later than 15 days prior to the scheduled hearing on the application(s). Expert reports which would otherwise be discoverable under §515.111 of this title (relating to Discovery) shall be provided pursuant to this rule. In the event that the hearing is postponed, continued, or rescheduled prior to the deadline established in this rule for the filing of prepared direct testimony, the deadline shall be postponed to no later than 15 days prior to the new hearing date. In the event that a reopened hearing or rehearing is ordered by the chair or commission on an application(s), the chair may order the submission of prepared testimony and establish the time and procedures for the filing of the prepared testimony.

§515.121 Form, Content, and Submission of Prepared Testimony. Prepared testimony required by §515.119 of this title (relating to Required Prepared Testimony) shall be presented in question and answer form. When the direct testimony of a witness involves the offering of and references to expert reports or other exhibits, the prepared testimony shall reflect the number to be accorded the particular exhibit and the exhibit shall be numbered accordingly. The agent or attorney for the applicant or party shall be responsible for numbering the exhibits and their appropriate references in the prepared testimony. In meeting this responsibility, the agent or attorney shall number the exhibits consecutively in accordance with the witnesses' expected order of appearance at the hearing. In addition, each exhibit shall identify the sponsoring applicant or party (e.g., Hospital A—Exhibit 1). Three copies of the prepared testimony and related exhibits shall be submitted to the commission. The prepared testimony and related exhibits of each witness shall be provided on

8½-inch-by-14-inch paper, shall be separately bound, the pages of each witness's prepared testimony shall be numbered consecutively, and each page shall identify the witness by name. One of the three copies submitted prior to the hearing shall be utilized in the hearing for the purpose of marking and introduction into evidence pursuant to §§515.123-515.127 of this title (relating to Evidence).

§515.123. Prepared Testimony—Adoption. Prepared testimony may be offered into evidence at the hearing provided that the witness is present and has been sworn, the witness identifies and adopts the written testimony as his own, and all other applicants, parties, and the commission have received the prepared testimony at least 15 days prior to the hearing. Presence of the witness at the hearing and his identification and adoption of his prepared testimony may be waived upon agreement of the applicant(s), parties, and the commission.

§515.125. Prepared Testimony—Objections and Cross-Examination. Prepared testimony shall be subject to objection and may be stricken by the hearing officer. The witness shall be subject to cross-examination unless his presence at the hearing has been waived pursuant to §515.123 of this title (relating to Prepared Testimony—Adoption).

§515.127. Prepared Testimony—Treatment. Prepared direct testimony, following any objections and the hearing officer's rulings thereon, shall be numbered by the hearing officer and admitted into evidence as an exhibit without the necessity of reading the prepared testimony into the transcript of the hearing. The hearing officer shall assign letter exhibit numbers (e.g., Hospital A—Exhibit A) to the prepared testimony in accordance with the order of the witness' appearance in the hearing. Prenumbered exhibits (see §515.121 of this title (relating to Form, Content, and Submission of Prepared Testimony)) referenced in the prepared testimony will retain the same numbers.

§515.129. Prepared Testimony—Failure to Timely File. Failure of an applicant or party to comply with the timely service requirements for prepared testimony set forth in §515.119 of this title (relating to Required Prepared Testimony) shall be ruled on by the chair, following consideration of any motions, responses, and a recommendation of the assigned hearing officer. In ruling on such failure, the chairman shall consider the reasons for the failure and the potential harm to other applicants, parties, and the commission. The chairman may:

- (1) redate and reaccept the application, reschedule the hearing on the application, and, if applicable, sever the application from any other joined applications;
 - (2) postpone the hearing on the application(s);
 - (3) order the hearing to proceed as scheduled;
 - (4) strike a person as a party to the proceeding;
- or
- (5) take any other action deemed necessary to afford a fair and just proceeding to all applicants and parties.

§515.131 Prepared Testimony—Modifications, Additions, or Deletions.

(a) An applicant or party shall be prepared to go forward at the hearing on the prepared testimony previously submitted and the prepared testimony, with at-

tached expert reports and other exhibits, should be of such composition, scope, and format so as to serve the applicant's or party's complete case. In the event that proposed modifications, additions, or deletions to the applicant's or party's direct case are presented during the course of the hearing, the hearing officer, following consideration of any motions and responses, shall either rule on the proposed modification, addition, or deletion or submit a recommendation to the chairman. In acting on such matters, the hearing officer or chairman shall consider the reasons for the proposed modifications, additions, or deletions and the potential harm to other applicants, parties, and the commission. The hearing officer may:

- (1) allow the modification, addition, or deletion to be made and continue the hearing; or
- (2) allow the modification, addition, or deletion to be made and recess the hearing for a period of time deemed necessary to allow other applicants and/or parties to evaluate the modification, addition or deletion; or
- (3) disallow the modification, addition, or deletion; or
- (4) present the matter(s) to the chairman for any action permitted by §515.129 of this title (relating to Prepared Testimony—Failure to Timely File).

(b) Modifications, additions, or deletions which are made to the prepared testimony subsequent to the 15th day prior to the hearing shall be submitted to the commission, other applicants, and parties in the form prescribed in §515.121 of this title (relating to Form, Content, and Submission of Prepared Testimony). In instances where previously filed testimony or exhibits are being modified, the modification shall be identified and labeled with the same identification previously assigned, with the word "change" added. In instances where only a portion of the testimony or exhibit is to be modified, only the affected pages shall be submitted in the manner described in this subsection. For additional testimony or exhibits which have not previously been submitted, labeling and numbering shall be assigned in consecutive order with the applicant's or party's prior submissions.

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 April 27, 1984.

TRD-844757

W. G. Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.



Chapter 517. Commission Action on Applications and Other Matters

25 TAC §§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47, 517.49

(Editor's note. The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47, and 517.49, concerning commission action on applications and other matters. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations; clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, is to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, advise potential applicants that HSA review is no longer required, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West

38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §517.1. *Record of Proceedings.*
- §517.3. *Ex Parte Communications.*
- §517.5. *Consideration of Recommendations and Comments.*
- §517.7. *Commission Open Meeting.*
- §517.9. *Ruling Postponement—Prior to Open Meeting.*
- §517.11. *Quorum.*
- §517.13. *Oral Argument.*
- §517.15. *Commission Vote.*
- §517.17. *Certificate of Need Order.*
- §517.19. *Amendment of Previously Issued Commission Orders.*
- §517.21. *Declaratory Ruling Order.*
- §517.23. *Reissuance of Certificate of Need Orders.*
- §517.25. *Rulings on Notices of Intent and Applications for Exemption.*
- §517.27. *Contents of Orders.*
- §517.29. *Persons Entitled to Copies of Orders.*
- §517.31. *Petitions for Reconsideration.*
- §517.33. *Reconsideration of Commission Orders.*
- §517.35. *Motions for Rehearing.*
- §517.37. *Commission Action on Motions for Rehearing.*
- §517.39. *Good Cause for Reconsideration or Rehearing.*
- §517.41. *Written Notice of Rehearing.*
- §517.43. *Order Final and Not Appealable.*
- §517.45. *Order Final and Appealable.*
- §517.47. *Dated Order.*
- §517.49. *Commission Findings to HSA.*

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 April 27, 1984

TRD-844758 W G Kirklín
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.

25 TAC §§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47

The Texas Health Facilities Commission proposes new §§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35,

517.37, 517.39, 517.41, 517.43, 517.45, and 517.47, concerning commission action on applications and other matters. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations, to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to advise potential applicants that HSA review is no longer required, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§517.1. Record of Proceedings.

(a) The hearing officer shall maintain a complete record of the proceedings on an application. The record shall include at least the following:

- (1) pleadings, motions, and intermediate rulings;
- (2) the written or recorded transcript of the hearing;
- (3) evidence received or considered;
- (4) a statement of matters officially noticed;
- (5) objections and rulings thereon;

- (6) proposed findings of fact;
 - (7) staff memoranda or data submitted to or considered by the hearing officer or the commission in connection with the hearing; and
 - (8) the recommendation of the hearing officer.
- (b) When the record is complete, the hearing officer shall forward the record to the commissioners for review.

§517.3. Ex Parte Communications. Unless required for the disposition of *ex parte* matters authorized by law, a commissioner or hearing officer may not communicate, directly or indirectly, in connection with an issue of fact or law on a pending application with any agency, person, party, or their representatives, or commission employees who will participate or have participated directly in a hearing on a pending application, except on notice and opportunity for all parties to participate. For purposes of this rule, a pending application is an application or petition on which an administratively final decision has not been rendered by the commissioners. A commissioner or a hearing officer may communicate with commission employees who will not participate or have not participated directly in a hearing on a pending application for the purposes of utilizing the special skills or knowledge of the agency and its staff in evaluating evidence on a pending application.

§517.5. Consideration of Recommendations and Comments. The commissioners shall consider the recommendation of the hearing officer prior to ruling on an application.

§517.7. Commission Open Meeting. The commission shall rule by the vote of the commissioners on applications or other matters in open meeting. The commission shall rule on applications after the hearing on the application or after waiver of the hearing pursuant to these rules, and after service of the hearing officer's recommendation.

§517.9. Ruling Postponement—Prior to Open Meeting. A person may request that the chairman postpone ruling on an application or other matter scheduled for open meeting by filing a written motion with the commission. The motion must be filed at least 48 hours prior to the open meeting at which the commission is scheduled to consider the application or other matter. The chairman may postpone a ruling on an application upon the proper filing of a motion to postpone a ruling and a showing of good cause for the requested postponement.

§517.11. Quorum. The commission shall not transact business in an open meeting with fewer than two commissioners present.

§517.13. Oral Argument. Any person may submit a written request for oral argument before the commission in open meeting prior to the final determination of any matter properly before the commission. Oral argument shall be allowed only at the discretion of the chairman. A person shall limit argument before the commission to evidence of record in the matter under consideration. No visual displays or handouts may be utilized or distributed during oral argument.

§517.15. Commission Vote. Votes of the commission shall be based upon a motion made by any one of the

commissioners. Following a motion, an opportunity shall be afforded for discussion on the motion prior to calling for a vote on the motion. A motion of a commissioner regarding an application or other matter before the commission in an open meeting must receive the affirmative vote of one other commissioner to be ordered. Failure of a commissioner to obtain a second affirmative vote on the motion shall result in a denial of the motion only. In the event of the failure to obtain a second affirmative vote, a new motion must be made with an affirmative second required for approval of the motion and, thus, decision on the matter.

§517.17. Certificate of Need Order.

(a) The commission shall either grant or deny an application for a certificate of need by written order not later than 60 days following the date of publication of notice of hearing when the hearing has been waived, or not later than 90 days following the date of publication of notice of hearing on the application when the hearing has not been waived, unless:

- (1) a later date is agreed upon by the applicant, parties, and the commission; or
- (2) the hearing date has been delayed pursuant to commission rules or the Act.

(b) In the event the commission fails to take action within the time frame specified in subsection (a) of this section, the applicant may seek the appropriate remedies afforded by state law.

(c) When granting a certificate of need, the commission shall issue a certificate of need setting forth an affirmative finding that the proposed project satisfies the criteria established by the commission. When denying a certificate of need application, the commission shall issue an administrative order.

§517.19. Amendment of Previously Issued Commission Orders. The commission shall either grant or deny an application for an amendment of a previously issued commission order by issuing a written amendment order or an administrative order, respectively, not later than 60 days following the hearing on the application or 60 days following waiver of the hearing on the application pursuant to commission rules, unless a later date is agreed upon by the applicant, parties, and commission

§517.21. Declaratory Ruling Order. The commission shall issue a declaratory ruling by written order not later than 60 days following the hearing on an application or 60 days following waiver of hearing on an application pursuant to commission rules, unless a later date is agreed upon by the applicant, parties, and the commission.

§517.23. Reissuance of Certificate of Need Orders. The commission shall either grant or deny a petition for reissuance by issuing a written reissuance of certificate of need order or an administrative order, respectively, not later than 60 days following receipt of the petition, unless a later date is agreed upon by the applicant, parties, and commission.

§517.25. Rulings on Notices of Intent and Applications for Exemption. The commission shall rule on notices of intent to acquire major medical equipment, notices of intent to acquire an existing health care facility, notices of intent regarding research projects, and applications for

exemptions for HMO-related projects by issuing a declaratory ruling within 30 days after acceptance of the notice or application for exemption, unless a later date is agreed upon by the applicant, parties, and commission.

§517.27. Contents of Orders. A written order of the commission on an application or other matter must include findings of fact and conclusions of law separately stated. Findings of fact, when set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. The commission may prescribe, as conditions to a certificate of need order, limits on project cost, time periods for development and completion of the project, limits on the scope of the project, project status reports, and other conditions necessary for administering the Act and commission rules. A written order of the commission is issued when the order is signed by the commissioners.

§517.29. Persons Entitled to Copies of Orders. The commission shall forward copies of its orders to the applicant, parties, and interested persons. The commission shall, upon proper written request, forward a copy of an order to any other person.

§517.31. Petitions for Reconsideration.

(a) Any person not a party may petition the commission to reconsider a decision by filing a proper petition for reconsideration. The petition must be in writing and filed by 5 p.m. on the 15th day after the order that is the subject of the petition was issued. The petition must contain at least the following information:

- (1) the name and address of the person submitting the petition;
- (2) the identity of the order for which reconsideration is requested;
- (3) the reasons that the order should be reconsidered; and
- (4) an affirmation that a copy of the petition has been mailed by certified mail, return receipt requested, or hand-delivered to the applicant, other parties, and interested persons.

(b) The petition may include a request that a rehearing on the application that was the subject of the order be conducted. When a petition includes a request for a rehearing, the reasons for the rehearing must be stated in the petition.

(c) Replies to a petition for reconsideration must be filed with the commission within 25 days after the issuance of the order that is the subject of the petition.

§517.33. Reconsideration of Commission Orders. The commission, upon a showing of good cause, may reconsider an order within 45 days after it is issued on the petition of any person not a party. Upon reconsideration, the commission may modify, affirm, or reverse the order that is the subject of the reconsideration. The commission, on reconsideration of an order, upon a finding of good cause, may require a rehearing on the application that is the subject of the order being reconsidered. The failure of the commission to reconsider an order for which a petition was filed pursuant to this subchapter by the 45th day after the order was issued shall result in a denial of the petition. The commission may, however, extend the time period for ruling on the petition(s) by following

the same procedures as are specified in the APA, §16(e), for motions for rehearing.

§517.35. Motions for Rehearing. An applicant or party to an application that was the subject of a commission order may file a motion for rehearing with the commission within 15 days after the issuance of the written order by the commission. The motion must be filed by 5 p.m. on the 15th day after the order that is the subject of the motion was issued. Replies to a motion for rehearing must be filed with the commission within 25 days after the issuance of the order that is the subject of the motion. The commission shall consider a motion for rehearing to include a petition for reconsideration of an order.

§517.37. Commission Action on Motions for Rehearing. The commission must take action on a motion for rehearing within 45 days after the order that is the subject of the motion was issued. When the commission fails to act on a motion for rehearing within 45 days after the order is issued, the motion is considered to be denied by operation of law. The commission may grant a motion for rehearing on an application that is the subject of an order on a showing of good cause. The commission may extend the period of time for ruling on motions for rehearing as provided in the APA, §16(e).

§517.39. Good Cause for Reconsideration or Rehearing. The commission shall consider a petition for reconsideration or motion for rehearing to have shown good cause when the petition or motion:

(1) demonstrates that there have been changes in factors or circumstances which have occurred since closure of the record in the case which represent significant relevant information not previously considered by the commission in its review and decision on the application;

(2) demonstrates that the commission has materially failed to follow its adopted procedures in reaching its decision on the application that is the subject of the order; or

(3) provides such other grounds for a reconsideration or rehearing as the commission determines constitutes good cause.

§517.41. Written Notice of Rehearing. When the commission determines that a rehearing should be conducted on an application that is the subject of an order, the commission shall provide the parties, interested persons, and petitioners for reconsideration at least 10 days written notice of the rehearing. The commission may, in ordering a rehearing, limit evidence at the rehearing to particular matters and issues considered relevant. In such instances, the commission will provide notice of any limitations to all parties, interested persons, and petitioners for reconsideration in the written notice of rehearing.

§517.43. Order Final and Not Appealable An order of the commission is final and not appealable on the 16th day after it is issued when:

(1) the applicant or parties fail to file a motion for rehearing within 15 days after the order is issued; and

(2) persons who are not parties fail to file a petition for reconsideration within 15 days after the order is issued.

§517.45. Order Final and Appealable. An order of the commission is final and appealable to state district court when:

(1) the commission issues an order overruling any motions for rehearing and/or petitions for reconsideration; or

(2) any motions for rehearing and/or petitions for reconsideration are overruled by operation of law.

§517.47. Dated Order. A written order of the commission is dated as of the date the order is final and not appealable, or is final and appealable. This date shall be controlling for purposes of meeting any time deadlines established in a commission order, e.g., development, completion, and the filing of project status reports. Time deadlines established in a commission order shall be tolled upon the filing of an appeal in state district court. The time deadlines will automatically begin to run after the entry of an order in either state district or appellate court from which no further appeal can be taken.

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 April 27, 1984

TRD-844759

W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.



