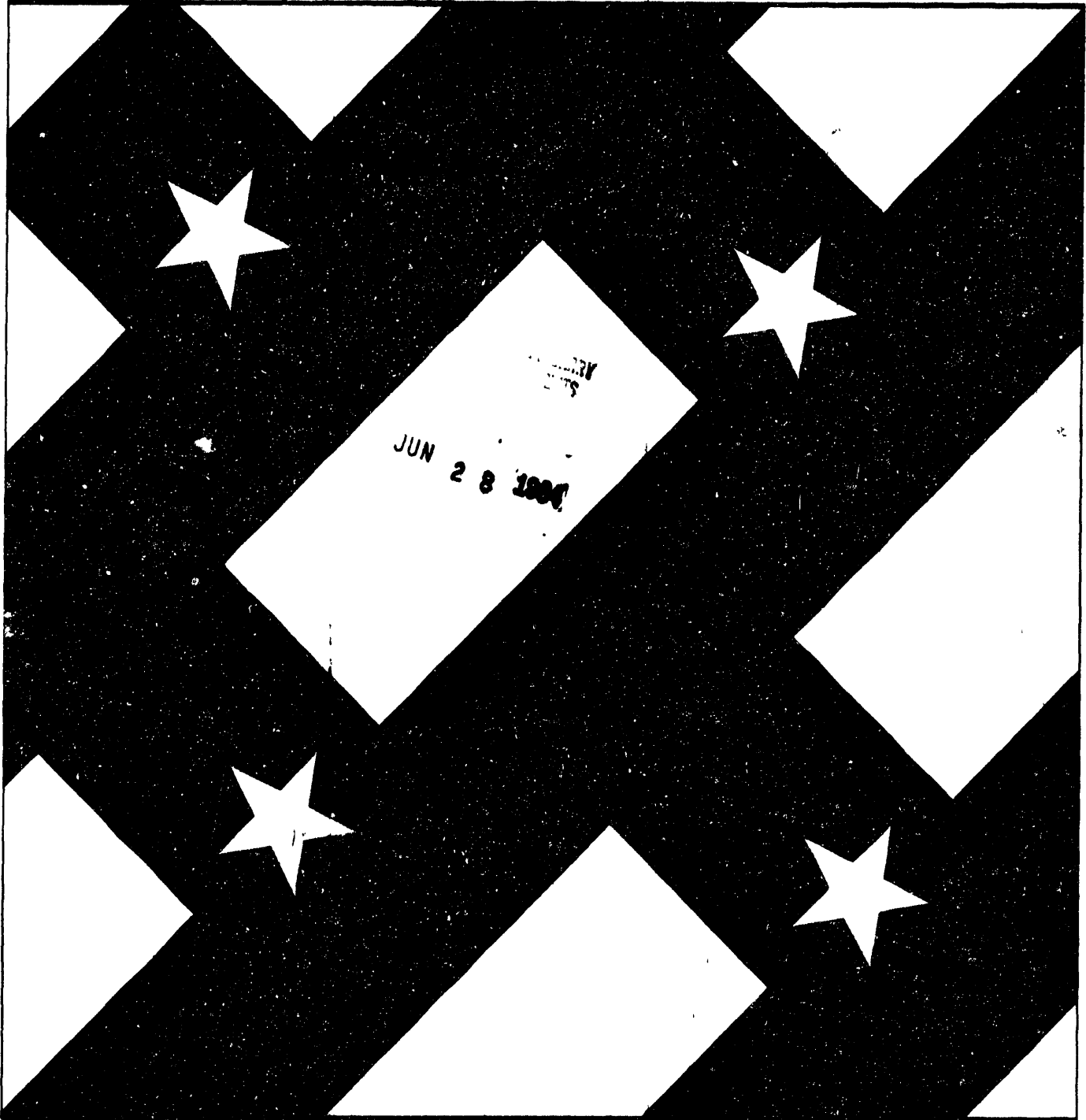


Texas Register

Volume 9, Number 48, June 26, 1984

Pages 3563 - 3628



Highlights

The Texas State Board of Physical Therapy Examiners proposes amendments in a chapter concerning fees. Proposed date of adoption - September 1

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The Texas Department of Health proposes repeals, amendments, and new sections in a

chapter concerning medical care Proposed date of adoption - October 20

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The State Committee of Examiners for Speech-Language Pathologists and Audiologists adopts repeals, amendments, and new sections concerning speech-language pathologists and audiologists Effective date - July 3

page 3601

**Office of
the Secretary
of State**

Texas Register

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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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
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- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

TAC stands for the *Texas Administrative Code*,

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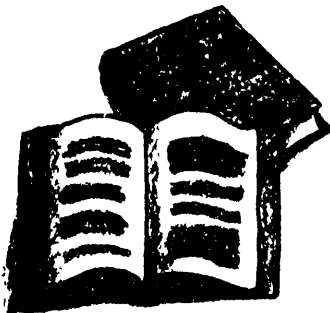
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The Attorney General

Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure.

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.



Request for Opinion

RQ-359. Request from Lynn Brown, administrator, Texas State Board of Plumbing Examiners, Austin, concerning the authority of a municipality to impose a registration fee on plumbers.

TRD-846576

Opinion

JM-161 (RQ-210). Request from Luther Jones, El Paso County attorney, El Paso, concerning whether district judges may in-

stitute a program to represent indigents in civil cases.

Summary of Opinion. Texas Civil Statutes, Article 1917, does not authorize the district judges of El Paso County to establish a program for providing representation of indigents of the county in civil actions. The district judges may not delegate to another person or entity the discretionary powers to appoint an attorney in a particular case, excuse attorneys, determine standards for indigency, or determine indigency of a particular applicant for counsel.

TRD-846576

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 or 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.

Proposed Rules

TITLE 22. EXAMINING BOARDS Part XVI. Texas State Board of Physical Therapy Examiners Chapter 339. Fees

22 TAC §§339.1-339.3

The Texas State Board of Physical Examiners proposes amendments to §§339.1-339.3, concerning fees. For the board to meet the escalated costs of examinations and data processing recently passed to the board, the members of the board passed a motion to increase the licensure fees.

Lois M. Smith, executive director, 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.

Ms. Smith also has determined that for each year of the first five years the rules as proposed are in effect there is no anticipated public benefit as a result of enforcing the rules as proposed. The anticipated economic cost to individuals who are required to comply with the rules as proposed is an increase of \$35 per individual applying for physical therapist license by examination, an increase of \$30 per individual applying for physical therapist assistant license by examination, and an increase of \$15 per individual applying for licensure by endorsement.

Comments on the proposal may be submitted to Lois M. Smith, Suite 260, Building C, 1300 East Anderson Lane, Austin, Texas 78752.

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

§339.1. Examination.

- (a) Physical therapist—**\$75** [\$65].
- (b) Physical therapist assistant—**\$70** [\$60].

§339.2. Application.

- (a) Physical therapist—**\$40** [\$25].
- (b) Physical therapist assistant—**\$40** [\$25].

§339.3. License.

- (a) (No change.)
- (b) Temporary license.
 - (1) Physical therapist—**\$30** [\$20].
 - (2) Physical therapist assistant—**\$20** [\$15].

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 June 14, 1984.

TRD-846615

Lois M. Smith
Executive Director
Texas State Board of Physical
Therapy Examiners

Proposed date of adoption:

September 1, 1984

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

TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 61. Chronic Diseases
Kidney Health Care Program Benefits
25 TAC §§61.1-61.4, 61.6, 61.8, 61.9

The Texas Department of Health proposes amendments to §§61.1-61.4, 61.6, 61.8, and 61.9, concerning Kidney Health Care Program benefits.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rules are in effect there will be fiscal implications for state government as a result of enforcing or administering the rules. The anticipated effect on state government for the years 1985-1988 is an estimated \$1.2 million for each year. This increase is related to changes in §61.3 concerning payment of program benefits, whereby certain benefit payment rates are updated to current payment rates instead of 1980 rates. There is no anticipated effect on local government or small businesses.

Mr. Seale has also 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 facilitation of the provision of financial assistance to Texas residents with end-stage renal disease. 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 Manuel Zapata, Director, Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2654. In addition, a public hearing will be held beginning at 1:30 p.m. on July 10, 1984, in Room T-407, Texas Department of Health, 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 4477-20, §3(13), which provide the Texas Department of Health with the authority to adopt rules to provide adequate kidney care and treatment for the citizens of the State of Texas and to carry out the purposes and intent of the Texas Kidney Health Care Act.

§61.1. Introduction and Brief Description of Program Operation.

(a) (No change.)

(b) End-stage renal disease (ESRD) is defined as that stage of renal impairment which is virtually always irreversible and permanent and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life. In order to be eligible for program benefits, patients who have been certified as having ESRD by a nephrologist licensed to practice in Texas [Patients meeting the eligibility requirements] must make application through an end-stage renal disease facility that has received program approval or interim approval, a Medicare approved hospital licensed in Texas, or a Veteran's Administration hospital located in Texas [, or a board certified nephrologist licensed to practice in Texas]. Benefits are available for dialysis treatments, hospitalization,

laboratory charges, physician charges, home dialysis supplies, drugs and transportation.

§61.2. Eligibility Requirements.

(a) A person initially is eligible to receive program benefits when he/she meets all of the following requirements:

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

(3) makes application through a program-approved facility, a Medicare approved hospital licensed in Texas, or a Veteran's Administration hospital located in Texas [, or a board certified nephrologist licensed to practice in Texas];

(4) (No change.)

(b) (No change.)

§61.3. Payment of Program Benefits.

(a) Depending on the patient's eligibility status, benefits are available for dialysis treatments, hospitalization, laboratory charges, home dialysis supplies, drugs, and transportation, up to a maximum per patient based upon [available funds, any contract between the department and the patient's Kidney Health Care providers, and the reimbursement rates as determined by the department.]:

(1) available funds;

(2) covered services;

(3) any contract between the department and the patient's Kidney Health Care providers; and

(4) the reimbursement rates as determined by the department.

(b) (No change.)

(c) The program [KHC] may restrict or prioritize service reimbursement to meet budgetary limitations. Priorities have been based upon medical necessity, Medicare eligibility, and projected Medicare payments for the treatment modality listed. In the event program benefits must be reduced, they will be reduced in a manner that takes into consideration medical necessity and Medicare coverage. The program may affect changes in benefits by either deleting entire categories following the priority list, by proportionate reductions across categories, or by a combination of both these methods. The priority list, in order of highest priority, is as follows:

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

(5) benefits for medical care for Medicare-eligible patients who dialyze at home and do receive full support from a dialysis facility; [and]

(6) benefits for medical care for Medicare-eligible patients who have received a kidney transplant; and [.]

(7) benefits for medical care for Medicare-eligible patients who dialyze in a dialysis facility.

(d) Payment methods.

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

(3) Payment to hospitals.

(A) (No change.)

(B) Payment to hospitals, for outpatient services other than dialysis, will be adjusted by the hospital's most recent ratio of outpatient costs to charges (RCC), determined in the same manner as required for determination of the inpatient RCC. This ratio cannot exceed 100%. The procedures outlined in subparagraph (A) of this paragraph also apply to outpatient services. [At least every six months the nephrologist should submit an evaluation report to determine the medical neces-

sity for the patient to continue receiving services.]

(C) In-patient dialysis treatments will be reimbursed at the rate of out-patient dialysis for the geographic area.

(4) Physician services which are related to routine dialysis supervision and follow-up services will be paid for on a fee-for-service basis with a maximum monthly capitation amount. Dialysis related physician's services will not be paid above the capitation amount. For other than dialysis services, physicians will be reimbursed on the basis [of the 4th edition (1980) lower fee] of the maximum affordable payment schedule (MAPS) currently approved for the program by the department. [, and for those not listed.] Allowable services and reimbursement rates not listed in the MAPS will be as determined by the department.

(5) Where applicable, home dialysis suppliers may [will] be reimbursed at a maximum of 20% of the Medicare allowable for Medicare-eligible patients and a maximum of 100% of the Medicare allowable for non-Medicare-eligible patients, as determined by the department.

(e) All benefits provided in behalf of approved patients are limited to charges incurred in Texas except that patients who are receiving treatment in a program-approved ESRD facility located out-of-state may be eligible for transportation benefits to and from the facility for medical services received at the facility, and for drugs purchased out-of-state. [when the patients are receiving treatment in a program approved ESRD facility located out-of-state.]

(f) All benefits paid in behalf of recipients must be for initial claims received by the program within 90 days from the date of service rendered and/or within the submission timetables listed in paragraphs (1)-(3) of this subsection [stated in the facility contract]. Initial claims will either be paid, denied, or rejected. The procedures in paragraph (1) and paragraph (2) of this subsection will be adhered to for denied or rejected claims. The procedures in paragraph (3) of this subsection apply to the initial submission of claims for new eligible recipients.

(1) Denied claims are claims which are incomplete or contain inaccurate information when originally submitted.

(A) An original claim which meets the initial 90-day filing deadline but is incomplete would be denied. However, payment may be made if provider/recipient corrections are accomplished and the claim is returned to the program within 30 days from the program's notice of denial or within the initial 90-day filing deadline, whichever is later.

(B) An original claim which meets the initial 90-day filing deadline but is incomplete because it lacks other third party explanation of benefits (EOBs) will be denied. The original claim, completed EOBs, and a copy of the program denial letter must be received by the program within 30 days from the date of the EOB for other third party payment in order to be considered for payment.

(C) Claims which have been denied and resubmitted for payment under the provisions of this policy must be complete and have previously been filed within the 90-day deadline. A copy of the program return letter of denial must accompany the original claim and its at-

tachments. Corrections must be made to the original claim if at all possible. If a new claim form is prepared, the original claim must also accompany the new claim. Additional services will not be considered for payment on the resubmitted claim. Payment cannot exceed the original amount requested.

(D) Claims which have been denied in error by the program may be considered for payment if the error was not the fault of the provider/recipient. Claims must be returned to the program within 30 days of the date of the denial letter, with the error identified, in order for the claim to be considered for payment. A copy of the denial letter must be included with the claim.

(2) Rejected claims are claims which fail to meet the filing deadline or are for ineligible providers, recipients or services.

(A) Claims which may have been rejected in error by the program may be considered for payment if the error was not the fault of the provider/recipient. Claims must be returned to the program within 30 days of the date of the rejection letter, with the error identified, in order for the claim to be considered for payment. A copy of the rejection letter must be included with the claim.

(B) Claims which have been rejected and resubmitted for payment under the provisions of this policy must be complete and have previously been filed within the 90-day filing deadline. A copy of the program return letter of rejection must accompany the original claim and its attachments. Corrections must be made on the original claim if possible. If a new claim form is prepared, the original claim must also accompany the new claim. Additional services will not be considered for payment on the resubmitted claim. Payment cannot exceed the original amount requested.

(3) Initial claims for new eligibles must be submitted according to the following criteria, and must meet the coverage limitations of subsection (h) of this section, relating to retroactive coverage.

(A) For new eligible recipients, claims received within 30 days after the date of the program eligibility letter will be processed for payment.

(B) Claims received after 30 days from the date of the program eligibility letter will be subject to the provisions of paragraph (1) and paragraph (2) of this subsection.

(4) Denied or rejected claims which do not meet the criteria in paragraphs (1)-(3) of this subsection can still be appealed through the department's formal administrative hearing procedures.

(g) (No change.)

(h) Program benefits may be retroactive as follows.

(1) (No change.)

(2) Benefits for access surgery, within program limitations, will be retroactive for a maximum period of 120 [60] days before the date on which the department receives a complete application; however, such retroactive benefits will not extend prior to the date on which Texas residency was established or for more than 120 [60] days before the date of the first dialysis.

(i) In-center dialysis patient benefits are available [to cover expenses] for covered medical services performed during the [three-month] waiting period required for Medicare chronic renal disease coverage.

(j) For home dialysis patients and transplant patients, the program will cover the portion of the 20% Medicare co-insurance on kidney-related charges which is not covered by a third party. For transplant patients, these medical benefits will terminate 36 months after a successful transplant; however, benefits for drugs and transportation will continue as long as the patient maintains program eligibility.]

(j) [(k)] Long-term benefits for medical care are extended to those patients who do not qualify for Medicare coverage. Medicare denial must be documented by a copy of an [the] official Social Security Administration denial notification acceptable to the department.

(k) [(l)] Medicare Part A and B premiums may be paid for by the program for those persons that meet all the following criteria:

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

(4) sign an agreement for the [Kidney Health Care] program to purchase Medicare coverage in their behalf.

(l) [(m)] Drug and transportation benefits are available for all program-approved patients regardless of their treatment mode.

(m) [(n)] In the event a patient dialyzes at a facility that loses its kidney health care approval, patient eligibility will remain unaffected, provided the patient transfers to an approved facility. **Patient benefits are not provided while a patient is dialyzing at a non-approved facility.**

(n) [(o)] Overpayments made on behalf of recipients to recipients or to the person or persons who have a legal obligation to support the recipient may be reimbursed to the department, at the department's discretion, out of the current claims due to be paid to the recipient or to the person or persons who have a legal obligation to support the recipient, or by lump-sum reimbursement from the recipient or from the person or persons who have a legal obligation to support the recipient following an opportunity for a hearing as provided in §61.7 of this title (relating to Denial of Application; Modification, Suspension, or Termination of Patient Benefits).

§61.4. Applications. Patients meeting the eligibility requirements set forth in subsection (a)(1), (2), and (4) of §61.2 of this title (relating to Eligibility Requirements) must make application for benefits through an end-stage renal disease facility that has received program approval or interim approval, a Medicare approved hospital licensed in Texas, or a Veteran's Administration hospital located in Texas [, or board certified nephrologist licensed to practice in Texas].

(1) **Completed** [Complete] application. An application shall consist of:

(A) a properly completed, signed, and notarized original application for program benefits, [(Form KHC 1)], [supplied by Kidney Health Care. Form] adopted by reference in §61.13 of this title (relating to Forms);

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

(E) a copy of the patient's personal Social Security card or a copy of an application for a replacement Social Security card if the applicant's Social Security card has been lost or destroyed (a valid Medicare card

may be substituted for the Social Security card if it is in the applicant's own Social Security number); and

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

(2) **Incomplete** [Deficient] applications.

(A) An application shall be deemed **incomplete** [deficient] for any one of the following:

(i) (No change.)

(ii) lack of **supporting** [accompanying] documents, or

(iii)-(v) (No change.)

(B) **Incomplete** [Deficient] applications will be returned to the initiating facility[, or hospital [, or nephrologist] for correction, with the deficiencies noted.

(i) A copy of the letter notifying the facility[, or hospital [, or nephrologist] that the application is **incomplete** [deficient] will be sent to the patient also.

(ii) If the application is **incomplete** [deficient], eligibility will not be determined thereon. The eligibility date will be based upon the date on which a properly completed, signed, and notarized application is received. **Payment of claims will not be made until the application is completed and validated.**

§61.6. Documentation of Residency.

(a) Except as provided in subsection (b) of this section, an applicant may provide, and the department will consider, the following documentary evidence of bona fide Texas residency by submitting:

(1) copies of three of the following documents all in the applicant's name and current address:

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

(C) a current, valid Texas motor vehicle registration or automobile license plate registration renewal form;

(D) a warranty deed to the applicant's abode or receipts for the payment of mortgage on the applicant's abode or receipts for the payment of rent or utilities for the applicant's abode, for two consecutive months immediately preceding [prior to] the date of the application [applicant's first day of treatment for end-stage renal disease (ESRD)]; or

[(E) the most recent two retirement checks on which the applicant's name and address are imprinted;]

(E) [(F)] a current, valid Texas Medicaid card;

(F) [(G)] current Texas AFDC benefit records;

(G) [(H)] Texas property tax receipts for the most recently completed tax year;

(H) [(I)] the most recent two months' payroll or retirement checks or employment/unemployment records containing the applicant's name and address, or a statement from a financial institution on which the applicant's name and address are imprinted;

(I) [(J)] a complete copy of United States Immigration and Naturalization Service (INS) Form I-151 or Form I-551 (alien registration receipt card);

(J) [(K)] a copy of the applicant's most recent change of status application, as submitted to the INS, and updated every six months; or

(K) [(L)] a complete copy of the forms issued to the applicant by the INS as evidence of lawful temporary entry into the United States. Such forms may include, but are not limited to, Form I-90, Form I-94, Form I-120, or Form I-161, and these must be renewed every six months; or

(2) copies of two of the documents listed in paragraph (1) of this subsection and a copy of one of the following documents (if they support Texas residency):

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

(b) If the requirements of subsection (a)(1)(A)-(H) of this section cannot apply to the applicant [with the prior written authorization of the program], an applicant seeking admission to the program as a bona fide resident under §61.5(5), (6), or (7) of this title (relating to Residency) may submit documentation for consideration as follows:

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

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

§61.8. Kidney Health Care Approved Facilities.

(a) (No change.)

(b) The program approval date may not be earlier than the approval date [will be the same date as that] granted by the Health Care Financing Administration for Medicare end-stage renal disease (ESRD) approval.

(c) (No change.)

§61.9. Denial, Modification, Suspension, or Termination of Facility Approval; Vendor Hold.

(a) Reasons for denial, modification, suspension, or termination of facility approval. A Kidney Health Care-approved facility will have its privilege to participate in the Kidney Health Care Program denied, modified, suspended, or terminated if:

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

(4) the contract between the facility and the department is terminated for any reason, including:[:]

(A) provider fails to comply with terms of applicable contracts and fails to cure such failure within 20 days after receipt of written notice from the department;

(B) federal or state law, or other requirements, are amended or judicially interpreted so as to render fulfillment of the contract, on the part of either party, substantially unreasonable or impossible;

(C) the parties are unable to agree upon any amendment which would therefor be needed to enable substantial continuation of the provision of recipient services contemplated in the contract;

(D) provider voluntarily withdraws from participation in the program;

(E) by mutual consent of the department and the provider;

(5) the facility fails or refuses to submit in a manner prescribed by the department information which is:

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

(C) required to be provided by the facility to the department under the terms of the contract between the facility and the department, as follows:

(i) Cost reports.

(I) A copy of each of the following federal forms as prescribed by the department for the period covered by the contract. These forms are due within 90 calendar days of the close of the facility fiscal year. Audited (by an independent certified public accountant) revisions of the cost reports shall be submitted to the department within 180 days of the close of the facility's fiscal year.

(-a-) SSA Form 9734;

(-b-) SSA Form 9735;

(-c-) HCFA Form 265 or HCFA Form 2552, Supplemental Worksheet #1, or their successors; and

(-d-) other reports as prescribed by the department.

(II) If provider is a hospital, within 90 days of the close of their fiscal year, a sworn statement of their allowable costs under provisions of Title XVIII, Social Security Act, as amended, and charges used to determine their current ratio of costs to charges (RCC). When requested, hospital records supporting these statements will be made available for examination by duly authorized representatives of the State of Texas.

(ii) Changes in the provider's Medicare assignment policy and changes in the provider's Medicare reimbursement rates when either or both occurs;

(iii) Quarterly reports of total charges for each eligible recipient who is treated by the provider and reimbursement information for all sources revealed by the recipient or otherwise known to or discovered by provider; and

(iv) Quarterly reports for each recipient who is treated by the provider and for whom benefits have been sought from or paid by the department. Each report shall include the following information:

(I) information to identify the recipient;

(II) treatment status;

(III) insurance and other third party coverage;

(IV) other information relevant to the provision of benefits to the recipient by the program or as requested by the program.

(6)-(9) (No change.)

(b)-(c) (No change.)

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

Issued in Austin, Texas, on June 18, 1984.

TRD-846587

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

Proposed date of adoption:

August 11, 1984

For further information, please call (512) 465-2654.

**Chapter 115. Home Health Care
Agencies
Licensing and Regulation**

The Texas Department of Health proposes the repeal of §§115.1-115.10 and new §§115.1-115.13, concerning the regulation of home health service agencies in the state of Texas. The new sections establish the requirements for obtaining a license to operate a home health agency; provide for a hospice service designation; provide conditions for a license; provide procedures and criteria for denial, suspension, and revocation of a license; and provide requirements for home health aide training courses.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal and rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal or of enforcing or administering the rules.

Mr. Seale has also determined that for each year of the first five years the repeal and rules as proposed are in effect the public benefit anticipated as a result of the repeal or of enforcing the rules as proposed is implementation of recent amendments to the Home Health Services Act, Texas Civil Statutes, Article 4447u (Senate Bill 381, 68th Legislature, effective September 1, 1983). There is no anticipated economic cost to individuals who are required to comply with the rules as proposed or as a result of the repeal.

Comments on the proposal may be submitted to Juanita Carrell, Ed.D., Director, Medicare Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*. In addition, a public hearing will be held at 10 p.m. on Thursday, July 19, 1984, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

25 TAC §§115.1-115.10

The repeal is proposed under Texas Civil Statutes, Article 4447u, §4, which provide the Texas Board of Health with the authority to adopt rules to implement the Home Health Services Act.

- §115.1. *Introduction.*
- §115.2. *Definitions.*
- §115.3. *Qualifications for Professional Personnel.*
- §115.4. *Qualifications for Nonprofessional Personnel.*
- §115.5. *Treatment and Services Provided.*
- §115.6. *Supervision of Professional and Nonprofessional Personnel.*
- §115.7. *Organizational Structure of the Agency.*
- §115.8. *Clinical Records.*
- §115.9. *Financial Ability to Carry Out the Functions as Proposed.*
- §115.10. *Other Aspects of Home Health Services Necessary to Protect the Public.*

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 June 18, 1984

TRD-846588 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
August 11, 1984
For further information, please call (512) 458-7245.

25 TAC §§115.1-115.13

The new sections are proposed under Texas Civil Statutes, Article 4447u, §4, which provide the Texas Board of Health with the authority to adopt rules to implement the Home Health Services Act.

§115.1. Purpose.

(a) The purpose of these rules is to implement Texas Civil Statutes, Article 4447u, which require a home health agency to be licensed by the Texas Department of Health.

(b) These rules provide minimum standards for Class A and Class B home health agency licenses and hospice services designation, procedures for granting, denying, suspending, and revoking a license, and requirements for home health aide training programs.

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

Administrator—A person who is a physician, registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech pathologist or audiologist, social worker, or nursing home administrator; or has a baccalaureate or postgraduate degree in administration or a health-related field; or has one year of administrative experience in a health care setting.

Agency—A home health agency.

Bereavement care—Services provided to a patient's family after the death of the patient.

Certified agency—A home health agency which holds a current letter of approval signed by an official of the Department of Health and Human Services which indicates compliance with conditions of participation in Title XVIII of the Social Security Act.

