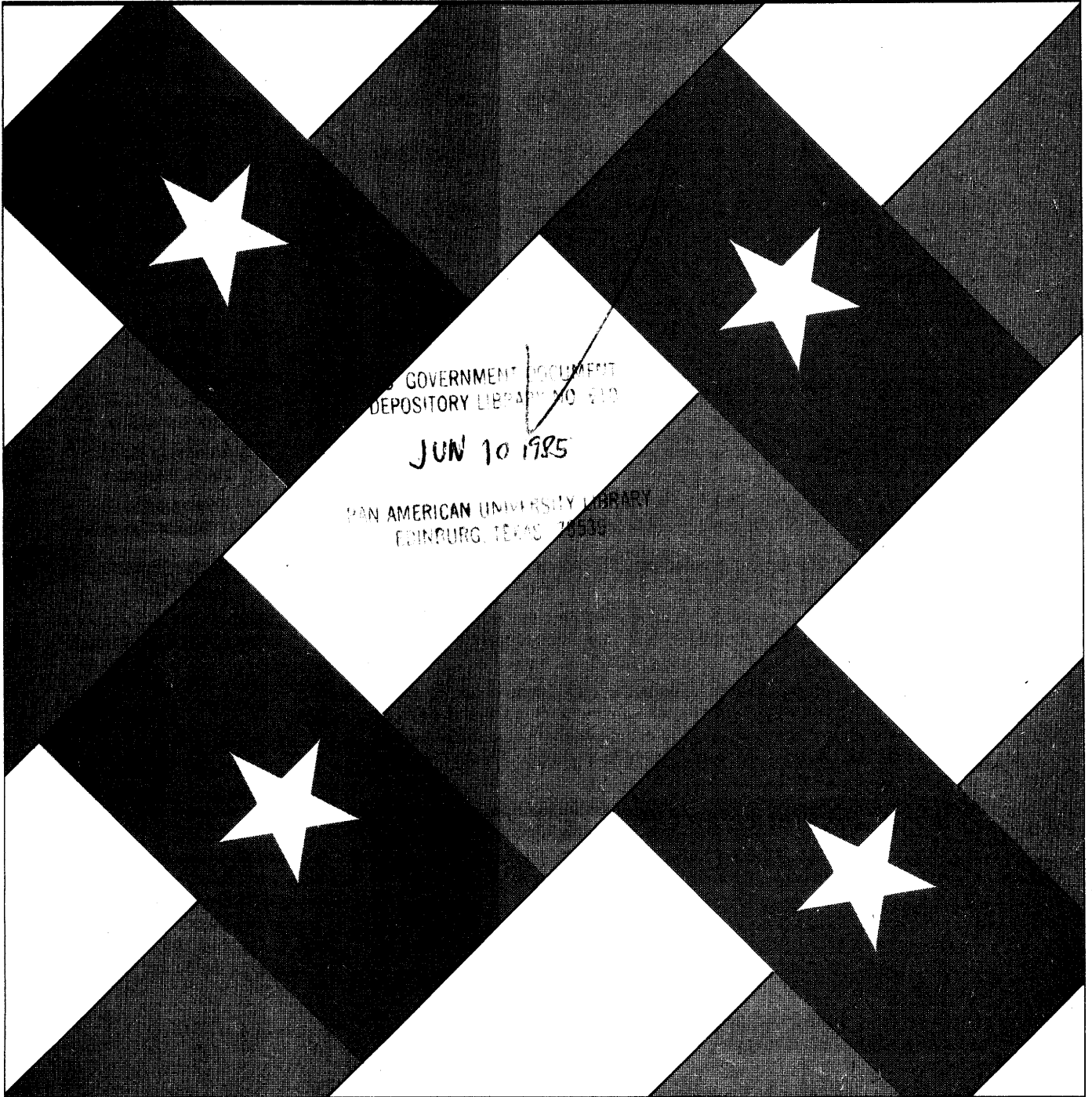


Texas Register

Volume 10, Number 44, June 7, 1985

Pages 1807 - 1878



Highlights

The **Office of the Secretary of State** adopts on an emergency basis an amendment concerning fees and general information. Effective date - May 29.....**page 1810**

The **Comptroller of Public Accounts** adopts on an emergency basis a new section

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**Office of
the Secretary
of State**

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State.