Chapter 519. Health System Agency Rules of Review

(Editor's note. The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §519.1 and §519.3, concerning purpose and definitions; §§519.11, 519.13, and 519.15, concerning an application review by a health systems agency; §§519.21, 519.23, and 519.25, concerning a written recommendation of a health systems agency; and §§519.31 and §519.33, concerning criteria. The repeal

is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations. The effect of the proposed repeals, if adopted, would be to advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy administrator, has determined that for the first five year period the repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeal is more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

Subchapter A: Purpose and Definitions

25 TAC §519.1, §519.3

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§519.1 *Purpose.*

§519.3 *Definitions.*

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 April 27, 1984

TRD-844760 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940

Subchapter B. Application Review by Health Systems Agency

25 TAC §§519.11, 519.13, 519.15

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health

Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§519.11. *Schedule for Review.*

§519.13. *Public Hearing.*

§519.15. *Hearing Attendance.*

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 April 27, 1984

TRD-844761 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter C. Written Recommendation of Health Systems Agency

25 TAC §§519.21, 519.23, 519.25

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§519.21. *Procedure.*

§519.23. *Contents.*

§519.25. *HSA Findings.*

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 April 27, 1984

TRD-844762 W. G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter D. Criteria

25 TAC §519.31, §519.33

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§519.31. *Utilization of Commission Criteria.*
§519.33. *HSA Criteria.*

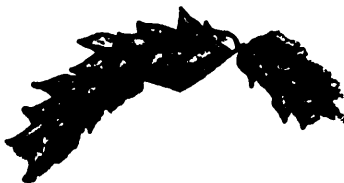
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

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TRD-844763 W G Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.



Chapter 523. Forfeiture

25 TAC §§523.1, 523.3, 523.5, 523.7

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§523.1, 523.3, 523.5, and 523.7, concerning forfeiture. This repeal is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures, and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for

review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act

- §523.1. *Automatic Forfeiture.*
- §523.3. *Initiation of Forfeiture Proceedings.*
- §523.5. *Review of Evidence Received at Forfeiture Hearing.*
- §523.7. *Written Order on Forfeiture.*

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 April 27, 1984

TRD-844764 W G Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption.
July 1, 1984

For further information, please call (512) 475-6940.

25 TAC §§523.1, 523.3, 523.5, 523.7, 523.9

The Texas Health Facilities Commission proposes new §§523.1, 523.3, 523.5, 523.7, and 523.9, concerning forfeiture. These new sections are necessary to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new sections would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the enforcing the rules as proposed is great-

er clarity for the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules also will provide more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§523.1. Automatic Forfeiture. A certificate of need is automatically forfeited for failure of the certificate holder to commence development within 180 days after the certificate of need order is dated.

§523.3. Forfeiture. A certificate, order, or ruling may be forfeited for failure to comply with any conditions established in the certificate, order, or ruling.

§523.5. Initiation of Forfeiture Proceedings. The chairman, upon his own motion or at the request of any person, may initiate forfeiture proceedings for a certificate, order, or ruling. When it is determined that forfeiture proceedings should be initiated, the chairman shall schedule a forfeiture hearing and issue a written order directing the named party to appear at the hearing and show cause why the certificate, order, or ruling should not be forfeited. The commission shall cause a notice of the forfeiture hearing to be published in the *Texas Register*. When a person has requested the initiation of forfeiture proceedings and the chairman schedules a forfeiture hearing, that person shall be treated as a party to the proceeding.

§523.7. Review of Evidence Received at Forfeiture Hearing. After review of the record developed at the forfeiture hearing and receiving a recommendation from the assigned hearing officer, the commission may find that the certificate, order, or ruling should be forfeited when the commission determines that:

- (1) the certificate holder or holder of the declaratory ruling has failed to proceed with reasonable diligence toward completion of a project, or
- (2) the certificate holder or holder of the declaratory ruling has failed to comply with any other conditions in the certificate, order, or ruling.

§523.9. Written Order on Forfeiture. Upon finding that the certificate, order, or ruling should be forfeited, the commission shall issue a written order setting forth

its decision and the findings of fact and conclusions of law supporting the decision.

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 April 27, 1984.

TRD-844765 W. G. Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

Chapter 525. Enforcement Subchapter A. Violation of the Act

**25 TAC §§525.1, 525.3, 525.5, 525.7, 525.9,
525.11, 525.13, 525.15**

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§525.1, 525.3, 525.5, 525.7, 525.9, 525.11, 525.13, and 525.15, concerning violation of the Act. This repeal is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures, and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Com-

mission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§525.1. *Violation Defined.*

§525.3. *Violation Reporting.*

§525.5. *Violation Complaint.*

§525.7. *Commission Action on Complaint.*

§525.9. *Show Cause Hearing.*

§525.11. *Parties to Show Cause Hearings.*

§525.13. *Public Notice of Show Cause Hearing.*

§525.15. *Commission Action.*

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 April 27, 1984

TRD-844766 W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§525.1, 525.3, 525.5, 525.7, 525.9, 525.11, 525.13, and 525.15, concerning violation of the Act.

These new sections are necessary to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new sections would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the enforcing the rules as proposed is greater clarity for the public concerning the commission's

operational practices, policies, procedures, and regulatory requirements. The proposed rules also will provide more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§525.1. *Violation Defined.* A person who commences development of a project without having appropriate authorization from the commission is in violation of the Act.

§525.3. *Violation Reporting.* Any person may report an alleged violation of the Act and/or the rules of the commission by filing a written complaint with the commission.

§525.5. *Violation Complaint.* The written complaint of an alleged violation shall set forth the name and address of the person alleged to be violating the Act and/or commission rules, as well as facts and circumstances sufficient to acquaint the commission with the alleged violation. A person is not required to submit a fee with a written complaint.

§525.7. *Commission Action on Complaint.* The chairman shall, within a reasonable period of time, notify the alleged violator of the complaint. The chairman or his designee may request a sworn written response to the complaint from the alleged violator.

§525.9. *Show Cause Hearing.* The chairman may, on his own motion or upon review of a written complaint and sworn response to the complaint, if any, order a show cause hearing to receive evidence relevant to the existence or nonexistence of a violation of the Act and/or commission rules. The chairman shall issue a written order directing the alleged violator to appear at a specific time, date, and place and show cause why the alleged violator should not be found in violation of the Act and/or commission rules. The written order shall identify the alleged violation.

§525.11. *Parties to Show Cause Hearings.* A person filing a complaint that is the subject of a show cause hearing shall be treated as a party to the proceeding.

§525.13. *Public Notice of Show Cause Hearing.* The commission shall publish a notice of the show cause hearing in the *Texas Register*.

§525.15. *Commission Action.* The commission may find, after review of the record developed at the show cause hearing and a review of the recommendation submitted by the assigned hearing officer, that a violation of the Act and/or the commission rules has occurred. Upon finding that a violation has occurred, the commission shall issue a written order setting forth its decision and the findings of fact and conclusions of law supporting the decision. Upon finding that a violation has occurred, the commission may issue a cease and desist order and, in addition, may request the attorney general to institute legal action to enjoin the violation or to recover civil penalties.

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 April 27, 1984

TRD-844767 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940



**Chapter 527. Miscellaneous
Provisions**
Subchapter A. Computing Time Periods
25 TAC §527.1

(Editor's note The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §527.1, concerning computing time periods. This repeal is necessary to adopt a new section which will clarify existing operational practices, policies, and procedures, and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to

the commission for determination. The effect of the proposed repeal would be to allow the adoption of a new section which would clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the adoption of a new section which will provide greater clarity for the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.1. *Time Periods.*

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 April 27, 1984

TRD-844768 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §527.1, concerning computing time periods. This new section is necessary to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new section would be to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government or small businesses as a result of enforcing or administering the rule.

John R. Neel, general counsel, has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of the enforcing the rule as proposed is greater clarity for the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rule also will provide more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new section is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.1. Time Periods.

(a) If a time period established by commission rule or order begins to run upon or after an act, event, or default, the day of the act, event, or default is not included. The last day of the period is included unless it is a Saturday, Sunday, or state holiday, in which event the period shall be extended to the end of the next day which is not a Saturday, Sunday, or state holiday.

(b) If a time period established by commission rule or order ends upon or before an act, event, or default, the day of the act, event, or default is not included. The first day of the period is included unless it is a Saturday, Sunday, or state holiday, in which event the period begins to run at the beginning of the next previous day which is not a Saturday, Sunday, or state holiday.

(c) In computing the two-year periods applicable to commission rules 507.3, 507.9, and 507.11 (§§507.3, 507.9, and 507.11 of this title (relating to Services, Bed License, and Bed Capacity)), the first two-year period began on September 1, 1981, and expired on August 31, 1983. Subsequent two-year periods shall be computed in like manner beginning on September 1, 1983.

(d) Where activities are to ensue under provisions of the rules cited in subsection (c) to add beds, redistribute beds, or add dialysis stations, without certificate of need review, the person shall file a letter notifying the commission of his intent prior to undertaking the activity. The letter shall contain at least the following information:

(1) the type of activity (e.g., construction, renovation) being undertaken;

(2) the gross area, if any, to be constructed and/or renovated;

(3) the number of beds and patient rooms, if any, to be added, or the number of dialysis stations to be added;

(4) the existing and proposed licensed beds, bed capacity, and numbers of beds by category for the facility;

(5) the total cost and categories of equipment required for the activity;

(6) the total cost of the activity; and

(7) schematic drawing (floorplans) illustrating the activity and its location in relation to the existing facility.

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 April 27, 1984.

TRD-844769

W. G. Kirklín
Chairman
Texas Health Facilities
Commission

Proposed date of adoption.

July 1, 1984

For further information, please call (512) 475-6940.

Subchapter B. Records of the Commission

25 TAC §527.11, §527.13

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §527.11 and §527.13, concerning records of the commission. This repeal is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures. The effect of the proposed repeals, if adopted, would be to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Com-

mission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.11. *Open Records.*

§527.13. *Requests for Inspection of Records.*

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

Issued in Austin, Texas, on April 27, 1984

TRD-844770 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §527.11 and §527.13, concerning records of the commission. These new sections are necessary to clarify existing operational practices, policies, and procedures. The effect of the new sections, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the Commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.11. *Open Records.* All information collected, assembled, or maintained by the commission in connection with its transaction of official business is public information under the provisions of the Open Records Act, Texas Civil Statutes, Article 6252-17a, and available for public inspection and disclosure during normal business hours.

§527.13. *Requests for Inspection of Records.*

(a) A request to inspect commission records must be made with reasonable prior notice in writing. A person requesting to inspect commission records must establish proper identification. The custodian of the records, the chairman of the commission, or his designee, will, upon written request, produce information for inspection or duplication. If a record requested is in storage, the custodian shall notify the requesting party in writing and shall set an hour and date when the record will be available. No person shall remove an original record from the offices of the commission.

(b) Any expense incurred in the reproduction, preparation, or retrieval of records shall be paid by the person requesting the record. The charge for such reproduction, preparation, and retrieval shall be in accord with the maximum charge established by the State Purchasing and General Services Commission. The maximum charge under one request for the first letter size or legal size page of a document is \$.55. The maximum charge for subsequent copies of the same document or of succeeding pages of said document is \$.15 per page. The commission may charge a lesser amount when the cost of reproducing said document or documents is less than the maximum charge established by the State Purchasing and General Services Commission. The commission may, upon request, mail reproduced records to any person who so requests. If the commission mails said records, a charge for postage may be included in the charge for reproduction. The charge for reproduction of a document must include state and local sales taxes of 5.0%. Postage is not subject to state and local sales tax. (Sales Tax Bulletin 5—Revised, Comptroller of Public Accounts) Requests for computerized documents or records will be billed at the actual cost of retrieval of such documents or records.

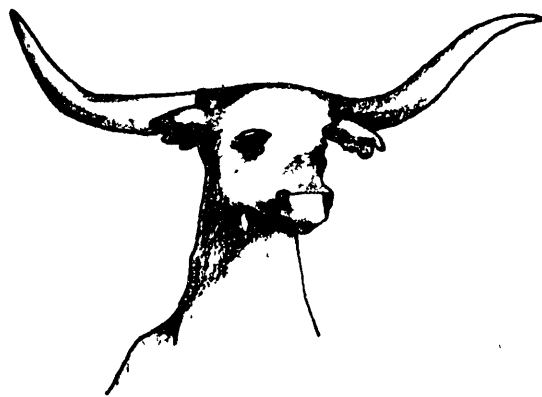
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 27, 1984.

TRD-844771 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.



- §527.21. *Weekly Newsletter.*
- §527.23. *Report of Applications Review.*
- §527.25. *Fee for Report of Applications Review.*

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 April 27, 1984

TRD-844772 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
 July 1, 1984

For further information, please call (512) 475-6940.

Subchapter C. Commission Publications

25 TAC §§527.21, 527.23, 527.25

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal §§527.21, 527.23, and 527.25, concerning commission publications. This repeal is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures. The effect of the proposed repeal, if adopted, is to allow the adoption of new rules which will clarify the agency's publication practices.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, and procedures. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

The Texas Health Facilities Commission proposes new §§527.21, 527.23, and 527.25, concerning commission publications. These new sections are necessary to clarify existing operational practices, policies, and procedures. The effect of the new rules, if adopted, would be to clarify the agency's publication practices.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, and procedures. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.21 *Weekly Mailout.* The commission shall prepare a weekly mailout detailing commission activity for mail circulation to subscribers. The annual subscription fee for the weekly mailout will be set by the chairman according to prevailing duplication and postage rates. Subscription charges shall be accrued as of the first day of the month during which the fee is received and thereafter for a period of 12 months. All payment of fees and charges are to be made by check or money order. Sub-

scription copies will be mailed beginning with the next regular mailing

§527.23. Report of Applications Review. The commission, at least once annually, shall prepare a report of the reviews of all applications being conducted, and a report of the reviews of all applications completed by the commission.

§527.25. Fee for Report of Applications Review. Any person may request a copy of the report of application reviews from the commission. The fee for a copy of the report of application reviews will be set by the chairman according to prevailing duplication and postage rates. Payment of fees and charges are to be made by check or money order.

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 April 27, 1984.

TRD-844773 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter D. Transitional Provisions

25 TAC §527.31, §527.33

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §527.31 and §527.33, concerning transitional provisions. This repeal is necessary to adopt new rules which will delete obsolete provisions of prior rules and clarify existing operational practices, policies, and procedures pertinent to applications submitted to the commission. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would advise potential applicants that the proposed new rules will not apply to applications filed prior to the effective date.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and

regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.31. Class B Home Health Agencies.

**§527.33. Applications Pending-as of
September 1, 1981**

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 April 27, 1984

TRD-844774 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

25 TAC §527.31

The Texas Health Facilities Commission proposes new §527.31, concerning transitional provisions. The new section is necessary to delete obsolete provisions of prior rules and clarify operational practices, policies, and procedures pertinent to applications submitted to the commission. The effect of the new rule, if adopted, is to advise potential applicants that the proposed new rule will not apply to applications filed prior to the effective date.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

John R. Neel, general counsel, has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Com-

mission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new section is proposed under Texas Civil Statutes, Article 4418h, §2 06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§527.31. *Effective Date* The rules in Chapter 501 of this title (relating to Description of the Commission), Chapter 503 of this title (relating to Rule-Making Procedures), Chapter 505 of this title (relating to Terms and Phrases), Chapter 507 of this title (relating to Certificate of Need Requirements), Chapter 509 of this title (relating to Application and Petition Procedures), Chapter 513 (Subchapter A and Subchapter D of this title (relating to Criteria)), Chapter 515 of this title (relating to Commission Review of Applications), Chapter 517 of this title (relating to Commission Action on Applications and Other Matters), Chapter 523 of this title (relating to Forfeiture), Chapter 525 (Subchapter A of this title (relating to Enforcement)) shall not apply to applications pending as of the effective date of those rules, but shall only apply to applications filed on or after the effective date of those rules.

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 April 27, 1984

TRD-844775 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption.

July 1, 1984

For further information, please call (512) 475-6940.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Fees for Copies of Records

37 TAC §1.122

The Texas Department of Public Safety proposes amendments to §1.122, concerning license issuance and driver records bureau fees. Statutory amendments increased the cost of a certified abstract of operating record to \$10. Section 1.122(e) updates the number

of drivers license records on file from eight million to 11 million.

Melvin C. Peeples, chief accountant II, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government for the first five-year period the rule will be in effect is an estimated increase in revenue of \$109,622 in 1984, \$120,631 in 1985, \$132,692 in 1986, \$145,964 in 1987, and \$160,559 in 1988. There is no anticipated effect on local government or small businesses for the first five-year period the rule will be in effect.

Bobby Curb, license issuance and driver records manager, has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is insurance that fees collected for a certified abstract of operating record are made in accordance with legislation. The anticipated economic cost to individuals who are required to comply with the rule as proposed is an estimated increase in the fee for copy of certified abstract of operating record.

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

The amendments are proposed under Texas Civil Statutes, Article 6687b, §21, and Article 6701h, §36, which provide the Texas Department of Public Safety with the authority to collect a fee of \$10 for a certified abstract of operating record furnished by the department upon request.

§1.122. License Issuance and Driver Records Bureau Fees.

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

(d) A certified abstract of complete licensing and operating record will be furnished for a fee of **\$10** [\$3.00] each, provided that the following information is furnished by the requestor:

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

(e) Requests for class type listings of names, addresses, and date of birth from Texas drivers license records requiring special programming and search of more than 11 [eight] million files will be furnished for a minimum fee of \$1,000. An additional fee of \$.05 per listing on computer printout or \$.03 per listing on magnetic tape will be required for each item in excess of 5,000, provided that the requestor must specify exact type information desired.