Clinical note—A dated written notation by agency personnel of a contact with a patient containing a description of signs and symptoms, treatment and/or medication given, the patient's reaction, other health services provided, and any changes in physical and/or emotional condition.

Department—The Texas Department of Health.

Dietitian—A person who is currently licensed under the laws of this state to use the titles of "licensed dietitian," "provisional licensed dietitian," or "registered dietitian."

Director—The director of the Medicare Certification Division of the Texas Department of Health or his or her designee.

Discharge summary—A recapitulation of all services provided by the home health agency before discharge of a patient.

Health assessment—A determination of a patient's physical and mental status through inventory of systems.

Health service—

- (A) nursing;
- (B) physical, occupational, speech, or respiratory therapy;
- (C) a medical social service;
- (D) the service of a home health aide;
- (E) the furnishing of medical supplies (other than drugs and medicines) and medical equipment; or
- (F) nutritional counseling.

Home health aide—A nonprofessional person who provides personal health care services for a person in the home, under the supervision of a registered nurse or appropriate professional personnel.

Home health agency—A place of business that provides a home health service for pay or other consideration in a patient's residence.

Home health service—The provision of a health service for pay or other consideration in a patient's residence.

Hospice service—A specialized concept of care which uses an interdisciplinary approach to deliver medical, social, psychological, emotional, spiritual, and bereavement care to the terminally ill patient and the patient's family.

Licensed vocational nurse—A person who is currently licensed under the laws of this state to use the title "licensed vocational nurse."

Occupational therapist—A person who is currently licensed under the laws of this state to practice occupational therapy.

Patient care conference—A conference among the home health agency staff to evaluate patient care needs and the delivery of service.

Person—An individual, corporation, or association.

Physical therapist—A person who is currently licensed under the laws of this state as a physical therapist.

Physician—A person who is currently licensed under the laws of this state to practice medicine and who holds a doctor of medicine or doctor of osteopathy degree.

Place of business—Any office of a home health agency that maintains home health service patient records or directs home health services and includes a suboffice, a branch office, a workroom, or any other subsidiary location.

Progress note—A dated, written notation by agency personnel summarizing facts about care and the patient's response during a given period of time.

Registered nurse—A person who is currently licensed under the laws of this state as a registered nurse.

Residence—A place where a person resides, including a home, nursing home, or convalescent home for the disabled or aged.

Respiratory therapist—A person who is certified or registered by the appropriate professional organization or is eligible for it and is currently licensed by the state, if required.

Social worker—A person who is currently certified under the laws of this state as a social worker.

Speech pathologist or audiologist—A person who is currently licensed under the laws of this state as a speech pathologist or audiologist.

Statute—Texas Civil Statutes, Article 4447u.

Supervision—Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

§115.3. Unregulated Agency.

(a) The authority to determine if a person is subject to regulation under the statute is inherent in the responsibility to regulate agencies that are within the definitions of the statute.

(b) Personnel from the Medicare Certification Division of the department shall schedule an appointment with the person to determine whether the person is providing home health services. If the director determines that a person is providing home health services, the person

will be notified of the determination by certified mail and will be required to submit an application for a license or a claim for exemption in accordance with these rules within 10 days of receipt of notice.

(c) If a person refuses to cooperate in the investigation, the director shall notify the person by certified mail that provision of home health service is unlawful without a home health service license. The director may refer the case for injunctive relief to the attorney general.

§115.4. Exemptions.

(a) When there is a question about the subject of regulation status of a person, and the person claims exemption under the statute, §6, the director shall ask the person to make a written claim to the department, citing the subsection of the statute under which exemption is claimed and including any and all documentation supporting the exemption claim.

(b) The director shall evaluate the information received and determine if a person is exempt. The director shall notify the person in writing upon the completion of the evaluation.

§115.5. Application and Issuance of Temporary License for First Time Applicants.

(a) All first-time applications for licensing, including those from unregulated operating facilities, are applications for a temporary license. The application for a temporary license is also an application for the first annual license.

(b) Upon written request, the director shall furnish a person with an application form for a home health agency license. The applicant shall be at least 18 years of age, and shall submit to the director the application form, required documentation, and the license fee. The applicant shall apply for either a Class A or Class B license and indicate whether hospice service designation is requested.

(1) If the applicant does not hold a current home health agency license, a representative of the department shall schedule a meeting with the applicant in order to inform the applicant of the standards for the operation of an agency.

(2) The applicant shall provide the name of the owner of the service or a list of names of persons who own an interest in the service and a list of any businesses with which the service business subcontracts and in which the owner or owners of the service business hold as much as 5.0% of the ownership.

(3) The applicant shall submit with the application its organizational structure, proposed annual budget, and an affidavit attesting to the following:

(A) that neither the agency nor any of its owners has been adjudged insolvent or bankrupt in a state or federal court;

(B) that neither the agency nor any of its owners are parties in a proceeding which is pending in a state or federal court proceeding to make a judgment of bankruptcy or insolvency with respect to either the agency or its owners; and

(C) that the agency has the financial ability to meet its proposed annual budget.

(c) Upon receipt of the application, including the required documentation, the director shall review the material to determine whether it is complete and substan-

tiates compliance with standards requiring submittal of documentation.

(1) If the director determines that the application is complete and correct, the department shall issue a temporary license to a person to provide home health services. The temporary license is valid for six months from the date of issuance unless revoked by the department and is not renewable. The director shall send the temporary license to the licensee with a cover letter which includes:

(A) a statement that continuing compliance with minimum standards and these rules for the class of license applied for is required during the temporary licensing period in order for an annual license to be issued;

(B) a statement that the law provides that a surveyor from the department will inspect the agency prior to the issuance of the first annual license; and

(C) a statement that the agency shall comply with §115.8 of this title (relating to Conditions of Annual License).

(2) If the director determines that compliance with minimum standards and these rules is not substantiated after resubmission of an application, the director shall propose to deny the issuance of a license and notify the applicant as provided in §115.12 of this title (relating to License Denial, Suspension, or Revocation).

(d) A department surveyor shall inspect the agency within three months after the issuance of the temporary license.

(e) If an applicant decides not to continue the application process for an annual license, the application may be withdrawn. If a temporary license has been issued, the applicant shall return the temporary license to the director with its written request for withdrawal. The director shall acknowledge receipt of the request to withdraw.

§115.6. Inspections.

(a) An on-site inspection shall determine if standards for licensing are being met. Prior to an inspection, the surveyor shall notify the agency of the date and time of the visit. A standard-by-standard evaluation is required before the first annual license is issued, and may be required if an agency has not demonstrated reasonable compliance with standards.

(b) After an inspection is completed, the surveyor shall prepare a compliance record which contains the following:

- (1) citation of all standards that were evaluated;
- (2) citation of all standards with which the agency was in noncompliance and specifics of any noncompliance;
- (3) a plan of correction and the date(s) by which correction(s) must be made;
- (4) statement that not all standards were evaluated, if applicable; and
- (5) signed comments by the applicant, if requested by the applicant.

(c) The surveyor shall request the applicant or person in charge to sign the compliance record as an acknowledgement of receipt of a copy of the form at the completion of the on-site survey. Signing the form does not indicate agreement with any description of noncompliance stated on the form. If a person declines to sign

the form, the surveyor shall note the declination on the compliance form and the name of the person in charge. The surveyor shall leave a copy of the compliance form at the agency and, if the person in charge is not the applicant, mail a copy to the applicant.

(d) The surveyor shall prepare a summary report and submit it to the director for evaluation and decision. If the director determines the agency is not meeting minimum standards, the director notifies the agency in writing of unmet standards and the plan of correction necessary for compliance.

(1) If the inspection is for the issuance of the first annual license, the agency shall come into compliance no later than 30 days prior to the expiration of the temporary license. If the director decides to allow the temporary license to expire without issuing an annual license, the agency shall be notified of the proposed denial of the first annual license in accordance with §115.12 of this title (relating to License Denial, Suspension, or Revocation).

(2) If the inspection is conducted in order to determine compliance with standards, the agency shall come into compliance in accordance with the dates designated in the plan of correction. If the agency fails to comply, the director may propose to suspend or revoke the license in accordance with §115.12 of this title (relating to License Denial, Suspension, or Revocation).

§115.7. Issuance and Renewal of Annual License.

(a) An annual license may be issued when:

- (1) an agency has satisfied temporary licensing requirements; or
- (2) an agency has met the requirements for the renewal of an annual license.

(b) An agency's first annual license shall be issued to an agency which meets the minimum standards for a license as determined after an inspection. The first annual license supersedes the temporary license and shall expire one year from the date of issuance of the temporary license.

(c) The department will send notice of expiration to an agency at least 60 days before the expiration date of an annual license. If the agency has not received notice of expiration from the department 45 days prior to the expiration date, it is the duty of the agency to notify the department and request a renewal application for a license. The agency shall submit to the department an application renewal and survey form, affidavit of solvency, and the license fee postmarked no later than 30 days prior to the expiration date of the license. The department shall issue an annual license to an agency which meets the minimum standards for a license.

(d) If an agency fails to timely submit its application and fee in accordance with subsection (c) of this section, the department shall notify the agency that it must cease operation on the expiration date of the license and immediately thereafter return the license, by certified or registered mail, to the department. If the agency wishes to provide home health services after the expiration date of its license, it must apply for a temporary license under §115.5 of this title (relating to Application and Issuance of Temporary License for First Time Applicants).

§115.8. Conditions of Annual License.

(a) No license may be transferred from one person to another person. If a person is considering acquisition

of a licensed agency, in order to insure continuity of patient services, the person should submit a license application at least 60 days prior to the acquisition for each place of business in accordance with §115.5 of this title (relating to Application and Issuance of Temporary License for First Time Applicants).

(b) No license may be transferred from one location to another without prior approval from the department as provided in this subsection. If an agency is considering relocation, the agency shall complete and submit a form provided by the department 30 days prior to the intended relocation.

(1) A relocation shall be approved by the department for a Class A agency if the new location is within the existing service area.

(2) A relocation shall be approved by the department for a Class B agency if the new place of business is within 50 miles of the previous location.

(3) All other relocations shall not be approved, and the licensee shall submit a new application for a license in accordance with §115.5 of this title (relating to Application and Issuance of Temporary License for First Time Applicants).

(c) An agency must notify the department in writing of any change in telephone number within a reasonable period of time.

(d) If an agency changes the name under which it is licensed, it must notify the department within five business days after the effective date of the name change.

(e) An agency shall implement and enforce the applicable provisions of the Human Resources Code, Chapter 102 (relating to Rights of the Elderly).

(f) The agency shall notify the department of any of the following:

- (1) addition or deletion of services provided;
- (2) request to change license classification;
- (3) request to apply for or withdraw hospice designation;
- (4) notification of termination of provision of home health services; and
- (5) if a Class A agency, notification of changes in certified status.

(g) An agency must respect the rights and privileges of other agencies. In order to preserve the rights of the patient, the solicitation of referrals by coercion or harassment by an agency will be considered a violation of these rules.

§115.9. Standards for a Class A License. A Class A agency shall comply with these rules and meet the conditions of participation as either a "home health agency" or a "hospice" in the insurance program for the aged within the meaning of the Social Security Act and the regulations adopted thereunder (42 Code of Federal Regulations §405.1201 *et seq* or §418.1 *et seq*), which regulations are adopted by reference herein for all purposes. Copies of the regulations adopted by reference in this section are indexed and filed in the Medicare Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

§115.10. Standards for Class B License.

(a) A Class B agency shall meet the standards of this section.

(b) Organizational structure and operational policies of the agency must be clearly stated in writing. It must include the lines of authority and delegation of responsibility down to the patient care level and the services provided.

(1) The administrator of an agency will administratively supervise the provision of all health services. The administrator organizes and directs the agency's ongoing functions; employs qualified personnel and insures adequate staff education and evaluations; insures the accuracy of public information materials and activities; and implements an effective budgeting and accounting system. A person who meets the qualifications of an administrator shall be authorized in writing by the administrator to act in his or her absence.

(2) Personnel policies are developed in writing and contain the following:

- (A) hours of work;
- (B) eligibility for vacation, sick leave, and other fringe benefits;
- (C) orientation of all personnel to the policies and objectives of the agency, and participation by all personnel in appropriate employee development programs;
- (D) periodic evaluation of employee performance and exit interview; adherence to personnel policies and patient care policies, including disciplinary action and procedures;
- (E) job description (statement of those functions and responsibilities which constitute job requirements) and job qualifications (specific education and training necessary to perform the job); and
- (F) a policy to prohibit the spread of infectious and communicable disease from agency personnel to patients.

(3) A personnel record shall be maintained on each employee. A personnel record should include, as appropriate, the following: job description; qualifications; application for employment; verification of references, job experience, educational requirements, and license; performance evaluation; and disciplinary actions or letters of commendation. All information should be kept current.

(4) If an agency utilizes independent contractors, there shall be a written contract between such independent contractors and the agency clearly designating:

- (A) that patients are accepted for care only by the primary home health agency;
- (B) the services to be provided;
- (C) the necessity to conform to all applicable agency policies including personnel qualifications;
- (D) the plan of treatment and plan of care shall be carried out as ordered;
- (E) the manner in which services will be coordinated and evaluated by the primary agency;
- (F) the procedures for submitting clinical and progress notes, scheduling of visits, and periodic patient evaluation;
- (G) the procedures for determining charges and reimbursement; and
- (H) the geographic area to be served by such personnel.

(5) Services provided by an agency under arrangement with another agency or organization must be subject to a written contract conforming with the require-

ments specified in paragraph (4) of this subsection.

(c) The agency shall maintain a current roster of patients and have a clinical record for each patient which is maintained according to professional standards.

(1) A clinical record shall contain, as applicable, appropriate identifying information; name of physician; plan of treatment which shall include medication, dietary, treatment, and activity orders; initial assessment and patient care plan; clinical and progress notes (clinical notes are written the day service is rendered and incorporated no less often than weekly); medication administration records; record of patient care conference; record of supervisory visits; and discharge summary. All entries shall be signed and dated by the person making the entry and/or supervisory personnel as is necessary.

(2) Records shall be retained for five years and safeguarded against loss and unofficial use. The agency shall have written procedures governing the use and removal of records and the release of information.

(3) An agency shall provide a copy of the clinical record to a person who has obtained the patient's consent for the release of the record.

(d) The agency must have the financial ability to carry out its functions as proposed.

(e) The agency must have a written contingency plan in the event of dissolution for continuity of patient care. All records shall be retained even if the agency discontinues operations.

(f) The agency shall accept a patient for health services on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately in the patient's residence.

(1) An initial assessment shall be performed in the patient's residence by the appropriate health care professional within 72 hours of the first contact with the patient and/or the patient's family to determine whether the agency has the ability to provide the necessary services in the home. At the time of the admission, the patient care plan is developed in conjunction with the patient and/or family and the appropriate health care professional.

(A) The patient care plan shall include potential services to be rendered; the frequency of visits and/or hours of service; the assignment of health care providers; and the estimated length of service. The patient care plan shall be reviewed and updated at least every two months.

(B) If a physician orders skilled treatment, the patient care plan follows a written plan of treatment which must be signed and approved by a physician within 14 days of the physician's order. The plan of treatment shall be revised as necessary but reviewed and updated at least every six months. The plan of treatment and the patient care plan may be incorporated into one document.

(2) The agency will inform the patient and/or his family in writing of the terms of their agreement for services and obtain an acknowledgement of receipt of the agreement. The information provided shall include, but not be limited to, the following:

(A) Human Resources Code, Chapter 102 (relating to Rights of the Elderly), if applicable;

(B) services to be provided;

(C) supervision by the agency of services provided; and

(D) agency charges for services rendered if the charges will be paid in full or in part by the patient and/or his family, or on request.

(g) A patient care conference among the appropriate agency staff shall be held at least every two months to evaluate a patient's care needs and delivery of service.

(h) Medications will be administered by an agency-employed registered nurse or by a licensed vocational nurse, and only if such medication is ordered by the patient's physician.

(1) Upon the request by a patient and/or his family for assistance with medications, the registered nurse may assign a home health aide to assist with administration of oral medications which are ordinarily self-administered. The request shall be documented in the patient's clinical record.

(2) A current medication sheet and medication administration records will be maintained and will be incorporated into the clinical record. Notation will be made in clinical notes of medications not given and reason. Any untoward action will be reported to supervisor and documented.

(i) An agency shall provide at least one health service. All services shall be rendered and supervised by qualified personnel.

(1) If nursing service is provided, a registered nurse shall be available to supervise nursing care. The administrator shall designate a registered nurse to serve as an alternate.

(2) If physical therapy service is provided, a physical therapist shall be employed by or under contract with the agency to provide services and/or supervision.

(3) If occupational therapy service is provided, an occupational therapist shall be employed by or under contract with the agency to provide services and/or supervision.

(4) If speech-language pathology or audiology services are provided, a speech-language pathologist or audiologist shall be employed by or under contract with the agency to provide services and/or supervision.

(5) If medical social service is provided, a social worker shall be employed by or under contract with the agency to provide services and/or supervision.

(6) If nutritional counseling is provided, a dietitian shall be employed by or under contract with the agency to provide services and/or supervision.

(7) If home health aide service is provided, a registered nurse or appropriate professional personnel shall be employed by or under contract with the agency to perform the initial assessment, prepare the patient care plan, and supervise the home health aide.

(8) If respiratory therapy service is provided, a respiratory therapist shall be employed by or under contract with the agency to provide services.

§115.11. Hospice Designation.

(a) A Class A or Class B license may be issued designating that the agency provides hospice services. No agency can provide hospice services unless it is designated a hospice under these rules. In order to receive a hospice service designation, an agency shall meet the requirements for either a Class A or Class B license and the standards prescribed in this section.

(b) The agency must provide to patients who have been diagnosed by a physician as terminally ill and their families the following services, as appropriate, which must be available 24 hours a day:

- (1) nursing;
- (2) medical social service;
- (3) counseling;
- (4) volunteer and bereavement care; and
- (5) coordination of short-term inpatient care.

(c) The agency must provide services through an interdisciplinary team which consists of a physician, registered nurse, social worker, and pastoral or other counselor. The interdisciplinary team is responsible for:

- (1) developing and revising the patient/family care plan; and
- (2) facilitating the exchange of information among the interdisciplinary team, the patient, and the patient's family.

(d) In lieu of the standards for a plan of treatment and a patient care plan prescribed in §115.10(f)(1) of this title (relating to Standards for Class B License), a patient care plan shall be written and maintained by the interdisciplinary team, signed by the appropriate team member, reviewed and updated at least every 60 days, and must include the following:

- (1) complete assessment of patient's and family's needs including medical, nursing, functional, and psychosocial status;
- (2) diagnosis and prognosis;
- (3) identification of problems and goals based on the assessment;
- (4) types of services required to meet the goals, treatment, and medication orders;
- (5) frequency of visits and/or hours of service; and
- (6) appraisal of and need for symptom control.

(e) In lieu of the standard for a patient care conference prescribed in §115.10(g) of this title (relating to Standards for Class B License), a patient care conference shall be held at least every two weeks among at least three members of the interdisciplinary team to evaluate a patient/family's care needs and delivery of service.

(f) The agency must provide an ongoing program for the training and continuing education of its direct patient care staff. The direct patient care staff is required to receive no less than 30 hours of appropriate hospice orientation within the first 90 days of association with the agency.

(g) The agency must conduct an ongoing comprehensive self-assessment of the quality and appropriateness of hospice services provided. The agency shall document its findings at least every 12 months, and the agency shall use these findings to correct identified problems and to revise hospice policies.

(h) The agency shall designate a registered nurse to coordinate the overall plan of care for the provision of hospice services to each patient/family.

(i) The agency shall use volunteers in defined roles under the supervision of designated qualified hospice staff members. Volunteers are lay or professional personnel who contribute time and talent to the hospice program without remuneration. Volunteers may be assigned, as appropriate, to be a member of the patient/family interdisciplinary team.

(1) The agency shall provide volunteers appropriate orientation and training that:

(A) is consistent with acceptable standards of hospice practice, such as the physiological/psychological aspects of terminal disease coping skills, family dynamics, bereavement care, etc.;

(B) is appropriate to the anticipated responsibility of the volunteer; and

(C) includes the goals and concept of hospice care, the need for confidentiality of patient records, and response procedures for medical emergencies and death.

(2) Volunteers may serve in administrative and direct patient care roles. If a volunteer delivers direct patient care, it must be in accordance with the patient care plan and the skills and qualifications of the individual.

(3) The agency shall document active efforts to recruit and retain volunteers.

(4) The agency shall evaluate volunteer hospice services by identifying positions occupied by volunteers and the work time spent by the volunteers occupying those positions.

(j) The agency shall have a physician who serves as a medical consultant. The medical consultant may be a volunteer. The medical consultant shall provide consultation to the medical staff, as appropriate; serve as a liaison with community physicians, medical schools, and teaching hospitals; and shall, on request, provide information and reports to the administrator.

§115.12. License Denial, Suspension, or Revocation.

(a) The department may deny issuing a license to an agency if the agency fails to comply with these rules.

(b) The department may suspend the license of an agency for one or more of the following reasons:

(1) violation of the provisions of the statute or of any of the standards in these rules;

(2) misstatement of a material fact on any documents required to be submitted to the department or required to be maintained by the agency pursuant to these rules;

(3) commission by the agency or its personnel of a false, misleading, or deceptive act or practice as that term is defined in the Deceptive Trade Practices-Consumer Protection Act, §17.46(b); and

(4) materially altering any license issued by the department.

(c) The department may revoke the license of an agency for one or more of the following reasons:

(1) a repeat violation within a 12-month period which resulted in a license suspension;

(2) an intentional or negligent act by the agency or its employees which materially affects the health and safety of a patient.

(d) If the director of the Medicare Certification Division of the department proposes to deny, suspend, or revoke a license, the director shall notify the agency of the reasons for the proposed action and offer the agency an opportunity for a hearing. The agency may request a hearing within 30 days after the date the agency receives notice. The request must be in writing and submitted to the director, Medicare Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas

Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures). If the agency does not request a hearing in writing after receiving notice of the proposed action, the agency is deemed to have waived the opportunity for a hearing and the proposed action shall be taken.

(e) The department may suspend or revoke a license to be effective immediately when the health and safety of persons are threatened. The department shall notify the agency of the emergency action and shall notify the agency of the date of a hearing, which shall be within seven days of the effective date of the suspension or revocation. The hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

§115.13. Home Health Aides; Training Course; Duties.

(a) A home health aide shall have a minimum of one year of experience in direct patient care in an institutional setting (home health agency, hospital, or nursing home) or shall have satisfactorily completed a home health aide training course that has been approved by the department. In lieu of the requirement for completion of a home health aide training course, a nursing student may qualify as a home health aide by submitting documentation from the director of programs and/or the dean of a school of nursing that states that the nursing student has demonstrated competency in providing basic nursing care in accordance with the school's curriculum.

(b) Duties of the home health aide may include, but are not limited to, the following:

- (1) personal care: bathing, grooming, feeding, ambulation, exercise, oral hygiene, and skin care;
- (2) assistance with medications ordinarily self-administered as assigned;
- (3) household services essential to health care in the home;
- (4) completion of records and reporting to appropriate supervisor;
- (5) taking and charting vital signs;
- (6) taking and charting intake and output; and
- (7) performance of simple unsterile procedures which do not require on site supervision by a registered nurse.

(c) The training program for home health aide will be conducted under the supervision of a registered nurse. The training program may contain other aspects of learning, but must contain the following:

- (1) a minimum of 120 hours of classroom and clinical instruction related particularly to the home health setting, as follows:
 - (A) a minimum of 80 hours of classroom instruction; and
 - (B) a minimum of 40 hours of clinical experience which will include in-home training and shall be conducted in a home, a hospital, or a nursing home;
 - (2) written course objectives with expected outcomes and methods of evaluation; and
 - (3) an assessment that the student knows how to read and write English and to carry out directions.
- (d) Course and clinical work content must include, but is not limited to, bathing, ambulation and exercise, personal grooming, principles of nutrition and meal

preparation, aging process and emotional problem of illness, household services essential to health care at home, assistance with medications, safety in the home, completion of appropriate records and reporting changes to appropriate supervisor, and rights of the elderly.

(e) A request for approval of a home health aide training program shall be submitted to the director with the following documentation:

- (1) number of hours of instruction (classroom and clinical);
- (2) name and copy of licenses and qualifications of instructors;
- (3) names and addresses of facilities used for clinical experience and classroom instruction;
- (4) course outline;
- (5) lesson plans;
- (6) methods of evaluation for successful completion of course;
- (7) evidence of successful completion (certificate); and
- (8) methods of instructor supervision of students during clinical experience.

(f) If the director proposes to disapprove a home health aide training program, the director shall notify the applicant of the reasons for the proposed action. The applicant may request a hearing within 30 days after the applicant receives notice. The request must be in writing and submitted to the director, Medicare Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures). If the applicant does not request a hearing in writing after receiving notice of the proposed action, the agency is deemed to have waived the opportunity for a hearing and the proposed action shall be taken by the department.

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 June 18, 1984.

TRD-846589

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

Proposed date of adoption:

August 11, 1984

For further information, please call (512) 458-7245.

Chapter 157. Emergency Medical Care

The Texas Department of Health proposes the repeal of §§157.1-157.3, concerning federal laws, regulations, and guidelines on emergency medical care, and §157.11, concerning application form for a permit to operate an emergency ambulance, which has been adopted by reference.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Seale has also 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 elimination of federal laws, regulations, and guidelines and a department application form which no longer have any applicability and which have been adopted by reference. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 90 days after publication of the notice of the proposed repeal in the *Texas Register*.

Federal Laws, Regulations, and Guidelines on Emergency Medical Care

25 TAC §§157.1-157.3

The repeal is proposed under the Texas Emergency Medical Services Act, Texas Civil Statutes, Article 4447o, §3.02, which authorizes the Texas Board of Health to adopt minimum standards to implement the Act.

§157.1. *Federal Laws on Emergency Medical Care.*

§157.2. *Federal Regulations on Emergency Medical Care.*

§157.3. *Federal Program Guidelines on Emergency Medical Care.*

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 June 18, 1984.

TRD-846590 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
October 20, 1984

For further information, please call (512) 458-1393.

Application Form for Permit to Operate Emergency Ambulance

25 TAC §157.11

The repeal is proposed under the Texas Emergency Medical Services Act, Texas Civil Statutes, Article 4447o, §3.02, which authorizes the Texas Board of Health to adopt minimum standards to implement the Act.