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- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3."

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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Attorney General

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

Opinions

JM-317 (RQ-402). Request from Jerry Cobb, criminal district attorney, Denton, concerning whether a commissioners court may approve a plat and accept a road for county maintenance under certain conditions.

Summary of Opinion. Texas Civil Statutes, Article 6702-1, §2.401(b) and (c), prohibit a commissioners court from approving a plat dedicating roads to the public without the signatures of all the landowners of the tract to be subdivided. Nor may a commis-

sioners court accept roads for public maintenance when there has not been an intent to dedicate by all the landowners evidenced by their signature on the plat. However, the commissioners court is authorized to accept the plat and pave the roads dedicated to the public if the landowners, whose signatures do not appear on the plat, have executed a waiver evidencing their intent to dedicate the roads to the public.

TRD-857444

JM-318 (RQ-484). Request from Henry Wade, criminal district attorney, Dallas, concerning the disposition of appeals from

justice of the peace courts under Texas Civil Statutes, Article 1970-31.2.

Summary of Opinion. Texas Civil Statutes, Article 1970-31.2, do not require the Dallas county clerk to establish a separate procedure to file appealed cases from the justices of the peace court. The county clerk is required to treat these appealed cases in the same manner as other cases filed under Texas Civil Statutes, Article 1970-31.2, §3.

TRD-854743

★ ★ ★

Emergency Rules

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

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

TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 97. Business Opportunity Fees and General Information ★1 TAC §97.21

The Office of the Secretary of State adopts on an emergency basis an amendment to §97.21, concerning fees and general information. The amendment is adopted on an emergency basis so that the public may obtain the benefits of complying with the Business Opportunity Act, Texas Civil Statutes, Article 5069-16.01 *et seq.*, as passed by the 69th Texas Legislature. The emergency rule also will be proposed for adoption on a permanent basis.

The immediate effective date of the Business Opportunity Act, May 24, 1985, requires the immediate adoption of rules, which will govern filings and registrations under the Act and which will provide procedures and guidelines for public compliance.

The amendment is adopted on an emergency basis under of Texas Civil Statutes, Article 5069-16.17, which provide the Office of the Secretary of State with the authority to promulgate rules necessary to administer and enforce the Act.

§97.21. Fees and General Information

(a) The filing fee for an initial original file is \$195 and is nonrefundable [and must be submitted in the form of a money order or cashier's check].

(b) The fee for supplemental or amendment filing is \$25 and is nonrefundable [and must be submitted in the form of a money order or cashier's check].

(c) File material may be obtained in either a total or partial file format upon advance payment of the fees set out as follows:

(1) total file of a business opportunity registrant is **\$.55 for the first page and \$.15 thereafter** [—\$10].

(2) partial file—**\$.55 for the first page and \$.15 thereafter** [\$.50 per page].

(3) (No change.)

(4) certificate of record or no record—**\$5.00** [\$2.00].

(d) **the exemption filing under this Act, §16.06(f), is \$25 and is nonrefundable.**

(e) **the voluntary termination filing under this Act, §16.16, is \$25 and is nonrefundable.**

Issued in Austin, Texas, on May 29, 1985.

TRD-854706 Hyatte Simmons
Assistant General
Counsel
Office of the Secretary
State

Effective date: May 29, 1985
Expiration date: September 26, 1985
For further information, please call
(512) 475-2015.

★ ★ ★

★1 TAC §97.22, §97.23

The Office of the Secretary of State adopts on an emergency basis new §97.22 and §97.23, concerning the form and procedure for filing an exemption to the Business Opportunity Act in accordance with the Act, §16.06(f), and a voluntary termination of a registration under the Business Opportunity Act in accordance with the Act, §16.16. The new sections are adopted on an emergency basis so that the public may obtain the benefits of complying with the Business Opportunity Act, Article 5069-16.01, *et seq.*, as passed by the 69th Texas Legislature. The emergency sections also will be proposed for adoption on a permanent basis.