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 May 1, 1984

TRD-844914 James B Adams
 Director
 Texas Department of Public
 Safety

Earliest possible date of adoption

June 11, 1984

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

Chapter 25. Safety Responsibility Regulations

37 TAC §§25.4, 25.9, 25.13, 25.15, 25.16,
25.18, 25.20, 25.21

The Texas Department of Public Safety proposes amendments to §§25.4, 25.9, 25.13, 25.15, 25.16, 25.18, 25.20, and 25.21, concerning safety responsibility regulations

Section 25 4(b) is amended by deleting unnecessary language and adding subsection (i) to regulate new bonds authorized by the last legislature. Amendments to §25.9 and §25.15 substitute language for a better usage of words. An amendment to §25.13(d) removes the specified filing fee and adds language making statutory reference which would not require a rule amendment each time the filing fee is changed. An amendment to §25.16 removes the specified amount of the fee and adds language making statutory reference which makes the rule easier to administer. An amendment to §25.18(b) removes the specified fee and adds language referencing the applicable statute for flexibility. An amendment to §25.20(a)(3) removes the fixed limits of liability and adds language referencing the applicable statute. An amendment to §25.21(a)(3) removes the fixed limits of liability and adds language referencing the applicable statute.

Melvin C. Peeples, chief accountant II, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect on state government for the first-five period the rule will be in effect is an estimated increase in revenue of \$2,421,856 in 1984, \$2,664,042 in 1985, \$2,930,446 in 1986, \$3,223,491 in 1987, and \$3,545,840 in 1988. There is no anticipated effect on local government or small businesses for the first-five year period the rules will be in effect.

Winston Johnson, safety responsibility manager, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is insurance that the Safety Responsibility Act is administered by legislative intent through the fees collected. The anticipated economic cost to individuals who are required to comply with the rules as proposed is the statutory filing fee.

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

The amendments are proposed under Texas Civil Statutes, Article 6701h, §2a, which provide the Texas Department of Public Safety with the authority to promulgate rules and regulations to carry out the legislative intent of the Safety Responsibility Act.

§25.4. *Insurance.*
(a) (No change.)

(b) A showing [of proof] of financial responsibility by reporting automobile liability insurance coverage shall be made on Form SR-21.

(c)-(h) (No change.)

(i) A certificate of financial responsibility is issued under Texas Civil Statutes, Article 6701h, §1A(b)(3), where a party has a Section 24 real estate bond or a Section 25 cash or security bond. These bonds must be renewed each year (where proof is not required) with a statutory filing fee. Also, where proof is not required, the bond is cancellable at the request of the party. The form used for this bond is SR-135, a certificate of financial responsibility with the yearly renewal form on the bottom.

§25.9. *Demand Order.* When a demand to surrender items is mailed, the party is presumed [assumed] to have notice nine days after the demand was deposited in the United States mail for transmittal to the last address of the party shown in the records of the department.

§25.13. *Judgment.*

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

(d) A judgment creditor's consent or revocation of consent shall be filed on Forms SR-84 and SR-85, respectively. A [\$5.00] filing fee as set out in Texas Civil Statutes, Article 6701h, §36, is required with the filing of each form.

(e)-(f) (No change.)

§25.15. *Conviction Suspensions.* Suspensions of the license and registration of a party convicted of [on] criminal charges are implemented by issuance of suspension orders on Form DIC-3, prescribed by the department.

§25.16. *Self-Insurance.* Companies with 26 or more motor vehicles owned and registered in their name, and sufficient current assets to settle several minimum [\$25,000] claims as promulgated by Texas Civil Statutes, Article 6701h, §1(10), may apply for a self-insurance certificate on Form SR-1, which expires in three years.

§25.18. *Fees.*

(a) (No change.)

(b) A filing fee as promulgated by Texas Civil Statutes, Article 6701h, §36, [of \$5.00] must accompany filing of information required by the Act except where specifically excepted by these rules. Simultaneous filing on behalf of two or more persons from the same invoiced vehicle or simultaneous filing of two or more documents is a single transaction requiring only one [\$5.00] fee.

(c) (No change.)

§25.20. *Compulsory Insurance—Driver's License Road Test.*

(a) Evidence of financial responsibility. Owners and/or operators of motor vehicles are required to furnish information concerning evidence of financial responsibility upon request to a law enforcement officer. This evidence should include the name of the insured; effective dates of coverage, insurance company; policy number or certificate number; and the minimum amounts of financial responsibility required by statute which may be a statement that the policy coverage meets the minimum amounts of financial responsibility required by statute or the actual policy limits. This department's policy will

be to accept the following as evidence of financial responsibility.

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

(3) department's letter acknowledging receipt of bond, certificate of deposit of money, or securities in the minimum amount as promulgated by Texas Civil Statutes, Article 6701h, §1(10) [of \$25,000];

(4)-(7) (No change.)

§25.21. Compulsory Insurance—Compliance and Enforcement.

(a) Evidence of financial responsibility. Owners and/or operators of motor vehicles are required to furnish information concerning evidence of financial responsibility upon request to a law enforcement officer. This evidence should include the name of the insured; effective dates of coverage; insurance company; policy number or certificate number; and the minimum amounts of financial responsibility required by statute which may be a statement that the policy coverage meets the minimum amounts of financial responsibility required by statute or the actual policy limits. This department's policy will be to accept the following as evidence of financial responsibility:

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

(3) department's letter acknowledging receipt of bond, certificate of deposit of money, or securities in the minimum amount as promulgated by Texas Civil Statutes, Article 6701h, §1(10) [of \$25,000];

(4)-(7) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on May 1, 1984.

TRD-844915 James B. Adams
Director
Texas Department of Public
Safety

Earliest possible date of adoption.
June 11, 1984

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 9. Food Stamps

Subchapter Z. Non-PA Redeterminations

The Texas Department of Human Resources proposes an amendment to §9.2512 and the repeal of §§9.2513-9.2515, concerning changes in household circumstances. The amendment and repeal clarify and consolidate rules concerning reported changes that increase benefits.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the rule will be in effect there will be no fiscal impli-

cations for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hawes also has determined that for each year of the first five years the rule as proposed is in effect the public benefit will be clearer policies about changes that result in increased food stamp allotments. There is no anticipated economic cost to individuals required to comply with the rule.

Written comments are invited and may be sent to Cathy Rossberg, Acting Administrator, Policy Development Support Division-201, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

40 TAC §9.2512

The amendment is proposed under the authority of the Human Resources Code, Title 2, Chapter 22 and Chapter 33, which authorizes the department to administer public assistance programs.

§9.2512. Changes in Households Not Reporting Monthly.

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

(d) If the reported change causes an increase in a household's benefits, the worker takes action to ensure that the household receives the increase in the payment month corresponding to the month the change occurred. This applies if the household provides required proof of the change by the 20th of the month after the month the change occurred. If the household delays providing the required proof, the worker ensures that the household receives the increase in the first benefits issued 10 days after the proof is received.

(e) If the increase in benefits is caused by addition of a household member, different time frames apply. If the new household member is not included in another certified household, the worker must increase benefits effective the month after the month the change occurred. This applies only if the household provides required proof of the change by the 20th of the month after the change occurred. If the household delays providing proof, the increase is effective the month after the worker receives the proof. If the new household member is included in another certified case, the worker must increase benefits the first month after the new household member is removed from the old case. This applies only if all required proof is received by the 20th of that month. If the client has not provided the proof within the required time frame, the worker must increase benefits effective the month after the proof is received.

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 May 4, 1984

TRD-844990 Marlin W Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption
June 11, 1984

For further information, please call (512) 441-3355,
ext. 2037.

40 TAC §§9.2513-9.2515

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the authority of the Human Resources Code, Title 2, Chapter 22 and Chapter 33, which authorize the department to administer public assistance programs.

§9.2513. Time Limit on Reporting Changes.

§9.2514. Increase in Benefits.

§9.2515. Special Change-Processing Standards.

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 May 4, 1984

TRD-844991

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption

June 11, 1984

For further information, please call (512) 441-3355,
ext. 2037.

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing with the *Register*.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register*. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal of an identical or similar rule following normal rulemaking procedures.

Withdrawn Rules

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing

31 TAC §§65.72, 65.73, 65.81

The Texas Parks and Wildlife Department has withdrawn emergency amendments to §§65.72, 65.73, and 65.81, concerning wildlife. The text of the amended sections as adopted on an emergency basis appeared in the January 20, 1984, issue of the *Texas Register* (9 TexReg 399)

Issued in Austin, Texas, on May 2, 1984

TRD-844889

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Filed: May 2, 1984

For further information, please call (512) 479-4806.



Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal, list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute under which the rule was adopted.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.



**TITLE 16. ECONOMIC
REGULATION
Part IV. Texas Department of
Labor and Standards
Chapter 75. Air Conditioning
Contractor License Law**

16 TAC §§75 1-75.10

The Texas Department of Labor and Standards adopts new §§75 1-75 10. Sections 75.1, 75 4, and 75.10

are adopted with changes to the proposed text, published in the December 6, 1983, issue of the *Texas Register* (8 TexReg 5014). Sections 75.2, 75.3, 75.5, and 75.7-75.9 are adopted without changes and will not be republished.

The 68th Legislature, 1983, enacted an air conditioning contractor license law to regulate the air conditioning industry throughout the state, which obviates the necessity for an air conditioning contractor to obtain a license from each municipality in which an air conditioning contractor does business. Changes made to the proposed rule as published include the title of the undesignated heading for Chapter 75, which now corresponds to Texas Civil Statutes, Article 8861. In the definition of air conditioning contractor, British thermal units is expressed on a per-hour basis, and the abbreviation for British thermal units was also changed in the definition of air conditioning contractor and heating capacity. In §75 4(c), emphasis was added with the word "only" in stating what type of material may be used during an examination.

The source of obtaining copies of the *Uniform Mechanical Code* was changed from the department to the International Conference of Building Officials, and the amount of time to take an examination was increased from three hours to 3½ hours. In §75.4(h), a change was made to allow the director a reasonable amount of time, instead of 30 days, in which to notify an applicant of an examination date. In §75.6, subsection (c) was deleted.

The department will administer an examination periodically during the calendar year to license air conditioning contractors. It will be a uniform examination to be administered by qualified air conditioning contractors. The license will be renewable every three years. The rule also provides the amount of insurance

necessary for an air conditioning licensee; defines terms used in the Act and industry; clarifies exemptions; clarifies municipal regulations and reporting requirements; and details the denial, suspension, or revocation of a license.

A public hearing was held at 2 p.m. on January 18, 1983, in Room 510, John H. Reagan Building, Austin. All who testified were very much in favor of the proposed rules, stating that the rules would encourage commerce, enhance the ease of conducting business, and streamline licensing procedures.

Those making comments in favor of the new rules were Gene Camargo, Charles Wright, William Key, and Stanley Briers. No one commented against the rules.

The agency agrees with the comments

The new sections are adopted under Texas Civil Statutes, Article 8861, which grants the commissioner of labor and standards authority to promulgate rules and regulations necessary to enforce the provisions of the article.

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

Act—The Air Conditioning Contractor License Law, Texas Civil Statutes, Article 8861.

Air conditioning contracting—Designing, installing, constructing, maintaining, servicing, repairing, altering, or modifying any heating, ventilating, or air conditioning product, system, or equipment. The term does not include the design, installation, construction, maintenance, service, repair, alteration, or modification of a portable or self-contained ductless air conditioning or heating product that has a cooling capacity of three tons or less or a heating capacity of 36,000 British thermal units per hour (Btu/h) or less. The term does not include the design, installation, construction, maintenance, service, repair, alteration, or modification of environmental air conditioning equipment for temporary use, not fixed.

Air conditioning contractor—A person licensed under this Act who designs, installs, constructs, maintains, services, repairs, alters, or modifies any heating, ventilating, or air conditioning product, system, or equipment. The terms designing, installing, constructing, maintaining, servicing, repairing, altering, or modifying, as used in the Act, §2(3), shall not be construed to include those activities regulated by the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a. Maintaining shall mean those functions routinely required for the continued normal performance of the system. Such functions shall include cleaning and replacement of filters, lubrication of motors and moving parts, adjustment and replacement of belts, inspection and cleaning of condensate pans and drains, checking and maintenance of proper refrigerant charge, checking and adjusting of thermostats and air volume dampers, and general cleaning of housings, cabinets, and coil surfaces.

Boiler—As defined in the Texas Boiler Law, Texas Civil Statutes, Article 5221c.

Commissioner—The commissioner of the Texas Department of Labor and Standards.

Competent people—For the purposes of the Act, §4(c)(1), and these rules and regulations, a person shall be considered competent to recommend an applicant if that person meets the criteria established in the Act, §4(b), and is not a member of the applicant's immediate family.

Department—The Texas Department of Labor and Standards, Boiler Division, P.O. Box 13567, Austin, Texas 78711.

Director—The director of the Boiler Division of the Texas Department of Labor and Standards.

Direct personal supervision—Will be satisfied if the entity employed a licensee in a responsible position. Each air conditioning contractor licensed under the Act shall have a licensee in direct supervision of the work in each of his permanent offices. An employee of a corporation, no matter where situated in the state, could be a supervisor of persons performing air conditioning work no matter where they are working in the state

Environmental air conditioning—The process of treating indoor air to continuously control its temperature, humidity, cleanliness, and circulation to meet human comfort requirements. This term does not include process refrigeration

Heating capacity—Will be measured in British thermal units per hour (Btu/h) output

Municipal authority—The elected governing body of the municipality.

Municipality—Any incorporated city or town.

Person—An individual

§75.4. Exams

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

(b) The license examinations shall be offered in Travis County not less than four times per year. The four regular scheduled exams shall be scheduled for January, April, July, and October. Additional exams shall be scheduled by the director as required

(c) All exams shall be given "open book," and applicants are encouraged to bring reference material only. The exam shall be based on the 1982 edition of the *Uniform Mechanical Code*, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, and herein adopted by reference. Copies may be obtained from the International Conference of Building Officials, 603 West 13th Street, Suite 2-F, Austin, Texas 78701, (512) 479-8278. An applicant will also need to know the Texas Boiler Law and Chapter 65 of this title

(relating to Boiler Division) as they apply to air conditioning contracting.

(d) Class A license exam shall consist of 100 questions. Class B license exam shall consist of 50 questions. The applicant shall have 3½ hours in which to complete the exam

(e) An applicant who correctly answers 70% of the exam questions shall be eligible for a State of Texas air conditioning contractors license provided the license fee has been paid and the proof of insurance coverage has been received by the department. Eligibility for a license shall last not more than 90 days from the date of examination result notification. Applicants who pass the exam but do not choose to acquire a license before the 90-day period must take a reexam and pay the required reexamination fee

(f) All applicants will be notified of the examination results within 30 days of the exam date.

(g) An applicant who does not correctly answer 70% of the exam questions (or make a minimum passing grade of 70) shall be eligible for reexamination, provided the applicant notifies the director in writing and pays the reexam fee for each reexam taken. The written notice must be received by the director not less than 60 days prior to being scheduled for a reexamination

(h) An applicant shall be notified by the director of the scheduled examination date within a reasonable amount of time prior to the examination.

§75.6. Insurance Requirement.

(a) Each licensee requesting a Class A license shall have in force personal liability insurance in an amount not less than \$300,000 for bodily injury sustained by one or more persons as the result of any one occurrence, property damage liability of \$300,000 per occurrence, and \$300,000 aggregate with the attachment of the comprehensive general liability form including products and completed operations liability. This insurance coverage can be satisfied if the licensee has excess coverage (umbrella) with limits in excess of \$300,000 bodily injury, \$300,000 property damage liability, and \$300,000 aggregate, provided the licensee has a base coverage that satisfies the excess coverage (umbrella) minimum requirements

(b) Each licensee requesting a Class B license shall have in force personal liability insurance in an amount not less than \$100,000 for bodily injury sustained by one or more persons as the result of any one occurrence, property damage liability of \$100,000 per occurrence, and \$100,000 aggregate with the attachment of the comprehensive general liability form including products and completed operations liability. The products and completed operations liability covers the public and the contractor from claims arising from an occurrence after the job is completed

(c) A license holder shall furnish the department with a certificate of insurance evidencing the required insurance coverage. The required certificates of insurance shall be provided to the department and to each municipality where the license holder plans to do air conditioning contracting.

(d) The insurance coverage shall include a provision that in the event such coverage is canceled or reduced, the insurance carrier shall notify the department at least 10 days prior to such cancellation or reduction in cov-

erage. A license holder's license shall be suspended during any period in which the license holder fails to maintain in effect the required insurance coverage

§75.10. Denial, Suspension, or Revocation: Penalties.

(a) A violation of the Texas Air Conditioning Contractors License Law or this chapter is grounds for the denial, suspension, or revocation of a license.

(b) A person whose application for a license is denied or a person whose license is suspended or revoked is entitled to a hearing before the commissioner if he submits a written request for hearing to the department. Proceedings for the denial, suspension, or revocation of a license and appeals from those proceedings are governed by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. If a person's license is revoked, the person may not apply for a new license before one year from the date the revocation became effective

(c) The commissioner shall revoke or suspend a license, probate a license suspension, or reprimand a licensee for any violation of this Act or rules promulgated by the commissioner. A violation of this Act shall include, but not be limited to, obtaining a license through error or fraud; knowingly making a substantial misrepresentation of services to be provided or which have been provided; or making any false promise with intent to influence, persuade, or induce an individual to contract for services. Any person whose license has been revoked may apply for a new license after the expiration of one year from the date of such revocation, but not before.