§157.11. Application Form for a Permit to Operate an Emergency Ambulance.

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 June 18, 1984.

TRD-846591 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
October 20, 1984

For further information, please call (512) 458-1393.

Denial and Revocation of Emergency Medical Services Certificates and Certifications

The Texas Department of Health proposes the repeal of §157.21 and §157.22, new §157.21 and §157.22, and an amendment to §157.25, concerning the denial and revocation of emergency medical services certificates and certifications. New §157.21 covers the criteria for decertification, suspension, and probation of emergency medical services (EMS) personnel certificates. New §157.22 covers the procedure for revocation/suspension of a certificate. The amendment to §157.25 updates and clarifies the criteria for denial of certification and recertification.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal and rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal or of enforcing or administering the rules.

Mr. Seale has also determined that for each year of the first five years the repeal and rules as proposed are in effect, the public benefit anticipated as a result of the repeal and of enforcing the rules as proposed is the modification and updating of existing rules to comply with the new Emergency Medical Services Act, Texas Civil Statutes, Article 4447o, which became effective January 1, 1984. The anticipated economic cost to individuals as a result of the repeal and who are required to comply with the rules as proposed is dependent on the complexity of the case, whether an attorney was employed, and other such factors; a person who avails himself of the hearing procedure could incur costs from \$0 to \$3,000.

Comments on the proposal may be submitted to Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 90 days after publication of the notice of the proposed repeal, amendment, and new rules in the *Texas Register*. In addition, a public hearing on the proposed amendment, repeal, and new rules will be held at 1 p.m. on Thursday, July 5, 1984, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

25 TAC § 157.21, § 157.22

The repeal is proposed under Texas Civil Statutes, Article 4447o, §3.02, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act.

§157.21. Criteria for Revocation of Certificate.

§157.22. Procedure for Revocation of Certificate.

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 June 18, 1984.

TRD-846592 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:

October 20, 1984

For further information, please call (512) 458-1393.

The new sections are proposed under Texas Civil Statutes, Article 4447o, §3.02, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act.

§157.21. Criteria for Decertification, Suspension, and Probation of Certificate. Emergency Medical Services (EMS) personnel certified by the department may be subject to the following disciplinary actions.

(1) Decertification. EMS personnel may be decertified for one or more of the following reasons:

(A) discrimination in the provision of services based on national origin, race, color, creed, religion, sex, age, physical or mental disability, or economic status;

(B) the use or being under the influence of alcohol or drugs while on duty or on call to duty;

(C) representation by the certificant that he or she is qualified at any level other than his or her current certification;

(D) patient abandonment;

(E) appropriating and/or unauthorized possession of medications, supplies, equipment, or personal items of the patient or employer;

(F) materially altering any department EMS certificate, or the use and/or possession of any such altered certificate;

(G) any repeat offense which resulted in suspension and/or probation of the certificate within two years of the original offense;

(H) cheating on the department's examinations for certification and/or assisting or attempting to assist another to obtain certification by fraud, forgery, deception, misrepresentation, or subterfuge;

(I) conviction of a misdemeanor or felony, if the crime directly relates to the performance of EMS duties and responsibilities; or

(J) knowingly advertising or causing to be advertised in any manner any false, misleading, or deceptive statement or representation with regard to emergency medical services staffing, equipment, and vehicles.

(2) Emergency suspension.

(A) The bureau chief shall issue an emergency order to suspend any certificate issued under this Act if the bureau chief has reasonable cause to believe that the conduct of any certificate holder creates an imminent danger to the public health or safety.

(B) An emergency suspension is effective immediately without a hearing upon notice to the certificate holder. In the case of a volunteer provider, notice must also be given to the sponsoring governmental entity.

(C) On written request of the certificate holder, the department shall conduct a hearing not earlier than the 10th day nor later than the 30th day after the date on which a hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. The hearing and an appeal from a disciplinary action related to the hearing are governed by §§1.21-1.32 of this title (relating to Formal Hearing Procedures) and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, as amended.

(3) Nonemergency suspension or probation. EMS personnel may be suspended and/or placed on probation for a period of not more than one year for one or more of the following reasons:

(A) failure to stabilize patient's condition or to prevent complications in accordance with acceptable EMS standards of care;

(B) failure to administer medications and/or treatments in a responsible manner in accordance with the medical director's orders or protocols;

(C) failure to maintain confidentiality of patient information obtained in course of professional work; or

(D) any misstatement of a material fact on the application for certification.

§157.22. Procedure for Revocation/Suspension of Certificate.

(a) If the bureau proposes to decertify, suspend, and/or place on probation a certificant, the bureau shall notify the certificant by mail.

(b) The certificant may request a hearing within 15 days after the date of the notice. This request should be submitted to the bureau chief. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(c) If the certificant does not request a hearing in writing after receiving the notice of the proposed decertification, suspension, and/or probation, the certificant is deemed to have waived the opportunity for a hearing. 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 June 18, 1984.

TRD-846593 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:

October 20, 1984

For further information, please call (512) 458-1393.

25 TAC §157.25

The amendments are proposed under Texas Civil Statutes, Article 4447o, §3.02, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act.

§157.25. *Criteria for Denial of Certification and Recertification [Issuance of Registration Certificate].* A [registration] certificate may be denied to an applicant for the following reasons:

(1) **Failure to meet standards for certification as required in §157.63 of this title (relating to Certification) and §157.64 of this title (relating to Recertification).**

(2) [(1)] **Previous conduct on the part of the applicant during the performance of duties relating to the responsibilities of EMS personnel that is contrary to currently accepted standards of conduct for EMS personnel as established by the Texas Department of Health, including, but not limited to, the following:**

(A) **the use or being under the influence of alcohol or drugs while on duty or on call to duty;**

(B) **discrimination in the provision of services based on national origin, race, color, creed, religion, sex, age, physical or mental disability [handicap], or economic status;**

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

(3) **Cheating on the department's examination for certification or recertification and/or assisting or attempting to assist another to obtain certification by fraud, forgery, deception, misrepresentation, or subterfuge.**

(4) [(2)] **Any misstatement of a material fact on the application for registration or course completion document.**

[(3) Conviction of a misdemeanor or felony if the crime directly relates to the performance of EMS duties and responsibilities.]

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 June 18, 1984.

TRD-846594 Robert A. MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption.

October 20, 1984

For further information, please call (512) 458-1393.

Emergency Medical Services Systems

25 TAC §§157.44-157.47

The Texas Department of Health proposes amendments to §§157.44-157.47, concerning establishment, operation, expansion, and improvement of comprehensive emergency medical services systems. These sections cover the definition of potential applicants, procedures to apply for funds, criteria for applications, and evaluation requirements of the program.

Stephen Seale, chief accountant III, 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.

Mr. Seale has also 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 rule as proposed is the establishment of criteria for applications, expansion of the eligibility of potential applicants, establishment of the criteria for applications, and establishment of evaluation requirements. The anticipated economic cost to individuals who are required to comply with the rules as proposed is the annual cost to the applicant of preparing the application and required annual and quarterly program reports, which could range up to \$500, on a cost allocation basis. Examples of factors affecting the cost are size, involvement, and expertise of staff; the necessity of outside assistance; and the complexity of the program or program components.

Comments on the proposal may be submitted to Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 90 days after publication of these proposed rules in the *Texas Register*. In addition, a public hearing on these proposed rules will be held at 1 p.m. on Thursday, July 5, 1984, at the Texas Department of Health Auditorium, 110 West 49th Street, Austin.

These amendments are proposed under Texas Civil Statutes, Article 4447o, §2.01-2.08, which authorize the Texas Department of Health to develop and coordinate comprehensive emergency medical services systems in the state of Texas.

§157.44. *Potential Applicants.* Applicants who may apply for establishment and initial operation and [or] expansion and improvement of a total emergency medical service (EMS) system are public entities administering a compact or other regional planning council or consortium, a unit of local government, any other public entity, and any nonprofit entity.

§157.45. *Procedures to Apply for Funds (General Information for the Applicant).*

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

(e) Eligibility. Eligible entities are:

(1) (No change.)

(2) planning regions not currently funded, but eligible for new or additional funding; and [.]

(3) other public entities and nonprofit entities as referenced in §157.44 of this title (relating to Potential Applicants).

(f)-(n) (No change.)

§157.46. *Criteria for Applications (Information Required for Applications).*

(a) Proposals must be brief and submitted to the Bureau of Emergency Management typed on forms prescribed by the department. Proposals must contain the information listed in the EMS Systems Program guidelines

adopted by reference in §157.43(a)(3) of this title (relating to Documents Adopted by Reference). **Proposals must include:**

- (1) **scope and broad objectives;**
- (2) **description of program area and target population;**
- (3) **definition of needs and priorities;**
- (4) **implementation schedule and work plan;**
- (5) **budget and budget narrative;**
- (6) **evidence of local support and financial commitment;**
- (7) **qualifications of applicant organization; and**
- (8) **objectives and implementation approach; includes the 15 components listed in §157.45(c) of this title (relating to Procedures to Apply for Funds (General Information for the Applicant)), which may be considered independently for funding, and seven critical care categories:**

- (A) **trauma;**
- (B) **spinal cord injury;**
- (C) **burn;**
- (D) **poisoning;**
- (E) **cardiac;**
- (F) **high-risk infant; and**
- (G) **behavioral.**

(b) (No change.)

§157.47. Evaluation Requirements of the Program.

(a) (No change.)

(b) The quarterly and annual program report will include each of the 15 components and the seven critical care categories in a form as prescribed by the department. **Applicants funded for independent components will include in their quarterly and annual reports only the components funded.**

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 June 18, 1984

TRD-846595 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:

October 20, 1984

For further information, please call (512) 458-1393.

Emergency Medical Services

The Texas Department of Health proposes an amendment to §157.65 and new §157.74, concerning the certifying of persons with criminal backgrounds to be emergency medical services (EMS) personnel.

Stephen Seale, chief accountant III, 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.

Mr. Seale has also 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 the establishment of EMS em-

ployment eligibility for persons with criminal backgrounds. The anticipated economic cost to individuals who are required to comply with the rules as proposed is that a person who avails himself of the hearing procedures could spend from \$0 to \$3,000 depending on the complexity of the case, whether an attorney was engaged, and other such factors.

Comments on the proposal may be submitted to Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 90 days after publication of these proposed rules in the *Texas Register*. In addition, a public hearing on the proposed rules will be held at 1 p.m. on Thursday, July 5, 1984, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

25 TAC §157.65

The amendment is proposed under Texas Civil Statutes, Article 4447o, §3.02, which provide the Texas Board of Health with the authority to adopt rules for the implementation of the Emergency Medical Services Act, and Texas Civil Statutes, Article 6252-13d, §4, which authorizes the board to adopt guidelines covering the eligibility of persons with criminal backgrounds to be emergency medical services personnel.

§157.65. Procedure for Denial of Certification or Recertification.

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

(e) **If the denial is based on a criminal conviction, the provision of §157.74 of this title (relating to Certifying of Persons With Criminal Backgrounds to be Emergency Medical Services Personnel) shall apply.**

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 June 18, 1984.

TRD-846596 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:

October 20, 1984

For further information, please call (512) 458-1393.

25 TAC §157.74

The new section is proposed under Texas Civil Statutes, Article 4447o, §3.02, which provide the Texas Board of Health with the authority to adopt rules for the implementation of the Emergency Medical Services Act, and Texas Civil Statutes, Article 6252-13d, §4, which authorize the board to adopt guidelines covering the eligibility of persons with criminal backgrounds to be emergency medical services personnel.

§157.74. Certifying of Persons With Criminal Backgrounds to be Emergency Medical Services Personnel.

(a) **Purpose.** This section is designed to establish guidelines and criteria on the eligibility of persons with

criminal backgrounds to be certified as Emergency Medical Services (EMS) personnel.

(b) Criminal convictions which directly relate to the profession of EMS personnel.

(1) The department may suspend or revoke existing certification, disqualify a person from receiving a certificate, or deny to a person the opportunity to be examined for a certificate because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of EMS personnel.

(2) In considering whether a crime directly relates to the occupation of EMS personnel, the department shall consider:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a certificate. The following crimes relate to the certification of EMS personnel because these crimes directly relate to the ability to carry out the duties and responsibilities of EMS personnel:

(i) offenses under the Emergency Medical Services Act, Texas Civil Statutes, Article 4447o;

(ii) offenses under the Uniform Act Regulating Traffic on Highways, Texas Civil Statutes, Article 6701d, which are punishable by fines greater than \$200, or imprisonment, or both fine and imprisonment;

(iii) offenses under the intoxicated driver provisions of Texas Civil Statutes, Article 6701l-1;

(iv) offenses under the Controlled Substances Act, Texas Civil Statutes, Article 4476-15;

(v) offenses under the Dangerous Drug Act, Texas Civil Statutes, Article 4476-14;

(vi) offenses under the following titles of the Texas Penal Code:

(I) offenses against the person (Title 5);

(II) offenses against property (Title 7);

(III) offenses against public order and decency (Title 9);

(IV) offenses against public health, safety, and morals (Title 10);

(V) offenses involving organized crime (Title 11); and

(VI) offenses of attempting or conspiring to commit any of the offenses in this clause (Title 4);

(vii) the offenses listed in clauses (i)-(vi) of this subparagraph are not inclusive in that the department may consider other particular crimes in special cases in order to promote the intent of the Act and these rules;

(C) the extent to which a certificate might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of EMS personnel. In making this determination, the department will apply the criteria outlined in Texas Civil Statutes, Article 6252-13c, §4(c)(1)-(7).

(c) Procedures for revoking, suspending, or denying a certificate to persons with criminal backgrounds.

(1) If the bureau proposes to revoke, suspend, or deny a certificate, the bureau shall notify the individual by mail.

(2) The individual may request a hearing within 30 days after the date of the notice. This request should

be submitted to the bureau chief. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(3) If the individual does not request a hearing in writing after receiving the notice of proposed denial, the individual is deemed to have waived the opportunity for a hearing.

(4) If the department revokes, suspends, or denies a certificate under these rules after hearing, the bureau chief will give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, Texas, for review of the evidence presented to the department and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable.

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 June 18, 1984.

TRD-845597

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

Proposed date of adoption:

October 20, 1984

For further information, please call (512) 458-1393.

Chapter 181. Vital Statistics Vital Statistics

25 TAC §181.9

The Texas Department of Health proposes new §181.9, concerning access to sealed legitimation and paternity determination files.

W. D. Carroll, Bureau of Vital Statistics chief, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the new rule.

Mr. Carroll has also 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 protection of the interests of the child by allowing only a court of competent jurisdiction to order access to these sealed files. The anticipated economic cost to individuals who are required to comply with the rule as proposed is attorneys' fees for individuals who seek access to sealed legitimation and paternity determination files.

Comments on the proposal may be submitted to W. D. Carroll, Chief, Bureau of Vital Statistics, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 4477, §34a, which provide the Texas Department of Health with the authority to adopt the subject rules.

§181.9. Access to Sealed Legitimation and Paternity Determination Files. After the supplementary certificate of birth based on legitimation or paternity determination is filed, any information disclosed from the record shall be made from the supplementary certificate, and access to the original certificate of birth and to the documents filed upon which the supplementary certificate is based shall not be authorized except upon order of a court of competent jurisdiction.

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 June 18, 1984.

TRD-846598 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
August 18, 1984
For further information, please call (512) 458-7692.

Chapter 325. Solid Waste Management

The Texas Department of Health proposes amendments to §§325.5, 325.271-325.276, 325.292, 325.295, 325.296, 325.299, 325.311, 325.312, 325.332, 325.333, and 325.350; the repeal of §325.298; and new §§325.298, 325.321-325.324, 325.371, and 325.910. The proposed amendments and new sections provide changed or additional requirements for small quantity hazardous waste generators; persons who recycle hazardous waste; facility operators who treat, store, or dispose of small quantity generator hazardous waste; persons who receive, consolidate, store, repackage, and reship small quantity generator or recyclable hazardous waste (but who do not treat or dispose of the waste on site); and persons who discharge hazardous waste to domestic sewage systems.

Proposed new siting criteria contained in §§325.321-325.324 will affect new hazardous waste management facilities and also any existing permitted or interim status authorized hazardous waste treatment, storage, and disposal facilities that intend to carry out areal expansions. The siting criteria rules are primarily designed to protect ground and surface waters and are being proposed in accordance with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, as amended by House Bill 487, 68th Legislature, 1983, which directs the department to adopt siting criteria by September 1, 1984. The facility siting rules proposed here are very similar to siting rules proposed by the Texas Department of Water Resources for industrial hazardous waste facilities. The Solid Waste

Disposal Act, as amended, directs the department to adopt not only hazardous waste facility siting criteria by September 1, 1984, but also rules that require all hazardous waste generators (including small quantity generators) to provide record keeping and to use a manifest or some other appropriate system to assure delivery of hazardous wastes to a proper receiving facility.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal and rules as proposed are in effect there will be fiscal implications as a result of the repeal and of enforcing or administering the rules. The anticipated effect on state government is an estimated additional cost of \$6,000 for 1984, \$148,000 for 1985, \$206,400 for 1986, \$179,000 for 1987, and \$164,400 for 1988. There is no anticipated effect on local government.

The anticipated effect on small businesses is an average cost of compliance of \$27 per year. Approximately 24,000 small businesses will be significantly affected by these revisions to the rules. The projected cost of \$27 per year primarily consists of record keeping, manifesting, and reporting costs. In calculating these costs, the department did not take into consideration the cost of complying with requirements already in effect, such as the requirement to make a hazardous waste determination, to dispose of wastes only at authorized sites, etc. The estimated cost of compliance for small businesses will range from 0.5 cents to 2.7 cents per \$100 of sales. Compliance costs for large businesses affected (those with annual sales in excess of \$1 million) will range from 0.2 cents to 1.0 cents per \$100 of sales. For purposes of calculating compliance costs, the department considered certain waste-generating institutions, such as schools, hospitals, prisons, city and county governmental units, and small military facilities, to be small businesses even though they are not involved with sales in the way the majority of persons affected by these proposed rules are involved. The department estimates such generators are equivalent in size or number of employees to small businesses with annual sales of \$500,000. In addition, the cost estimates described above do not include those which would be incurred by an individual or corporation establishing a facility under §325.371 of this title. New §325.371 will not affect existing facilities or businesses, since existing hazardous waste facilities will continue to operate under other current rules.

Mr. Seale also has determined that for each year of the first five years the repeal and rules as proposed are in effect the public benefit anticipated as a result of the repeal and of enforcing the rules as proposed is the identification of approximately 10,000 small quantity hazardous waste generators through the notification requirements. Once known, such generators can be periodically inspected and monitored. Since inspected facilities are less likely to improperly dispose of hazardous waste, the public will benefit from a cleaner and safer environment. The proposed rules require most small quantity waste generators to use a hazardous waste manifest when shipping their

wastes. Use of manifests will reduce the incidence of illegal dumping by transporters and will help ensure that dangerous amounts of hazardous waste do not reach municipal landfills unequipped or not designed to handle such wastes. The proposed rules also establish requirements for generators who discharge their hazardous wastes, either with or without pretreatment, to publicly owned sewage systems. The public will benefit from these rules through cleaner receiving surface waters, reduced safety and health risks for citizens and sewer system workers, and additional protection given the treatment system and its processes.

The proposed rules establish additional siting criteria for new hazardous waste storage, treatment, and disposal facilities which will assure that new or expanded facilities do not adversely impact environmentally sensitive areas or contaminate ground or surface waters. By establishing official authorization and detailed operational requirements for persons or facilities who receive, consolidate, store, repackage, and reshipe hazardous waste produced by small quantity generators, the proposed rules increase the number of legitimate commercial handlers of small quantity waste and give the generator additional economically feasible options for the handling of his waste.

Finally, the proposed rules define precisely the kinds and volumes of small quantity hazardous waste that do not require waste-specific, site-specific approval from the department before being disposed of in a permitted Type I municipal landfill. This rule will benefit persons whose hazardous waste generation rates are small—less than 100 kilograms per month—since certain disposal procedures will be simplified.

The anticipated economic cost to individuals as a result of the repeal and who are required to comply with the rules as proposed is \$27 each year from 1984-1988 for small quantity generators, \$27 each year from 1984-1988 for generators of recyclable hazardous waste, \$25 for 1984 and \$15 each year from 1985-1988 for transporters of small quantity waste, \$25 for 1984 and \$15 each year from 1985-1988 for owners of hazardous waste recycling facilities, and \$1,000-\$50,000 each year from 1985-1988 for owners of new hazardous waste storage facilities authorized under §325.371. Costs to owners of new facilities established under §325.371 will vary extensively depending on the kinds and amounts of waste received. Annual compliance costs could range from \$1,000 to \$50,000.

Comments on the proposal and fiscal implications may be submitted to Jack C. Carmichael, P.E., Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7271. Comments will be accepted until 5 p.m. on July 26, 1984. In addition, three public hearings have been scheduled to offer the public an opportunity to submit oral comments. These hearings will be held on Tuesday, July 17, 1984, City Hall, City Council Chambers, 317 West College, Grand Prairie, 10 a.m.; Thursday, July 19, 1984, University of Houston Hilton, Cancer-Leo Room 210, 4800

Calhoun, Houston 10 a.m.; and Monday, July 23, 1984, Texas Department of Health Auditorium, 1100 West 49th Street, Austin, 1:30 p.m. Copies of the repeal and proposed rules are available for review at department regional offices in Canyon, Lubbock, El Paso, Abilene, Arlington, Temple, Tyler, Corpus Christi, Harlingen, Uvalde, San Antonio, and Rosenberg. Written comments submitted at these locations will be transmitted to the department's central offices in Austin.

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

Subchapter A. General Information

25 TAC §325.5

§325.5. *Definitions of Terms and Abbreviations.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions, pertinent to specific sections, are contained within the appropriate sections.

Special waste—Any solid waste or combination of solid wastes that, because of its quantity, concentration, physical or chemical characteristics, or biological properties require special handling and disposal to protect [the] human health or the environment. If improperly handled, transported, stored, processed or disposed of, or otherwise managed, it may pose a present or potential danger to [the] human health or the environment. Special wastes include, but are not limited to:

(A) hazardous waste from small quantity generators that is subject to the special waste requirements of [see] §325.298 of this title (relating to Special Requirements for Small Quantity Generators) and thus exempted from full regulatory control [, that may be exempt from full controls under §§325.271-325.350 of this title (relating to Hazardous Waste Management)] except those wastes which may be disposed of at a Type I site without specific approval as set forth in subsection (f)(5) of §325.298 of this title (relating to Special Requirements for Small Quantity Generators).

(B)-(L) (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 June 18, 1984.

TRD-846646

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

Proposed date of adoption.

August 11, 1984

For further information, please call (512) 458-7271.



Subchapter L. Hazardous Waste Management General

25 TAC § 325.271-325.276

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.271. Purpose, Applicability, and Release of Information.

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

(e) Inspections. Authorized representatives of the department, upon the presentation of credentials and other documents as may be required by law, have the right to [shall be allowed to]:

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

(4) Sample or monitor at reasonable times [,] and require the generator, transporter, or owner and/or operator of a facility to sample, monitor, and provide samples, monitoring data, and other information for the purposes of assuring [permit] compliance with the requirements of this subchapter [or as otherwise authorized by law, any substances or parameters at any location].

(f) Cleanup of a hazardous waste discharge. A person whose act or process causes or allows an unauthorized discharge, as defined in §325.272 of this title (relating to Definitions of Terms and Abbreviations), of a hazardous waste or a substance which, if it were to be discarded would be a hazardous waste, shall clean up the discharge or take such action as may be required by federal, state, or local officials.

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

EPA ID number—An identification number issued by the U.S. Environmental Protection Agency (EPA) (or by the department or the Texas Department of Water Resources on a temporary basis) to a generator, a transporter, or a facility which processes, stores, or disposes of hazardous waste.

ID number—The identification number assigned by the department, EPA, or the Texas Department of Water Resources in response to an entity's notification of hazardous waste activity.

TDH ID number—The identification number assigned by the Texas Department of Health.

TDWR ID number—The identification number assigned by the Texas Department of Water Resources.

§325.273. Hazardous Waste Determination.

(a) Procedures. A person whose act or process produces any municipal solid waste must determine if the waste is a hazardous waste and subject to these regulations by using the following steps:

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

(4) For three years retain all data and information, including sources of the information, used to make the determination as to whether or not the solid waste is a hazardous waste.

(b) (No change.)

§325.274. Hazardous Waste Regulated, Exclusions, and Exceptions.

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

(c) Exclusions. The following materials are not subject to regulation under this subchapter.

(1) Materials which are not solid wastes. For purposes of these regulations, the following listed materials are not solid wastes and, therefore, do not fall within §325.272 of this title (relating to Definitions of Terms and Abbreviations); e.g., a waste must first be a solid waste before it can be a hazardous waste:

(A) (No change.)

(B) any mixture of domestic sewage and other wastes that passes through a sewer system to a wastewater treatment plant for treatment, except a municipal hazardous waste mixed with domestic sewage that passes through a sewer system as described in this subparagraph is regulated as a hazardous waste prior to the point of mixing with the domestic sewage to the extent required by §325.292 of this title (relating to Scope and Applicability) and §325.298 of this title (relating to Special Requirements for Small Quantity Generators);

(C)-(F) (No change.)

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

(d) (No change.)

§325.275. Notification of Hazardous Waste Activity.

(a) Existing activities. A person who generates or transports municipal hazardous waste, or who owns or operates a municipal solid waste management facility for processing [treatment], storage, or disposal of hazardous waste shall [must] provide notification for each facility at which [of] the hazardous waste activity occurs and request issuance of a TDH ID number.

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

(b)-(c) (No change.)

(d) Exceptions.

(1) Exceptions from the requirement to notify and obtain TDH ID numbers are:

(A) transporters or receivers who have already obtained a TDWR ID number; or

(B) persons or facilities exempted in §325.298 of this title (relating to Special Requirements for Small Quantity Generators).

(2) Persons not required to have a TDH ID number by this subchapter may request a number for a reasonable purpose.

§325.276 EPA Identification Number. Persons who generate or transport municipal hazardous waste, or who own or operate a municipal solid waste management facility for the processing [treatment], storage, or disposal of hazardous waste and have not applied for [(using EPA Form 8700-12)] and received an EPA identification number (ID Number) from the U.S. Environmental Protection Agency (EPA) shall [must] obtain an identification number from the Texas Department of Health or the EPA prior to engaging in any of the foregoing hazardous waste activities after the effective date of these regulations. Exemptions to this requirement may be provided in subsection (f) of §325.292 of this title (relating to Scope and Applicability), §325.298 of this title (relating to Special Requirements for Small Quantity Generators), and in subsection (a) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed).