The immediate effective date of the Business Opportunity Act, May 24, 1985, requires the immediate adoption of rules which will govern filings and registrations under the Act, and which will provide procedures and guidelines for public compliance.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 5069-16.06(f), and Article 5069-16.17, which provide the Office of the Secretary of State with the authority to prescribe the form of the notice and to promulgate rules necessary to administer and enforce the Act.

§97.22. Fees and General Information.

(a) The Office of the Secretary of State hereby adopts by reference the form, "Exemption Statement Form." All persons

required to register shall use this form. Copies may be obtained by contacting the Office of the Secretary of State, Business Opportunities Section, P.O. Box 13563, Austin, Texas 78711-3563.

(b) The exemption statement will be effective as of the date of receipt in the secretary of state's office and the receipt of the proper filing fee.

(c) Refer to §97.21 of this title (relating to Fees and General Information) for the filing fee.

§97.23. Fees and General Information.

(a) The Office of the Secretary of State hereby adopts by reference the form, "Voluntary Termination Statement Form." All persons required to register shall use this form. Copies may be obtained by contacting the Office of the Secretary of State, Business Opportunities Division, P.O. Box 13563, Austin, Texas 78711-3563.

(b) The voluntary termination statement will be effective as of the date of receipt in the secretary of state's office and the receipt of the proper filing fee.

(c) Refer to §97.21 of this title (relating to Fees and General Information) for the filing fee.

Issued in Austin, Texas, on May 29, 1985.

TRD-854737 Hyatte Simmons
Assistant General
Counsel
Office of the Secretary
of State

Effective date: May 29, 1985
Expiration date: September 26, 1985
For further information, please call
(512) 475-2015.

★ ★ ★

TITLE 34. PUBLIC FINANCE Part I. Comptroller of Public Accounts Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

★34 TAC §3.555

The Comptroller of Public Accounts adopts on an emergency basis new

(c) The report shall contain the customer's name and license number, and the invoice number, date, and amount for each sale of:

- (1) instant bingo cards;
- (2) other bingo cards, sheets, and pads;
- (3) daubers, glue sticks, and other bingo supplies; and
- (4) all other bingo equipment.

(d) The manufacturer or distributor shall retain a copy of the report in his records for at least four years after the date on which the return is filed.

Issued in Austin, Texas, on May 31, 1985.

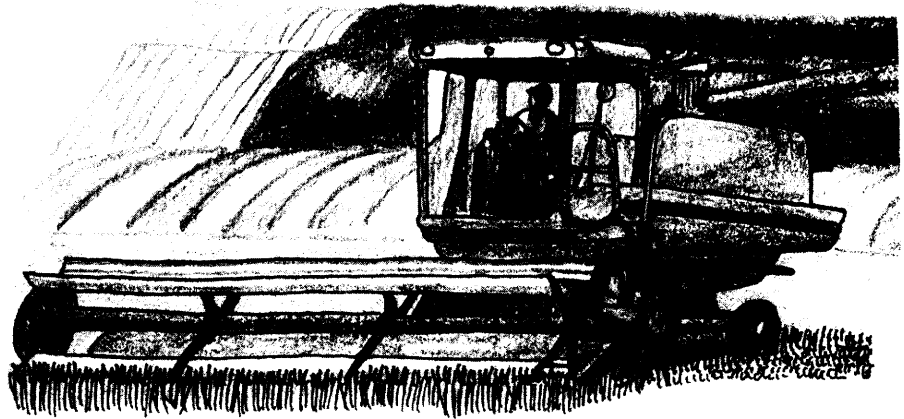
TRD-854793

Bob Bullock
Comptroller of Public
Accounts

Effective date: May 31, 1985

Expiration date: September 28, 1985

For further information, please call
(512) 475-1913.



★ ★ ★

Proposed Rules

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

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

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 107. Terminology

★7 TAC §107.2

The State Securities Board proposes an amendment to §107.2, concerning definitions of terms, to reflect that the definition relates to proposed new §109.13(l), rather than §109.4(II), which the board is proposing to repeal. This amendment, if adopted, is intended to have an effective date of September 1, 1985, to coordinate with the effective date of proposed new §109.13(l) and repeal of §109.4.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that the definition of business days for the purposes of filing Form 133.29 will reference the proposed new intrastate offering exemption, §109.13(l), rather than §109.4(II), which the board is proposing to repeal. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide that the board may adopt rules and regulations governing registration statements and applications, and may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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

Business day—For the purpose of filing Form 133.29, pursuant to the requirements of **§109.13(1), of this title (relating to Limited Offering Exemptions)**, [§109.4(11)(F), of this title (relating to Public Solicitation or Advertisements)] means ordinary business days and does not include Saturdays, Sundays, or state holidays.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854771 Richard D. Latham
Commissioner
State Securities
Board

Proposed date of adoption:
September 1, 1985
For further information, please call
(512) 474-2233.