(d) A person who knowingly or intentionally engaged in air conditioning contracting without a license issued under Texas Civil Statutes, Article 8861, can be found guilty of a Class C misdemeanor

(e) Subject to the other provisions hereof, any person that violates any of the provisions of the Act or this chapter shall be guilty of an offense, and upon conviction thereof shall be fined in any amount not in excess of \$200. Each and every day that any such violation continues shall constitute a separate offense and be punishable as such. The conviction of any person under this provision shall not preclude the state from pursuing any other remedy or remedies that it desires to enjoin a violation or to enforce compliance with the provisions of this Act

(f) Unless licensed under the provisions of this Act, it shall be unlawful for any person, partnership, firm, or corporation to display a sign or use any advertising that such person, partnership, firm, or corporation is authorized to engage in the business of an air conditioning contractor

(g) It shall be unlawful for a licensed air conditioning contractor to permit his license to be used in any manner contrary to any of the provisions of this Act; or to obtain a municipal permit, required under the provisions hereof, in his name, or to allow the use of his name directly or indirectly by another person for the purpose of obtaining a municipal permit, when such licensed air conditioning contractor does not intend to, or does not in fact, do or supervise the work authorized by such municipal permit; or to take out municipal permits for air conditioning work to be done by another person, firm, partnership, or corporation by whom he is not employed.

(h) Licensed air conditioning contractors shall not be simultaneously employed by, or work for, more than one business entity for the purpose of obtaining municipal permits for air conditioning contracting or for the purpose of doing or supervising work that can only be done by authority of a municipal permit

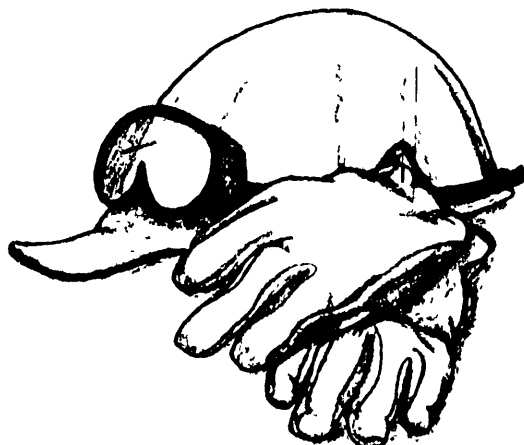
(i) It shall be unlawful for any person, or the owner, agent, or occupant of any building or premises, to aid or abet an air conditioning contractor in the violation of the Act or this chapter or to connive in its violation

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 May 2, 1984

TRD-844917 Allen Parker, Sr
Commissioner
Texas Department of Labor and
Standards

Effective date May 23, 1984
Proposal publication date December 6, 1983
For further information, please call (512) 475-0155.



TITLE 25. HEALTH SERVICES
Part II. Texas Department of
Mental Health and Mental
Retardation
Chapter 403. Other Agencies and the
Public
Subchapter R. Administration of Grants
and Contracts Funded by the
Developmental Disabilities Program

25 TAC §§403 501-403 519

The Texas Department of Mental Health and Mental Retardation adopts the repeal of Chapter 403, Subchapter R, §§403 501-403 519, concerning administration of grants and contracts funded by the developmental disabilities program, without changes to the proposal published in the April 3, 1984, issue of the

Texas Register (9 TexReg 1861) The department no longer administers the program

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes 5547-202, §2 11(b), which provide the commissioner with the authority to promulgate rules subject to the basic and general policies of the Texas Board of Mental Health and Mental Retardation.

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 May 4, 1984

TRD-844969 Gary E Miller, M D
Commissioner
Texas Department of Mental
Health and Mental Retardation

Effective date May 25, 1984
Proposal publication date April 3, 1984
For further information, please call (512) 465-4670.

Chapter 405. Client (Patient) Care
Subchapter CC. Standards of Texas
Department of Mental Health and
Mental Retardation Facilities and
Centers—Quality Assurance

25 TAC §§405.731-405.740

The Texas Department of Mental Health and Mental Retardation adopts new Chapter 405, Subchapter CC, §§405 731-405 740, without changes to the proposed text published in the March 23, 1984, issue of the *Texas Register* (9 Tex Reg 1690) The title of the new subchapter is adopted with changes.

The title of the subchapter has been changed to reflect that rules govern quality assurance activities

The Association for Retarded Citizens, Texas (ARC/Texas) commented in support of the adoption of the new sections as published

These new sections are adopted under Texas Civil Statutes Article 5547-202, §2 11(b), which provide the commissioner with the authority to promulgate rules subject to the basic and general policies of the Texas Board of Mental Health and Mental Retardation.

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 May 4, 1984

TRD-844968 Gary E Miller, M D
Commissioner
Texas Department of Mental
Health and Mental Retardation

Effective date May 25, 1984
Proposal publication date March 23, 1984
For further information, please call (512) 465-4670

**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

**Part I. Texas Department of
Human Resources**

**Chapter 7. Refugee Assistance
Program**

Refugee/Entrant Resettlement Services

40 TAC §7 2101

The Texas Department of Human Resources adopts the repeal of existing §7.2101 and new §7 2101, without changes to the proposed text published in the March 9, 1984, issue of the *Texas Register* (9 Tex-Reg 1431)

The rule concerns services available to refugees in the department's Refugee Assistance Program. The department is adopting the repeal and the new rule to clarify policy and comply with changes made by the Department of Health and Human Services (HHS) in its refugee programs.

No comments were received regarding adoption of the repeal and new rule.

The repeal is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on May 4, 1984

TRD-844986 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: May 25, 1984
Proposal publication date: March 9, 1984,
For further information, please call (512) 441-3355,
ext 2037

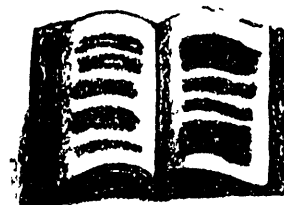
The new rule is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on May 4, 1984

TRD-844987 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: May 25, 1984
Proposal publication date: March 9, 1984
For further information, please call (512) 441-3355,
ext 2037



The Texas Department of Human Resources adopts amendments to §§9 2726, 9 2727, and 9.7007 in its Food Stamp Program rules concerning monthly reporting and retrospective budgeting. The amendments are adopted based on final federal regulations.

Section 9.2726 is amended to add the requirement that AFDC supplemental payments are budgeted retrospectively if the supplemental amount was not already anticipated and counted prospectively for the payment month. Sections 9.2727 and 9.7007 are amended to specify that a client denied for failure to file a completed status report may not receive continued or reinstated benefits pending an appeal if he admits that he did not submit the status report.

**Subchapter BB. Joint AFDC/Food Stamp
Applications**

40 TAC §9 2726, §9.2727

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 33, which authorizes the department to administer public assistance programs. The amendments are adopted under federal requirements to be effective May 1, 1984.

§9.2726. Budgeting Principles

- (a)-(b) (No change.)
- (c) Exceptions to this rule are for:
 - (1)-(2) (No change)

(3) Households that receive AFDC, the department uses the anticipated AFDC grant amount to be received in the payment month whether using prospective or retrospective budgeting. The department uses AFDC supplemental grant amounts received two months before the payment month when budgeting retrospectively, if the supplemental payment could not be anticipated to be received in the payment month.

(4) Households that have countable income that terminates in a month for which income was budgeted prospectively.

(5) Households with an AFDC recipient whose countable income terminates in a month for which income was budgeted retrospectively.

§9.2727. Monthly Reporting

- (a)-(e) (No change)

(f) The household is entitled to continued or reinstated benefits if the household requests a fair hearing within 10 days after the date the household is notified. The department does not continue or reinstate benefits

if the adverse action is caused by the household's failure to return a correctly completed status report form and the household admits that it did not submit the status report.

(g)-(h) (No change.)

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

Issued in Austin, Texas, on May 4, 1984

TRD-844988 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: May 1, 1984
Proposal publication date: N/A
For further information, please call (512) 441-3355,
ext. 2037.

Subchapter LLL. Fair Hearings

40 TAC §9.7007

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 33,

which authorizes the department to administer public assistance programs. The amendment is adopted under federal requirements to be effective May 1, 1984.

§9.7007. Continued Benefits.

(a) Households that receive a notice of denial/reduction, and request a fair hearing during the 10-day advance notice period, will continue to participate on the basis authorized immediately before the notice of adverse action provided the certification period has not expired. The worker must provide for continuation of benefits at the old level unless the household specifically waives this service or is not eligible for continuation of benefits.

(b)-(e) (No change.)

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

Issued in Austin, Texas, on May 4, 1984

TRD-844989 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: May 1, 1984
Proposal publication date: N/A
For further information, please call (512) 441-3355,
ext. 2037

State Board of Insurance Exempt Filings

State Board of Insurance Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.)

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.

The State Board of Insurance has approved a revision of the bodily injury and property damage basic limits rates for products/completed operations (Subline 316) Division Six of the *Commercial Lines Manual*.

The board finds as an ultimate fact, applying its informed judgment in the context of the facts presented at the board meeting held on April 5, 1984, in Room 414 of the State Board of Insurance Building, that the overall 13.2% average increase for products/com-

pleted operations classifications (+ 5.0% bodily injury and + 35.0% property damage) produces proper and correct rates for products liability insurance policies to become effective on and after July 1, 1984, until amended by the board. The board further finds that such rates are reasonable to the public and adequate to the insurance carriers writing these coverages in the State of Texas.

This filing was approved to become effective July 1, 1984, under the following rule of application. These changes are applicable to all policies effective on or after July 1, 1984. No policy effective prior to July 1, 1984, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

Exception—experience rated policies. These changes are applicable as of the experience rating date to all policies to which an experience rating modification which becomes effective on or after July 1, 1984, is to apply, and may not be applied to such policies prior to the experience rating date. As respects any policies to which an experience modification applies which became effective prior to July 1, 1984, these changes may not be applied until the first experience rating date after July 1, 1984.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the require-

ments of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on May 1, 1984

TRD-844891 James W Norman
Chief Clerk
State Board of Insurance

Effective date July 1, 1984
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a revision of the property damage increased limits factors for products/completed operations (Subline 316) classifications of Division Six of the *Commercial Lines Manual*.

The board finds as an ultimate fact, applying its informed judgment in the context of the facts presented at the board meeting held on April 5, 1984, in Room 414 of the State Board of Insurance Building, that the overall - 15.0% average decrease for products/completed operations property damage liability increased limits factors produces proper and correct rates for products liability insurance policies to become effective on and after July 1, 1984, until amended by the board. The board further finds that such rates are reasonable to the public and adequate to the insurance carriers writing these coverages in the State of Texas.

This filing was approved to become effective July 1, 1984, under the following rule of application. These changes are applicable to all policies effective on or after July 1, 1984. No policy effective prior to July 1, 1984, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

Exception—experience rated policies. These changes are applicable as of the experience rating date to all policies to which an experience rating modification which becomes effective on or after July 1, 1984, is to apply, and may not be applied to such policies prior to the experience rating date. As respects any policies to which an experience modification applies which became effective prior to July 1, 1984, these changes may not be applied until the first experience rating date after July 1, 1984.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on May 1, 1984

TRD-844892 James W Norman
Chief Clerk
State Board of Insurance

Effective date July 1, 1984
For further information, please call (512) 475-2950.

The State Board of Insurance has approved rate adjustments to the standard and uniform manual rates for various personal inland marine classes as presented at a board meeting on April 5, 1984. The revised rates as approved are as follows:

Class	Current Rate	Revised Rate	Change
Coin Collection	\$1.95 per \$100	\$1.90 per \$100	- 2.6%
Golfers	\$1.15 per \$100	\$1.05 per \$100	- 8.7%
Equipment			
Personal Effects	\$.75 per \$100	\$.85 per \$100	+13.3%
Silverware	\$.30 per \$100	\$.40 per \$100	+33.3%
Personal Jewelry	\$1.60 per \$100	\$1.75 per \$100	+ 9.4%

These changes are to be effective June 1, 1984.

This notification is filed pursuant to the Insurance Code, Article 5.97. It is exempt from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on May 1, 1984

TRD-844893 James W Norman
Chief Clerk
State Board of Insurance

Effective date June 1, 1984
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a revision to the Texas exception to common general Rule 3—referrals to company Division Six general liability commercial lines manual as presented by the Insurance Service Office, Inc., Austin.

The approved change eliminates the present requirement that companies reaffirm renewal rates on an annual basis.

These changes are applicable to all policies effective on or after June 1, 1984. No policy effective prior to June 1, 1984, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on May 2, 1984

TRD-844932 James W Norman
Chief Clerk
State Board of Insurance

Effective date June 1, 1984
For further information, please call (512) 475-2950.

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. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or 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. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Open Meetings

Texas Aeronautics Commission

Wednesday, May 16, 1984, 2 p.m. The Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda summary, the commission will hear reports of the Air Carrier Administration, the staff attorney, and the director.

Contact: Thomas L. Butler, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262

Filed: May 4, 1984, 2:44 p.m.
TRD-844993

Tuesday, June 12, 1984, 10 a.m. The Air Carrier Division of the Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the division will conduct a hearing on an application by N. M. Mitchell, Inc., doing business as Wise Airlines, for an amendment to Texas Air Carrier Certificate of Operating Authority 20 to provide scheduled passenger service to the point of Dallas/Fort Worth Regional Airport.

Contact: Thomas L. Butler, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: May 8, 1984, 9:48 a.m.
TRD-845064

Texas Department on Aging

Thursday, May 24, 1984, 10 a.m. The Texas Board on Aging of the Texas Department on Aging will meet on the fifth floor, 210 Barton Springs Road, Austin. Items on the agenda include approval of the December 14, 1983, and January 25, 1984, minutes, confirmation of new Citizen Advisory Council (CAC) members; Sunset Review Commission actions; committee and staff reports; a report on the CAC meeting held April 17 and 18, 1984, the board policy manual and the CAC policy manual; functional reorganization of the Texas Department on Aging; and setting the date of the next meeting. The board also will meet in executive session.

Contact: O. P. (Bob) Bobbitt, P.O. Box 12786, Austin, Texas 78711, (512) 475-2717

Filed: May 7, 1984, 2:42 p.m.
TRD-845042



Texas Air Control Board

Friday, May 18, 1984. Committees of the Texas Air Control Board and the full board will meet at 6330 Highway 290 East, Austin. Times, rooms, committees, and agendas follow.

8:45 a.m. In Room 363, the Monitoring and Research Committee will approve inter-agency contracts, report on the issuance of requests for proposal and requests for statement of qualifications and expression of interest, and consider additional proposed research areas and projects.

9:15 a.m. In Room 332, the Regulation Development Committee will review and consider proposed revisions to Regulation III and the state implementation plan for lead in Dallas County.

10 a.m. In Room 332, the Mobile Source Emissions Committee will consider agreements with the North Central Texas Council of Governments and the Houston-Galveston Area Council and a request for proposals to provide information to update the Texas Department of Public Safety's inspector handbook for Harris County.

10:30 a.m. The Texas Air Control Board will approve the April 13, 1984, minutes, hear reports, consider and take action on revisions to Regulation III, the state implementation plan for lead, and proposed

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agency contracts, approve the agency budget proposal, hear a report on the Sunset Review Commission and the hearing examiner's reports, and discuss new business.

Contact: Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: May 7, 1984, 4:05 p.m.
TRD-845050-845053

Texas Alcoholic Beverage Commission

Monday, May 21, 1984, 10:30 a.m. The Texas Alcoholic Beverage Commission (TABC) will meet in Suite 210, Jefferson Building, 1600 West 38th Street, Austin. Items on the agenda include approval of the April 1984 minutes and an affidavit of destruction of tested alcoholic beverages, the administrator's and staff's reports of agency activity, and consideration of the TABC budget submission for fiscal year 1986-1987.

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

Filed: May 8, 1984, 9:31 a.m.
TRD-845065

Automated Information Systems Advisory Council

Wednesday, May 23, 1984, 9 a.m. The Board of the Automated Information Systems Advisory Council (AISAC) will meet in the basement, 510 South Congress Avenue, Austin. Items on the agenda include the previous meeting minutes, procurement proposals, an implementation plan for computer procurement report recommendations, emergency rules, an accounting guideline, and AISAC priorities and an appropriation request. The board also will meet in executive session.

Contact: Charlotte D. Craig, 510 South Congress Avenue, Room 306, Austin, Texas 78704, (512) 475-2362.

Filed: May 7, 1984, 9:11 a.m.
TRD-845007

State Banking Board

Friday, May 4, 1984, 6 p.m. The State Banking Board met in emergency session at

2601 North Lamar Boulevard, Austin. According to the agenda, the board held a telephonic meeting to consider an application for a charter for a state bank to purchase some of the assets and assume some of the liabilities of a failed bank. The applicant, if there is one, will be the bidder chosen by the board of directors of the FDIC. The emergency status was necessary because the failure of the bank would disrupt banking services in the community.

Contact: Archie P. Clayton III, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: May 4, 1984, 3:55 p.m.
TRD-845001



Council on Disabilities

Wednesday, May 9, 1984, 10 a.m. Task forces of the Council on Disabilities met in emergency session in Room 104, Texas Law Center, 1414 Colorado Street, Austin. Task forces and agendas follow.

The Demographic Survey Task Force conducted an organizational meeting and discussed the long-range plan previously prepared by the Long-Range Planning Group for Texans with Disabilities and an update on the National Policy on the Disabled, conducted a question and answer session and a working session, and met jointly with the State Plan Task Force and made an oral summary of work sessions and a statement of future plans by the task force chairs. The emergency status was necessary due to the deadline on completion of a report to the governor and the legislature regarding recommendations for a demographic survey and a state plan for Texans with disabilities.