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 June 18, 1984.

TRD-846647 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
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For further information, please call (512) 458-7271.

Generators

25 TAC §§325.292, 325.295, 325.296, 325.299

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.292. Scope and Applicability.

(a) (No change.)

(b) A person who generates municipal hazardous waste in amounts which are in excess of any of the [weight quantity portions of the] small quantity generator waste exclusion limits as described in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) and who does not process [treat], store, or dispose of the waste on site is subject to provisions of §§325.271-325.276 of this title (relating to General) and §§325.291-325.299 of this title (relating to Generators) and is responsible for shipping the waste to an approved facility which may be one of the facilities outlined in paragraphs (1)-(3) of this subsection:

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

(c)-(e) (No change.)

(f) A person who generates a municipal hazardous waste which is subsequently mixed with domestic sewage

in a sewer system or which is treated in a wastewater treatment unit defined by §325.272 of this title (relating to Definitions of Terms and Abbreviations) prior to being mixed with domestic sewage in a sewer system shall comply with the requirements outlined in paragraphs (1)-(6) of this subsection which are applicable to the waste prior to the point of mixing with domestic sewage. The generator may exclude from the requirements of paragraph (6) of this subsection any hazardous waste which results from a process that is directly connected to a domestic sewage collection system and that is constructed, operated, and maintained in a manner that prevents the release, except to the sewer system, of any hazardous waste or constituents thereof. The generator shall comply with:

(1) §§325.271-325.276 of this title (relating to General), except for §325.276 of this title (relating to EPA Identification Number);

(2) §325.293 of this title (relating to Hazardous Waste Accumulation);

(3) subsection (d) of §325.296 of this title (relating to Reporting Requirements);

(4) local sewer use ordinances; and

(5) the Clean Water Act, §307(b).

(g) The generator shall provide and maintain for a period of three years records pertaining to any discharges to a sewer system of waste materials that would be subject to full regulation under this subchapter had they not been discharged. Such records shall include the following:

(1) name or ownership of the receiving wastewater treatment plant;

(2) permit number of the receiving plant (if known);

(3) identity and estimated quantity of the waste discharged or treated prior to discharge (identification may be by Texas Municipal Waste Code or EPA Waste Code number);

(4) the period of time (actual beginning and ending dates) over which the discharge was made or treatment provided. The minimum frequency for updating entries in the record is once every calendar month; and

(5) a copy of any applicable sewer use ordinances and/or discharge authorization documents provided by the sewer system owner.

§325.295. Manifest Requirements.

(a) Before transporting municipal hazardous waste or offering such waste for transportation off-site, a generator of a hazardous waste shipment which either originates or terminates in Texas shall [must] furnish to the transporter a properly executed manifest (Texas waste shipping-control ticket) [, or a uniform national manifest when it is implemented,] using Texas Municipal Waste Code numbers (available from the Bureau of Solid Waste Management, Texas Department of Health). (Generators shall [must] not offer hazardous waste to transporters or to treatment, storage, or disposal facilities that do not have an EPA identification number.) Exceptions to the requirements of this subsection may be provided in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) and §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed).

(b) The generator **shall** [must] designate on the manifest one facility which has **authorization** or a permit to receive [and handle] the hazardous waste described on the manifest [One alternate permitted facility may be designated in the event an emergency prevents delivery to the primary facility.] The generator **shall** [must] instruct the transporter to return the hazardous waste to the generator if the transporter notifies him that delivery cannot be made to the designated [primary or alternate] facility [facilities]

(c)-(e) (No change.)

§325.296. Reporting Requirements.

(a) Annual reports.

(1) A generator of municipal hazardous waste who **processes** [treats], stores, or disposes of hazardous waste on-site is subject to annual reporting requirements [as an owner or operator of a treatment, storage, or disposal facility as set forth in] of subsection (e) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting). [Reports will be submitted to the Texas Department of Health no later than March 1 for the preceding calendar year using the Annual Waste Disposal Summary as approved by the department. (Forms may be obtained from the Bureau of Solid Waste Management, Texas Department of Health.)]

(2) A generator of municipal hazardous waste who ships all such waste off-site for disposal is not subject to annual reporting requirements, but is subject to monthly reporting requirements established in subsection (b) of this section. A generator of municipal hazardous waste who ships part of such waste off-site [for disposal] and who **processes** [treats], stores, or disposes of part of such waste on-site **shall comply with the** [is subject to both] reporting requirements established by paragraph (1) and paragraph (2) of this subsection.

(b) Monthly waste shipment summary. A generator who ships municipal hazardous waste off-site **shall** [must] prepare this report from manifest forms summarizing the quantity and classification of each waste shipment for the calendar month itemized by manifest number and **shall** submit this report as follows. (A monthly waste shipment summary is not required for the month when no waste is shipped.)

(1) The summary shall be submitted on a monthly waste shipment summary form **provided** or approved by the department.

(2) (No change.)

(3) The summary shall be submitted no later than the 10th day of each calendar month for shipments originating during the previous month. (Forms and instructions [for completion] may be obtained from the Bureau of Solid Waste Management, Texas Department of Health.)

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

§325.299. Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed.

(a) Except as otherwise provided in subsection (b) of this section, a hazardous waste which meets any of the [following] criteria of **paragraph (1) of this subsection** is subject only to the requirements of **this section**, **provided the generator complies with the requirements of paragraph (2) of this subsection.** [for determination under §325.273 of this title (relating to Hazardous Waste

Determination) and for notification under §325.275 of this title (relating to Notification of Hazardous Waste Activity) if:]

(1) **Criteria for recycling a hazardous waste.** [it is being used, or reused, or legitimately recycled or reclaimed.]

(A) **It is being beneficially used, reused, or legitimately recycled or reclaimed.**

(B) **It is being physically, chemically, or biologically treated by the person or facility that will subsequently beneficially use, reuse, or legitimately recycle or reclaim the waste. Temporary on-site storage during or preceding the treatment shall be included as part of this rule.**

(C) **It is being stored by a facility which is permitted or authorized under §§325.331-325.350 of this title (relating to Facility Owners and Operators) or by a facility authorized under §325.371 of this title (relating to Storage by Special Rule) prior to subsequent recycling or reclamation at a different location.**

(D) **It is a spent pickle liquor, EPA Waste Code Number K-062, Texas Municipal Waste Code Number 992062, which is reused or is being stored or treated prior to reuse in a wastewater treatment facility holding a national pollutant discharge elimination system (NPDES) permit.**

(2) **Generator requirements for recycling a hazardous waste.** [it is being accumulated, stored, or physically, chemically, or biologically treated prior to beneficial use, reuse, or legitimate recycling or reclamation.]

(A) **The generator shall comply with the requirements of §§325.271-325.276 of this title (relating to General), except for §325.276 of this title (relating to EPA Identification Number).**

(B) **The generator who ships off site shall confirm that the transporter has obtained a state ID number and agrees to comply with the manifest system requirements of §§325.311-325.316 of this title (relating to Transporters).**

(C) **The generator shipping waste off site shall comply with the requirements of §325.295 of this title (relating to Manifest Requirements) and shall insert the phrase "This waste is a recycle shipment" in an appropriate blank space on the manifest. The generator's signature on the manifest certifies the statement.**

(D) **The generator who ships hazardous waste off site shall confirm that the receiving person or facility has obtained a TDH or a TDWR ID number and agrees to comply with the requirements of subsections (a), (b), and (e)(3) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting). Potential receivers shall include persons of facilities identified in paragraph (1) of this subsection.**

(E) **The generator shall comply with the requirements of §325.296 of this title (relating to Reporting Requirements).**

(F) **The generator shall comply with the requirements of §325.297 of this title (relating to Record-Keeping Requirements).**

(3) **It is a spent pickle liquor, EPA Waste Code Number K-062, Texas Municipal Waste Code Number 92062, which is reused or being stored or treated prior to reuse in a wastewater treatment facility holding a Na-**

tional Pollution Discharge Elimination System (NPDES) permit.]

(b) Except for those wastes listed in subsection (a)(1)(D) [(a)(3)] of this section, a hazardous waste that is a sludge, or that is listed in 40 Code of Federal Regulations §261.31 or §261.32, or that contains one or more hazardous wastes listed in 40 Code of Federal Regulations §261.31 or §261.32 and that is transported or stored prior to being used, reused, recycled, or reclaimed is subject to the full requirements of this subchapter with respect to such transportation or storage.

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 June 18, 1984.

TRD-846648 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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August 11, 1984

For further information, please call (512) 458-7271.

25 TAC §325.298

This repeal is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.298 *Special Requirements for Small Quantity Generators.*

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 June 18, 1984.

TRD-846650 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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For further information, please call (512) 458-7271.

This new section is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.298. *Special Requirements for Small Quantity Generators.*

(a) Scope and applicability. A generator is a small quantity generator if he generates less than 1,000 kilo-

grams of hazardous waste in a calendar month. Those hazardous wastes produced by a small quantity generator, except for any acute hazardous waste which exceeds a limit listed in subsection (b) of this section or any hazardous waste accumulation limit set forth in subsection (e) of this section, are small quantity wastes and are subject only to the reduced requirements of this section provided the generator complies fully with the requirements and conditions set forth in subsections (c)-(i) of this section. The generator's hazardous wastes which do not qualify as small quantity wastes are subject to full regulation under this subchapter.

(1) In determining the total quantity of hazardous waste generated during any calendar month, the generator may exclude:

(A) any hazardous waste generated during the month that is or will be beneficially and legitimately used, reused, recycled, or reclaimed and that is otherwise subject to reduced regulation as set forth in subsection (a) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed);

(B) hazardous waste generated by the on-site treatment of a generator's own hazardous waste;

(C) hazardous waste which, during the same calendar month it is generated, is mixed with domestic sewage, either with or without pretreatment in an on-site wastewater treatment unit, and then conveyed through a sewer system to a wastewater treatment plant which produces an effluent subject to the requirements of a permit issued by the Texas Department of Water Resources or EPA; and

(D) hazardous waste which was produced during a previous month but which during the current calendar month is removed from on-site storage.

(2) hazardous waste subject to the reduced requirements explained in this section may be mixed with nonhazardous waste and still remain subject to the reduced requirements, even though the resulting mixture exceeds established quantity limitations. This does not apply if the resulting mixture creates a waste which meets one or more characteristics of a hazardous waste as explained in 40 Code of Federal Regulations Part 261, Subpart C.

(3) If a small quantity generator mixes a solid waste with a hazardous waste which exceeds an exclusion limit explained in this section, the complete mixture is subject to the full requirements of this subchapter.

(b) Acute hazardous waste quantities. Acute hazardous waste generated by a small quantity generator during any calendar month in a quantity equal to or less than the limits set forth in paragraphs (1)-(3) of this subsection is subject only to the rules of this section. If acute hazardous waste is generated during any calendar month in quantities greater than any of those limits, all quantities of acute hazardous waste are subject to the full requirements of this subchapter, including §§325.291-325.299 of this title (relating to Generators). The quantity limits for small quantity regulation of acute hazardous waste are:

(1) a total of one kilogram of commercial chemical products and manufacturing chemical intermediates having the generic names listed in 40 Code of Federal Regulations §261.33(e) and offspecification commercial chemical products and manufacturing chemical intermedi-

ates which, if they met specifications, would have the generic names listed in 40 Code of Federal Regulations §261.33(e);

(2) a total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial products or manufacturing chemical intermediates having the generic names listed in 40 Code of Federal Regulations §261.33(e); or

(3) a total of 100 kilograms of containers or inner liners from containers which have held acute hazardous waste, which are abandoned or discarded, which have not been decontaminated to render them empty, and which do not have a measurable residue as explained in subsection (d) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions).

(c) Notification and ID number.

(1) Effective March 31, 1985, small quantity generators who generate more than 100 kilograms of hazardous waste during any calendar month or who accumulate more than 100 kilograms of hazardous waste at any time shall notify the department in accordance with §325.275 of this title (relating to Notification of Hazardous Waste Activity) and obtain a TDH ID number.

(2) A notification form for small quantity generators is provided in §325.910 of this title (relating to Appendix J—Small Quantity Generator Notification Form). Copies of this form may be obtained from the Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7271.

(3) Regardless of the limitations set forth in paragraph (1) of this subsection, small quantity generators who have been issued a TDH ID number shall use that number on all hazardous waste manifests they originate and on any required records or reports where identification by state ID number is requested.

(4) Regardless of the exemptions of this subsection concerning notification, any person required to have a state or EPA ID number in order to satisfy any requirements of this subchapter or the requirements of a waste transporter or receiver may, utilizing the procedures set forth in this subsection, apply for such a number.

(d) General requirements for small quantity generators. All small quantity generators shall comply with rules listed in paragraphs (1)-(6) of this subsection:

(1) §325.271 of this title (relating to Purpose, Applicability, and Release of Information);

(2) §325.272 of this title (relating to Definitions of Terms and Abbreviations);

(3) §325.273 of this title (relating to Hazardous Waste Determination);

(4) §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions);

(5) the on-site accumulation requirements outlined in subsection (e) of this section; and

(6) subsection (d) of §325.296 of this title (relating to Reporting Requirements.)

(e) On-site accumulation requirements.

(1) Until any of the weight quantity portions of the exclusion limits set forth in paragraph (2) of this subsection are exceeded, a small quantity generator's

hazardous waste may be accumulated on site without the generator obtaining a hazardous waste storage permit or qualifying for interim status. This exempted accumulation activity is subject only to the reduced requirements of this subsection provided:

(A) the generator stores the waste safely in either containers or tanks which are compatible with the waste being stored;

(B) the generator complies with the requirements for packaging, containers, marking, and labeling set forth in subsection (a)(1) and (2) of §325.293 of this title (relating to Hazardous Waste Accumulation);

(C) the generator accurately identifies the waste stored in each container or tank; and

(D) the generator marks on each hazardous waste container, and maintains records for each hazardous waste tank, indicating the amount of hazardous waste being stored.

(2) Beginning at the time the small quantity generator's on-site waste accumulation exceeds the weight quantity portion of the exclusion limitation of subsection (a) of this section (1,000 kilograms of hazardous waste) or an acute hazardous waste weight quantity portion of the exclusion limitations described in subsection (b) of this section (one kilogram of listed commercial chemical products or manufacturing chemical intermediate; 100 kilograms of residue, contaminated soil, water, or debris resulting from a cleanup; or 100 kilograms of containers or inner liners) the generator's waste for which a weight quantity portion of an accumulation limit has been exceeded is subject to the full 90-day accumulation requirements of §325.293 of this title (relating to Hazardous Waste Accumulation), as well as the other requirements of §§325.291-325.299 of this title (relating to Generators).

(f) Processing, storage, disposal, and recycling options. The small quantity generator shall process or dispose of his hazardous waste in an on-site facility or shall ensure delivery to an off-site storage, processing, recycling, or disposal facility which, in either case, meets any of the descriptions given in paragraphs (1)-(5) of this subsection.

(1) A hazardous waste management facility operating under interim status or a permit issued by the EPA, an authorized state, the department, or the Texas Department of Water Resources.

(2) A permitted Type I, V, or VII municipal solid waste site authorized on a waste-specific, site-specific basis by the bureau in accordance with §325.136 of this title (relating to Disposal of Special Wastes) to receive small quantity hazardous waste.

(3) A person or facility with a state ID number that:

(A) beneficially uses or reuses or legitimately recycles or reclaims the generator's hazardous waste and who may need to temporarily store the waste in conjunction with these activities; or

(B) treats the generator's waste prior to beneficial use or reuse or legitimate recycling or reclamation and who may need to temporarily store the waste in conjunction with these activities.

(4) A person or facility that has been issued a TDH ID number and that has been authorized in accordance with §325.371 of this title (relating to Storage by Special Rule) to receive, store, consolidate, repackage,

and reship hazardous waste which is subject to reduced regulatory requirements under either this section or subsection (a) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed).

(5) A permitted Type I municipal solid waste site (without prior waste-specific, site-specific approval from the department), provided the generator complies with all of the requirements of subsection (h) of this section.

(g) Requirements for off-site shipment of small quantity hazardous waste. Effective March 31, 1985, small quantity generators shall assure that all hazardous waste that leaves the generator's site—except waste which is disposed of or discharged in compliance with subsections (h) or (i) of this section—is shipped to a person or facility defined in subsection (f)(1)-(4) of this section. Small quantity generators who transport or ship their hazardous waste offsite to a person or facility identified in subsection (f)(1)-(4) shall comply with the conditions or provisions of paragraphs (1)-(7) of this subsection.

(1) The small quantity generator, prior to shipping hazardous waste off site, shall prepare his waste in accordance with §325.294 of this title (relating to Pretransport Requirements).

(2) Except when the small quantity generator elects to transport his own hazardous waste, he shall select a hazardous waste transporter who has been issued a TDH or TDWR ID number.

(3) A small quantity generator who ships his hazardous waste off site shall furnish the transporter a properly executed manifest in compliance with §325.295 of this title (relating to Manifest Requirements). Small quantity generators who transport their own wastes shall also use manifests and shall use their own names and ID numbers to complete the transporter portion of the manifest form.

(4) Small quantity generators not required to notify and obtain a TDH ID number and whose manifested hazardous waste shipments are not intended to be transported to an interim status or permitted hazardous waste facility as described in subsection (f)(1) of this section (in which case a TDH ID number is required) shall substitute the word "none" in those spaces on the manifest form set aside for various generator or transporter ID numbers. Regardless of this exemption, ID numbers shall be entered if they have been issued.

(5) Small quantity generators, except those shipping hazardous waste to a facility identified in subsection (f)(1) of this section, shall enter, in an appropriate blank space on the manifest, the statement, "This waste is a small quantity waste." The person who signs the manifest is certifying to the truth of this statement.

(6) The small quantity generator shall comply with the requirements of §325.296 of this title (relating to Reporting Requirements) with the exception of those not required to notify and obtain TDH ID numbers under subsection (c) of this section and who are not utilizing the shipment option described in subsection (f)(1) of this section. Generators who fall under the exception just described are only required to comply with subsections (c) and (d) of §325.296 of this title (relating to Reporting Requirements) which concern exception reports and other specially department-requested reports.

(7) The small quantity generator shall retain copies of his manifests and all other waste shipment and

waste-related information as required by §325.297 of this title (relating to Record Keeping Requirements).

(h) Special requirements for shipments made to a Type I municipal solid waste site in accordance with subsection (f)(5) of this section. Small quantity generators may dispose of no more than 100 kilograms (approximately 220 pounds) of hazardous waste during any single calendar month at a permitted Type I municipal solid waste site provided:

(1) the generator complies with the requirements of the disposal site owner or operator and the transporter who hauls the waste;

(2) the generator, after complying with the requirements of §325.273 of this title (relating to Hazardous Waste Determination), does not include any of the wastes identified in subparagraphs (A)-(E) of this paragraph:

(A) acute hazardous waste which is a commercial product identified in subsection (b)(1) and (2) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) and which is listed in 40 Code of Federal Regulations §261.33 (e) as a "P" number hazardous waste;

(B) any "F" number hazardous waste—except for wastes F006, and F019 (Texas Municipal Waste Code Numbers 991006, and 991019, respectively) listed in 40 Code of Federal Regulations §261.31 and identified in subsection (b)(4) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions);

(C) any waste which is hazardous because it fails the test for the characteristic of reactivity, R, set forth in 40 Code of Federal Regulations §261.23 or ignitability, I, set forth in 40 Code of Federal Regulations §261.21(a)(1)-(3). Prohibited wastes include commercial products identified in subsection (b)(1) or (2) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) and listed in 40 Code of Federal Regulations §261.33(f) as a "U" number hazardous waste because of the characteristic I or R. A solid waste material which is classified as hazardous because of the characteristic of ignitability but which is identified in 40 Code of Federal Regulations §261.21(a)(4) simply as an "oxidizer" (a term defined in 49 CFR §173.151) shall be acceptable for disposal under this subsection;

(D) any waste which is or contains a free liquid; or

(E) any waste which is a chlorinated hydrocarbon;

(3) the generator develops and maintains records for at least three years which contain the following information:

(A) date of actual disposal;

(B) name and address of the transporter;

(C) name and permit number of the Type I site receiving the waste;

(D) identification and quantity of waste shipped (identification may be by Texas Municipal Waste Code number or EPA Waste Code number);

(E) number and type of containers used for making shipment; and

(F) name and signature of the generator or his representative responsible for determining the identity and quantity of the waste, for assuring compliance with the requirements of the disposal site owner or operator and

the transporter, and for assuring that the waste was actually received at the site identified in the records as the receiving facility.

(4) The generator submits a report to the department, when requested, in accordance with subsection (d) of §325.296 of this title (relating to Reporting Requirements).

(i) Discharges to a sewer system. Small quantity generators whose hazardous wastes are, either with or without pretreatment, discharged into a domestic sewer system and conveyed to a wastewater treatment facility for further treatment shall comply with:

- (1) all local sewer-use ordinances;
- (2) the Clean Water Act, §307(b);

(3) the record-keeping requirements set forth in subsection (f)(6) of §325.292 of this title (relating to Scope and Applicability); and

(4) the department's request for a report in accordance with subsection (d) of §325.296 of this title (relating to Reporting Requirements).

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

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

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For further information, please call (512) 458-7271.

Subchapter L. Hazardous Waste Management

25 TAC §325.311, §325.312

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.311. Scope.

(a) The rules contained in §§325.311-325.316 of this title (relating to Transporters) [These regulations] apply to persons transporting municipal hazardous waste [which is subject to manifest requirements of §325.295 of this title (relating to Manifest Requirements)].

(b) The rules contained in this undesignated head (relating to Transporters) [These regulations] do not apply to on-site transportation of hazardous waste by generators and owners or operators [owners/operators] of a permitted or otherwise authorized municipal hazardous waste management facility.

(c) A transporter who consolidates or mixes in the same container manifested municipal hazardous wastes which are identified by the same Texas Municipal Waste Code number, but which were received by the transporter in separate containers, shall: [Transporters who accumulate unmanifested municipal hazardous waste in

amounts which are in excess of the small quantity generator exclusion limits identified in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) are subject to requirements under §§325.291-325.299 of this title (relating to Generators).]

(1) execute a new manifest;

(2) sign the manifest as the transporter for the consolidated wastes;

(3) attach the original generator's manifests to the new manifest or attach a separate list signed and dated by the transporter to the new manifest identifying the consolidated wastes by original manifest numbers, quantities, waste code numbers, and generator names; and

(4) comply with §325.294 of this title (relating to Pretransport Requirements).

[(c) Transporters who accumulate unmanifested municipal hazardous waste in amounts which are in excess of the small quantity generator exclusion limits identified in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) are subject to requirements under §§325.291-325.299 of this title (relating to Generators).]

(d) Transporters who accumulate and store manifested or unmanifested hazardous waste regulated under §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) and who store such waste in containers which meet the requirements of subsection (a) of §325.294 of this title (relating to Pretransport Requirements) for no more than 10 days at a transfer facility shall not be required to comply with the requirements of [are not subject to] §§325.331-325.350 of this title (relating to Facility Owners and Operators) with respect to storage of the waste.

(e) Transporters may accumulate and store manifested small quantity hazardous waste for a maximum of 30 days without a facility permit under the same conditions set forth in subsection (d) of this section.

(f)[(e)] A transporter of municipal hazardous waste shall [must] comply with requirements under §§325.291-325.299 of this title (relating to Generators) if he:

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

§325.312. Compliance with Manifest Requirements.

(a) Before transporting a manifested municipal hazardous waste [manifested according to §325.295 of this title (relating to Manifest Requirements)], the transporter shall [must] sign and date the manifest acknowledging acceptance of the waste from the generator and provide a signed copy to the generator before leaving the generator's property.

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

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

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Texas Department of Health

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Facility Siting Criteria

25 TAC §§325.321-325.324

The new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.321. *Applicability.*

(a) The requirements of §§325.321-325.324 of this title (relating to Facility Siting Criteria) establish minimum standards for the location of facilities used for the storage, processing, or disposal of hazardous waste. These standards are to be applied in the evaluation of an application for a permit to manage hazardous waste if any of the circumstances outlined in paragraphs (1)-(3) of this subsection apply:

- (1) a person submits a permit application for a new hazardous waste management facility for the storage, processing, or disposal of a hazardous waste;
- (2) an owner or operator of an existing permitted hazardous waste management facility submits an application for an areal expansion of that facility; or
- (3) an owner or operator of a facility operating under interim status as set forth in subsection (a)(1)(A) of §325.350 of this title (relating to Permits) submits a permit application for an areal expansion of the facility where expansion exceeds the limits for expansion described in subsection (a)(3)(C) of §325.350 of this title (relating to Permits).

(b) The department shall not issue a permit for a new hazardous waste management facility or an areal expansion of an existing facility determined to be subject to the requirements of these facility siting criteria if the facility or expansion does not meet the requirements of §325.323 of this title (relating to Site Selection To Protect Groundwater and Surface Water) and §325.324 of this title (relating to Unsuitable Site Characteristics).

(c) Nothing in the facility siting criteria shall be construed to require the department to issue a permit if it determines the site meets the requirements of the criteria. All proposed hazardous waste management facilities are also subject to the land use considerations referred to in subsection (e) of §325.350 of this title (relating to Permits).

§325.322. *Definitions of Terms and Abbreviations.* The following words and terms, when used in this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise.

Aquifer—A geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs. Portions of formations, such as clay beds, which are not capable of yielding a significant amount of groundwater to wells or springs, are not aquifers.

Areal expansion of an existing facility—The enlargement of a land surface area of an existing hazardous waste management facility from that described in a solid waste permit authorizing the facility or, for interim status facilities, that described in Part A of the permit application.

Disposal surface impoundment—A surface impoundment that does not qualify as a storage surface impoundment.

100-year floodplain—Any land area which is subject to a 1.0% or greater chance of flooding in any given year from any source.

Regional aquifer—An aquifer identified by the Texas Department of Water Resources (TDWR) as a major or minor aquifer. Major aquifers yield large quantities of water in large areas of the state. Minor aquifers yield large quantities of water in small areas of the state or small quantities of water in large areas of the state. (These aquifers are identified in Appendix B of the TDWR Report No. 238).

Sole-source aquifer—An aquifer designated pursuant to the Safe Drinking Water Act, §1424(e) (Public Law 93-523), which solely or principally supplies drinking water to an area and which, if contaminated, would create a significant hazard to public health. (The Edwards Aquifer has been designated a sole-source aquifer by the U.S. Environmental Protection Agency (EPA). The Edwards Aquifer recharge zone is specifically that area delineated on maps in the offices of the executive director of the Texas Department of Water Resources.)