★ ★ ★

Chapter 109. Transactions Exempt from Registration

★7 TAC §109.4

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Securities Board, 1800 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Securities Board proposes the repeal of §109.4, concerning public solicitation or advertisements. The proposed repeal is intended to become effective September 1, 1985. The delayed effective date will allow offerings begun pursuant to the section to be completed.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Latham also has determined that for each year of the first five years the repeal

is in effect the public benefit anticipated as a result of the repeal is the elimination of an unnecessary exemption since §109.13(k) and proposed new subsection (l), if adopted, provide exemptions for interstate and intrastate limited offerings respectively where sales are made, in part, to accredited investors. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The repeal is proposed under Texas Civil Statutes, Article 581, §28-1, which authorizes the board to repeal prior rules and regulations.

§109.4. Public Solicitation or Advertisements.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854775 Richard D. Latham
Commissioner
State Securities
Board

Earliest possible date of adoption:
September 1, 1985
For further information, please call
(512) 474-2233.

★ ★ ★

★7 TAC §109.9

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Securities Board, 1800 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Securities Board proposes the repeal of §109.9, concerning oil and gas interests. The proposed repeal is intended to become effective September 1, 1985. The delayed effective date will allow offerings begun pursuant to the section to be completed.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Latham also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of an unnecessary exemption since the proposed amendments to §109.14(b) provide an exemption for limited offerings of oil, gas, and mineral interests made, in part, to accredited investors. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The repeal is proposed under Texas Civil Statutes, Article 581, §28-1 which authorize the board to repeal prior rules and regulations.

§109.9. Oil and Gas Interests.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854774 Richard D. Latham
Commissioner
State Securities
Board

Proposed date of adoption:
September 1, 1985
For further information, please call
(512) 474-2233.

★ ★ ★

★ 7 TAC §109.13

The State Securities Board proposes amendments to §109.13, concerning limited offering exemptions, to make the Texas uniform limited offering exemption (ULOE) more uniform with the uniform limited offering exemption adopted by the North American Securities Administrators' Association (NASAA). The reference to §3(a)(11) of the federal Securities Act of 1933 is proposed to be removed on a permanent basis; it was removed on an emergency basis as published in the March 8, 1985, issue of the *Texas Register* (10 TexReg 813). Other nonuniform provisions are also proposed to be eliminated. The addition of new subsection (l) provides a self-contained exemption for intrastate offerings which are sold, in part, to accredited investors and, as proposed, does not require extensive research into federal securities law exemptions to be assured of compliance with the state law exemption. Such addition is necessary given the proposed repeal of

§109.4, the exemption currently available to intrastate issuers who sell, in part, to accredited investors. The amendments are intended to become effective on September 1, 1985, to allow offerings being made pursuant to existing rules to be completed.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is to make the Texas uniform limited offering exemption (ULOE) more uniform with the ULOE adopted by NASAA and to add a self-contained exemption for intrastate issuers. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28-1 and §5.T, which provide respectively that the board may adopt rules and regulations governing registration statements and applications, classify securities, persons, and matters within its jurisdiction, prescribe different requirements for different classes, and prescribe new exemptions by rule.

§109.13. Limited Offering Exemptions.