The State Plan Task Force conducted an organizational meeting and heard the status report of the developmental pilot methodol-

ogy study for a demographic survey of persons with disabilities; conducted a question and answer session and a working session, regarding discussion of the task force's mission, major tasks, and time frame; and met jointly with the Demographic Survey Task Force and made an oral summary of work sessions and a statement of future plans by the task force chairs. The emergency status was necessary due to the deadline on completion of a report to the governor and the legislature regarding recommendations for a demographic survey and a state plan for Texans with disabilities.

Contact: Jeff Kaufmann, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8280.

Filed: May 7, 1984, 1:54 p.m.
TRD-845034, 845035

Texas Employment Commission

Tuesday, May 15, 1984, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider prior meeting notes and internal procedures of the Office of Commission Appeals, consider and act on higher level appeals in unemployment compensation cases on Docket 20, and set the date of the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: May 7, 1984, 3:40 p.m.
TRD-845049

Texas Department of Health

Saturday, May 12, 1984, 9:30 a.m. The Texas Board of Health of the Texas Department of Health will meet in the Chisholm Room, Fort Worth Hilton Inn, 1701 Commerce Street, Fort Worth. According to the agenda summary, the board will consider approval of the April 14, 1984, minutes, hear the commissioner's report and a report on the control of water supply and sewage facilities in unincorporated areas, discuss issues of mutual concern between the Texas Medical Association and the board, cost-effective comprehensive primary care in medically underserved areas, the extension of an emergency rule and final adoption of

rules concerning 1, 2, dibromo ethane, also known as ethylene dibromide or EDB, in food, final adoption of the repeal of a rule concerning agreement between the Texas Department of Health and local health departments, amendments to the kidney health care rules, rules for the Emergency Medical Services Program concerning personnel certification, vehicle permits, emergency care attendant training, variances and fees, rules concerning the conduct of Emergency Medical Services Advisory Council meetings, an update on legal questions concerning the use of physician assistants, proposed rules concerning the practice of lay midwifery, amendments and an addition to the rules for the control of communicable diseases, and a pilot project for comprehensive health care for the Lower Rio Grande Valley; consider Budget Committee reports on approval of the 1986-1987 fiscal year budget report, the salary policy for the 1986-1987 fiscal year budget request, and transfers to the Bureau of Laboratories, a Legislative Committee report on the preliminary department's legislative package, Crippled Children's Services Committee reports on requests for approval of hospitals, physicians, pedodontists, and orthodontists to participate in the Crippled Children's Services Program, and the Personnel Committee report on reappointment to the Crippled Children's Services Cardiovascular Advisory Committee; hear announcements which require no board action; and set the meeting date for June 1984. The board also will meet in executive session.

Contact: Gary Fuchs, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: May 4, 1984, 4:12 p.m.
TRD-845004

Thursday, May 17, 1984, 10 a.m. The Home Health Services Advisory Council of the Texas Department of Health will meet in Room G-107, 1100 West 49th Street, Austin. According to the agenda, the council will review the February 24, 1984, minutes and the April 19, 1984, third draft of the proposed licensure regulations and hear announcements and comments which require no council action.

Contact: Juanita Carrell, Ed D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245

Filed: May 4, 1984, 9:50 a.m.
TRD-844960

Texas Health Facilities Commission

Thursday, May 17, 1984, 1:30 p.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

Certificates of Need

Collingsworth General Hospital,
Wellington
AH84-0116-037

All Saints Episcopal Hospital, Fort
Worth
AH84-0122-028

The Baptist Hospital of Southeast Texas,
Inc., Beaumont
AH84-0111-024

Westgate Nursing Care Center, Denton
AN84-0105-014

Pilot Point Nursing Center, Pilot Point
AN83-1230-484

Contact: John R. Neel, P.O. Box 50049,
Austin, Texas 78763, (512) 475-6940.

Filed: May 7, 1984, 9:21 a.m.
TRD-845014

Texas Health and Human Services Coordinating Council

Wednesday, May 16, 1984, 10 a.m. The Planning Committee of the Texas Health and Human Services Coordinating Council will meet in Room 101, Texas Law Center, 1414 Colorado Street, Austin. Items on the agenda include an update on the status of the substitute care study, the council's 1985 budget and 1986-1987 appropriations request, and proposals to develop a substitute care advisory group and review the committees of the council annually.

Contact: Lynn H. Leverty, P.O. Box 12428,
Austin, Texas 78711, (512) 475-1306.

Filed: May 8, 1984, 9:56 a.m.
TRD-845063

Industrial Accident Board

Friday, May 18, 1984, 9:30 a.m. The Industrial Accident Board will meet in Room 255, second floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. Items on the agenda include the repeal of board Rule 061.05.00.185, concerning statement of am-

biguities; amended board Rule 061.01.00.025, concerning adjuster identification, and board Rule 061.07.00.035, concerning notice of suspension of compensation, subsection (a), existing language, and subsection (b), new; and new board Rule 061.02.00.030, concerning sanctions for erroneous filing, and board Rule 061.07.00.025, concerning contents of statement of controversy or statement of position of fatal benefits; and discussion by the Legislative Advisory Committee of remedial legislation for submission to the 69th Legislature concerning changes in the Workers' Compensation Law, Texas Civil Statutes, Articles 8306-8309.

Contact: William Treacy, 200 East Riverside Drive, First Floor, Austin, Texas 78704, (512) 475-4538.

Filed: May 8, 1984, 9:52 a.m.
TRD-845062

State Board of Insurance

Tuesday, May 15, 1984. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Times and agendas follow.

10 a.m. The board will hear reports of the commissioner and fire marshal, both including personnel matters, and consider board orders on several different matters as itemized on the complete agenda.

11 a.m. The board will consider emergency rules defining and adopting sex-blended mortality tables based on the 1980 commissioners standard ordinary mortality tables and the 1980 commissioners extended term tables, emergency rules defining and adopting separate smoker and nonsmoker mortality tables derived from the 1980 commissioner standard ordinary mortality tables and the 1958 commissioners standard ordinary mortality tables, and proposed rules defining and adopting 1983 individual and group annuity mortality tables.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: May 7, 1984, 3:39 p.m.
TRD-845047, 845048

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. Days, times, and agendas follow.

Wednesday, May 16, 1984, 1:30 p.m. A public hearing in Docket 7715—whether the

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surplus lines agent's license held by Dryden General Agency, Inc., Dallas, should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: May 7, 1984, 10:34 a.m.
TRD-845026

Thursday, May 17, 1984, 1:30 p.m. A public hearing in Docket 7716—whether the surplus lines agent's license held by George Simpson Ferrell, doing business as GFI Agency, Lewisville, should be canceled or revoked.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: May 7, 1984, 10:34 a.m.
TRD-845027



Lamar University

Thursday, May 10, 1984. Committees of the Board of Regents of Lamar University and the full board met at the John Gray Institute, main campus, Lamar University, 855 Florida, Beaumont Times, committees, and agendas follow.

7:30 a.m. The Building and Grounds Committee and the Finance and Audit Committee jointly met in emergency session to review bids for building facilities and projects, a vending machine, the Automatic Teller Program, and band uniforms. The Committees also met in executive session to review personnel. The emergency status was necessary because this was the only available date to get a quorum for bid recommendations to be approved.

Contact: Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (409) 838-8403

Filed: May 7, 1984, 9:48 a.m.
TRD-845012

10:30 a.m. The Board of Regents approved the March 8, April 16, and April 18, 1984, minutes, bids from the Finance Committee regarding a vending machine, the automatic teller project, and band uniforms, bids recommended by the Building and Grounds Committee regarding the Montagne Center

and the Archer Building, and the budget for 1984-1985, heard the presidents' reports, and considered summer development leaves for faculty and staff and a name change for instructional departments. The board also met in executive session.

Contact: Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (409) 838-8403

Filed: May 7, 1984, 9:48 a.m.
TRD-845013

Texas State Library and Archives Commission

Tuesday, May 15, 1984, 2 p.m. The Records Management and Preservation Advisory Committee of the Texas State Library and Archives Commission will meet in the Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. According to the agenda, the committee will approve the February 23, 1984, minutes, discuss findings and results of the Needs Assessment Survey, and consider other business.

Contact: M. Allen Naff, 1811 Airport Boulevard, Austin, Texas 78721, (512) 475-0851.

Filed: May 7, 1984, 11:49 a.m.
TRD-845030

State Board of Morticians

Wednesday, May 9, 1984, 9 a.m. The State Board of Morticians submitted an emergency revised agenda for a meeting held at the Contessa Inn, 717 U.S. Highway 259 South, Longview. According to the agenda summary, the board considered an applicant for the reinstatement of licenses and an applicant for the issuance of original licenses and reinstatement of apprenticeship. The emergency status was necessary because all credentials and information were not received until after the final deadline.

Contact: John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721

Filed: May 7, 1984, 10:48 a.m.
TRD-845029

Board of Nurse Examiners

Tuesday-Thursday, May 15-17, 1984, 8 a.m. daily. The Board of Nurse Examiners

made additions to the agenda of a meeting to be held at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. The additions concern the report of the executive secretary regarding the attorney general's opinion relating to the Texas Department of Health and new business regarding Peter Bahiry of Germany.

Contact: Margaret Rowland, 1300 East Anderson Lane, C-225, Austin, Texas 78752, (512) 835-4880

Filed: May 7, 1984, 2:22 p.m.
TRD-845045

Board of Pardons and Paroles

Monday-Friday, May 21-25, 1984, 1:30 p.m. daily. A panel of the Board of Pardons and Paroles, consisting of three board members, will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel 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: May 7, 1984, 10:42 a.m.
TRD-845028

Texas State Board of Pharmacy

Monday and Tuesday, May 14 and 15, 1984, 1 p.m. and 8:30 a.m. respectively. The Texas State Board of Pharmacy (TSBP) will meet in the Wyndham F. Room, Wyndham Southpark Hotel, 4140 Governor's Row, Austin. According to the agenda summary, the board will discuss approval of the March 21-23, 1984, board violation hearing minutes, hear a report on TSBP job analysis and job evaluation by Jeannerette and Associates, review the budget, revenue, and fiscal status for fiscal year 1984 and 1985, review and approve the fiscal year 1986 and 1987 budget and revenue plan; consider rules discussion and board action on final adoption of 22 TAC §291.95, the emergency adoption of 22 TAC §303.1, proposed amendments to 22 TAC §§283.14, 295.5, 295.7, and Chapter 291, relating to Class A pharmacies dispensing sterile products, old and new business to include considera-

tion of motions for rehearing, agreed board orders, and review of agenda items for the July summer policy meeting. The board also will meet in executive session to discuss personnel matters.

Contact: Fred S. Brinkley, Jr., R. Ph., 211 East Seventh Street, Suite 1121, Austin, Texas 78701, (512) 478-9827

Filed: May 4, 1984, 2:45 p.m.
TRD-844995

Emergency addition to the previous agenda:

Emergency adoption of proposed amendments to 22 TAC Chapter 291, relating to Class A pharmacies dispensing sterile products. The emergency status is necessary to further protect the public health, safety, and welfare by establishing standards to regulate control of the Class A pharmacies dispensing sterile products.

Contact: Fred S. Brinkley, Jr., R. Ph., 211 East Seventh Street, Suite 1121, Austin, Texas, (512) 478-9827.

Filed: May 7, 1984, 1:33 p.m.
TRD-845033

Public Utility Commission of Texas

Monday, May 14, 1984, 9 a.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider the following dockets: 5479, 5184, 5294, 5521, 5560, 5528, 5134, 5028, 5538, 5482, 4572, 2782, 4061, 4405, 5533, 5371, 5372, and 5630. The commission also will meet in executive session to consider personnel matters.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 4, 1984, 3:54 p.m.
TRD-845000

Tuesday, May 15, 1984. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Times and dockets follow.

9 a.m. A prehearing conference in Docket 5714—application of West Montgomery Utilities Company, Ltd., for a rate increase in Harris County.

1:30 p.m. A posthearing conference in Docket 5279 and Docket 5561—application

of Water Services, Inc., and Water Services Two, Inc., for rate/tariff change.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 4, 1984, 9:49 a.m.
TRD-844961, 844962

Railroad Commission of Texas

Monday, May 7, 1984, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in Room 309, 1124 IH 35 South, Austin. According to the revised agenda, the divisions considered Oil and Gas Docket 3-80,601—Trend Resources Ltd., special allowable, Winterman, David Lease, Well 1 (088174), and Well 2 (090909), and Theuman, M. C. Lease, Well 1 (092466), Wylie Field, Colorado County. The emergency status was necessary because this item was properly noticed for the April 30, 1984, meeting, and was passed.

Contact: Doug Johnson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286

Filed: May 4, 1984, 10:32 a.m.
TRD-844970

Monday, May 14, 1984, 9 a.m. Divisions of the Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. Divisions and 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 12967, Austin, Texas 78711, (512) 445-1211

Filed: May 4, 1984, 10:29 a.m.
TRD-844971

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204

Filed: May 4, 1984, 10:31 a.m.
TRD-844972

The Flight Division will consider and act on the division director's report on division ad-

ministration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: May 4, 1984, 10:33 a.m.
TRD-844973

The Gas Utilities Division will consider various matters falling within its regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: May 4, 1984, 10:29 a.m.
TRD-844974

The Office of Information Services will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

Filed: May 4, 1984, 10:31 a.m.
TRD-844975

The LP-Gas Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711.

Filed: May 4, 1984, 10:30 a.m.
TRD-844976

The Oil and Gas Division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Contact: Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: May 4, 1984, 10:32 a.m.
TRD-844977

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1209.

Filed: May, 1984, 10:31 a.m.
TRD-844978

Consideration of a motion to resume a hearing in Oil and Gas Docket 5-82,266—application of Walter Farrington, Wiggins Brothers, Inc., Michael C. Tynes, Jack W. Tynes, and J. Wagner Tynes to establish a mineral interest pooling act unit for the

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Bishop Petroleum Eppes Unit, Donie (Petit) Field, Freestone County.

Contact: Sandra K. Joseph, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1293.

Filed: May 4, 1984, 3:39 p.m.
TRD-844998

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: May 4, 1984, 10:32 a.m.
TRD-844979

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711

Filed: May 4, 1984, 10:30 a.m.
TRD-844980

The Office of the Special Counsel will consider and act on the division director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lile, 1124 IH 35 South, Austin, Texas 78701, (512) 445-1186.

Filed: May 4, 1984, 10:33 a.m.
TRD-844981

The Surface Mining and Reclamation Division will consider the approval of the permit application revision submitted by the Lower Colorado River Authority for its Powell Bend Mine in Docket 16-A; and consider protestants' request for an oral argument, the release of bonds of the Conquista project under Permits 008, 020, 022, 028, and 032, for acreage which has not been disturbed, and termination of Permit 022 and Permit 028 of the Conquista project; and consider and act upon the division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: May 4, 1984, 10:30 a.m.
TRD-844982

The Transportation Division will consider various matters falling within the commis-

sion's transportation regulatory jurisdiction.

Contact: Mike James, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: May 4, 1984, 10:58 a.m.
TRD-844983

Tuesday, May 15, 1984, 10 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. According to the agenda, the division will hear an oral argument in Oil and Gas Docket 93,862—Terry Arledge, Rule 37, Lyda-Halliwell Lease, Well 1, Bryan (Buda), Kurten (Buda), (Austin Chalk), and (Georgetown) Fields, Brazos County.

Contact: Norman Bonner, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1292.

Filed: May 7, 1984, 3:11 p.m.
TRD-845046

Texas Rehabilitation Commission

Monday, May 14, 1984, 9 a.m. The Advocacy and Public Information Committee of the Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet at 118 East Riverside Drive, Austin. Items on the agenda include prioritization of advocacy issues, a budget request, an alternative living arrangements seminar, and public information activities.

Contact: Joellen Simmons, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867

Filed: May 3, 1984, 4:33 p.m.
TRD-844958

Committees of the Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission (TRC) will meet at 118 East Riverside Drive, Austin. Days, times, committees, and agendas follow.

Friday, May 18, 1984, 9 a.m. The Planning Committee will continue discussion of planning grant activities for fiscal year 1984 and review a public forum preliminary report and Monitoring and Evaluation Committee recommendations regarding unfunded fiscal year 1984 request for proposal activities.

Saturday, May 19, 1984, 9 a.m. The Executive Committee will hear a presentation by

TRC commissioner Arrell; review a proposed policy revision; and discuss possible sesquicentennial activities and other old or new business matters.

Contact: Joellen Simmons, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867.

Filed: May 8, 1984, 9:44 a.m.
TRD-845066, 845067

Texas Savings and Loan Department

Tuesday, May 15, 1984, 9 a.m. The Texas Savings and Loan Department will meet at 1004 Lavaca Street, Austin. According to the agenda summary, the department will conduct a hearing to call the applications and, if no protest is registered and existing when called, further hearing will be dispensed. If a protest is registered and existing when called, hearing on the applications will be continued to a later date.

Contact: Russell R. Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Filed: May 4, 1984, 4:54 p.m.
TRD-845005

Addition to the previous agenda:

Accumulation of a record of evidence in regard to the application of West Loop Savings and Loan Association for a charter at Loop 610 at South Post Oak, Houston, Harris County, from which record the commissioner shall determine whether to grant or deny this application.

Contact: Russell R. Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Filed: May 4, 1984, 4:54 p.m.
TRD-845006

School Land Board

Tuesday, May 15, 1984, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous meeting minutes, pooling applications, pooling agreement amendments, final approval of land trades, an excess acreage application, a good faith claimant application, coastal public lands easement applications, and a presentation of the 1983 Texas Natural Resource Conservation Award to Commis-

sioner Garry Mauro by the Texas Chapter of the Wildlife Society.