Storage surface impoundment—A surface impoundment from which all wastes and waste-contaminated soils are removed at the time of closure of the impoundment.

Wetlands—Areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, playa lakes, marshes, bogs, and similar areas.

§325.323. *Site Selection To Protect Groundwater and Surface Water.*

(a) The department shall not issue a permit for a new hazardous waste management facility or for an areal expansion of an existing hazardous waste management facility if it finds the applicant's proposed design, construction, and operational features do not reasonably minimize possible contamination of surface water and groundwater.

(b) In making the determination described in subsection (a) of this section, the department shall consider the factors in paragraphs (1)-(5) of this subsection:

- (1) active geologic processes such as flooding, erosion, subsidence, submergence, and faulting;
- (2) groundwater conditions such as groundwater flow rate, groundwater quality, length of flow path to points of discharge, and aquifer recharge or discharge conditions;
- (3) soil conditions such as stratigraphic profile and complexity, hydraulic conductivity of strata;
- (4) distance from the facility to the aquifer and to points of discharge to surface water; and
- (5) climatological conditions.

§325.324. Unsuitable Site Characteristics.

(a) Storage or processing facilities (excluding storage surface impoundments).

(1) A storage or processing facility (excluding storage surface impoundments) shall not be located in the 100-year floodplain unless it is designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

(2) A storage or processing facility (excluding storage surface impoundments) shall not be located in wetlands.

(3) A storage or processing facility (excluding storage surface impoundments) shall not be located in the recharge zone of a sole-source aquifer unless secondary containment is provided to preclude migration to groundwater from spills, leaks, or discharges.

(4) A storage or processing facility (excluding storage surface impoundments) shall not be located in areas overlying regional aquifers unless:

(A) the regional aquifer is separated from the facility by a minimum of 10 feet of material with a hydraulic conductivity toward the aquifer no greater than 10^{-7} cm/sec or by a thicker interval of more permeable material which provides equivalent or greater retardation to pollutant migration; or

(B) secondary containment is provided to preclude migration to groundwater from spills, leaks, or discharges.

(5) A storage or processing facility (excluding storage surface impoundments) shall not be located in areas where soil units within five feet of the containment structure have a unified soil classification of GW, GP, GM, GC, SW, SP, or SM or a hydraulic conductivity greater than 10^{-5} cm/sec unless:

(A) secondary containment is provided to preclude migration to groundwater or surface water from spills, leaks, or discharges; or

(B) the soil units located within five feet of the containment structure are not sufficiently thick and laterally continuous to provide a significant pathway for waste migration.

(b) Land treatment facilities.

(1) A land treatment facility shall not be located in the 100-year floodplain unless it is designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

(2) A land treatment facility shall not be located in wetlands.

(3) A land treatment facility shall not be located in the recharge zone of a sole-source aquifer.

(4) A land treatment facility shall not be located in areas overlying regional aquifers unless:

(A) average annual evaporation exceeds average annual rainfall plus the hydraulic loading rate of the facility by more than 40 inches and the depth to the regional aquifer is greater than 100 feet from the base of the treatment zone; or

(B) the regional aquifer is separated from the base of the treatment zone by a minimum of 10 feet of material with a hydraulic conductivity toward the aquifer no greater than 10^{-7} cm/sec or by a thicker interval of more permeable material which provides equivalent or greater retardation to pollutant migration.

(5) A land treatment facility shall not be located in areas where soil units within five feet of the treatment zone have a unified soil classification of GW, GP,

GM, GC, SW, SP, or SM or a hydraulic conductivity greater than 10^{-5} cm/sec unless:

(A) average annual evaporation exceeds average annual rainfall plus the hydraulic loading rate of the facility by more than 40 inches; or

(B) the soil units located within five feet of the treatment zone are not sufficiently thick and laterally continuous to provide a significant pathway for waste migration.

(c) Waste piles.

(1) A waste pile shall not be located in the 100-year floodplain unless it is designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

(2) A waste pile shall not be located in wetlands.

(3) A waste pile shall not be located in the recharge zone of a sole-source aquifer.

(4) A waste pile shall not be located in areas overlying regional aquifers unless:

(A) the regional aquifer is separated from the base of the containment structure by a minimum of 10 feet of material with a hydraulic conductivity toward the aquifer no greater than 10^{-7} cm/sec or by a thicker interval of more permeable material which provides equivalent or greater retardation to pollutant migration; or

(B) secondary containment is provided to preclude pollutant migration to groundwater from spills, leaks, or discharges.

(5) A waste pile shall not be located in areas where soil units within five feet of the containment structure have a unified soil classification of GW, GP, GM, GC, SW, SP, or SM or a hydraulic conductivity greater than 10^{-5} cm/sec unless:

(A) secondary containment is provided to preclude pollutant migration to groundwater or surface water from spills, leaks, or discharges; or

(B) the soil units located within five feet of the containment structure are not sufficiently thick and laterally continuous to provide a significant pathway for waste migration.

(d) Storage surface impoundments.

(1) A storage surface impoundment shall not be located in the 100-year floodplain unless it is designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

(2) A storage surface impoundment shall not be located in wetlands.

(3) A storage surface impoundment shall not be located in the recharge zone of a sole-source aquifer.

(4) A storage surface impoundment shall not be located in areas overlying regional aquifers unless:

(A) the regional aquifer is separated from the base of the containment structure by a minimum of 10 feet of material with a hydraulic conductivity toward the aquifer no greater than 10^{-7} cm/sec or by a thicker interval of more permeable material which provides equivalent or greater retardation to pollutant migration; or

(B) the impoundment is double-lined and has an intervening leak detection system or the facility has an equivalent design which provides commensurate or greater assurance of waste containment.

(5) A storage surface impoundment shall not be located in areas where soil units within five feet of the containment structure have a unified soil classification of GW, GP, GM, GC, SW, SP, or SM or a hydraulic conductivity greater than 10^{-5} cm/sec unless:

(A) the impoundment is double-lined and has an intervening leak detection system or the facility has an equivalent design which provides commensurate or greater assurance of waste containment; or

(B) the soil units located within five feet of the containment structure are not sufficiently thick and laterally continuous to provide a significant pathway for waste migration.

(e) Landfills and surface disposal impoundments where wastes or waste-contaminated soil will remain after closure.

(1) A landfill or a disposal surface impoundment shall not be located in the 100-year floodplain unless flood protection is provided. Any flood protection measures provided shall be designed, constructed, operated, and maintained:

(A) to prevent washout of any hazardous waste by a 100-year flood;

(B) so as not to significantly restrict the flow of a 100-year flood; and

(C) so as not to significantly reduce the temporary water storage capacity of the 100-year floodplain.

(2) A landfill or a disposal surface impoundment shall not be located in wetlands.

(3) A landfill or a disposal surface impoundment shall not be located in the recharge zone of a sole-source aquifer.

(4) A landfill or a disposal surface impoundment shall not be located in areas overlying regional aquifers unless:

(A) average annual evaporation exceeds average annual rainfall by more than 40 inches and the depth to the regional aquifer is greater than 100 feet from the base of the containment structure; or

(B) the regional aquifer is separated from the base of the containment structure by a minimum of 10 feet of material with a hydraulic conductivity toward the aquifer no greater than 10^{-7} cm/sec or by a thicker interval of more permeable material which provides equivalent or greater retardation to pollutant migration.

(5) A landfill or a disposal surface impoundment shall not be located in areas where soil units within five feet of the containment structure have a unified soil classification of GW, GP, GM, GC, SW, SP, or SM or a hydraulic conductivity greater than 10^{-5} cm/sec unless:

(A) average annual evaporation exceeds average annual rainfall by more than 40 inches; or

(B) the soil units located within five feet of the containment structure are not sufficiently thick and laterally continuous to provide a significant pathway for waste migration.

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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Facility Owners and Operators

25 TAC §§325.332, 325.333, 325.350

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.332. *Applicability.*

(a) (No change.)

(b) The standards in §§325.331-325.350 of this title (relating to Facility Owners and Operators) do not apply to:

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

(10) The owner or operator of a facility which processes [treats] or stores hazardous waste when the treatment or storage meets the criteria of subsection (a) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed), except to the extent that subsection (b) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed) provides otherwise. However, the owner or operator who does not have a state ID number shall obtain an ID number in compliance with §325.275 of this title (relating to Notification of Hazardous Waste Activity) and comply with the requirements of subsections (a), (b), (e)(3), and (e)(5) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting).

(11) (No change.)

(12) The owner or operator of a facility permitted to manage municipal or industrial solid waste, if the only hazardous waste the facility processes, [treats,] stores, or disposes of is excluded from regulation under §325.298 of this title (relating to Special Requirements for Small Quantity Generators), except that the owner or operator of such a facility shall comply with subsections (a), (b), (e)(3), and (e)(5) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting) and, if a state ID number has not been obtained previously, shall obtain an ID number in compli-

ance with §325.275 of this title (relating to Notification of Hazardous Waste Activity).

(13) The owner or operator of a facility authorized to receive, consolidate, store, repackage, and reship hazardous waste in compliance with the requirements of §325.371 of this title (relating to Storage by Special Rule).

(c) (No change.)

§325.333. *General*

(a)-(e) (No change.)

(f) General requirements for ignitable, reactive, or incompatible wastes.

(1) The department adopts by reference the EPA regulations contained in 40 Code of Federal Regulations Part 264, Appendix V, of **January 12, 1981**, and 40 Code of Federal Regulations Part 265, Appendix V of **May 19, 1980**, titled, "Examples of Potentially Incompatible Waste." These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

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

(g) Location standards. A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood. (See also §§325.321-325.324 of this title (relating to Facility Siting Criteria) and §325.350 of this title (relating to Permits) for siting requirements.) The site shall be protected from flooding with suitable levees constructed to provide protection from a 100-year frequency flood and in accordance with the rules and regulations of the Texas Department of Water Resources relating to levee improvement districts and approval of plans for reclamation projects. [Flood protection levees shall be designed and constructed to prevent the washout of hazardous waste from the site.] Such levees shall not significantly restrict the flow of a 100-year frequency flood nor significantly reduce the temporary water storage capacity of the 100-year floodplain. Any construction, fill, or levee within a 100-year floodplain shall receive plan approval, if required, by the Texas Department of Water Resources prior to construction. The following words and terms, when used in this subsection, shall have the following meanings, unless the context clearly indicates otherwise:

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

§325.350 *Permits*

(a) *Scope*

(1) Permits No person may operate a [an existing] municipal hazardous waste management facility without having obtained interim status or a permit from the department for that facility. A separate permit shall be required for each site or facility. Unless otherwise specified, a permit application Part A refers to the department form adopted by §325.901 of this title (relating to Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data)). (The EPA Part A, EPA Forms 3510-1 and 3510-3, may be submitted with the department's Part A.) A permit application Part B for a hazardous waste management facility refers to a written narrative which addresses the technical requirements for a permit. Other forms needed for the permitting process are included in §§325.901-325.910

of this title (relating to Forms and Documents). Applicants should contact the bureau to discuss which requirements of §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria) are applicable for the hazardous waste facility permit application under consideration and to confirm whether the requirements of §§325.321-325.324 of this title (relating to Facility Siting Criteria) are applicable. For purposes of this subchapter, the term "operation" includes the storage, processing (treatment), or disposal of hazardous waste and any construction-related elements which may affect the safe and proper management of hazardous waste at the facility or the implementation of the standards prescribed by this subchapter.

(A) (No change.)

(B) New hazardous waste management facilities.

(i) (No change.)

(ii) Part A, Part B, and other applicable permit application forms included in §§325.901-325.910 [325.906] of this title (relating to Forms and Documents), shall be submitted at least 180 days before physical construction is expected to commence.

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

(2) Interim status facility Part B submission.

Owners or operators of existing hazardous waste management facilities operating under interim status may be required to submit Part B of a permit application anytime after the effective date of these regulations. Any owner or operator of existing hazardous waste management facilities operating under interim status shall have six months from the date of the request to submit Part B of the permit application. Part B may be submitted voluntarily anytime. Failure to furnish full information or a timely Part B is grounds for termination of interim status. Termination of interim status also occurs when final administrative disposition of a permit application is made.

(3) (No change.)

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

(e) Property rights and land use considerations.

(1) (No change.)

(2) Land use considerations. In addition to the requirements of §§325.331-325.350 of this title (relating to Facility Owners and Operators), the location of a proposed facility or substantial alterations or additions to an existing facility requiring a permit modification under subsection (d) of this section, shall consider the land use criteria contained in §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan). The more stringent requirement or criteria shall apply. The department may, on its own motion or upon the request of a permit applicant, process a permit application or partial application to the extent necessary to determine land use compatibility alone. If the site is determined to be acceptable on the basis of land use, the department shall consider technical matters related to the application at a later time. When this procedure is followed, a public hearing shall be held for each determination. For the purposes of the land use public hearing, the applicant shall be required to submit, as a minimum, Part A of the permit application, all data required by subsection (b)(5)(A)

and (6)(A)-(D) of §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan), and data required by this undesignated head as may be pertinent for the type of facility involved.

(f) (No change.)

(g) Permit conditions. The following conditions shall be incorporated into each and every permit issued under this subchapter. (The conditions may be incorporated by specific reference to this subsection of the department's municipal solid waste management regulations.)

(1)-(32) (No change.)

(33) Effect of updated regulations on existing sites. It is not the department's intent to require implementation of changes to existing facilities which are not technically feasible or practical due to the current status of site development. However, upon notice from the department that new or amended rules have been adopted, permittees of hazardous waste management facilities shall submit, within 120 days of receipt of that notice, a report to the bureau addressing implementation of those changed standards which are technically feasible. The report shall include justification for not incorporating any changes addressed by the amended rules. The report shall include a time schedule for implementing and completing any practical and technically feasible changes. Upon approval of submissions required by this paragraph, the required changes shall be implemented by the permittee. Any change to a permit shall be made in compliance with the permit modification requirements of subsection (d) of this section.

(h) Application information.

(1) All permit applicants shall [must] provide the department with the [following] information in subparagraphs (A)-(H) of this paragraph, as a minimum, using the application forms and guidance provided by the bureau, which includes guidance as to the applicability of the requirements of other rules published under this chapter. [form provided by the department:]

(A)-(H) (No change.)

(2)-(5) (No change.)

(i)-(u) (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 June 18, 1984.

TRD-846653 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption

August 11, 1984

For further information, please call (512) 458-7271.

Special Rule Facilities

25 TAC §325.371

The new section is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules con-

sistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.371. Storage by Special Rule.

(a) Scope and applicability.

(1) The requirements of this section provide operational standards for owners and operators of municipal solid waste storage facilities that have been identified by the department as facilities which are authorized to receive, consolidate, store (for no longer than 180 days in containers or above-ground tanks), repack, and reship any of the solid wastes in subparagraphs (A)-(D) of this paragraph:

(A) hazardous wastes which are subject to reduced regulation as set forth in §325.298 of this title (relating to Special Requirements for Small Quantity Generators);

(B) hazardous wastes which are subject to reduced regulation as set forth in subsection (a) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled or Reclaimed), except as subsection (b) of §325.299 of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed) provides otherwise;

(C) any waste (including household waste) which would be a hazardous waste if it were not excluded from regulation as a hazardous waste under subsection (c) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions); or

(D) any Class I industrial solid waste which is destined and dedicated for storage prior to beneficial use or reuse or legitimate recycling or reclamation and which is under the jurisdiction of the Texas Department of Water Resources (TDWR), provided the receipt of such waste is authorized in writing by the department with the written concurrence of the TDWR.

(2) Owners and operators of facilities for which notification, as described in subsection (b)(1) of this section, has been made and for which a Texas Department of Health (TDH) ID number has been issued are authorized by rule to operate such facilities provided they comply with all the requirements of this section.

(3) Facilities which operate under authorization of interim status or by permit as required by §§325.331-325.350 of this title (relating to Facility Owners and Operators) or which process, treat, reuse, or recycle (and store in connection with this activity) waste which is regulated under §325.299(a) of this title (relating to Hazardous Waste Which is Used, Reused, Recycled, or Reclaimed) shall not be included in regulation under this section.

(b) Notification and issuance of a TDH ID number.

(1) After March 31, 1985, a site or facility shall not receive, store, or consolidate any hazardous waste, including those identified in subsection (a)(1)(A)-(D) of this section, without the owner or operator:

(A) notifying the department in writing stating his intention to operate the site or facility in compliance with the requirements of this section; and

(B) possessing a TDH ID number that will serve to adequately identify the facility.

(2) Notifications and requests for ID numbers shall be mailed to the Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756,

(c) Facility requirements. The general requirements in paragraphs (1)-(12) of this subsection apply to all facility owners and operators with respect to the solid waste activities authorized under this section.

(1) Applicable rules of §325.271(c)-(f) of this title (relating to Purpose, Applicability, and Release of Information).

(2) Section 325.272 of this title (relating to Definitions of Terms and Abbreviations).

(3) Section 325.273 of this title (relating to Hazardous Waste Determination).

(4) Section 325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions).

(5) Section 325.333 of this title (relating to General).

(6) Section 325.334 of this title (relating to Preparedness and Prevention).

(7) Section 325.335 of this title (relating to Contingency Plan and Emergency Procedures).

(8) Section 325.336 of this title (relating to Manifest System, Record Keeping, and Reporting). The facility owner or operator shall require all wastes, except waste identified in subsection (a)(3) of this section, to be manifested to the facility.

(9) Applicable portions of §325.338(b), (c)(1)-(3), (d), (e), and (f) of this title (relating to Closure and Postclosure Requirements). The facility owner or operator shall consider his facility plan to be an interim status plan for the purposes of closure and postclosure requirements.

(10) Section 325.339 of this title (relating to Financial Requirements). The owner or operator shall consider his facility to be an interim status facility for the purposes of financial requirements.

(11) Section 325.340 of this title (relating to Use and Management of Containers).

(12) Section 325.341 of this title (relating to Tanks), except that subsection (a)(2) shall not apply. Tanks which are partially or fully below ground shall not be used for storage or consolidation of hazardous waste.

(d) Additional restrictions. Owners or operators, when conducting activities authorized under this section, shall comply with the following restrictions

(1) The maximum amount of hazardous waste, including acute hazardous waste, that may be stored on site at any time shall be 75,000 kilograms (approximately 165,000 pounds).

(2) The maximum amount of acute hazardous waste that may be stored on site at any time shall be 1,000 kilograms (approximately 2,200 pounds).

(3) The maximum number of hazardous waste holding containers that may be on site at any time shall be 300.

(4) Any tanks used for the on-site storage or consolidation of hazardous waste shall be provided with a containment system that complies with the standards set forth in §325.340(f) of the title (relating to Use and Management of Containers). For purposes of this paragraph, tanks shall be considered to be the same as containers.

(5) The owner or operator shall not provide or conduct any on-site disposal or treatment of the wastes received without having applied for and received a permit for such activity.

(6) All containers and tanks that are used for the storage of hazardous waste must be marked with the:

(A) date that the container or tank first received any of the waste which it holds; and

(B) identification of the contents of the container or tank using the Texas Municipal Waste Code Number.

(7) Owners or operators shipping hazardous waste off site shall comply with all the applicable requirements of §§325.291-325.299 of this title (relating to Generators), except that wastes shall not be:

(A) shipped as a small quantity waste under §325.298 of this title (relating to Special Requirements for Small Quantity Generators); or

(B) discharged to a domestic sewage system for treatment at a wastewater treatment plant.

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 June 18, 1984

TRD-846654

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

Proposed date of adoption:

August 11, 1984

For further information, please call (512) 458-7271.

Subchapter X. Forms and Documents 25 TAC §325.910

The new section is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste, including hazardous waste.

§325.910. *Appendix J—Small Quantity Generator Notification Form.* This section adopts Appendix J—Small Quantity Generator Notification Form.

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 June 18, 1984.

TRD-846655

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

Proposed date of adoption:

August 11, 1984

For further information, please call (512) 458-7271.

TEXAS DEPARTMENT OF HEALTH
1100 W. 49TH STREET
AUSTIN, TEXAS 78756-3199

SMALL QUANTITY GENERATOR NOTIFICATION FORM

I request the following facility and/or operation be registered by the Texas Department of Health (TDH) and that you assign it a unique TDH identification (registration) number for use on Texas Waste Shipping-Control Tickets (manifests). I certify that the information provided concerning this facility and/or operation is correct. I agree to advise TDH whenever a change to the information is made necessary.

A. FACILITY NAME _____
FACILITY ADDRESS _____

B. INSTALLATION CONTACT AND FACILITY TELEPHONE NUMBER
_____ Area Code (____) _____
Installation Contact Person Telephone Number

C. LOCATION OF OPERATION OR FACILITY _____
_____ COUNTY _____

D. OWNERSHIP _____
Owner's Identity _____
Owner's Address (if different from address given in "A") _____

E. NATURE OF SOLID WASTE ACTIVITIES CONDUCTED _____

F. PRIMARILY, THE ACTIVITIES AT THIS SITE INVOLVE (Check as Many as Appropriate)
___ Waste Generation ___ Waste Transportation ___ Treatment, Storage or Disposal of Waste

G. ESTIMATED QUANTITY OF HAZARDOUS WASTE HANDLED (Check Appropriate Space)
___ Less than 25 kilograms (55 pounds) per month
___ 25 - 100 kilograms (55 - 220 pounds) per month
___ 100 - 1,000 kilograms (220 - 2,200 pounds) per month
___ More than 1,000 kilograms (2,200 pounds) per month

H. ARE ANY ACUTE HAZARDOUS WASTES GENERATED? _____ IF YES, WHAT WASTES? _____
(y/n)

I. ARE ANY OF THE HAZARDOUS WASTES HANDLED SHIPPED OUT-OF-STATE? _____
(y/n)

Name & Official title (please print)

Signature Date

Withdrawn Rules

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office. 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.

**TITLE 16. ECONOMIC
REGULATION**
**Part I. Railroad Commission of
Texas**
Chapter 5. Transportation Division
Subchapter Z. Emergency Authority
16 TAC §5.586

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption emergency new §5.586, concerning emergency authority of the Transportation Division. The text of the emergency new section as adopted appeared in the March 13, 1984, issue of the *Texas Register* (9 TexReg 1464).

Issued in Austin, Texas, on June 15, 1984.

TRD-846557 Walter Earl Lille
Special Counsel
Railroad Commission of Texas

Filed: June 15, 1984
For further information, please call (512) 445-1186.

**TITLE 31. NATURAL RESOURCES
AND CONSERVATION**
**Part X. Texas Water Development
Board**
Chapter 303. Appropriation of Water
**General Requirements of Permit
Applications**

31 TAC §303.29, §303.30

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §303.29 and the repeal of §303.30 submitted by the Texas Water Development Board have been automatically withdrawn, effective June 19, 1984. The amendments as proposed and the notice of repeal appeared in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5256).

TRD-846668
Filed: June 19, 1984

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

Adopted Rules

TITLE 10. COMMUNITY DEVELOPMENT Part IV. Texas Housing Agency Chapter 139. Letter of Credit/Surety Bond Multifamily Housing Program

10 TAC §§139.1-139.13

The Texas Housing Agency adopts new §§139.1-139.13, without changes to the proposed text published in the April 6, 1984, issue of the *Texas Register* (9 TexReg 1926).

The new sections establish procedures for administering the Letter of Credit/Surety Bond Multifamily Housing Program. The new sections provide guidelines and procedures under which this agency will administer the program.

No comments were received regarding adoption of these new sections.

The new sections are adopted under the Texas Housing Agency Act, Texas Civil Statutes, Article 12691-6, §7(b)(2), which authorizes this agency to adopt rules governing the administration of the agency and its 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 June 15, 1984.

TRD-846643 Earline Jewett
Executive Administrator
Texas Housing Agency

Effective date: July 9, 1984
Proposal publication date: April 6, 1984
For further information, please call (512) 475-0812.

TITLE 22. EXAMINING BOARDS Part XXXII. State Committee of Examiners for Speech-Language Pathology and Audiology Chapter 741. Speech-Language Pathologists and Audiologists

The State Committee of Examiners for Speech-Language Pathology and Audiology adopts new §§741.2, 741.11-741.13, 741.17, 741.25, 741.41, 741.61, 741.81, 741.101, 741.103, and 741.128, with changes to the proposed text published in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1677). Sections 741.1, 741.14-741.16, 741.18-741.24, 741.26, 741.62-741.64, 741.82-741.84, 741.102, 741.121-741.127, 741.129, 741.141-741.144, 741.161-741.165, 741.181, and 741.191 and 741.198 are adopted without changes and will not be republished.

These rules implement the requirements for the Speech-Language Pathology and Audiology Licensing Act, Texas Civil Statutes, Article 4512j. These rules will safeguard the public health, safety, and welfare by establishing standards for professional conduct of speech-language pathologists, audiologists, licensed aides in speech-language pathology, and licensed aides in audiology, and establish procedures and policies concerning their licensing and regulation.

The rules set out the general procedures covering the operation of the State Committee of Examiners for Speech-Language Pathology and Audiology, a code of ethics, application and licensing requirements, examination procedures, continuing education and renewal requirements, procedures for licensing per-

sons with criminal backgrounds, and procedures for conducting formal hearings

Several comments regarding the adoption of these section were received. In §741.2, several commenters suggested that the words "intern" and "trainee" be defined. The committee agrees and has added definitions of these terms to §741.2, and also has amended §741.61(5) and (6) and §741.81(5) and (6) to include provisions relating to these definitions.

In §741.11(a)(2), several commenters asked for a definition and clarification of "day-to-day" minor decisions made by the chair. The committee accepts this comment and clarifies the first sentence of this subsection by adding the word "procedural" and a new sentence

In §741.12, a commenter suggested that licensees other than committee members should be appointed to subcommittees. The committee agrees with this comment and has added an appropriate sentence to this subsection

In §741.13(a), a commenter said that the rule contained no requirement to notify the public in advance of meetings and suggested 21 working days. The committee disagrees that this requirement is not stated and references the Act, §4(d), which requires a 14-day advance public notice, and also §741.17(c), which specifies that this announcement is regulated by the Texas Open Meetings Act which requires publication in the *Texas Register*

In §741.13(c), a commenter stated that 21-day advance notice to place topics on the agenda is excessive. Seven days was suggested. The committee disagrees, since the agenda must be filed with the Office of the Secretary of State 14 days in advance of a meeting, as required by the Act, and additional administrative time is required for preparation. In addition, §741.17(d) contains procedures regarding public participation in meetings

In §741.14, a commenter suggested that a subsection (c) be added to cite the Texas statutes that control personal conduct of committee members and what recourse licensees have regarding an impropriety of a committee member. The committee disagrees with this comment, as various statutes cover the responsibilities and duties of appointed state officials and these provisions do not need to be repeated in these rules

In §741.14(b), a commenter suggested that officer vacancy should be filled by vote of all members. The committee disagrees and stated majority vote is necessary for the committee to function effectively. This rule should remain as proposed.