- (a)-(b) (No change.)
- (c) Number of persons or security holders. In computing the number of purchasers or security holders for §5.I, the following criteria shall be used.
 - (1)-(3) (No change.)
 - (4) The exemptions contained in the Act, §5.I(a) and (c), as interpreted in subsections (a)-(j) of this section may not be combined with the exemptions [exemption] promulgated pursuant to the Act, §5.T, contained in subsections [subsection] (k) and (l) of this section.
 - (d) (No change.)
 - (e) Other exemptions. The phrase "exempt under other provisions of this Section 5" in §5.I(c) means exempt under any provisions of the Act, other than §5.I, and subsections [subsection] (k) and (l) of this section.
 - (f)-(j) (No change.)
 - (k) Uniform limited offering exemption. In addition to sales made under the Texas Securities Act, §5.I, the State Securities Board, pursuant to the Act, §5.T, exempts from the registration requirements of the Act, §7, any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D, Rules

230.501-230.503 [(except for Rule 230.502 (b)(2)), 230.505, and 230.506 as made effective in United States Securities and Exchange Commission Release 33-6389 [or offered or sold in compliance with §3(a)(11) of the Securities Act of 1933,] and which satisfies the following further conditions and limitations.

- (1)-(8) (No change.)
- (9) Sales made pursuant to this subsection to nonaccredited investors must comply with the disclosure requirements of subsection (a)(1) of this section. [While subsection (a)(1) of this section does not include specific disclosure requirements, compliance with Regulation D, Rule 230.502(b) is deemed to be in compliance with subsection (a)(1) of this section.]

(10)-(15) (No change.)

(1) **Intrastate limited offering exemption.** In addition to sales made under the Securities Act, §5.I, the State Securities Board, pursuant to the Securities Act, §5.T, exempts from the registration requirements of the Securities Act, §7, any offer or sale of any securities by the issuer itself, or by a registered dealer acting as agent for the issuer provided all offers and sales are made pursuant to an offering made and completed solely within this state and all the conditions in paragraphs (1)-(8) of this subsection are satisfied.

(1) The sale is made, without the use of any public solicitation or advertisements, as set forth in subsections (a)-(b) of this section to:

(A) not more than 35 new security holders of the issuer who meet the criteria stated in subsection (a) of this section and who became security holders during the period of 12 months ending with the date of the sale in question (subject to paragraph (4) of this subsection); and

(B) other well-informed investors who are accredited investors as defined in paragraph (8) of this subsection. (For purposes of this subsection, the term "well informed" shall have the same meaning as set out in subsection (a)(2) of this section, and the term "5.I" in such subsection shall include sales made pursuant to this subsection.

(2) Neither the issuer nor the registered dealer (as such terms are defined in subparagraph (E) of this paragraph):

(A) is currently subject to any administrative order issued by state or federal authorities within five years of the expected offer and sale of securities in reliance upon this exemption, which order:

(i) is based upon a finding that such person has engaged in fraudulent conduct; or

(ii) has the effect of enjoining such person from activities subject to federal or state statutes designed to protect investors or consumers against unlawful or deceptive practices involving securities, insurance, commodities or commodity futures, real estate, franchises, business op-

portunities, consumer goods, or other goods and services;

(B) has been convicted within five years prior to commencement of the offering of any felony or misdemeanor of which fraud is an essential element, or which is a violation of the securities laws or regulations of this state, or of any other state of the United States, or of the United States, or any foreign jurisdiction; or which is a crime involving moral turpitude; or which is a criminal violation of statutes designed to protect consumers against unlawful practices involving insurance, securities, commodities or commodity futures, real estate, franchises, business opportunities, consumer goods, or other goods and services;

(C) is subject to any order, judgment, or decree entered within five years prior to commencement of the offering by any court of competent jurisdiction which temporarily or permanently restrains or enjoins such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving any false filing with any state; or which restrains or enjoins such person from activities subject to federal or state statutes designed to protect consumers against unlawful or deceptive practices involving insurance, commodities or commodity futures, real estate, franchises, business opportunities, consumer goods, or other goods and services;

(D) the prohibitions of subparagraphs (A)-(C) of this paragraph shall not apply if the party subject to the disqualifying order is duly licensed to conduct securities-related business in the state in which the administrative order or judgment was entered against such party or, if the order or judgment was entered by federal authorities, the prohibitions of subparagraphs (A)-(C) of this paragraph shall not apply if the party subject to the disqualifying order is duly licensed to conduct securities-related business by the Securities and Exchange Commission. Any disqualification caused by this paragraph is automatically waived if the state or federal authorities which created the basis for disqualification determine upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied;

(E) for purposes of this paragraph only, issuer includes any directors, executive officers, general partners, or beneficial owners of 10% or more of any class of its equity securities (beneficial ownership meaning the power to vote or direct the vote and/or the power to dispose or direct the disposition of such securities), and registered dealer shall include any partners, directors, executive officers, or beneficial owner of 10% or more of any class of the equity securities of the registered dealer (beneficial ownership meaning the power to vote or direct the vote and/or the power to dispose or direct the disposition of such securities);

(F) Upon application, and for good cause shown, the commissioner may waive a disqualification contained in this paragraph.