Contact: Linda K. Fisher, Stephen F. Austin Building, Room 835, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-4307

Filed: May 7, 1984, 4:05 p.m.
TRD-845054

Texas State Soil and Water Conservation Board

Thursday, May 17, 1984, 8 a.m. The Texas State Soil and Water Conservation Board will meet at 1006 First National Building, Temple. Items on the agenda include the April 23, 1984, minutes; director appointments, the 1986-1987 biennium budget request; technical assistance grants to soil and water conservation districts; annexation of territory to the Nueces-Jim Wells-Kleberg Soil and Water Conservation District, the 1984 annual meeting of soil and water conservation district directors; the 1984 Conservation Awards Program; the election of officers; and reports from visiting agencies and guests

Contact: Harvey Davis, 1002 First National Building, Temple, Texas, (817) 773-2250 or STS 820-1250.

Filed: May 8, 1984, 9:44 a.m.
TRD-845061

State Committee of Examiners for Speech-Language Pathology and Audiology

Thursday, May 24, 1984, 9 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve the May 11, 1984, minutes; finalize comments received concerning proposed rules published in the *Texas Register*; adopt final rules to be approved by the Texas Board of Health for publication, discuss other matters relating to committee operation, and set the next meeting date

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531

Filed: May 4, 1984, 3:07 p.m.
TRD-844994

Texas Tech University

Thursday, May 10, 1984. The following committees of the Texas Tech University Board of Regents and the Texas Tech University Health Sciences Center Board of Regents met jointly in the board suite, Administration Building, Texas Tech University campus, Lubbock. Times, committees, and agendas are as follows

8:30 a.m. The Finance and Administration Committees considered budget adjustments, approval of fees assessed and charged to regularly enrolled and prospective students beginning September 1, 1984; a medical services fee policy; delegation of board authority to the president to contract with additional investment depository banks on a bid-as-required basis, ratification of delegation of officers and/or employees to authorize and approve expenditures from appropriated funds and to sign checks; the commissioning of peace officers, appropriations requests for special items, major repair and rehabilitation, and new construction, and a quasi-endowment for contingency/self-insurance. The committees also met in executive session

The Finance and Administration Committee of the Texas Tech University Board of Regents also considered approval of contracts with support groups, awarding of a contract for printing *The University Daily* for fiscal year 1984-1985 and fiscal year 1985-1986, and specification of officers and/or employees to sign financial aid cashier's checks only

The Finance and Administration Committee of the Texas Tech University Health Sciences Center Board of Regents also considered a contract with Medical Center Hospital, Odessa, reviewed contracts, discussed practice plans, and heard reports

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2:34 p.m.
TRD-844941, 844942

10 a.m. The Campus and Building Committees met in executive session

The Campus and Building Committee of the Texas Tech University Board of Regents also considered receipt of bids for modification of the existing air conditioning system to achieve temperature and humidity control in the museum, an addition to the Central Food Facilities Building, and replacement and installation of an air structure at the aquatic center, awarded construction contracts for a lab theater addition to the university theater and reestab-

lishment of the total budget if necessary, the replacement of air washer units in the kitchen of Bledsoe/Gordon Residence Halls, and a new sewage effluent storage reservoir, and heard reports on the athletic facility and brick on the Architecture Building

The Campus and Building Committee of the Texas Tech University Health Sciences Center Board of Regents also considered receipt of bids for the center's Phase II-A project, concerning completion of a core space between Pod B and Pod C, completion of the second and third floors of Pod C for the School of Nursing and the School of Allied Health, completion of a fifth floor teaching lab, Pod C, construction of a new Amarillo Ambulatory Clinic and Teaching Center, renovation of outpatient clinics in lease space owned by R. E. Thomason Hospital of El Paso, and construction of Phase I of the Odessa Regional Academic Health Center, and awarded contracts for construction of a new parking lot and completion of the remaining shell space on the second level of the Amarillo Regional Academic Health Center

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2:35 p.m.
TRD-844943, 844944

11 a.m. The Development Committees heard reports and met in executive session

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2:36 p.m.
TRD-844945, 844946

1 p.m. The Academic and Student Affairs Committees ratified leaves of absence and heard reports. The committees also met in executive session

The Academic and Student Affairs Committee of the Texas Tech University Board of Regents also considered proposed degree programs for the bachelor of science, bachelor of arts degrees with a major in biochemistry and a master of arts degree with a major in geography, the granting of emeritus status, revision of undergraduate admission standards, a residence hall visitation policy, approval of revisions to the Code of Student Affairs to be effective August 1, 1984, revision of the tenure policy, the granting of academic tenure with appointment, and ratification of centers and institutes

The Academic and Student Affairs Committee of the Texas Tech University Health Sciences Center Board of Regents also considered conferral of an honorary degree, a

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graduate degree program for the doctor of nursing science (master of science in nursing), and conferral of degrees on June 3, 1984.

Contact: Freda Pierce, P O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2 34 p m
TRD-844947, 844948

2:15 p.m. The Public Affairs and University Relations Committees heard reports and met in executive session

Contact: Freda Pierce, P O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2 36 p m
TRD-844949, 844950

Friday, May 11, 1984, 9 a.m. The Board of Regents of Texas Tech University will meet in the board suite, Administration Building, Texas Tech University campus, Lubbock. According to the agenda summary, the board will consider the minutes and take action on reports from the Academic and Student Affairs, Finance and Administration, Campus and Building, and Development Committees. The board also will meet in executive session.

Contact: Freda Pierce, P O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2 34 p m
TRD-844951

Friday, May 11, 1984, 10:30 a.m. The Board of Regents of Texas Tech University Health Sciences Center will meet in the board suite, Administration Building, Texas Tech University campus, Lubbock. According to the agenda summary, the board will consider the minutes and take action on reports of the Academic and Student Affairs, Finance and Administration, Campus and Building, and Development Committees and other business. The board also will meet in executive session.

Contact: Freda Pierce, P O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: May 3, 1984, 2 34 p m
TRD-844952

Texas Water Commission

Tuesday, May 15, 1984, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider water district applications for district

bond issues, release from escrow, change in plans, use of surplus funds, water quality proposed permits, amendments and renewals, certificate of adjudication amendments, a contractual permit, cancellation of permits, a levee project, and the filing and setting of hearing dates.

Contact: Mary Ann Hefner, P O. Box 13087, Austin, Texas 78711, (512) 475-4514

Filed: May 3, 1984, 1 21 p m
TRD-844954

Wednesday, June 13, 1984, 9 a.m. The Texas Water Commission will meet in the Abilene City Hall Council Chambers, 555 Walnut Street, Abilene. According to the agenda summary, the commission will consider the application of the City of Cisco, P O. Box 110, Cisco, Texas 76437, to the Texas Department of Water Resources for an amendment to Permit 10424-01 to authorize construction of a new wastewater treatment facility. The existing permit authorizes a discharge of 650,000 gallons per day average. The applicant proposes to construct a facility capable of treating and discharging an average of 440,000 gallons per day and, upon its completion, to abandon the existing plant. The applicant shall operate under Permit 10424-01, approved May 11, 1981, until completion of the new facility described by this permit.

Addition to the previous agenda

Consideration of the application of the City of Tuscola, P O. Box 34, Tuscola, Texas 79562, to the Texas Department of Water Resources for proposed Permit 12365-01 to authorize the disposal by irrigation of treated domestic wastewater effluent at a volume not to exceed an average flow of 80,000 gallons per day from a wastewater collection and treatment system. The applicant proposes to utilize a lift station to convey the sewage from the city to a facultative lagoon, after which it will be used for irrigation of 26 acres of leased land. The application rates for the irrigated land shall not exceed 3.5 acre-feet/acre/year. No discharge of pollutants into the waters of the state is authorized.

Contact: Teresa B. Salamone, P O. Box 13087, Austin, Texas 78711, (512) 475-1418

Filed: May 3, 1984, 1 20 p m
TRD-844955, 844956

Thursday, June 21, 1984, 8:30 a.m. The Texas Water Commission will meet in the classroom, Rolling Hills Water Treatment Plant, 2500 Southeast Loop 820, Fort Worth. According to the agenda summary, the commission will consider the application of John Wasilchak, P O. Box 40870,

Fort Worth, Texas 76140, to the Texas Department of Water Resources for proposed Permit 12903-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 275,000 gallons per day from the proposed Oakdale Village Wastewater Treatment Plant, which is to serve a proposed residential subdivision.

Additions to the previous agenda:

Consideration of the application of John Wasilchak, P O. Box 40870, Fort Worth, Texas 76140, to the Texas Department of Water Resources for proposed Permit 12902-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 170,000 gallons per day from the proposed Highland Village Addition Wastewater Treatment Plant, which is to serve a proposed residential subdivision.

Consideration of the application of Bradley Ellis, P O. Box 8884, Fort Worth, Texas 76124, to the Texas Department of Water Resources for proposed Permit 12897-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 31,000 gallons per day from the proposed Hidden Valley Estates Mobile Home Park.

Contact: Joseph W. O'Neal, P O. Box 13087, Austin, Texas 78711, (512) 475-2711

Filed: May 7, 1984, 9 52 a m
TRD-845016-845018

Thursday, June 21, 1984, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of Gaylon Pantel, Route 1, Box 498, La Grange, Texas 78945, to the Texas Department of Water Resources for proposed Permit 02702 to authorize the disposal of agricultural waste from a confined feeding operation for swine. The applicant proposes to construct wastewater retention facilities consisting of a terrace settling basin, a 2.49-acre-foot capacity earthen lagoon, irrigation equipment, and 120 acres of farm and pasture land, which will be used to retain and dispose of agricultural type waste resulting from a commercial swine operation. No discharge of pollutants to the waters of the state is authorized.

Contact: Gwendolyn H. Webb, P O. Box 13087, Austin, Texas 78711, (512) 475-1418.

Filed: May 7, 1984, 9.52 a m.
TRD-845019

Friday, June 22, 1984, 9 a.m. The Texas Water Commission will meet in the auditorium, Bank of the Southwest, 910 Travis, Houston. According to the agenda summary the commission will consider the application of Fred R. Holste, in care of Fred R. Holste and Associates, 10101 Fondren, Suite 430, Houston, Texas 77036, to the Texas Department of Water Resources for proposed Permit 12828-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 76,000 gallons per day from the proposed John F. Kennedy-Aldine Wastewater Treatment Plant, which is to serve a proposed apartment complex.

Addition to the previous agenda:

Consideration of the application of S. Husain, P. O. Box 1369, Missouri City, Texas 77459, to the Texas Department of Water Resources for proposed Permit 12870-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 23,000 gallons per day from the proposed Niagara Section II Wastewater Treatment Plant, which is to serve a proposed mobile home community.

Contact: Michael E. Field, P. O. Box 13087, Austin, Texas 78711, (512) 475-1317

Filed: May 7, 1984, 9:52 a.m.
TRD-845020, 845021

Friday, June 22, 1984, 9 a.m. The Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of Bell County Water Control and Improvement District 2, P. O. Box 543, Little River, Texas 76554, to the Texas Department of Water Resources for an amendment to Permit 11090-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 70,000 gallons per day to 94,000 gallons per day from the Academy Wastewater Treatment Plant. The applicant proposes to expand existing facilities to handle the increased flow.

Addition to the previous agenda:

Consideration of the application of Formosa Plastics Corporation, Texas, 101 Formosa Drive, Point Comfort, Texas 77978, to the Texas Department of Water Resources for an amendment to Permit 02436 to authorize an increase in the discharge of treated wastewater effluent from a volume not to exceed an average flow of 1.4 million gallons per day to 1.6 million gallons

per day at Outfall 001, and from a daily maximum not to exceed 17.68 million gallons at Outfall 002 and 10.03 million gallons per day Outfall 003 to a discharge variable with rainfall for both outfalls. The proposed amendment would also decrease limitations for some specific parameters.

Contact: James K. Rourke, Jr., P. O. Box 13087, Austin, Texas 78711, (512) 475-1339

Filed: May 7, 1984, 9:53 a.m.
TRD-845022, 845023

West Texas State University

Thursday, May 10, 1984, 3 p.m. The Advisory Athletic Committee of the Board of Regents of West Texas State University (WTSU) met in Room 211, Virgil Henson Physical Activities Center, WTSU, Canyon. According to the agenda, the committee discussed and reviewed the proposed intercollegiate athletic budget for 1984-1985 and formulated recommendations to the full board. The committee also met in executive session as authorized by Texas Civil Statutes, Article 6252-17, §2g, to discuss personnel matters.

Contact: Texas Smith, WT Box 997, Canyon, Texas 79016, (806) 656-3962

Filed: May 4, 1984, 9:50 a.m.
TRD-844963

Regional Agencies Meetings Filed May 3

The Angelina and Neches River Authority, Board of Directors, met at 900 Crown Colony Drive, Lufkin, on May 8, 1984, at 11 a.m. The Board of Directors of the Industrial Development Corporation met at the same location on the same day at the same time. Information may be obtained from Angela Quillin, P. O. Box 387, Lufkin, Texas 75901, (409) 632-7795.

The Dallas Area Rapid Transit Authority, Personnel Committee, met in emergency session at 601 Pacific Avenue, Dallas, on May 4, 1984, at 9 a.m. The Service Plan/Work Program Committee met in emergency session at the same location on the same day at 1:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Hunt County Tax Appraisal District, Board of Directors, met in the board room, 4815-B King Street, Greenville, on May 10, 1984, at 7 p.m. Information may be obtained from Henry J. Popp or Jeanne Penney, 4815-B King Street, Greenville, Texas 75401, (214) 454-3510.

TRD-844953

Meetings Filed May 4

The Capital Area Planning Council, Governor's Regional Review Committee, will meet in Suite 100, 2520 IH 35 South, Austin, on May 11, 1984, at 2 p.m. Information may be obtained from Sarah Bailey-Gray, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

The Cass County Appraisal District, Board of Directors, met at 208 West Houston Street, Linden, on May 8, 1984, at 10 a.m. Information may be obtained from Janelle Clements, P. O. Box 167, Linden, Texas 75563, (214) 756-7545.

The Region XII Education Service Center, Board of Directors, met at 113 South University Parks Drive, Waco, on May 10, 1984, at 8 p.m. Information may be obtained from Weldon O. Mills, P. O. Box 1249, Waco, Texas 76703.

The Gonzales County Appraisal District, Board of Directors, met in Suite 201, Gonzales Bank Building, 508 St. Louis Street, Gonzales, on May 10, 1984, at 8:30 a.m. Information may be obtained from Sherian Cleveland, P. O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Henderson County Appraisal District, Board of Directors, will meet at 101 East Corsicana, Athens, on May 15, 1984, at 7:30 p.m. Information may be obtained from Linda Hagar, 101 East Corsicana, Athens, Texas, (214) 675-9296.

The Central Appraisal District of Rockwall County, Board of Directors, met at 106 North San Jacinto, Rockwall, on May 8, 1984, at 7:30 p.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto, Rockwall, Texas 75087. TRD-844996.

Meetings Filed May 7

The Dallas Area Rapid Transit Authority, Budget and Finance Committee, met in emergency session at 601 Pacific Avenue, Dallas, on May 7, 1984, at 1:30 p.m. The Legal Committee met in emergency session at the same location on May 8, 1984, at 8 a.m. Information may be obtained from

Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278

The Edwards Underground Water District, Board of Directors, submitted an emergency revised agenda for a meeting held in the conference room, fourth floor, Tower Life Building, 310 South St. Mary's, San Antonio, on May 8, 1984, at 10 a.m. Information may be obtained from Thomas P. Fox, 900 Tower Life Building, San Antonio, Texas 78205, (512) 222-2204

The Houston-Galveston Area Council, Board of Directors, will meet in the large conference room, 3701 West Alabama, Houston, on May 15, 1984, at 9:30 a.m. Information may be obtained from Charlene McCarthy, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200

The Lower Neches Valley Authority, Board of Directors, will meet at 7850 Eastex Freeway, Beaumont, on May 15, 1984, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011

The Nortex Regional Planning Commission, Executive Committee, will meet in the Clipper Room, Trade Winds Motor Hotel, 1212 Broad Street, Wichita Falls, on May 17, 1984, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281

The San Antonio River Authority, Board of Directors, will meet in the conference room, 100 East Guenther Street, San Antonio, on May 16, 1984, at 2 p.m. The Board of Trustees of the Employees Retirement Trust will meet at the same location on the same day at 3:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373

The San Antonio River Industrial Development Authority, Board of Directors, will meet at 100 East Guenther Street, San Antonio, on May 16, 1984, at 11 a.m. Information may be obtained from Fred N. Pfeiffer, 100 East Guenther Street, San Antonio, Texas 78204, (512) 227-1373

The West Texas Council of Governments, Regional Review Committee of the Upper Rio Grande State Planning Region Texas Community Development Program, will meet in the conference room, 10th floor, Two Civic Center Plaza, El Paso, on May 15, 1984, at 1:30 p.m. Information may be obtained from Thomas Serrano,

Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4687.

The Wise County Appraisal District, Board of Directors, met at 206 South State, Decatur, on May 10, 1984, at 9 a.m. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081

TRD-845011

Meetings Filed May 8

The Bell County Appraisal District will meet in the commissioners courtroom, second floor, Belton, on May 16, 1984, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 39C, Belton, Texas 76513-0390, (817) 939-3521, ext. 410

The Carson County Appraisal District, Board of Directors, met at 220 Main Street, Panhandle, on May 5-16, 1984, at 8 p.m. daily. Information may be obtained from Dianne Lavake, Box 970, Panhandle, Texas 79068, (806) 537-3569

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 302 South 22nd Street, Temple, on May 15, 1984, at 7:45 p.m. Information may be obtained from Steven B. Schnee, Ph.D., P.O. Box 518, Temple, Texas 76503, (817) 778-4841.