In §741.14, one commenter stated that an officer should serve no more than two years, a second commenter suggested that a member should not succeed himself/herself in office. The committee disagrees because it does not wish the committee to be restricted in this manner

In §741.15, a commenter suggested that, under the proposed rule the executive secretary's routine, day-

to-day administration of the Act may be interrupted or interfered with by members of the committee. The committee disagrees because administrative safeguards under §741.15(a) and §741.15(c) provide assurance that there will be no interference.

In §741.15(f), a commenter stated that the executive secretary and committee are duplicating work in review of applications. The committee disagrees because the proposed rule as written does not result in duplication of work.

In §741.17(d), a commenter suggested that the decision of who may speak at public meetings should be made by the whole committee, not the chair. The committee disagrees and feels that the chair should make that decision. The wording was changed to provide a procedure for the public to request to speak.

In §741.20, a commenter stated that a limit of three absences should be allowed committee members and that excessive absences should be reviewed by the governor for possible replacement. The committee disagrees because it has no statutory authority to place such a requirement on absences in the rule. Also, since attendance records are made available on request to the Office of the Governor and/or the Texas Sunset Advisory Commission, the committee does not believe that it should request gubernatorial review

In §741.25(a), two commenters suggested that reimbursement for travel expenditures might become excessive. The committee disagrees because reimbursement of expenses is governed by the Act and the General Appropriations Act.

In §741.25, a commenter stated that a subsection should be added to provide that committee members be held responsible for using good judgment in spending licensing funds and that an annual open audit of expenditures be conducted with at least one noncommittee licensed speech-language pathologist and one noncommittee licensed audiologist in attendance. The committee disagrees because auditing procedures are already established within the Texas Department of Health. The committee modified the rule to contain a provision for an annual committee review of expenditures and has added subsection (c) for this purpose

In §741.41(1)(E), several comments were received concerning clarity of this rule and a definition of "appropriate access." The committee disagrees that the term "appropriate access" requires further defining, but did clarify the wording.

In §741.41(1)(F), four commenters asked that this subparagraph be further defined, the wording changed, or deleted entirely. The committee agrees and deleted the subparagraph

In §741.41(2)(C), a commenter suggested that this rule be changed for clarity. The committee agrees and has reworded the rule

In §741.41(3), a commenter requested a definition of "maintain objectivity" for clarification. The committee disagrees because it believes that this term is clearly defined as written in the subsection.

In § 741.41(3)(A) and § 741.41(4), one commenter said that these rules may discriminate against certain professionals; two commenters asked what standards are being referenced; and one commenter asked that "standards of the profession" be defined. The committee disagrees with the first comment because § 741.41(3)(A) is appropriate as written. In response to the second comment, the standards referred are those referenced in the introduction in § 741.41. The committee disagrees with the third comment because this subsection is appropriate as written.

In § 741.41(5), one commenter asked for a definition of "shall cooperate fully." The committee agrees that this statement needs to be clarified and reworded this rule.

In § 741.82(d), a commenter asked for a definition of "equivalent" and whether a person can be licensed that is not American Speech-Language-Hearing Association (ASHA)-certified. The committee disagrees that a definition of "equivalent" is needed because the Act, § 13(d), and § 741.61 and § 741.81 of these committee rules set out the equivalent requirements. In response to the second question, an individual may be licensed who is not ASHA-certified.

In § 741.103(a)(3) and (a)(4), three commenters asked that these paragraphs be deleted or changed. The committee agrees and has deleted these paragraphs.

In § 741.124(1), a commenter suggested that "oral examinations" be deleted. The committee disagrees because the subsection is intended to implement the Act, § 12(b), and § 741.26 of these committee rules, which references the policy regarding handicapped applicants.

In § 741.129, a commenter asked whether a different examination for licensure is required if the ASHA examination has been passed, and another commenter requested clarification as to whether double charging for examination is intended. The committee disagrees that this subsection implies double charging for examination or the passing of two examinations. Licensure requires the passing of only one approved examination in each area for which licensure is being sought, and there will be one examination fee charged by the designated administrator of the examination. There may be a nonrefundable registration fee for each examination.

These and several other minor miscellaneous changes have been made to various sections of the rules for the purpose of clarifying the wording of the rules.

The following groups or associations commented on and supported the rules: Texas Speech-Language-Hearing Association; Austin Audiological Society; Texas Committee of Organizations for the Handicapped; West Texas Rehabilitation Center; and Sunshine Cottage School for Deaf Children.

Even though these commenters supported the rules, some of them also had some questions, recommendations, and concerns regarding specific portions of the rules.

These new sections are adopted under Texas Civil Statutes, Article 4512j, § 5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

Subchapter A. General Information

22 TAC § 741.1, § 741.2

§ 741.2. Definitions. The following words and terms, when used in this chapter shall have the following meanings unless otherwise indicated within the context.

Act—The Act relating to the licensing and regulation of speech-language pathologists and audiologists, Texas Civil Statutes, Article 4512j.

Audiologist—An individual who practices audiology.

Board—The Texas Board of Health.

Committee—The State Committee of Examiners for Speech-Language Pathology and Audiology, as defined in the Act, § 3.

Department—The Texas Department of Health.

Extended absence—More than two consecutive working days for any single continuing education experience.

Health, welfare, or safety of the public—The protection of the public from unprofessional conduct by speech-language pathologists and audiologists, licensed aides in speech-language pathology, and licensed aides in audiology, as described in § 741.41 of this title (relating to Code of Ethics).

Intern in audiology—An individual meeting the academic and clinical experience requirements of a master's degree in audiology, or its equivalent, who is completing the professional employment experience requirement in a bona fide clinical practice working under the supervision of an individual who holds a master's degree in audiology and a valid license to practice audiology in the State of Texas and/or the American Speech, Language, and Hearing Association certificate of clinical competence in audiology or its equivalent.

Intern in speech-language pathology—An individual meeting the academic and clinical experience requirements of a master's degree in speech-language pathology, or its equivalent, who is completing the professional employment experience requirement in a bona fide clinical practice working under the supervision of an individual who holds a master's degree in speech-language pathology and a valid license to practice speech-language pathology in the State of Texas and/or the American Speech, Language, and Hearing Association certificate of clinical competence in speech-language pathology or its equivalent.

License—The document required by the Act which provides verification that an individual has met the requirements for qualification and practice as set forth in the Act and as interpreted within this chapter.

Licensed aide in audiology—An individual who works under the direct, on-site supervision and direction of a licensed audiologist and who meets the qualifications set forth in this chapter.

Licensed aide in speech-language pathology—An individual who works under the direct, on-site supervision and direction of a licensed speech-language pathologist and who meets the qualifications set forth in this chapter.

Month—A calendar month.

Person—An individual, a corporation, partnership, or other legal entity.

Practice of audiology—The application of nonmedical principles, methods, and procedures for the measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction related to hearing and disorders of hearing and for the purpose of rendering or offering to render services or for participating in the planning, directing, or conducting of programs which are designed to modify communicative disorders involving speech, language, auditory function, or other aberrant behavior relating to hearing loss. An audiologist may engage in any tasks, procedures, acts, or practices that are necessary for the evaluation of hearing, for training in the use of amplification including hearing aids, or for the making of earmolds. An audiologist may participate in consultation regarding noise control and hearing conservation, may provide evaluations of environment or equipment, including calibration of equipment used in testing auditory functioning and hearing conservation, and may perform the basic speech and language screening tests and procedures consistent with his or her training.

Practice of speech-language pathology—The application of nonmedical principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of speech, voice, or language for the purpose of rendering or offering to render services, or for participating in the planning, directing, or conducting of programs which are designed to modify communicative disorders and conditions in individuals or groups of individuals. Speech-language pathologists may perform the basic audiometric screening tests and hearing therapy procedures consistent with their training.

Proof of bona fide practice—The presentation of evidence to the committee that the applicant seeking the time-limited waiver of requirements under special conditions has been engaged in the practice of the profession for which licensure is sought.

Rules—The rules in Chapter 741 of this title (relating to Speech-Language Pathologists and Audiologists) covering the designated policies and procedures of operation for the committee and for individuals affected by the Act.

Speech-language pathologist—An individual who practices speech-language pathology.

Subcommittee—The chair may appoint committee members to subcommittees to assist the committee in its work.

Temporary certificate of registration—A non-renewable document issued by the committee to an individual who fulfills the qualifications for licensure, with the exception of the examination. The document entitles the individual to practice speech-language pathology or audiology for a period ending eight weeks after the con-

clusion of the next examination given after the date of issuance of the certificate.

Trainee in audiology—An individual pursuing a course of study leading to a degree in audiology and who works within the training institution or one of its cooperating programs under the direct, on-site supervision and direction of an audiologist licensed under the Act.

Trainee in speech-language pathology—An individual pursuing a course of study leading to a degree in speech-language pathology and who works within the training institution or one of its cooperating programs under the direct, on-site supervision and direction of a speech-language pathologist licensed under the Act.

Waiver—The suspension of educational, professional, and/or examination requirements for applicants who meet the criteria for licensure under special conditions.

Year—A calendar year.

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 June 18, 1984

TRD-846604

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

Effective date: July 12, 1984

Proposal publication date: March 23, 1984

For further information, please call (512) 458-7502.

Subchapter B. The Committee

22 TAC § 5741.11-741.26

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

§741.11. Officers.

(a) Chair.

(1) The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or these committee rules.

(2) The chair is authorized by the committee to make day-to-day minor procedural decisions regarding committee activities in order to facilitate the responsiveness and effectiveness of the committee. The executive secretary shall keep a tabulation of the minor procedural decisions and include them in the executive secretary's report to the committee.

(b) Vice-chair.

(1) The vice-chair shall perform the duties of the chair in the absence or disability of the chair.

(2) Should the office of the chair become vacant, the vice-chair shall serve until a successor is named.

(c) Secretary-treasurer.

(1) The secretary-treasurer will sign the approved minutes of the committee.

(2) The secretary-treasurer will sign other approved documents of the committee in the absence of the chair and vice-chair.

§741.12. Subcommittees. The chair may appoint committee members to subcommittees to assist the committee in its work. All subcommittees appointed by the chair shall consist of no more than four members and shall make regular reports to the committee by interim written reports or at regular meetings. The committee shall direct all such reports to the executive secretary for distribution. The committee reserves the right to appoint noncommittee members to subcommittees in compliance with the Act, §5(h).

§741.13. Transaction of Official Business.

(a) The committee may transact official business only when in a legally constituted meeting with a quorum present. Five members of the committee constitute a quorum.

(b) The committee shall not be bound in any way by any statement or action on the part of any committee member, subcommittee, or staff member except when a statement or action is in pursuance of the specific instruction of the committee.

(c) Any individual wishing to be on the agenda to present or speak on a specified topic at a meeting of the committee must provide written request which describes the topic to be addressed. Notice of acceptance or denial of request will be provided in writing to the individual making the request. The written request must be received by the executive secretary at least 21 working days prior to the committee meeting.

§741.17. Meetings.

(a) The committee shall hold at least two regular meetings and additional meetings as necessary during each year ending on August 31.

(b) The chair may call meetings after consultation with the committee. Meetings may also be called by a majority of members so voting at a regular meeting, or by the written request of any three members.

(c) Meetings shall be announced and conducted under the provisions of the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17. The Office of the Secretary of State shall be notified at least 14 days in advance of public notice of the meeting, as required by the Speech-Language Pathology and Audiology Licensure Act. In addition, the Office of the Secretary of State publishes notice of the meetings in the *Texas Register*.

(d) Any member of the public who desires to address the committee shall notify the committee prior to the meeting by so indicating on the registration form available at the beginning of the meeting. The chair may provide them an opportunity to speak.

§741.25. Reimbursement for Expenses.

(a) A committee member is entitled to reimbursement for expenses incurred for transaction of committee business. Reimbursement includes necessary and appropriate daily expenses (per diem) as well as transportation expenses which are necessary and appropriate for the transaction of committee business. Reimbursement shall be governed by the latest General Appropriations Act passed by the Texas Legislature.

(b) Payment to members of per diem and transportation expenses which are necessary and appropriate shall be transacted through official state vouchers which have been approved by the executive secretary.

(c) At the closest regular meeting to officer elections, the committee will review annual committee expenditures.

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 June 18, 1984.

TRD-846605 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: July 12, 1984
Proposal publication date: March 23, 1984
For further information, please call (512) 458-7502.

Subchapter C. The Practice of Speech-Language Pathology and Audiology

22 TAC §741.41

This new section is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

§741.41. Code of Ethics. This rule in this subchapter establishes the standards of professional and ethical conduct required of a speech-language pathologist, an audiologist, a licensed aide in speech-language pathology, and a licensed aide in audiology, and constitutes a code of ethics as authorized by §17(a)(3) of the Act. It is the responsibility of all licensed speech-language pathologists, audiologists, licensed aides in speech-language pathology, and licensed aides in audiology to uphold the highest standards of integrity and ethical principles.

(1) Licensees shall hold paramount the welfare of individuals served professionally.

(A) Licensees shall fully inform individuals served of the nature and possible effects of the services rendered by the licensee.

(B) Licensees shall not engage in the medical treatment of speech-language and hearing disorders.

(C) Licensees shall seek appropriate medical consultation whenever indicated.

(D) Licensees shall fully inform subjects participating in research or teaching activities of the nature and possible effects of these activities.

(E) Licensees shall maintain adequate records of professional services rendered and shall provide appropriate access of records to those individuals served professionally.

(F) Licensees must not guarantee, directly or by implication, the results of any therapeutic procedures. A reasonable statement of prognosis may be made, but

caution must be exercised not to mislead individuals served professionally to expect results that cannot be predicted from reliable evidence.

(G) Licensees must not delegate any service requiring professional competence of a licensed clinician to anyone not licensed for the performance of that service.

(H) Licensees shall seek to identify competent, dependable referral sources for individuals served professionally.

(2) Licensees' statements to individuals served professionally and to the public shall provide accurate information about the nature and management of communicative disorders and about the profession and the services rendered by its practitioners.

(A) Licensees shall not misrepresent their training or competence.

(B) Licensees' public statements providing information about professional services and products shall not contain representations or claims that are false, deceptive or misleading.

(C) Licensees shall not use professional or commercial affiliations in any way that would mislead individuals served professionally.

(3) Licensees shall maintain objectivity in all matters concerning the welfare of individuals served professionally.

(A) Licensees must not participate in activities that constitute a conflict of professional interest.

(B) Activities that constitute a conflict of interest may include the following:

(i) the exclusive recommendation of a product which the individual owns or has produced;

(ii) lack of accuracy in the performance description of a product a licensee has developed;

(iii) the restriction of freedom of choice for sources of services and/or products.

(4) Licensees shall honor the standards of the profession and shall uphold these standards in their professional interactions with colleagues and members of allied professions.

(5) Licensees shall inform the committee of violations of this code of ethics and shall assist the committee in matters pertinent to professional conduct related to this code of ethics.

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 June 18, 1984.

TRD-846606

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

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For further information, please call (512) 458-7502.



Subchapter D. Academic Requirements for Examination and Licensure for Speech-Language Pathologists

22 TAC §§741.61-741.64

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

§741.61. *Purpose.* The purpose of this subchapter is to delineate the academic requirements for examination and licensure for speech-language pathologists beginning August 31, 1984.

(1) An applicant must have earned at least a master's degree with a major in speech-language pathology. These requirements should be consistent with the academic requirements of the American Speech-Language-Hearing Association for the Certificate of Clinical Competency in Speech-Language Pathology.

(2) To be eligible for licensing as a speech-language pathologist, an applicant must submit official transcripts showing successful completion of at least 30 semester hours in courses which are acceptable toward a graduate degree by the college or university in which they were taken. At least 21 graduate hours must be within the professional area of speech-language pathology and at least six graduate hours in audiology. Three semester hours in audiology must be in habilitative/rehabilitative procedures with speech and language problems associated with hearing impairment, and three semester hours must be in the study of the pathologies of the auditory system and assessment of auditory disorders.

(3) The undergraduate and graduate preparation required in speech-language pathology should be in the broad, but not necessarily exclusive, categories of study as follows:

(A) information pertaining to the normal development and use of speech, language, and hearing, with emphasis on the normal aspects of human communication;

(B) information pertaining to evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders;

(C) information pertaining to related areas that augment the work of clinical practitioners of speech-language pathology, (i.e., theories of learning and behavior, information pertaining to related professions that also deal with individuals who have communication disorders, and information from these professions about the sensory, physical, emotional, social, and/or intellectual status of a child or an adult). No more than three semester hours in any of the following areas may be accepted:

(i) in statistics, beyond the introductory level course;

(ii) academic study of the administrative organization of speech-language pathology and audiology programs;

(iii) courses that provide an overview of research; or

(iv) academic credit for a thesis or dissertation.

(4) Transcripts shall be reviewed as follows:

(A) Degrees and/or course work must have been completed at a college or university within the United States of America, which holds accreditation or candidacy status from a recognized regional accrediting agency, such as the Southern Association of Colleges and Universities.

(B) Degrees and/or course work received at foreign universities shall be acceptable only if such course work can be counted as transfer credit by accredited universities, as reported by the American Association of Collegiate Registrars and Admissions Officers.

(C) Academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other official means.

(D) The committee shall not accept an undergraduate level course taken by an applicant as meeting academic requirement for licensure at the graduate level, unless the applicant's official transcript clearly shows that the course was awarded graduate credit by the college or university from which the graduate degree was granted.

(E) Academic credit obtained from practice teaching or practice work in other professions will not be counted toward the minimum requirements.

(F) The committee shall only accept course work completed with a passing grade or for credit. In the case of course work taken outside a program of studies from which a degree was granted, no grade below C shall be counted toward meeting academic requirements for examination for licensure.

(G) The committee shall consider a quarter hour of academic credit as $\frac{1}{2}$ of a semester hour.

(5) To be eligible for licensing as a speech-language pathologist, an applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders. This experience must have been obtained within a training institution, or in one of its cooperating programs, under the supervision of an individual holding a valid license to practice speech-language pathology, and/or its equivalent, provided during the first year of this Act, the supervision may be under a person who would have met the qualifications under this Act. While pursuing this course of study, the applicant shall be designated as a trainee in speech-language pathology.

(6) To be eligible for licensing as a speech-language pathologist, an applicant must have obtained the equivalent of nine months of full-time, 40 hours weekly, supervised professional experience in which bona fide clinical work has been accomplished in speech-language pathology. This work must have been completed under the supervision of an individual who holds a master's degree in speech-language pathology and a valid license to practice speech-language pathology in the State of Texas (provided during the first year of the Act the supervision may be under a person who would have met the qualifications under this Act), and/or the American Speech-Language-Hearing Association Certificate of Clinical Competence in Speech-Language Pathology and/or its equivalent. The professional employment experience must be completed

within a maximum period of 36 consecutive months once initiated. While pursuing this professional employment experience, the applicant shall be designated as an intern in speech-language pathology.

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 June 18, 1984

TRD-846607 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: July 12, 1984

Proposal publication date: March 23, 1984

For further information, please call (512) 458-7502

Subchapter E. Academic Requirements for Examination and Licensure for Audiologists

22 TAC §§741.81-741.84

These new sections are adopted under Texas Civil Statutes, Article 5412j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act

§741.81. *Purpose.* The purpose of this section is to delineate the academic requirements for examination and licensure as an audiologist beginning November 30, 1983.

(1) An applicant must have earned at least a master's degree with a major in audiology. These academic requirements should be consistent with the academic requirements of the American Speech-Language-Hearing Association for the certificate of clinical competence in audiology.

(2) To be eligible for licensing as an audiologist, an applicant must submit official transcripts showing successful completion of at least 30 semester hours in courses that are acceptable toward a graduate degree by the college or university in which they are taken. At least 21 graduate hours shall be within the professional area of audiology and at least six graduate hours in speech-language pathology. The six semester hours of professional education required in speech-language pathology should include three hours in the area of speech pathology and three hours in the area of language pathology and should be related to evaluation procedures and management of speech and language problems that are not associated with hearing impairment.

(3) The undergraduate and graduate preparation required in audiology should be in the broad, but not necessarily exclusive, categories of study as follows:

(A) information pertaining to the normal development and use of speech, language and hearing with emphasis on the normal aspects of human communication;

(B) information pertaining to evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders;

(C) information pertaining to related fields that augment the work of clinical practitioners of audiology, (i.e., theories of learning and behavior, information pertaining to related professions that also deal with individuals who have communication disorders, and information from these professions about the sensory, physical, emotional, social, and/or intellectual status of a child or an adult). No more than three semester hours in any of the following areas may be accepted:

(i) in statistics, beyond the introductory level course;

(ii) academic study of the administrative organization of speech-language pathology and audiology programs;

(iii) courses that provide an overview of research; or

(iv) academic credit for a thesis or dissertation.

(4) Transcripts shall be reviewed as follows.

(A) Degrees and/or course work must have been completed at a college or university within the United States of America which holds accreditation or candidacy status from a recognized regional accrediting agency, such as the Southern Association of Colleges and Universities.

(B) Degrees and/or course work received at foreign universities shall be acceptable only if such course work could be counted as transfer credit from accredited universities, as reported by the American Association of Collegiate Registrars and Admissions Officers.

(C) Academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other official means.

(D) The committee shall not accept undergraduate level courses taken by an applicant as meeting any academic requirement unless the applicant's official transcript clearly shows that the course was awarded graduate credit by the college or university from which the graduate degree was granted.

(E) Academic credit obtained from practice teaching or practice work in other professions will not be counted toward the minimum requirement.

(F) The committee shall only accept course work completed with a passing grade or for credit. In the case of course work taken outside a program of studies from which a degree was granted, no grade below C shall be counted toward meeting academic requirements for examination for licensure.

(G) The committee shall consider a quarter hour of academic credit as $\frac{1}{2}$ of a semester hour.

(5) To be eligible for licensing as an audiologist, an applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders. This experience must have been obtained within a training institution, or in one of its cooperating programs, under the supervision of an individual holding a valid license to practice audiology and/or its equivalent, provided during the first year of this Act, the supervision may be under a person who would have met the

qualifications under this Act. While pursuing this course of study, the applicant shall be designated as a trainee in audiology.

(6) To be eligible for licensing as an audiologist, an applicant must have obtained the equivalent of nine months of full-time, supervised professional experience in which bona fide clinical work has been accomplished in audiology. This work must have been completed after the academic and clinical experience requirements are met and under the supervision of an individual who holds a master's degree in audiology and a valid license to practice audiology in the State of Texas (provided during the first year of this Act the supervision may be under a person who would have met the qualifications under this Act), and/or the American Speech-Language-Hearing Association Certificate of Clinical Competence in Audiology and/or its equivalent. The professional employment experience must be completed within a maximum period of 36 consecutive months once initiated. While pursuing this professional employment experience, the applicant shall be designated as an intern in audiology.

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 June 18, 1984

TRD-846608

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

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Proposal publication date: March 23, 1984

For further information, please call (512) 458-7502

Subchapter F. Application Procedures

22 TAC §§741.101-741.103

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

§741.101. Purpose. The purpose of this subchapter is to set out the application procedures for examination and licensing of individuals referred to in these committee rules.

§741.103. Required Application Materials

(a) Application form. The application form shall contain:

(1) specific information regarding personal data, employment and nature of professional practice, other state licenses and/or certifications held, felony convictions, educational background, practicum experience, supervised experience, and references;

(2) a statement that the applicant has read the Act and these committee rules and agrees to abide by them;

(3) a statement that the applicant, if issued a license, shall return the license to the committee upon the revocation or suspension of the license;

(4) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable; and

(5) the dated and notarized signature of the applicant.

(b) Supervised postgraduate experience form. The supervised experience form must contain the following information:

(1) the name of the applicant;

(2) the supervisor's name, address, degree, licensure status or American Speech-Language-Hearing Association Certificate of Clinical Competence, or evidence of equivalent credentials;

(3) the name and address of the agency or organization where the experience was gained;

(4) the inclusive dates of the supervised experience and the total number of hours of supervised postgraduate practice;

(5) the number of hours of weekly face-to-face supervision provided for the applicant and the types of supervision used (direct, observation room, video tape, audio tape, review of records, etc.);

(6) the applicant's employment status during supervised experience; and

(7) the supervisor's signature.

(c) Graduate transcripts. An applicant must have the official transcript(s) of all relevant graduate work sent directly to the committee by the educational institution.

(d) Other documents. Vitae, resumes, and other documentation of the applicant's credentials may be submitted, but not in lieu of any other required documentation.

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 June 18, 1984.

TRD-846609 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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For further information, please call (512) 458-7502.

Subchapter G. Licensure Examinations 22 TAC §§741.121-741.129

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

§741.128. Notice of Results.

(a) The committee or its designee (such as a testing service) shall notify each examinee of the examination results as soon as results are available.

(b) The official notice of results to applicants shall be stated in terms of "pass" or "fail" and shall reflect the cut-off score established by the committee.

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 June 18, 1984.

TRD-846610 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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For further information, please call (512) 458-7502.

Subchapter H. Licensing 22 TAC §§741.141-741.144

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

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

Issued in Austin, Texas, on June 18, 1984.

TRD-846611 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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For further information, please call (512) 458-7502.

Subchapter I. License Renewal 22 TAC §§741.161-741.165

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

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

Issued in Austin, Texas, on June 18, 1984.

TRD-846612 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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Proposal publication date: March 23, 1984
For further information, please call (512) 458-7502.

Subchapter J. Fees and Late Renewal Penalties

22 TAC §741.181

The new section is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

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

Issued in Austin, Texas, on June 18, 1984.

TRD-846613 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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Proposal publication date: March 23, 1984
For further information, please call (512) 458-7502.

Subchapter K. Denial, Suspension, or Revocation of Licensure

22 TAC §§741.191-741.198

These new sections are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to approval of the Texas Board of Health, with the authority to adopt rules consistent with the Speech-Language Pathology and Audiology Licensure Act necessary to administer and enforce the Act.