(3) The offering complies with subsections (a)-(d) and (j) of this section. However, persons who are accredited investors as defined in paragraph (8) of this subsection are deemed to be sophisticated as defined in subsection (a)(1) of this section.

(4) This subsection may not be combined with the Securities Act, §5.1(a) or §5.1(c), or subsection (k) of this section to make sales to more than 35 unaccredited security holders during a 12-month period. Except for accredited investors who became security holders pursuant to this subsection, security holders who purchase in sales made in compliance with this subsection are included in the count of security holders under §5.1(a) or purchasers under §5.1(c), but this subsection may be used to exceed the numbers of security holders or purchasers allowed by such sections over an extended period of time.

(5) Issuers who offer and sell securities under this subsection only through a securities dealer registered in Texas may do so without filing any notice with the State Securities Board.

(6) For sales under paragraph (1)(B) of this subsection, in whole or in part to accredited investors listed in paragraph (8)(E)-(H) of this subsection of such definition of accredited investor issuers who are not registered securities dealers and who do not sell securities by or through registered securities dealers shall file a sworn notice on Form 133.29 or a reproduction thereof not less than 10 business days before any sale claimed to be exempt under this subsection may be consummated. However, no notice is required for sales made under paragraph (1)(A) of this subsection or under paragraph (1)(B) of this subsection where the sales are made exclusively to accredited investors as defined in paragraph (8)(A)-(D) of this subsection or to entities in which all of the equity owners are accredited investors listed in paragraph (8)(A)-(D) of this subsection of such definition. The issuer may be required by the securities commissioner to give details concerning any information requested in Form 133.29 and may be required to furnish any additional information deemed necessary by the securities commissioner to determine the issuer's business repute and qualifications.

(7) Accredited investor security holders who purchase in sales made under this exemption are not counted as security holders under §5.1(a) or purchasers under §5.1(c) in determining whether any other sales to other security holders or purchasers are exempt under §5.1. That is to say, this exemption for sales to accredited investors is cumulative with and in addition to the exemptions contained in §5.1, and sales made under paragraph (1)(B) of this subsection

are not considered in determining whether sales made in reliance on the exemptions contained in §5.1 would be within the numerical limits on the number of security holders or purchasers contained in §5.1.

(8) For purposes of this subsection, accredited investor shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(A) any bank as defined in the Securities Act of 1933, §3(a)(2), whether acting in its individual or fiduciary capacity; insurance company as defined in the Securities Act of 1933, §2(13); investment company registered under the Investment Company Act of 1940 or a business development company as defined in that Act, §2(a)(48); small business investment company licensed by the U.S. Small Business Administration under the Small Business Investment Act of 1958, §301(c) or (d); employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, Title I, if the investment decision is made by a plan fiduciary, as defined in such Act, §3(21), which is either a bank, insurance, company, or investment adviser registered under the Investment Advisers Act of 1940, or if the employee benefit plan has total assets in excess of \$5 million;

(B) any private business development company as defined in the Investment Advisers Act of 1940, §202(a)(22);

(C) any organization described in the Internal Revenue Code, §501(c)(3), with total assets in excess of \$5 million;

(D) any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(E) any person who purchases at least \$150,000 of the securities being offered, where the purchaser's total purchase price does not exceed 20% of the purchaser's net worth at the time of sale, or joint net worth with that person's spouse, for one or any combination of the following:

(i) cash;

(ii) securities for which market quotations are readily available;

(iii) any unconditional obligation to pay cash or securities for which market quotations are readily available which obligation is to be discharged within five years of the sale of securities to the purchaser; or

(iv) the cancellation of any indebtedness owed by the issuer to the purchaser;

(F) any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1 million;

(G) any natural person who had an individual income or joint income with

that person's spouse in excess of \$200,000 in each of the two most recent years and who reasonably expects an income in excess of \$200,000 in the current year; and

(H) any entity in which all of the equity owners are accredited investors under subparagraphs (A)-(D), (F), or (G) of this paragraph.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854778 Richard D. Latham
Commissioner
State Securities Board

Proposed date of adoption:

September 1, 1985

For further information, please call
(512) 474-2233.