The Ellis County Tax Appraisal District met in emergency session at 406 Sycamore Street, Waxahachie, on May 10, 1984, at 7 p.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552

The Fannin County Appraisal District, Board of Directors, met in emergency session at the Peeler Building, 401 North Main, Bonham, on May 8, 1984, at 7 p.m. Information may be obtained from Joe Hart, 401 North Main, Peeler Building, Bonham, Texas 75428, (214) 583-9546 or 583-9547.

The Grayson Appraisal District, Board of Directors, will meet in the commissioners courtroom, Grayson County Courthouse, Sherman, on May 16, 1984, at noon. Information may be obtained from Sandra Bolher, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

The Lamar County Appraisal District, Board of Directors, will meet at 1523 Lamar Avenue, Paris, on May 14, 1984, at 4 p.m. Information may be obtained from L. F. Ricketson, 1523 Lamar Avenue, Paris, Texas 75460, 785-7822.

The Middle Rio Grande Development Council, Regional Review Committee, will meet at the Old Officers' Club, Bracketville, on May 11, 1984, at 1 p.m. Information may be obtained from Mike Patterson, 200 East Nopal, Suite 211, Uvalde, Texas 78801, (512) 278-2527

The Nueces-Jim Wells-Kleberg Soil and Water Conservation District, Board of Directors, will meet at the Barney Miller Power Plant, Waldron Road, Corpus Christi, on May 15, 1984, at 2 p.m. Information may be obtained from Wilbur F. Erck, Route 2, Box 325, Alice, Texas 78332, (512) 664-1325

The Permian Basin Regional Planning Commission (PBRPC), Board of Directors, will meet at the PBRPC offices, Midland, on May 16, 1984, at 1:30 p.m. Information may be obtained from Pam K. Hammit, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061

The Central Appraisal District of Rockwall County, Appraisal Review Board, will meet at 106 North San Jacinto, Rockwall, on May 24, 1984, at 9 a.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034

The South Plains Association of Governments, Board of Directors, will meet at 3424 Avenue H, Lubbock, on May 15, 1984, at 10 a.m. Information may be obtained from Jerry D. Casstevens, 1709 26th Street, Lubbock, Texas 79411

The Tarrant County Appraisal District, Appraisal Review Board, rescheduled a meeting to be held in Suite 300, 1701 River Run, Fort Worth, on May 23, 1984, at 8:30 a.m. The meeting was originally scheduled for May 8, 1984, at 8:30 a.m. Information may be obtained from Dick Curry, 1701 River Run, Suite 300, Fort Worth, Texas 76107, (817) 332-3151

The Wood County Appraisal District, Board of Directors, will meet in the conference room, 217 North Main, Quitman, on May 17, 1984, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946.

TRD-845068

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

In Addition

State Banking Board Public Hearing

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Thursday, June 28, 1984, at 2601 North Lamar Boulevard, Austin, on the charter application for Allied Bank Austin, to be located at 702 Colorado Street, Austin, Travis County.

Additional information may be obtained from Archie P. Clayton III, General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on May 2, 1984

TRD-844940 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed May 3, 1984

For further information, please call (512) 475-4451

Texas Department of Community Affairs Extension of Deadline

In the April 27, 1984, issue of the *Texas Register* (9 Tex-Reg 2400), the Texas Department of Community Affairs (TDCA) published a request for program proposals to provide training and employment services for Vietnam-era disabled and recently separated veterans. These projects will be funded under the Training Partnership Act (JTPA), Title IV-C and Title V, §501.7(b). The deadline for the submission of proposals, as set out in that notice, has been extended. Proposals will be considered on time and acceptable if received by the TDCA by 5 p.m. Friday, June 4, 1984.

Only the proposal deadline has been extended; no other instructions or provisions of the request for proposals are changed or in any way affected by this notice.

For further information, please contact Jim Boyd, Texas Department of Community Affairs, Training and Employment Development Division, 2015 IH 35 South, P. O. Box 13166, Austin, Texas 78711, (512) 443-4100, ext. 251.

Issued in Austin, Texas, on May 2, 1984

TRD-844957 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: May 3, 1984

For further information, please call (512) 443-4100, ext 210

Office of Consumer Credit Commissioner Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceiling Effective Period (Dates are Inclusive)	Consumer ⁽¹⁾ /Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 05/14/84-05/20/84	20.50%	20.50%
Monthly Rate— Article 1.04(c)(1) 05/01/84-05/31/84	19.70%	19.70%

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽¹⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Standard Quarterly Rate—Article 1 04(a)(2) 04/01/84-06/30/84	18.27%	18.27%
Retail Credit Card Quarterly Rate—Article 1 11 ⁽¹⁾ 04/01/84-06/30/84	18.27%	N/A
Lender Credit Card Quarterly Rate—Article 15 02(d) ⁽¹⁾ 04/01/84-06/30/84	18.27%	N/A
Standard Annual Rate—Article 1 04(a)(2) ⁽²⁾ 04/01/84-06/30/84	18.27%	18.27%
Retail Credit Card Annual Rate—Article 1 11 ⁽¹⁾ 04/01/84-06/30/84	18.27%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 04/01/84-06/30/84	18.00%	N/A
Judgment Rate—Article 1 05, §2 05/01/84-05/31/84	10.00%	10.00%

(1) For variable rate commercial transactions only
 (2) Only for open end credit as defined in Texas Civil Statutes Article 5069.101(1)
 (3) Credit for personal, family or household use
 (4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on May 7, 1984

TRD-845009 Sam Kelly
Consumer Credit Commissioner

Filed May 7, 1984
For further information, please call (512) 475-2111.

the Employees Retirement System of Texas will self-insure the Senate Bill 1287 benefits from September 1, 1984, through either August 31, 1985, or August 31, 1986. The system is seeking qualified carriers and firms to submit proposals to administer this limited benefit package under an administrative services only (ASO) contract.

Specifications and other information can be obtained from Frank Del Rio, Acting Director, Group Insurance Division, P O Box 13207, Austin, Texas 78711, (512) 476-6431

Proposals received after 2 p.m. on June 8, 1984, will be returned unopened to the bidder.

Issued in Austin, Texas, on May 4, 1984

TRD-844985 Clayton T. Garrison
Executive Director
Employees Retirement System of Texas

Filed May 4, 1984
For further information, please call (512) 476-6431, ext 176

State Ethics Advisory Commission Revised Advisory Opinion Numbering System

To number the adopted opinions consecutively, the staff of the State Ethics Advisory Commission has renumbered the opinions according to the order in which they were adopted. Please note that the Advisory Opinion Request (AOR) number has not changed and can be found in the body of each adopted opinion.

For additional information, contact the commission office at (512) 475-1429

Issued in Austin, Texas, on April 30, 1984

TRD 844875 Page Keeton
Chairman
State Ethics Advisory Commission

Filed May 2, 1984
For further information, please call (512) 475-1429

Employees Retirement System of Texas Request for Proposals

The Board of Trustees of the Employees Retirement System of Texas is trustee of the Uniform Group Insurance Program for approximately 120,000 state officers, employees, and retirees.

Under the provision of Senate Bill 1287, 68th Legislature, 1983, benefits for persons in qualified psychiatric day-treatment facilities will be offered beginning September 1, 1984.

While the remainder of the group coverages are insured and administered by Blue Cross/Blue Shield of Texas,

Texas Department of Health Cease and Desist and Emergency Impoundment Order

Notice is hereby given that El Paso Engineering and Testing, Inc., 2525 Porter, El Paso, Texas 79901, having persons no longer employed by the company qualified and authorized to use radioactive material or supervise its use under Radioactive Material License Condition 14, and having permitted radiographic operations to be performed by a person or persons who had not received the required safety training and/or certification, was ordered to cease and desist from any use of radioactive material autho-

ized under License 3-1567 issued by the Bureau of Radiation Control. The company was also ordered to surrender for impoundment a 100 curie iridium-192 source, assay date November 18, 1983, serial number 5438, in a SPEC 2-T radiographic exposure device number 430, and a 109 curie iridium-129 source, assay date August 5, 1982, serial number 4956, in a GN model G-1 radiographic exposure device number 517. The issued order is as shown following this notice.

In accordance with *Texas Regulations for Control of Radiation* Part 13.10(f)(1), the person receiving the order has been given opportunity for hearing if the person makes a written application to the agency within 30 days of the order date.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, from 8 a.m.-5 p.m., Monday-Friday (except holidays).

**THE TEXAS DEPARTMENT OF HEALTH
THE TEXAS RADIATION CONTROL AGENCY**

ORDER TO: Fontaine Bunnell, Vice President
El Paso Engineering and Testing, Inc.
2525 Porter
El Paso, Texas 79901

EMERGENCY IMPOUNDMENT ORDER

Whereas, El Paso Engineering and Testing, Inc., 2525 Porter, El Paso, Texas 79901 (the "licensee") is holder of Texas Radioactive Material License 3-1567 (the "license") issued by the Texas Department of Health; and

Whereas, the license identifies, by name, the person qualified by training and experience to perform the functions of the radiation safety officer for activities covered by the license; and

Whereas, the individual identified on the license as radiation safety officer, Eduardo Cordero, is not employed by the licensee or performing the functions of the radiation safety officer; and

Whereas, *Texas Regulations for Control of Radiation*, §31.201, require that persons who perform radiographic operations using radioactive material must receive, and successfully complete, an approved course of radiation safety training for which they receive a certificate of training; and

Whereas, persons qualified and authorized to use radioactive material or supervise its use under license condition 14 are no longer employed by the licensee; and

Whereas, the licensee has permitted radiographic operations to be performed by a person or persons who had not received the required safety training and/or certification;

Now therefore, in view of the foregoing, for the protection of the public health and safety, pursuant to the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §14, as amended, it is hereby ORDERED that.

(1) The licensee shall CEASE and DESIST from any use of radioactive material authorized under License 3-1567,

(2) Surrender for IMPOUNDMENT the following source of radiation in the licensee's possession: a 100 curie iridium-192 source, assay date November 18, 1983, serial number 5438, in a SPEC 2-T radiographic exposure device number 430, and a 109 curie iridium-129 source, assay date August 5, 1982, serial number 4956, in a GN model G-1 radiographic exposure device number 517.

Done this 13th day of April, 1984, by Richard A. Ratliff, P.E., Director of Compliance and Inspection, Bureau of Radiation Control.

Issued in Austin, Texas, on May 2, 1984

TRD-844928 Robert A. MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: May 3, 1984
For further information, please call (512) 835-7000.

**Licensing Actions for Radioactive
Materials**

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the following table. The sub-heading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Nederland	Texas Environmental Services, Inc	10-3641	Nederland	0	04/20/84
Throughout Texas	Manahan Enterprises, Inc	11-3573	Houston	0	04/09/84

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Abilene	Hendrick Medical Center	04-2433	Abilene	15	04/19/84
Amarillo	Northwest Texas Hospital	01-2054	Amarillo	15	04/19/84
Angleton	PolyMetals, Inc	11-2996	Angleton	1	04/26/84
Austin	Eugene P Schoch, Jr., M D	06-992	Austin	7	04/03/84
Austin	Kallestad Laboratories, Inc	06-2846	Austin	7	04/12/84
Austin	Brackenridge Hospital	06-268	Austin	40	04/12/84
Beaumont	E I du Pont de Nemours & Company, Inc	10-517	Beaumont	42	04/26/84
Bryan	Texas Municipal Power Agency	06-2913	Bryan	6	04/18/84
Cameron	St Edward Hospital	06-3523	Cameron	1	04/20/84
Columbus	Columbus Community Hospital	11-3508	Columbus	1	04/18/84
Corpus Christi	Coastal States Petrochemical Company	08-1268	Corpus Christi	7	01/06/84
Corpus Christi	Humana Hospital Corpus Christi	08-2816	Corpus Christi	10	04/20/84
Dallas	Dallas Nephrology Associates	05-2604	Dallas	3	04/04/84

Texas Register

Dallas	University of Texas Health Science Center at Dallas	05-384	Dallas	38	04/09/84
Deer Park	ARCO Chemical Company	11-302	Deer Park	19	04/19/84
El Paso	Cardiac Rehabilitation Center of El Paso	03-3429	El Paso	2	04/04/84
El Paso	El Paso Cancer Radiation Treatment Center	03-1847	El Paso	16	04/16/84
Garland	Texas Optoelectronics, Inc.	05-3126	Garland	2	04/19/84
George West	United States Steel Corporation	08-2449	George West	13	04/23/84
Hillsboro	Grant Bure Hospital	06-1949	Hillsboro	13	04/16/84
Houston	DRIL CO-Div of Smith International, Inc.	11-2362	Houston	6	04/09/84
Houston	Antek Instruments, Inc.	11-1298	Houston	10	04/10/84
Houston	Parkway Hospital	11-1964	Houston	14	04/10/84
Houston	Medical Clinic of Houston	11-1315	Houston	11	04/10/84
Houston	Offenhauer Company	11-3109	Houston	4	04/26/84
Houston	Ramco Laboratories, Inc.	11-2172	Houston	6	04/23/84
Irving	Pioneer Park Medical Center, Inc.	05-3004	Irving	5	04/10/84
Killeen	Metroplex Hospital	06-3185	Killeen	3	04/09/84
LaGrange	Fayette Memorial Hospital	06-3572	LaGrange	1	04/18/84
Lockhart	Lockhart Hospital, Inc.	06-3259	Lockhart	1	04/16/84
Midland	Midland Memorial Hospital	12-728	Midland	28	04/19/84
Pasadena	Phillips Petroleum Company	11-230	Pasadena	39	04/19/84
Point Comfort	Aluminum Company of America	08-32	Point Comfort	26	04/09/84
San Angelo	Angelo Community Hospital	04-2487	San Angelo	12	04/04/84
San Antonio	Southwest Texas Methodist Hospital	09-594	San Antonio	64	04/06/84
San Antonio	Sherwyn L. Schwartz, M D	09-2647	San Antonio	4	04/12/84
San Antonio	Cardiovascular Associates, P A	09-2637	San Antonio	5	04/13/84
Throughout Texas	Geotest Engineering, Inc.	11-2735	Houston	12	04/09/84
Throughout Texas	Non Destructive Testing Co., Inc.	05-1008	Grand Prairie	30	04/09/84
Throughout Texas	Weldtest Corporation	10-3560	Nederland	1	04/09/84
Throughout Texas	Able X Ray	11-3265	Houston	3	04/09/84
Throughout Texas	Technical Welding Laboratories, Inc.	11-2187	Houston	28	04/09/84
Throughout Texas	Southwestern Laboratories	11-299	Houston	40	04/09/84
Throughout Texas	Gulf Coast Testing & Inspection Co	11-2378	Houston	11	04/09/84
Throughout Texas	Texas Instruments, Inc.	05-946	Dallas	32	04/16/84
Throughout Texas	Texas Perforators, Inc.	09-3544	Seguin	1	04/19/84
Throughout Texas	Well Data Survey, Inc.	12-3355	Odessa	1	04/19/84
Tyler	Tyler Radiology Associates	07-1014	Tyler	13	04/09/84
Waco	Texas State Technical Institute	06-1926	Waco	12	04/19/84
Weimar	Youens Memorial Hospital	11-3470	Weimar	1	04/18/84

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amendment #	Date of Action
Amarillo	William R. East, M D	01-2424	Amarillo	3	04/09/84
Dallas	Presbyterian Hospital of Dallas	05-1586	Dallas	36	04/12/84
Longview	Good Shepherd Medical Center	07-2411	Longview	16	04/09/84

San Antonio	University of Texas at San Antonio Law Engineering Testing Company	09-1962	San Antonio	17	04/17/84
Throughout Texas	Q A Special Services, Inc.	11-2453	Houston	7	03/19/84
Throughout Texas		11-2137	Baytown	16	04/19/84

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amendment #	Date of Action
Houston	Richard E. Leigh, Jr., M D	08-481	Houston	6	04/05/84
Throughout Texas	Industrial Radiography Laboratory	10-362	Beaumont	22	04/26/84

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment, the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment, and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county, and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday through Friday (except holidays).

Issued in Austin, Texas, on May 2, 1984

TRD 844929 Robert A. MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: May 3, 1984

For further information, please call (512) 835-7000

**Texas Health Facilities
Commission
Applications Accepted for
Amendment, Declaratory Ruling,
and Notices of Intent**

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling, AMD indicates amendment of previously issued commission order, CN indicates certificate of need; PFR indicates petition for reissuance, NIE indicates notice of intent to acquire major medical equipment, NIEH indicates notice of intent to acquire existing health care facilities, NIR indicates notice of intent regarding a research project, NIE/HMO indicates notice of intent for exemption of HMO-related project, and EC indicates exemption certificate.

Should any person wish to become a party to any of the previously stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P O Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

John Shilling, Fort Worth
AN84-0430-265

NIEH—Request for a declaratory ruling that a certificate of need is not required for John Shilling to acquire by purchase Henry Adams' 50% ownership and Henry Adams' 45% of the operating entity, land, and furniture of Lake Worth Nursing Home, an existing 70-bed skilled nursing facility located in Fort Worth. Lake Worth Nursing Home is currently owned by Adams-Shilling Joint Venture Building Operation (John Shilling, 50% interest, Henry Adams, 50% interest) and operated by Lake Worth Investments, Inc. (John Shilling, 55% interest, Henry Adams, 45% interest). The furniture and land are owned by John Shilling, 50%, and Henry Adams, 45%. Through this purchase, John Shilling will acquire 100% of the land, physical assets, and furniture of the facility.