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

Issued in Austin, Texas, on June 18, 1984.

TRD-846614 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: July 12, 1984
Proposal publication date: March 23, 1984
For further information, please call (512) 458-7502.

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Texas Board of Health

Petition for the Adoption of a Rule

25 TAC §1.81

The Texas Department of Health adopts amendments to §1.81, concerning petitions to the department for the adoption of a rule, with changes to the proposed text published in the April 24, 1984, issue of the *Texas Register* (9 TexReg 2292).

The amendments clarify the procedures for submission, consideration, and disposition of a petition to the department for the adoption of a rule.

No group or association made comments on the rule. One individual suggested two changes in the rule. The individual suggested that §1.81(b)(4) should allow submission of the petition by hand or other delivery in addition to mail delivery. The department agrees and has changed §1.81(b)(4) accordingly. The same commenter suggested that a more reasonable procedure in §1.81(c)(2) would be to have the 60-day period begin on the date of receipt by the department of the petition and not on the date of mailing the petition. The department agrees and has changed §1.81(c)(2) accordingly.

The amendments are adopted under Texas Civil Statutes, Article 6252-13a, §11, which provide the department with the authority to adopt procedures covering the submission, consideration, and disposition of a petition to the department for the adoption of a rule.

§1.81. Petition for the Adoption of a Rule.

(a) Purpose. The rule's purpose is to delineate the Texas Board of Health's procedures for the submission, consideration, and disposition of a petition to the board to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the board to adopt a rule.

(2) The petition shall be in writing, shall contain the petitioner's name and address, and shall describe the rule and the reason for it; however, if the Texas commissioner of health determines that further information is necessary to assist the board in reaching a decision, the commissioner may require that the petitioner resubmit the petition and that it contain:

(A) a brief explanation of the proposed rule.

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.

(3) The board may deny a petition which does not contain the information in paragraph (2) of this subsection or the information in paragraph (2)(A)-(D) of this

subsection if the commissioner determines that the latter information is necessary.

(4) The petition shall be mailed or delivered to the Texas Commissioner of Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(c) Consideration and disposition of the petition.

(1) The commissioner shall submit the petition to the Texas Board of Health for its consideration and disposition.

(2) Within 60 days after receipt of the petition by the commissioner's office, or within 60 days after receipt by the commissioner's office of a resubmitted petition in accordance with subsection (b)(2)(A)-(D) of this section, the board shall deny the petition or institute rule-making procedures in accordance with the Administrative Procedure and Texas Register Act, §5. The board may deny parts of the petition and/or institute rule-making procedures on parts of the petition.

(3) If the board denies the petition, the commissioner shall give the petitioner written notice of the board's denial, including the board's reasons for the denial.

(4) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

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 June 18, 1984.

TRD-846584 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: July 9, 1984
Proposal publication date: April 24, 1984
For further information, please call (512) 458-7236.

Chapter 37. Maternal and Child Health Services

March of Dimes Rules on Health Education Grants

25 TAC §37.11

The Texas Department of Health adopts the repeal of §37.11, concerning March of Dimes rules on health education grants, without changes to the proposal published in the April 24, 1984, issue of the *Texas Register* (9 TexReg 2293).

The repeal eliminates a rule which no longer serves a public health purpose because the agency is no longer receiving March of Dimes grants.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4414b, §1.05(a)(4), which provide the Texas Board of Health with the authority to adopt rules for the conduct and performance of its duties.

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 June 18, 1984.

TRD-846585 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: July 9, 1984
Proposal publication date: April 24, 1984
For further information, please call (512) 458-7321.

Chapter 49. Early Periodic Dental Screening Treatment

Rules on Early Periodic Dental Screening Treatment

25 TAC §49.1-49.3

The Texas Department of Health adopts the repeal of §49.1-49.3, concerning early periodic dental screening treatment, without changes to the proposal published in the April 24, 1984, issue of the *Texas Register* (9 TexReg 2293).

The repeal eliminates rules that are no longer necessary because the department no longer has a contract with the Texas Department of Human Resources to provide early periodic dental screening treatment.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4414b, §1.05(a)(4), which provide the Texas Board of Health with the authority to adopt rules for the conduct and performance of its duties.

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 June 18, 1984.

TRD-846586 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: July 9, 1984
Proposal publication date: April 24, 1984
For further information, please call (512) 458-7321.



**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

**Part IX. Texas Department on
Aging**

**Chapter 251. Support Documents
Statutes and Regulations**

40 TAC §251.4

The Texas Department on Aging adopts new §251.4, without changes to the proposed text published in the May 4, 1984, issue of the *Texas Register* (9 TexReg 2449).

The justification for the section is that discrimination in the provision of services to the elderly on the basis of race, color, or national origin is prohibited. The section will give notice to the public that discrimination in the provision of services to the elderly is illegal.

No comments were received regarding adoption of the new section.

The new section is adopted pursuant to the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to adopt rules governing the functions of the department.

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

Issued in Austin, Texas, on June 13, 1984.

TRD-846534 Tim Shank
 General Counsel
 Texas Department on Aging

Effective date: July 6, 1984
Proposal publication date: May 4, 1984
For further information, please call (512) 475-2717.

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 amended the *Texas Basic Manual of Rules, Classifications, and Rates for Workers' Compensation and Employers' Liability Insurance* and the workers' compensation uniform policy, standard provisions for workers' compensation and employers' liability policies, by substituting the simplified workers' compensation and employers' liability policy, information page, and endorsements proposed by the National Council on Compensation

Insurance and reviewed by an advisory committee appointed by the board to review and make recommendations respecting the proposal.

The proposed simplified workers' compensation and employers' liability policy was specifically designed to have a more modern format, better readability, and to embrace the "new language" concept throughout. The only four substantive changes are the following

- (1) elimination of exclusion (e), injury by disease three-year limitation, in the old policy;
- (2) inclusion of the dual capacity rule (Part Two, B.1.);
- (3) inclusion of consequential bodily injury coverage (Part Two, B.4.); and
- (4) a Texas amendatory endorsement conforming the uniform policy to Texas usage.

The amendment is adopted on an emergency basis to be effective for 120 days from and after July 1, 1984. This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on June 20, 1984.

TRD-846676 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 Amenda-
tory Endorsements GL0031 and GL0032, as present-
ed by the Insurance Services Office, Inc., Austin. The
approved endorsements amend the employers liabili-
ty exclusion of various general liability policies to avoid
overlapping of coverage provided by general liability
policies and the revised workers' compensation and
employers liability insurance policy.

This filing was approved to become effective on an
emergency basis for a period of 120 days from and
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 Reg-
ister Act.

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

Issued in Austin, Texas, on June 14, 1984.

TRD-846626

James W. Norman
Chief Clerk
State Board of Insurance

Effective date: July 1, 1984

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

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. 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*.

Automated Information Systems Advisory Council

Thursday, June 28, 1984, 9 a.m. The Board of the Automated Information Systems Advisory Council will meet in the commissioners conference room, 510 South Congress Avenue, Austin. Items on the agenda include the previous meeting minutes, procurement proposals, council priorities, and a council appropriation request.

Contact: Charlotte Craig, 510 South Congress Avenue, Room 306, Austin, Texas 78704, (512) 475-2362.

Filed: June 20, 1984, 12:38 p.m.
TRD-846690

State Ethics Advisory Commission

Friday, July 13, 1984, 10 a.m. The State Ethics Advisory Commission will meet at the Sam Houston Building, 201 East 14th Street, Austin. Items on the agenda include approval of the April 13, 1984, minutes; consideration of opinion requests and opinion drafts, and setting the date for the next meeting.

Contact: Gregory Pollock, P.O. Box 13485, Austin, Texas 78711-3485, (512) 475-1429.

Filed: June 20, 1984, 11:22 a.m.
TRD-846689

Credit Union Department

Thursday, July 12, 1984, 9:30 a.m. The Credit Union Commission of the Credit Union Department will meet at 914 East Anderson Lane, Austin. According to the agenda, the commission will review and take action on proposed rules, consider possible new rules regarding share guaranty corporations from other states, approve the final appropriations request for fiscal years 1986 and 1987, and discuss a possible letter to the governor and the setting of regular meetings. The commission also will meet in executive session to review and update litigation and potential litigation.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236.

Filed: June 18, 1984, 3:36 p.m.
TRD-846659

Texas Employment Commission

The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue. Days, times, and agendas follow.

Tuesday, June 26, 1984, 9 a.m. 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 26, 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: June 18, 1984, 3:48 p.m.
TRD-846660

Wednesday, June 27, 1984, 9 a.m. The commission will consider prior meeting notes; hear reports of administrative staff on operations, fundings, and legislation; conduct a public comment period; discuss establishment of a policy on Hispanic translations; schedule the next Advisory Council meeting; consider the qualifications for and the position of agency administrator and action thereon; staff the commissioners' offices; adopt a policy manual; hear a report on the sale/exchange of property; consider expenditures from the unemployment compensation special administration fund; adopt an emergency rule regarding unemployment benefits eligibility of employees of educational service agencies; consider administrative procedures to implement Attorney General Opinion JM-149 and amendments to the regulation for a merit system of personnel administration; take action, if

necessary, resulting from the executive session; and set the date of and agenda items for the next meeting. The commission also will meet in executive session under Texas Civil Statutes, Article 6252-17, §2(e) and (f), to consider Senate Bill 1355 as it affects the TEC's sale, lease, or purchase of real property and related matters and discuss with attorneys Tullis v. Grisham and other matters permitted by Article 6252-17.

Contact: Steve Hollahan, TEC Building, Room 660, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4400.

Filed: June 18, 1984, 3:48 p.m.
TRD-846661

Commission on Fire Protection Personnel Standards and Education

Monday, July 2, 1984, 11 a.m. The Committee for Aircraft Crash and Rescue Standards of the Commission on Fire Protection Personnel Standards and Education will meet in the conference room, basement level, Texas Commission for the Deaf, 510 South Congress Avenue, Austin. According to the agenda, the committee will conduct a public hearing to receive comment on proposed standards for aircraft crash and rescue fire fighters which service airports throughout Texas.

Monday, July 2, 1984, 1:45 p.m. The Board of the Commission on Fire Protection Personnel Standards and Education will meet in the conference room, basement level, Texas Commission for the Deaf, 510 South Congress Avenue, Austin. According to the agenda summary, the board will conduct a regularly scheduled quarterly meeting to receive reports from standing committees, address any old and/or unfinished business, and hear any new business.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: June 19, 1984, 4:46 p.m.
TRD-846669, 846670

Statewide Health Coordinating Council

Friday, June 29, 1984, 1 p.m. The Statewide Health Coordinating Council will meet in Lone Star Rooms 1-3, Marriott Hotel, 6121 IH 35 North at U.S. Highway 290 East, Austin. According to the agenda summary, the council will consider the March 30, 1984, minutes; hear a presentation by the

Legislative Task Force on Cancer in Texas; hear reports by the bureau chief, the Texas Health Facilities Commission, the Resource Development and Implementation Committee, the State Health Plan Development Committee, the Application, Budget, and Project Review Committee, and the Monitoring and Assessment Committee; discuss proposed changes to the council rules of procedure and bylaws; and select the next meeting date.

Contact: Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 18, 1984, 12:06 p.m.
TRD-846630

Texas Health Facilities Commission

Thursday, June 28, 1984, 1:30 p.m. The Texas Health Facilities Commission made additions to the agenda for a meeting to be held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The additions concern the following applications.

Amendments of Certificate of Need Orders
Day Surgery Center of South Central
Dallas, Inc., Dallas

AS83-0802-075A(050984)

Lakewood Village Medical Center, Fort
Worth

AN82-0526-013A(051684)

Rockwall Nursing Home, Rockwall

AN82-0512-064A(051584)

Harris Hospital-Methodist, Fort Worth

AH83-0518-514A(050884)

Clear Lake Hospital, Webster

AH80-1010-003A(051484)

Applications for Declaratory Rulings

Centro del Barrio, Inc.—Community

Health Center, San Antonio

AO84-0504-282

Canyon Ranch, Canyon Lake

AS84-0509-292

Notices of Intent to Acquire Major
Medical Equipment

Imaging Clinic-Irving, Irving

AO84-0518-303

Lubbock Imaging Clinic, Lubbock

AO84-0518-302

Nu-Med Medical Management, Inc., a

Texas corporation, acting as general

partner for a to-be-formed limited

partnership, El Paso

AO84-0514-298

Notice of Intent to Acquire an Existing
Health Care Facility

Seminole Nursing Center, Seminole
AN84-0508-287

Contact: John R. Neel, P.O. Box 50049,
Austin, Texas 78763.

Filed: June 20, 1984, 9:47 a.m.
TRD-846678

Texas Historical Commission

Tuesday, June 26, 1984, 9:30 a.m. The National Register Committee of the Texas Historical Commission will meet in the conference room, second floor, 108 West 16th Street, Austin. Items on the agenda include review and evaluation of Texas historic preservation grant preapplications for fiscal year 1985, review of potential appointees to the State Board of Review, the status of the state survey, an update on the San Jacinto Monument permit, and review of a computerized data base.

Contact: Joe Oppermann, P.O. Box 12276,
Austin, Texas 78711, (512) 475-3094.

Filed: June 18, 1984, 1:27 p.m.
TRD-846632

Texas Department of Human Resources

Thursday, June 28, 1984, 10 a.m. The Texas Board of Human Resources of the Texas Department of Human Resources will meet at the St. Anthony Hotel, 300 East Travis, San Antonio. According to the agenda summary, the board will approve the May meeting minutes, the fiscal year 1985 operating budget, and the fiscal year 1986-1987 legislative appropriations request; and consider adjustments to the fiscal year 1984 operating budget, the level-of-care determination criteria for intermediate care for the mentally retarded, a revision to nursing home eligibility—full month of institutionalization, a revision to community care eligibility, a revision to the community care client needs assessment questionnaire, an increase in the unit rate ceiling for family care, mandatory participation in the Title XVIII Medicare program by Title XIX Medicaid providers, skilled nursing facility and home health services care for Medicaid eligibles under 21 years of age, changes to the vendor drug dispensing fee methodology, authorization of certain people to sign papers or instruments on behalf of the commissioner, appointments to advisory committees, final rules concerning the food stamp basis of issuance tables, technical amendments to program policies and procedures, a report on

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the status of the day care licensing work plan, the commissioner's report concerning commercial collection of delinquent restitution accounts and board action tracking, and a regional report

Contact: Bill Woods, P O Box 2960, Austin, Texas 78769, (512) 441-3355, ext. 2060

Filed: June 20, 1984, 1 35 p.m.
TRD-846694

State Board of Insurance

Thursday, June 21, 1984, 11:30 a.m. The State Board of Insurance met in emergency session in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board considered language for the notice of policyholder complaint procedure pursuant to the Insurance Code, Article 1.35. The emergency status was necessary because all policies must have such language accompany their delivery by September 1, 1984.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: June 21, 1984, 8 52 a m
TRD-846708

Tuesday, June 26, 1984, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7677—whether certain acts or transactions between Houston National Life Insurance Company and Finis Teeter and Gene Estilette should be set aside, rescinded, revoked, reversed, and rendered void

Contact: J C Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 18, 1984, 12.42 p.m.
TRD-846640

Tuesday, June 26, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider a motion for rehearing filed by General Accident Insurance Group in the appeal of General Accident Insurance Group from action of the Texas Catastrophe Property Insurance Association; a motion for dismissal in the appeal of Paul Fiedler and wife, Bertie K Fiedler, from action of the Texas Catastrophe Property Insurance Association; reports of the commissioner and fire marshal, both including personnel matters; and board orders on several different matters as itemized on the complete agenda.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: June 18, 1984, 2:36 p.m.
TRD-846645

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow.

Wednesday, June 27, 1984, 1:30 p.m. In Room 342, the section will consider Docket 7674—whether the certificate of authority held by The Home Indemnity Company, New York, New York, should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 18, 1984, 12.43 p.m.
TRD-846639

Thursday, June 28, 1984, 9 a.m. In Room 342, the section will consider Docket 7687—application for original charter of NAP Life Insurance Company, Waco.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 18, 1984, 12:43 p.m
TRD-846638

Thursday, June 28, 1984, 10:30 a.m. In Room 353, the section will consider Docket 7669—whether the certificate of authority to do business in Texas held by Massachusetts Indemnity and Life Insurance Company, Boston, Massachusetts, should be canceled or revoked.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: June 18, 1984, 12:43 p.m.
TRD-846637

Thursday, June 28, 1984, 1:30 p.m. In Room 342, the section will consider Docket 7667—whether the certificate of authority held by United Guaranty Residential Insurance Company of North Carolina, Greensboro, North Carolina, should be canceled or revoked.

Contact: J. C Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 18, 1984, 12:44 p.m.
TRD-846636

Friday, June 29, 1984, 9 a.m. In Room 342, the section will consider Docket 7671—application for original charter of MTM Life Insurance Company, San Antonio.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 18, 1984, 12:43 p.m.
TRD-846635

Friday, June 29, 1984, 3:30 p.m. In Room 342, the section will consider Docket 7680—whether the insurance premium finance license of James Welch, doing business as Peoples Acceptance Corporation, Dallas, should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 18, 1984, 12:44 p.m.
TRD-846634

Monday, July 12, 1984, 9 a.m. In Room 342, the section will consider Docket 7719—whether Bankers Protective Life Insurance Company, Dallas, has complied with Commissioner's Order 84-1355, dated May 1, 1984.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: June 18, 1984, 12:44 p.m.
TRD-846633

Texas Department of Labor and Standards

Monday, June 25, 1984, 9 a.m. The Labor/Licensing and Enforcement and Manufactured Housing Sections of the Texas Department of Labor and Standards met in a joint emergency session in Room 105, E. O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the sections considered license and registration revocations, suspensions, and alleged violations of various rules and regulations of the department. The emergency status was necessary to consider possible violations, which jeopardize individual safety and the public's welfare, of the Texas Manufactured Housing rules and the boxing rules.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: June 18, 1984, 4 p.m.
TRD-846662

Texas State Board of Medical Examiners

Tuesday, June 26, 1984, 5 p.m. The Medical School Committee of the Texas State Board of Medical Examiners changed the location of a meeting to be held at 4600 Samuell Boulevard, Dallas. According to the agenda, the committee will review pro-

gress in the investigation of irregularities of documents needed for licensure of foreign medical graduates; review data on problems with specific foreign schools; and consider actions taken by the board in regard to those foreign graduates found to have irregularities on documents. The committee also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495(b), §4.05(d), §5.06(e)(1), and Attorney General Opinion H-484, 1974. The meeting originally was scheduled to take place at 2201 Stemmons, Dallas.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: June 18, 1984, 3:54 p.m.
TRD-846663

Wednesday-Saturday, June 27-30, 1984, 8 a.m. daily. The Texas State Board of Medical Examiners revised the agenda of a meeting to be held at 2201 Stemmons Freeway, Dallas. According to the revised agenda, the board will conduct committee meetings and hear reports, consider long-range planning and office procedures, streamline board meetings, and conduct a document review.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: June 18, 1984, 3:54 p.m.
TRD-846664

Texas Motor Vehicle Commission

Thursday, June 28, 1984, 9 a.m. The Texas Motor Vehicle Commission will meet in Suite 302, 815 Brazos Street, Austin. Items on the agenda include adoption of the May 30, 1984, minutes; consideration of hearing reports in Docket 311 and Docket 315 and a motion for rehearing and a motion to stay final order in Docket 314; orders of dismissal in Docket 368, and general discussion concerning review of pending litigation and the financial report.

Contact: Russell Harding, 815 Brazos Street, Suite 302, Austin, Texas 78701, (512) 476-3587

Filed: June 18, 1984, 12:53 p.m.
TRD-846631

Texas State Board of Plumbing Examiners

Monday, July 2, 1984, 9 a.m. The Texas State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. Items

on the agenda include the previous meeting minutes, review of the financial report, license and examination data concerning a report of licenses issued and examination statistics, hardship cases, discussion of the disposition of freeze-overcharge cases and a correspondence course for plumbing inspectors, consideration of a request from associated plumbing-heating-cooling contractors of Texas for changes in testing procedures and a suggestion for display of license submitted by Dwight Duke, Governor White's letter outlining his request for cooperation in preparing budgetary requests for 1986-1987, review of 1986-1987 budget requests, authority for the installation of vending machines, and the election of officers.

Contact: Lynn Brown, 929 East 41st Street, Austin, Texas 78765, (512) 458-2145.

Filed: June 18, 1984, 10:21 a.m.
TRD-846621

Texas State Board of Public Accountancy

Friday, June 22, 1984, 10 a.m. The Examination Review Committee of the Texas State Board of Public Accountancy met in emergency session in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee conducted informal hearings regarding applications for the May 1984 uniform CPA examination. The material reviewed is confidential in nature. The emergency status was necessary because individuals requested conferences, a board member could not be present, and material to be presented could not be completed prior to this date.

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

Filed: June 18, 1984, 10:22 a.m.
TRD-846619

Texas Public Building Authority

Wednesday, June 27, 1984, 10 a.m. The Texas Public Building Authority will meet at Reynolds, Allen, and Cook, 404 United Bank Building, Austin. Items on the agenda include approval of the May 15, 1984, minutes; reports concerning a Texas Employment Commission project, including a meeting with the TEC and Homer Foerster, feedback on the budget submission, an update on the special session, the status of Senate Bill 11, the writing of a financial ap-

pendix for bond packages, legal counsel certification, the status of construction of new office space, and expense reimbursements; discussion of any decisions made in executive session; and setting the time and place for the next meeting. The authority also will meet in executive session to consider pending litigation and personnel matters.

Contact: Gayle Baker, Sam Houston Building, Room 1008, 201 East 14th Street, Austin, Texas, (512) 475-0290.

Filed: June 18, 1984, 4:23 p.m.
TRD-846665

Texas Department of Public Safety

Thursday, June 28, 1984, 10 a.m. The Public Safety Commission of the Texas Department of Public Safety (DPS) will meet in the commission room, DPS headquarters, 5805 North Lamar Boulevard, Austin. Items on the agenda include approval of the minutes, budget matters, personnel matters, and other unfinished business.

Contact: James B. Adams, 5805 North Lamar Boulevard, Austin, Texas 465-2000, ext. 3700

Filed: June 20, 1984, 8:44 a.m.
TRD-846671

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Tuesday, June 26, 1984, 2 p.m. A prehearing conference in Docket 5171—application of Acton Municipal Utility District for a certificate of convenience and necessity in Hood and Johnson Counties.

Wednesday, June 27, 1984, 9 a.m. A prehearing conference in Docket 5755—inquiry into whether the certificate of convenience and necessity granted to Houston Lighting and Power Company's Malakoff Electric Generating Station should be canceled.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 18, 1984, 3:29 p.m.
TRD-846658, 846656

Thursday, June 28, 1984, 9 a.m. The division will consider the following dockets—5478, 5522, 5245, 5581, 5556, 5621, 5647,

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5220, 5113, 5325, 5269, 5490, 5530, 2782, 4061, 4204, 5616, 5619, 5629, 5170, 5178, 5462, 5464, 5609, 5688, 5627, 5669, 5761, 5286, 5424, 5458, 5498, 5254, 5454. The division also will meet in executive session to consider personnel matters and pending litigation.

Addition to the previous agenda:

The division will consider Docket 5574—application of Bailey County Electric Cooperative Association for request for revision of power cost adjustment.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 3:16 p.m.
TRD-846707, 846706

Thursday, June 28, 1984, 1:30 p.m. A prehearing conference in Docket 5779—petition of Houston Lighting and Power Company for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 18, 1984, 3:29 p.m.
TRD-846657

Monday, July 2, 1984, 10 a.m. A second prehearing conference in Docket 5663—application of the City of Leon Valley to amend its certificate of convenience within Bexar County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 18, 1984, 10:21 a.m.
TRD-846617

Monday, July 2, 1984, 1 p.m. A prehearing conference in Docket 5733—application of Cibolo Oaks Water System for a certificate of convenience and necessity within Kendall County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 2:26 p.m.
TRD-846698

Monday, July 2, 1984, 1:30 p.m. A rescheduled prehearing conference in Docket 5638—application of Northeast Services for a water and sewer certificate of convenience and necessity within Hidalgo County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 18, 1984, 2:18 p.m.
TRD-846642

Tuesday, July 10, 1984, 1 p.m. A second prehearing conference in Docket 5750—appeal of Texas-New Mexico Power Company from the City of Lewisville, *et al*, from rate-making decisions.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 2:25 p.m.
TRD-846699

Tuesday, July 10, 1984, 1:30 p.m. A prehearing in Docket 5728—inquiry into the legality of rates charged by San Bernard Electric Cooperative.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 18, 1984, 10:21 a.m.
TRD-846618

Addition to the previous agenda:

A prehearing conference in Docket 5701—application of Mustang Water Supply Corporation for a certificate of convenience and necessity within Denton County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 2:25 p.m.
TRD-846701

Thursday, July 19, 1984, 9 a.m. A hearing in Docket 5747—application of Texas Utilities Electric Company to amend its certificate of convenience and necessity for the Twin Oak Steam Electric Station.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 2:26 p.m.
TRD-846702

Monday, July 30, 1984, 10 a.m. A hearing on the merits in Docket 5698—application of Sam Houston Electric Cooperative, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 2:26 p.m.
TRD-846703

Wednesday, August 15, 1984, 10 a.m. A hearing on the merits in Docket 5750—appeal of Texas-New Mexico Power Company from the City of Lewisville, *et al*, from rate-making decisions.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1984, 2:25 p.m.
TRD-846704

Wednesday, September 12, 1984, 9 a.m. A hearing in Docket 5663—application of the City of Leon Valley to amend its certificate of convenience and necessity within Bexar County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 18, 1984, 10:21 a.m.
TRD-846616

State Rural Medical Education Board

Saturday and Sunday, June 30 and July 1, 1984, 8:30 a.m. and 8 a.m. respectively. The State Rural Medical Education Board will meet in Room 206, Southwest Tower Building, 211 East Seventh Street, Austin. Items on the agenda include review of financial and statistical reports, the fiscal year 1986-1987 proposed budget, a review of potential default cases, interviews with new applicants, and the granting of new and renewal loans.

Contact: Duane Keeran, 211 East Seventh Street, Austin, Texas 78701, (512) 475-0801.

Filed: June 19, 1984, 2:04 p.m.
TRD-846667

Boards for Lease of State-Owned Lands

Tuesday, June 27, 1984, 12:45 p.m. The Board for Lease of the Texas Youth Commission of the Boards for Lease of State-Owned Lands will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include consideration and approval of nominations, terms, conditions, and procedures for the October 2, 1984, oil, gas, and other minerals lease sale.

Contact: Linda K. Fisher, Stephen F. Austin Building, Room 835, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-4307.

Filed: June 19, 1984, 2:40 p.m.
TRD-846718

Teacher Retirement System of Texas

Sunday, July 16, 1984, 10 a.m. The Medical Board of the Teacher Retirement System of

Texas will meet in the boardroom, fourth floor, 1001 Trinity Street, Austin. According to the agenda, the board will discuss a member's files that are due a reexamination report and discuss files on which the board has differing opinions.

Contact: James Preston, 1001 Trinity Street, Austin, Texas 78701, (512) 397-6400.

Filed: June 20, 1984, 9:19 a.m.
TRD-846674

Texas State University System

Wednesday, June 27, 1984, 2 p.m. The Board of Regents of the Texas State University System will meet in the conference room, 505 Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the board will consider participation in the Federal College Housing Loan Discount Program authorized by amendments to the Housing Act of 1950 made by Public Law 98-139, §308

Contact: Lamar Urbanovsky, Sam Houston Building, Room 505, 201 East 14th Street, Austin, Texas, (512) 475-3876.

Filed: June 20, 1984, 9:24 a.m.
TRD-846675

Veterans Land Board

Monday, July 2, 1984, 4 p.m. The Veterans Land Board (VLB) of the General Land Office will meet in Room 831, Stephen F Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve the May 24, 1984, minutes, consider adoption of resolutions approving bidding instructions, official notice, official statement, authorizing issuance and sale, and providing for other matters related to VLB bonds, Series 1984, in the amount of \$75 million; consider bids and awarding of a contract for paying agents/registrar and other actions by the board consistent, appropriate, and/or necessary for such bonds; discuss the Lomas and Nettleton recommendation on the single submission procedure on mortgage documents for the Veterans Housing Assistance Program; consider the Veterans Affairs Commission recommended waiver of a three-year transfer rule in the case of Michael A. Brock; order forfeited tracts for sale and discuss the date for the forfeited land sale; and consider general board business.

Contact: Harmon Lisnow, Stephen F. Austin Building, Room 711, 1700 North

Congress Avenue, Austin, Texas 78701, (512) 475-3766.

Filed: June 20, 1984, 2:34 p.m.
TRD-846700

Texas Water Commission

Tuesday, June 26, 1984, 10 a.m. The Texas Water Commission made the following additions to the agenda for a meeting to be held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin.

Application of the City of Houston for an extension of time on Permit 1970C and Permit RE-0074.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: June 18, 1984, 2:01 p.m.
TRD-846641

Application by Fort Bend County Municipal Utility District 13 for an amendment to water quality Permit 12833-01.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: June 18, 1984, 10:18 a.m.
TRD-846622

Thursday, August 2, 1984, 10 a.m. The Texas Water Commission will meet in the courtroom, Duncanville Council and Court Building, 106 South Main Street, Duncanville. According to the agenda summary, the commission will consider an application of Harold Holigan, 16802 Preston Bend, Dallas, Texas 75248, to the Texas Department of Water Resources for proposed Permit 12922-01 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 Oak Grove Mobile Home Park Wastewater Treatment Plant, which is to serve the needs of a proposed mobile home park.

Addition to the previous agenda:

Application of the North Texas Municipal Water District, P.O. Drawer C, Wylie, Texas 75098, to the Texas Department of Water Resources for an amendment to Permit 12047-01 to authorize an increase in the discharge of treated wastewater effluent from a volume not to exceed an average flow of 750,000 gallons per day to 1.5 million gallons per day. The applicant proposes to expand the existing sewage treatment facility serving the City of Rockwall.

Contact: William G. Newchurch, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: June 20, 1984, 1:33 p.m.
TRD-846693, 846691

Thursday, August 2, 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 an application of SCB Development Company, 301 Toledo Trail, Georgetown, Texas 78626, to the Texas Department of Water Resources for proposed Permit 12831-01 to authorize a discharge of treated domestic wastewater effluent, with provisions for disposal by irrigation, at a volume not to exceed an average flow of 400,000 gallons per day from the proposed Logan Ranch Wastewater Treatment Plant, which will be constructed in phases to serve the needs of proposed Williamson County Municipal Utility Districts 5 and 6. No discharge of pollutants to the surface waters in the state is authorized by this permit until completion of the 200,000 gallon-per-day average facility (Phase I) and until the 30-day average flow exceeds 100,000 gallons per day. During this time the proposed permit authorizes the use of treated effluent from this facility only to irrigate the proposed 150-acre Logan Ranch Golf Course at a volume not to exceed an average flow of 100,000 gallons per day. Thereafter, the permittee is authorized to discharge effluent only after making maximum utilizations of the 150-acre golf course for irrigation with the treated effluent. Application rates for the irrigated land shall not exceed 3.4 acre-feet/acre/year.

Contact: Kaylene A. Ray, P.O. Box 13087, Austin, Texas 78711, (512) 475-1339.

Filed: June 20, 1984, 1:33 p.m.
TRD-846692

Regional Agencies Meetings Filed June 18

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees Personnel Committee, met in the boardroom, 1430 Collier Street, Austin, on June 21, 1984, at 4:30 p.m. Information may be obtained from Gay F. Chase, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Dallas Area Rapid Transit Authority, Executive Board, met in Room 6ES, Dallas City Hall, Dallas, on June 19, 1984, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

Texas Register

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on June 26, 1984, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The Region X Education Service Center, Board of Directors, met in emergency session in the boardroom, 400 East Spring Valley, Richardson, on June 20, 1984, at 12:30 p.m. Information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas, (214) 231-6301.

The Region XI Education Service Center, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on June 26, 1984, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Region XIII Education Service Center, Board of Directors, met in Room 200, 7703 North Lamar Boulevard, Austin, on June 25, 1984, at noon. Information may be obtained from Dr. Joe Parks, 7703 North Lamar Boulevard, Austin, Texas 78752, (512) 458-9131.

The Region XIV Education Service Center, Board of Directors, will meet at 1850 State Highway 351, Abilene, on June 28, 1984, at 5:30 p.m. Information may be obtained from Bettye Evans, P.O. Box 3258, Abilene, Texas 79604, (915) 676-8201.

The Golden Crescent Service Delivery Area, Private Industry Council, will meet at the Texas Employment Commission, 1301 East Rio Grande, Victoria, on June 27, 1984, at 6:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Heart of Texas Council of Governments, Executive Committee, will meet at 320 Franklin Avenue, Waco, on June 28, 1984, at 12:30 p.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

The Jack County Appraisal District, Board of Directors, met in emergency session in the district office, Los Creek Building, 258 South Main, Jacksboro, on June 19, 1984, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Kendall County Appraisal District, Board of Directors, met at 207 East San Antonio Street, Boerne, on June 21, 1984, at 7:30 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Middle Rio Grande Development Council—Area Agency on Aging, Area Advisory Council on Aging, met in the reading room, Uvalde Civic Center, Uvalde, on June 22, 1984, at 10 a.m. Information may be obtained from Estella Hernandez, P.O. Box 702, Carrizo Springs, Texas 78834.

The South Texas Development Council, STED Corporation Board of Trustees, met at the Zapata County Public Library, Zapata, on June 21, 1984, at 11 a.m. The Board of Directors met at the same location on the same day at 2 p.m. The Regional Review Advisory Committee will meet at the Zapata Community Center, Zapata, on June 28, 1984, at 3 p.m. Information may be obtained from Roberto Mendiola, Julieta V. Saldana, or Juan Vargas, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995. TRD-846620

Meetings Filed June 19

The Austin-Travis County Mental Health and Mental Retardation Center, Executive Committee, will meet in Suite 300, 44 East Avenue, Austin, on June 26, 1984, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Region XV Education Service Center, Board of Directors, will meet at 612 South Irene Street, San Angelo, on June 28, 1984, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-846666

Meetings Filed June 20

The Brazos River Authority, Administrative Policy Committee, met at 4400 Cobbs Drive, Waco, on June 25, 1984, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, will meet in emergency session at 3232 Briarcrest Drive, Bryan, on June 26, 1984, at 1 p.m. Information may be obtained from Ann Pye-Shively, Ph.D., P.O. Box 4588, Bryan, Texas 77805, (409) 696-8585.

The Central Texas Council of Governments, Central Texas Private Industry Council, will meet at 302 East Central, Belton, on June 27, 1984, at 1:30 p.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513.

The Coastal Bend Council of Governments met in the central jury room, Nueces County Courthouse, 901 Leopard, Corpus Christi, on June 22, 1984, at 2 p.m. Information may be obtained from John P. Buckner, P.O. 9909, Corpus Christi, Texas 78408, (512) 883-5743

The Dallas County Appraisal District, Appraisal Review Board, met in emergency session at 2601 Live Oak, Dallas, on June 22, 1984, at 2 p.m. Information may be obtained from Shirley Lensky, 2601 Live Oak, Dallas, Texas 75204, (214) 826-1480.

The Edwards County Appraisal District, Appraisal Review Board, met in emergency session at the Edwards County Office Building, Rocksprings, on June 21, 1984, at 2 p.m. Information may be obtained from Frank O. Cloutt, P.O. Box 348, Rocksprings, Texas 78880, (512) 683-2337.

The Gonzales County Appraisal District, Board of Directors, will meet in Suite 201, Gonzales Bank Building, 508 St. Louis Street, Gonzales, on June 28, 1984, at 5 p.m. The Appraisal Review Board will meet at the same location on July 2, 1984, at 10 a.m. Information may be obtained from Nancy Seitz, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Jack County Appraisal District, Appraisal Review Board, met in the Jacksboro High School Library, 812 West Belknap, Jacksboro, on June 25, 1984, at 10 a.m. The board also will meet at the district office, Los Creek Office Building, 258 South Main, Jacksboro, on June 26-29, 1984, at 9 a.m. daily. Information may be obtained from Doris G. Ray or Linda Williams, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lampasas County Appraisal District, Appraisal Review Board, will meet at 403 East Second, Lampasas, on June 26, 1984, at 9 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on June 27, 1984, at 9 a.m. Information may be obtained from James L. Dunham, 218 East Rich-

4 Street, Giddings, Texas 78942, (409) 9618.

Lubbock Regional Mental Health and Retardation Center, Board of Trustees will meet at 3800 Avenue H, Lubbock, June 26, 1984, at 7 a.m. Information may be obtained from Gene Meneff, 1210 1st Avenue, Lubbock, Texas 79401, (806) 763-4213.

Middle Rio Grande Development Council, Private Industry Council, will meet in the district courtroom, La Salle County Courthouse, Cotulla, on June 27, 1984, at 10 a.m. Information may be obtained from Alfonso G. Tristan, 200 East Nopal, Cotulla, Texas 78801, (512) 278-2527.

Texas Municipal League, Board of Trustees, met at La Mansion del Rio, 112 E. Commerce Street, San Antonio, on June 24 and 25, 1984, at 2 p.m. daily. Information may be obtained from William I. Martin, 1020 Southwest Tower, Austin, Texas 78701, (512) 478-6601.

The Upper Leon River Municipal Water District, Board of Directors, will meet at the filter plant general office, Lake Proctor, Comanche County, on June 28, 1984, at 6:30 p.m. Information may be obtained from Zollie Skaggs, Box 67, Comanche, Texas, (817) 879-2258.
TRD-846677

Meetings Filed June 21

The Dallas Area Rapid Transit Authority, Service Plan/Work Program Committee, met in emergency session at 601 Pacific Avenue, Dallas, on June 22, 1984, at 3:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Edward Underground Water District, Board of Directors, will meet at the Institute of Texan Cultures, 801 South Bowie Street, San Antonio, on July 3, 1984, at 1:30 p.m. Information may be obtained from Thomas P. Fox, 900 Tower Life Building, San Antonio, Texas 78205, (512) 222-2204.

The Grayson Appraisal District, Board of Directors, will meet in a rescheduled session in the commissioners courtroom, Grayson County Courthouse, Sherman, on June 27, 1984, at noon. Information may be obtained from Sandra Bollier, 124 South Crockett, Sherman, Texas 75090. The meeting originally was scheduled for June 20, 1984.

The Panhandle Regional Planning Commission, Board of Directors, revised the agenda for a meeting to be held in the conference room, first floor, Briercroft Building, Eighth and Jackson Streets, Amarillo, on June 28, 1984, at 1:30 p.m. Information may be obtained from Polly Jennings, P. O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

The Trinity River Authority of Texas, Board, will meet at 5300 South Collins Street, Arlington, on June 27, 1984, at 10 a.m. Information may be obtained from J. Sam Scott, P. O. Box 60, Arlington, Texas 76004-0060, (817) 467-4343.

TRD-846709

In Addition

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



Banking Department of Texas Applications To Acquire Control of State Banks

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On May 8, 1984, the banking commissioner received an application to acquire control of the North Texas Bank and Trust, Gainesville, by Richard C. Klement of Gainesville.

On June 14, 1984, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on June 14, 1984

TRD-846575 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed June 15, 1984
For further information, please call (512) 475-4451.

On May 31, 1984, the banking commissioner received an application to acquire control of the First Mexia Bancshares, Inc., Mexia, by James I. Dunn, and Billie M. Beene, both of Teague; Robert G. Hamilton, Thomas C. Flatt, Albert Nabors, Patrick McSpadden, Elmer Beene, Rex Jackson Forrest, Carl Ed Williford, and Melvin Fetters, all of Mexia; and Mick'y Stubbs.

On June 15, 1984, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on June 15, 1984

TRD-846625 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed June 18, 1984
For further information, please call (512) 475-4451.

On June 4, 1984, the banking commissioner received an application to acquire control of South Plains Bancshares, Inc., Idalou, by Gene McLaughlin, Marvin McLaughlin, and Kirk McLaughlin, all of Ralls; Carson M. Lewis, Trustee for Claranel McLaughlin, La Jolla, California; Kathryn McLaughlin, Lubbock; Ralph McLaughlin, Big Spring; Security State Bank and Trust Co., Ralls, trustee for Rubey Jean McLaughlin Stryker, Ralls; and Scott McLaughlin, Big Spring.

On June 14, 1984, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on June 15, 1984

TRD-846624 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed June 18, 1984
For further information, please call (512) 475-4451

Comptroller of Public Accounts Decision 14,170

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Summary of Decision. A taxpayer contended that it did not owe use tax on an airplane it purchased and primarily operated out of state. The taxpayer initially asserted that the use of the plane was exempted by the Tax Code, §151.011(e)(1), which excludes from the definition of "use" the retention of property for the purpose of transporting the property out of state for use solely outside the state. The comptroller held that the use of a plane hangared in Dallas for interstate flights did not constitute transportation for use solely outside the state; instead the exemption contemplates that the property be transported permanently out of the state. The taxpayer next argued that the imposition of the use tax violated the Commerce Clause of the U.S. Constitution. The comptroller ruled that, because of the taxpayer's hangaring of the plane in Texas between flights, the plane acquired a taxable situs in the state, in spite of its use in interstate commerce (*Bramff Airways, Inc., v. Nebraska State Board of Eq. and A*, 74 S.Ct. 757 (1954)). In addition, the tax did not discriminate against interstate commerce, was apportioned equitably, and fairly related to the service provided by the state, thereby satisfying the requirements of *Complete Auto Transit v. Brady*, 97 S.Ct. 1076 (1977). Alternatively, the comptroller held that the state could permissibly assess use tax on the plane the moment the plane ceased its interstate journey to Texas, and before it began interstate operations (*Southern Pacific Company v. Gallagher*, 59 S.Ct. 389 (1939)).

Issued in Austin, Texas, on June 1, 1984

TRD-846672 Bob Bullock
Comptroller of Public Accounts

Filed June 20, 1984

For further information, please call (512) 475-1938.

Decision 14,187

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Summary of Decision. The taxpayer, a manufacturer of metal works, contended that flashlight batteries it purchased were exempt from sales tax as personal property consumed in the manufacturing process in six months or less. The Tax Division argued that the batteries were incidental to the manufacturing process and therefore taxable. The comptroller agreed with the taxpayer and held that the batteries, used in the illumination and inspection of the taxpayer's casting molds, were essential to the process, since foreign debris had to be detected and removed from the molds before casting could occur. The taxpayer also asserted that its purchase of hand chisels

were exempt from tax, as the chisels were powered by hammers. The comptroller ruled that the hammer did not qualify as an independent power source; thus, the chisels fell within the category of taxable hand tools, rather than exempt power-driven tools. The comptroller, however, agreed that refractory used to line the taxpayer's ladles and furnace covers was exempt. The comptroller also exempted dust masks and eye wash purchased for the protection of its employees, since the proper functioning of bodily parts of workers is just as important to the manufacturing process as the working of inanimate equipment.

Issued in Austin, Texas, on May 25, 1984.

TRD-846673 Bob Bullock
Comptroller of Public Accounts

Filed June 20, 1984

For further information, please call (512) 475-1938.

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 Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1)		
06/25/84-07/01/84	21.00%	21.00%
Monthly Rate— Article 1.04(c)(1)		
06/01/84-06/30/84	20.81%	20.81%
Standard Quarterly Rate—Article 1.04(a)(2)		
07/01/84-09/30/84	19.90%	19.90%
Retail Credit Card Quarterly Rate— Article 1.11(3)		
07/01/84-09/30/84	19.90%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d)(3)		
07/01/84-09/30/84	19.90%	N/A
Standard Annual Rate—		
Article 1.04(a)(2)(2)		
07/01/84-09/30/84	19.90%	19.90%
Retail Credit Card Annual Rate— Article 1.11(3)		
07/01/84-09/30/84	19.90%	N/A

Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from

07/01/84-09/30/84 18.65% N/A

Judgment Rate—
Article 1.05, §2

07/01/84-07/31/84 10.92% 10.92%

- (1) For variable rate commercial transactions only
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1 01(f)
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on June 18, 1984

TRD-846600 Sam Kelley
 Consumer Credit Commissioner

Filed: June 18, 1984
For further information, please call (512) 475-2111.

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.

Med West Healthcare Management Corporation
Omaha, Nebraska

AN84-0612-383

NIEH—Request for a declaratory ruling that a certificate of need is not required for Med West Healthcare Management Corporation to acquire by lease Autumn Place, an existing 104-bed nursing facility with 73 ICF and 31 skilled beds located in Fort Worth, from DAKTEX Associates, an Illinois general partnership.

HCA Health Services of Texas, Inc., doing business as Vista Hills Medical Center (formerly known as Eastwood Hospital), El Paso

AH83-0107-016A(061384)

CN/AMD—Request for an extension of the completion deadline from August 1, 1984, to June 1, 1985, in Certificate of Need AH83-0107-016, which authorized the certificate holder to conduct a construction and renovation program to provide obstetrics as a new service.

Accord Medical Management Ltd., a Texas limited partnership, San Antonio

AH84-0613-387

NIEH—Request for a declaratory ruling that a certificate of need is not required for Accord Medical Management Ltd., a Texas limited partnership, to acquire by purchase Nix Memorial Hospital, an existing acute care hospital licensed for 208 beds and operating 168 medical/surgical, five OB, and 15 ICU beds located in San Antonio, from The Nix Professional Building Corporation and its subsidiary, Nix Hospital, Inc.

MEFA, Inc., a Texas corporation, Round Rock
AN84-0614-391

NIEH—Request for a declaratory ruling that a certificate of need is not required for MEFA Inc., to acquire by lease Senior Citizens Nursing Home, an existing 48-bed ICF nursing facility located in Winters from Arvada Management Company, a Colorado corporation.

Claude Cook/Sheltering Arms, Inc., Walnut Ridge, Arkansas

AN84-0612-384

NIEH—Request for a declaratory ruling that a certificate of need is not required for Claude Cook/Sheltering Arms, Inc., to acquire by purchase Changing Seasons Community Care Complex, an existing 55-bed ICF nursing facility located in Vidor, from Wilson and Daughters, Inc.

Jewell Enterprises, a Texas general partnership,
Arlington

AN84-0301-135

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises to acquire by purchase Twin Pines Nursing Center, an existing 120-bed ICF nursing facility located in Lewisville, from Beverly Enterprises, Inc. Upon acquisition, the name of the facility will be changed to Lake Park Manor.

Gateway Three Health Associates, a California limited partnership, Rancho Mirage, California AN84-0301-136

NIEH—Request for declaratory ruling that a certificate of need is not required for Gateway Three Health Associates to acquire by purchase Twin Pines Nursing Center, an existing 120-bed ICR nursing facility located in Lewisville, from Jewell Enterprises, a Texas general partnership. Upon acquisition, the name of the facility will be changed to Lake Park Manor.

Parent Care, Inc., a Texas corporation, Arlington AN84-0301-137

NIEH—Request for a declaratory ruling that a certificate of need is not required for Parent Care, Inc., to acquire by lease Twin Pines Nursing Center, an existing 120-bed ICF nursing facility located in Lewisville, from Gateway Three Health Associates, a California limited partnership. Upon acquisition, the name of the facility will be changed to Lake Park Manor.

Issued in Austin, Texas, on June 20, 1984.

TRD-846679 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed June 20, 1984
For further information, please call (512) 475-6940.

Application Accepted for Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petition of reissuance of certificate of need which has been filed with the commission.

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairperson of the commission, P.O. Box 50049, Austin, Texas 78763, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3.13, and 25 TAC §§509.81-509.85 and §§513.51-513.53.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

Hill Country Care, Inc., Dripping Springs AN83-0127-076R(061184)

PFR—Petition for reissuance of Certificate of Need AH83-0127-076, which authorized the certificate holder to construct, equip, and operate a 60-bed intermediate nursing home facility in Dripping Springs.

Issued in Austin, Texas, on June 20, 1984.

TRD-846680 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: June 20, 1984
For further information, please call (512) 475-6940.

Lamb County Appraisal District Public Hearings

The Lamb County Review Board will meet in public hearings beginning at 9 a.m. on June 21, 1984, with one panel in the boardroom, Springlake-Earth Independent School District, and one panel in the boardroom, Lamb County Appraisal District. The panels will recess from time to time, with members convening as a full board in the Lamb County Appraisal District boardroom.

The hearings will be held June 21-July 20, 1984.

All appointments will be scheduled as early as possible, and when all petitioners have been heard, any further hearing dates will be canceled.

Issued in Littlefield, Texas, on June 8, 1984.

TRD-846577 Jack Samford
Chief Appraiser
Lamb County Appraisal District

Filed: June 15, 1984
For further information, please call (806) 385-6474.

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, McLennan, 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 July 17-20, 1984, at 9 a.m. daily in Suite 101, Bexar County Courthouse, San Antonio.

The hearing will begin on the date previously mentioned and 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 Bexar, Wilson, and Guadalupe Counties. No other issues will be considered, and the hearing will be limited to the previously mentioned 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 Bexar, Wilson, and Guadalupe 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 P. Webb, Hearing Examiner, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1336.

Issued in Austin, Texas, on June 15, 1984

TRD-846558 Walter Earl Lile
Special Counsel
Railroad Commission of Texas

Filed: June 15, 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 June 11-15, 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 June 11-15, 1984

Chemical Waste Management, Inc., Port Arthur; Class I hazardous/industrial waste disposal well; on the common boundary of C. Broussard Survey, Abstract-338, and E. Broussard Survey Abstract-387, approximately 1,600 feet north of the south survey lines of both surveys, at latitude 29°52'15" N and longitude 94°06'00" W, Jefferson County, 3.2 miles west of Port Arthur; WDW-160; amendment

Marathon Utilities, Inc., Tyler; proposed mobile home park; 900 feet south of FM Road 2868, at a point approximately one mile west of the intersection of State Highway 346 and FM Road 2868, in Smith County; 12967-01; new permit

Marathon Utilities, Inc., Tyler; proposed mobile home park; approximately 1,150 feet south of FM Road 3271, at a point approximately 4,600 feet east of the intersection of State Highway 110 and FM Road 3271, in Smith County; 12968-01; new permit

Brushy Creek Venture, Limited, Magnolia; planned housing development; approximately 2,300 feet north of Spring Creek and 5,500 feet east of the Waller-Montgomery County line in Montgomery County; 12898-01; new permit

Knox Oil of Texas, Inc., Addison; truck stop and sandwich shop; west of IH 35 and south of FM Road 310 in Hill County; 12945-01; new permit

State Department of Highways and Public Transportation, Fort Worth; proposed Johnson County rest area; on the northbound right-of-way of IH 35 West at a point approximately 5.8 miles south of Burleson in Johnson County; 12951-01; new permit

State Department of Highways and Public Transportation, Fort Worth; proposed Johnson County rest area; on the southbound right-of-way of IH 35 West, at a point approximately 3.9 miles south of Burleson in Johnson County; 12952-01; new permit

Great Western Development Company, Bellaire; residential commercial development; on the eastern bank of Coon Creek approximately 3,000 feet north of the intersection of Band Road and McClelland Road generally south of the City of Rosenberg in Fort Bend County; 12948-01; new permit

Stedwell Johnston, Houston; high-rise office complex; in the 9500 block of West Little York Road, approximately 2,200 feet east of the intersection of U.S. Highway 290 and West Little York Road in the northwest sector of the City of Houston in Harris County; 12947-01; new permit

Permian Brine Sales, Inc., Odessa; brine well; 1,200 feet from the south line and 1,200 feet from the east line of Section 9, Block 36, of the Texas-Pacific Railroad survey, Martin County; BR50081; new permit

Permian Brine Sales, Inc., Odessa; brine well; approximately 2,702 feet from the north line and 1,550 feet from the east line of Section 26, Block 43, TWP 2-S, of the Texas-Pacific Railroad county survey, Ector County; BR50029; new permit

George W. Cobb, Sr., Pearland; planned residential development; approximately 3¼ miles north-northwest of the intersection of State Highway 35 and State Highway 6 and adjacent to Brazoria County Road 144 in Brazoria County; 12935-01; new permit

The City of San Antonio, San Antonio; wastewater treatment plant; approximately ½ mile east of the intersection of U.S. Highway 281 and Rilling Road in the City of San Antonio, Bexar County; 10137-02; amendment

Issued in Austin, Texas, on June 15, 1984.

TRD-846623

Mary Ann Hefner
Chief Clerk
Texas Water Commission

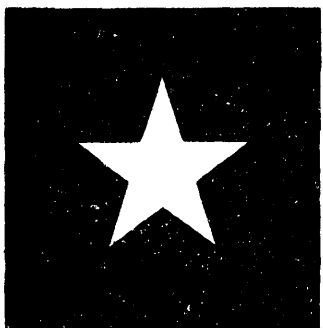
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