American Medical Management Corporation,
doing business as Terrell Convalescent Center
#3, Terrell

AN83-0428-432A(043084)

CN/AMD—Request to extend the completion

deadline from April 30, 1984, to September 30, 1984, in Certificate of Need AN83-0428-432, which authorized the certificate holder to offer skilled nursing care by reclassifying 45 intermediate care beds to skilled beds in an existing 122-bed ICF facility.

The Westwind Corporation, a Texas corporation,
Nederland

AN84-0501-269

NIEH—Request for a declaratory ruling that a certificate of need is not required for The Westwind Corporation, a Texas corporation, to acquire by lease Monahans Nursing Home, an existing 98-bed ICF nursing facility located in Monahans, from Stonebrook Properties, Inc.

The Westwind Corporation, a Texas corporation,
Nederland

AN84-0501-268

NIEH—Request for a declaratory ruling that a certificate of need is not required for The Westwind Corporation, a Texas corporation, to acquire by lease Valley Hi Nursing Home, an existing 59-bed ICF nursing facility located in Alpine from Parent Care, Inc.

St. Luke's Lutheran Hospital, San Antonio
AH84-0430-267

DR—Request for a declaratory ruling that a certificate of need is not required for St. Luke's Lutheran Hospital to lease 200 parking spaces for hospital employees in the physician's building parking garage. The total project cost is \$454,990.

Summit Care-Texas, Inc., a Texas corporation,
Burbank, California

AN84-0430-266

NIEH—Request for a declaratory ruling that a certificate of need is not required for Summit Care-Texas, Inc., a Texas corporation, to acquire by purchase Happy Haven Nursing Home, an existing 235-bed ICF nursing facility located in Abilene from B P Lockhart, trustee of Happy Haven Trust, and to acquire the leasehold estate from Adams Management Services, Inc., Harold Shilling, M D P A, a joint venture.

Daughters of Charity of St. Vincent de Paul
for Seton Medical Center, Austin

AH80-0415-041A(043084)

CN/AMD—Request for an extension of the completion deadline from May 1, 1984, to December 1984 in Certificate of Need AH80-0415-041, which authorized the certificate holder to construct an addition of 142,100 gross square feet and remodel 37,600 gross square feet to expand the ancillary supporting departments located on floors ground-two.

Issued in Austin, Texas, on May 7, 1984

TRD-845015

John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed May 7, 1984

For further information, please call (512) 475-6940.

Texas Housing Agency Public Hearings

The Texas Housing Agency (THA) will conduct a public hearing concerning public approval for the issuance of industrial development bonds for residential real property. In accordance with federal law, the THA intends to seek public approval from the attorney general, the governor, or other applicable elected representative or designated official of the State of Texas for the issuance of a series of multifamily residential development revenue bonds (the bonds), in an amount not expected to exceed the following approximate amount.

The bonds, pursuant to the statutory authority of the THA, are being proposed to provide financing for sanitary, decent, and safe dwelling accommodations for persons and families of low income and families of moderate income. If issued, the bonds will constitute limited obligations of the THA. Neither the State of Texas nor any political subdivision, other than the THA, will be liable for the bonds. The bonds will not constitute a debt of the State of Texas.

The executive administrator or deputy administrator of the THA will hold public hearings on the residential projects proposed to be financed by the bonds. The hearing will be held at 3:30 p.m. on Thursday, May 17, 1984, at the Oak Hills Inn, 7401 Wurzbach Road, San Antonio, Bexar County, Texas 78229. The proposed residential project and description are as follows:

\$7,500,000 for the benefit of Foy P. Midkiff Interests, to provide financing for a multifamily rental residential development consisting of approximately 240 units to be located on approximately eight acres located in the Northgate subdivision Unit #1, on North Knoll, a recorded street, San Antonio, Bexar County, fronting approximately 600 feet to the southwest and 750 feet to the southeast, and 590 feet from the southwest line of Oak Dell Way, a recorded street, San Antonio, Bexar County.

All interested persons are invited to attend the hearing to express their views on the projects and the issuance of the bonds. For details, contact Stan Kantrowitz, General Counsel, Texas Housing Agency, 411 West 13th Street, Suite 700, Austin, Texas 78701, (512) 475-0812 or (800) 792-1119.

Persons who intend to appear at the hearing and express views are encouraged to contact Mr. Kantrowitz before the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Mr. Kantrowitz before the hearing. All written comments will be made available for review by all parties attending the public hearing.

Issued in Austin, Texas, on May 4, 1984

TRD-845002 Stan Kantrowitz
General Counsel
Texas Housing Agency

Filed May 4, 1984
For further information, please call (512) 475-0812
or (800) 792-1119

The executive administrator or deputy administrator of the Texas Housing Agency (THA) will hold public hearings on the residential projects proposed to be financed by the issuance of a series of multifamily residential development revenue bonds. The hearing will be held at 10:30 a.m. on Friday, May 18, 1984, at the Holiday Inn, 2502 East Kennedy, Kingsville. The proposed residential project and description are as follows:

\$4.5 million for the benefit of David L. Bruns Interests to provide financing for a multifamily rental residential development consisting of approximately 152 units to be located on approximately 6.29 acres on the north side of Military Highway, 740 feet west of Brahma Boulevard, Kingsville, Kleberg County.

All interested persons are invited to attend the hearing to express their views on the projects and the issuance of the bonds. For details, contact Stan Kantrowitz, General Counsel, Texas Housing Agency, 411 West 13th Street, Suite 700, Austin, Texas 78701, (512) 475-0812 or (800) 792-1119.

Persons who intend to appear at the hearing and express views are encouraged to contact Mr. Kantrowitz before the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Mr. Kantrowitz before the hearing. All written comments will be made available for review by all parties attending the public hearing.

Issued in Austin, Texas, on May 4, 1984

TRD-845003 Stan Kantrowitz
General Counsel
Texas Housing Agency

Filed May 4, 1984
For further information, please call (512) 475-0812
or (800) 792-1119

Houston-Galveston Area Council Consultant Proposal Request

This request for consultant services is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Houston-Galveston Area Council is requesting proposals for consultant services related to this collection, assembly, and analysis of basic travel data components needed to update the long-range travel forecasting models. The content of the regional travel survey is divided into four parts: data collection, data assembly and verification, data analysis, and data findings and recommendations. The total amount allocated for this lump sum contract is \$200,000.

The proposals will be evaluated based upon comprehension of study requirements and important characteristics of approach and methodology, qualifications of personnel assigned, management of task budget, and previous related work experience.

A detailed scope of work and guidelines for the proposal's content can be obtained by contacting Michael Weaver,

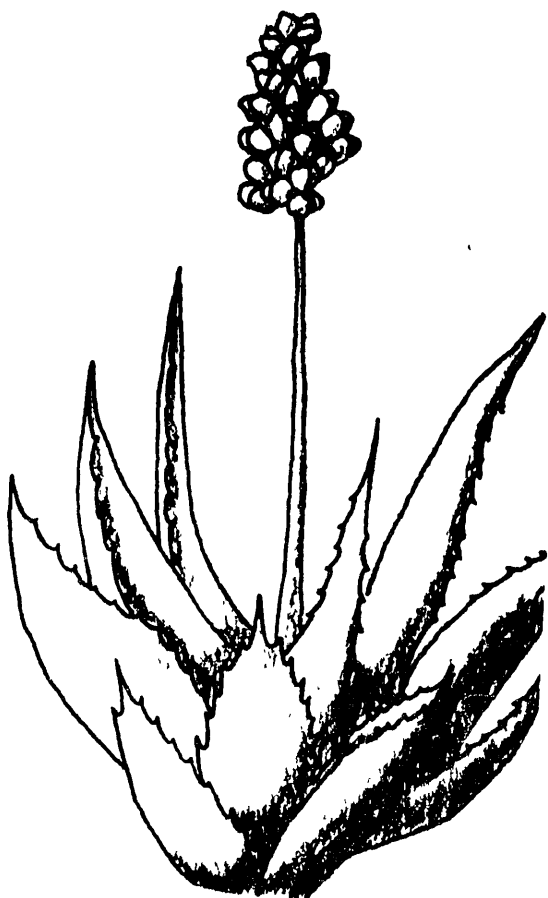
Transportation Manager, Houston-Galveston Area Council, P. O. Box 22777, Houston, Texas 77227-9972, (713) 627-3200 The submittal deadline for proposals is June 1, 1984

Issued in Houston, Texas, on May 3, 1984

TRD-844997 Jack Steele
Executive Director
Houston-Galveston Area Council

Filed May 4, 1984

For further information, please call (713) 627-3200



(4) Application for admission to do business in Texas of New York Marine and General Insurance Company, a foreign fire and casualty insurance company. The home office is in New York, New York

(5) Application for admission to do business in Texas of American Hallmark Insurance Company, a foreign fire and casualty insurance company. The home office is Oklahoma City, Oklahoma

(6) Application for a name change by Centroplex Health Plan, Inc., a domestic health maintenance organization. The home office is in Temple. The proposed new name is Scott and White Health Plan.

(7) Application for incorporation of RDI Life Insurance Company to be a domestic life insurance company. The home office is proposed to be in Fort Worth.

(8) Application for admission to do business in Texas of Minnesota Mutual Fire & Casualty Company, a foreign fire and casualty insurance company. The home office is in Minnetonka, Minnesota

(9) Application for admission to do business in Texas of Acceleration National Insurance Company, a foreign fire and casualty insurance company. The home office is in Dublin, Ohio.

(10) Application for admission to do business in Texas of Commonwealth Life Insurance Company, a foreign life insurance company. The home office is in Louisville, Kentucky.

Issued in Austin, Texas, on May 2, 1984

TRD-844933 James W. Norman
Chief Clerk
State Board of Insurance

Filed: May 3, 1984

For further information, please call (512) 475-2950.

State Purchasing and General Services Commission Consultant Proposal Request

The following request for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The State Purchasing and General Services Commission has adopted the housekeeping management report recommendations of Service Engineering Associates, Inc., 3960 Peachtree Road, Atlanta, Georgia 30319. A housekeeping operational manual was developed to guide management in the operations of the program. The objective of this service is to assist management in an orderly implementation of the recommendation contained in the program, conduct supervisory development, and provide a basic housekeeping training program which can be used to train operative-level employees in all new procedures, methods and systems, etc. The agency intends to award this contract for consulting services to the private consultant that previously performed the service, Service Engineering Associates, Inc., unless a better offer is submitted. Alternate proposals must address the service in three plans: Phase I—Implementation, Phase II—Custodial Training Program, and Phase III—Transition.

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration

(1) Application for admission to do business in Texas of Pennsylvania Casualty Company, a foreign casualty insurance company. The home office is in Camp Hill, Pennsylvania

(2) Application for admission to do business in Texas of AID Life Insurance Company, a foreign life insurance company. The home office is in Des Moines, Iowa.

(3) Application for admission to do business in Texas of GRI Insurance Company (assumed name in Texas for Great Republic Life Insurance Company), a foreign life insurance company. The home office is in Santa Barbara, California

Proposals must describe the services to be performed in each phase, the time required, and the cost of the services offered to meet the objective. Proposals will be evaluated on the method for meeting the objective (30%), the scope of the training program (30%), the experience the firm has had in implementing recommendations of other consultants (20%), and the cost of service (20%). Alternate proposals must be submitted not later than June 15, 1984, to be considered, as the program must be fully operational by September 4, 1984.

Any consultant firm interested in making a counter offer should contact Robert A. Jenkins, Director, Building and Property Services Divisions, State Purchasing and General Services Commission, P. O. Box 13047, Austin, Texas 78711, (512) 475-8183, for contractual requirements and statement of work.

Issued in Austin, Texas, on May 4, 1984

TRD-844959 Homer A. Foerster
Executive Director
State Purchasing and General
Services Commission

Filed: May 4, 1984
For further information, please call (512) 475-5966.

Railroad Commission of Texas Public Hearing

The Railroad Commission of Texas will conduct a public hearing on the application of the Energy Transportation Systems, Inc., (ETSI) Pipeline Project, for a certificate of public convenience and necessity to transport coal by pipeline through the following Texas counties: Lipscomb, Hemphill, Wilbarger, Wichita, Archer, Young, Jack, Palo Pinto, Hood, Somervell, Bosque, McClennan, Bell, Milam, Lee, Fayette, Roberts, Hutchinson, Carson, Potter, Randall, Castro, Lamb, Gonzales, Guadalupe, Wilson, Bexar, Colorado, Austin, and Fort Bend.

The public hearing will be held at 9 a.m. on May 22-25, 1984, in the district courtroom, 100 Sixth Street, Littlefield, and will proceed until completion. All parties and interested persons desiring to participate in the hearing of this application should appear at the designated time and location and be prepared to go forward.

The hearing will be limited to issues pertaining to the location, physical characteristics, and effects of the proposed pipeline in Lamb and Castro Counties. No other issues will be considered by this hearing, and the hearing will be limited to those affected counties.

Motions to intervene for the purpose of gaining party status will be entertained by the examiners at the start of the hearing. Persons wishing to intervene should be prepared to state the basis for their intervention.

The examiners will allow nonparty members of the public to make brief statements on the record before evidence is taken. Only parties will be allowed to present testimony, sponsor witnesses or exhibits, or cross-examine witnesses.

The application of ETSI and supplemental information requested by the examiners are available for public inspection with the county judges for Lamb and Castro Counties, as well as with the Railroad Commission of Texas at its Austin offices.

The public hearing will be conducted in compliance with the general and special rules of practice and procedure before the Transportation Division.

For further information, please contact Stephen F. Webb, Hearing Examiner, Transportation Division, Railroad Commission of Texas, P. O. Drawer 12967, Austin, Texas 78711, (512) 445-1336.

Issued in Austin, Texas, on May 4, 1984

TRD-844984 Walter Earl Lile
Special Counsel
Railroad Commission of Texas

Filed: May 4, 1984
For further information, please call (512) 445-1186

Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 30-May 4, 1984.

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

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P. O. Box 13087, Austin, Texas 78711, (512) 475-2678.

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

Period of April 30-May 4, 1984

Wendy's International, Inc., Houston; fast food restaurant, 16150 U.S. Highway 290 in Harris County; 02710; new permit

Cypress North Houston 8 Joint Venture, Houston; residential/commercial development; approximately 250 feet north of U S Highway 290 and approximately 1,600 feet west of Mueller Cemetery Road in Harris County, 12925-01, new permit

Fatima Family Village, Inc , Houston, mobile home park, approximately 900 feet north of Gulf Bank Road and approximately 3,100 feet west of Hardy Road in the northern sector of the City of Houston, Harris County; 12932-01, new permit

Community Utility Company, Inc , League City; residential subdivision; immediately west of Fairbanks-North Houston Road and approximately 400 feet north of Breen Road in Harris County, 12906-01; new permit

Phillips Chemical Company, Echo Philblack Plant, Orange; carbon black plant, approximately two miles east of State Highway 87 and three miles northeast of the City of Orange in Orange County; 00814; amendment

Duckworth Properties, Inc., San Antonio, residential/commercial subdivision, approximately 1,000 feet west of IH 10 and approximately 1,200 feet south of Boerne State Road in Bexar County; 12873-01; new permit

Force Road Oil, Inc , doing business as Force Road Oil and Vacuum Truck Company, Houston; inactive wastewater treatment system for oily water emulsions; 7,000 feet west of State Highway 288 and approximately 9,000 feet south of State Highway 6 and County Road 573 in Brazoria County, 02705-01; new permit

Community Utility Company, Inc., League City, residential development, approximately 7,000 feet east of State Highway 288 and approximately 2,400 feet south of Old Colony School Road (County Road 60) in Brazoria County, 12883-01, new permit

Harold Holigan, Dallas; mobile home park; approximately 1.4 miles east of FM Road 2551 and approximately 1.4 miles north of FM Road 544 in Collin County, 12922-01; new permit

Cecil D Bullock, Jr , Silsbee; laundry; east of FM Road 92 and near the intersection of FM Road 92 and FM Road 1122 north of the City of Silsbee in Hardin County; 02704; new permit

Issued in Austin, Texas, on May 4, 1984

TRD-845024 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed: May 7, 1984
For further information, please call (512) 475-4514.

Texas Department of Water Resources Schedule Changes for United Creosoting Site Proposals

In the consultant proposal request (CPR) for the United Creosoting site published in the May 4, 1984, issue of the *Texas Register* (9 TexReg 2486), the deadline for receipt of proposals and the anticipated date of contract award were incorrect as submitted. These dates are hereby corrected.

Closing Date for Submittal of Proposals. Five copies of the proposal must be received no later than 5 p.m. on Monday, June 4, 1984, which is the closing date for proposals to be submitted to Timothy J. Wolterink, Texas Department of Water Resources, Room 1029G, Stephen F. Austin Building, 1700 North Congress Avenue, P.O. Box 13087, Austin, Texas 78711, (512) 475-6371

Contract Award. It is currently anticipated that the contract for this project will be awarded by about July 27, 1984.

Issued in Austin, Texas, on May 7, 1984

TRD-845010 Susan Plettman
 General Counsel
 Texas Department of Water
 Resources

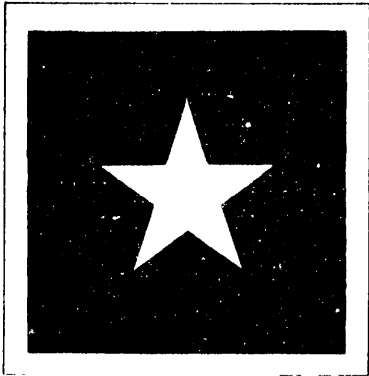
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