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★ 7 TAC §109.14

The State Securities Board proposes an amendment to §109.14, concerning oil and gas interests, to allow intrastate, as well as interstate, offerings made pursuant to the Securities Act, §5.Q, to be sold, in part, to accredited investors. This amendment is intended to become effective on September 1, 1985, to allow offerings being made pursuant to existing rules to completed.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is to allow intrastate, as well as interstate offerings made pursuant to the Act, §5.Q, to be sold, in part, to accredited investors. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1 and §5.T, which provide respectively that the board may adopt rules and regulations governing registration statements and applications, classify securities, persons, and matters within its jurisdiction, prescribe different requirements for different classes, and prescribe new exemptions by rule.

§109.14. Oil and Gas Interests.

(a) (No change.)

(b) Sales pursuant to the uniform limited offering exemption. In addition to sales made under the Securities Act, §5.Q, the State Securities Board, pursuant to the Securities Act, §5.T, exempts from registration requirements of the Securities Act, §7, the sale of interests in and under oil, gas, and mining leases, fees, or titles, or contracts relating thereto (hereinafter called securities), by the owner itself, or by a registered dealer acting as agent for the owner provided all of the conditions of §109.13(k) or (l) of this title (relating to Limited Offering Exemptions) are met.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854776 Richard D. Latham
Commissioner
State Securities Board

Proposed date of adoption:

September 1, 1985

For further information, please call
(512) 474-2233.

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Chapter 117. Real Estate Programs

★ 7 TAC §§117.4, 117.5, 117.7

The State Securities Board proposes amendments to §§117.4, 117.5, and 117.7, concerning administrative guidelines for registration of real estate programs. The amendments are necessary so that the Texas guidelines will continue to be uniform with the guidelines promulgated by the North American Securities Administrators' Association (NASAA).

Richard D. Latham, securities commissioner, 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. Latham also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is continued uniformity with other states' laws governing the registration of real estate programs. 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 Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28-1, which provide that the board may adopt rules and regulations governing registration statements and may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§117.4. Fees—Compensation—Expenses.

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

(e) Promotional interest. An interest in the program will be allowed as a promotional interest and program management fee, provided the amount or percentage of such interest is reasonable. Such an interest will be considered presumptively reasonable if it is within the limitations expressed in paragraphs (1)-(4) of this subsection:

(1) an interest equal to 25% of cash to be distributed from the net proceeds remaining from the sale or refinancing of properties after payment to investors from such proceeds, [of] an amount equal to 100% of capital contributions, plus an amount equal to 6.0% of capital contributions per annum cumulative (the 6.0% cumulative return may be reduced, but not below zero, by the aggregate amount of [less the sum or] prior distributions to investors from cash available for distribution); or

(2) an interest equal to:

(A) (No change.)

(B) 15% of cash to be distributed from the net proceeds remaining from the sale or refinancing of properties after payment to investors from such proceeds, [of] an amount equal to 100% of capital contributions, plus an amount equal to 6.0% of capital contributions per annum cumulative. The 6.0% cumulative return may be reduced, but not below zero, by the aggregate amount [less the sum] of prior distributions to investors from cash available for distribution [distributions].

(3)-(4) (No change.)

(f) (No change.)

(g) Property management fee. Should the sponsor or its affiliates perform property management services permitted under subsection (a)(1)(G) of this section [§117.5(e)(1) of this title (relating to Conflicts of Interest and Investment Restrictions)] the fees paid to the sponsor or its affiliates shall be the lesser of the maximum fees set forth in paragraphs (1)-(3) of this subsection or the fees which are competitive for similar services in the same geographic area. Included in such fees shall be book-keeping services and fees paid to nonrelated persons for property management services.

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

(h)-(i) (No change.)

§117.5. Conflicts of Interest and Investment Restrictions.

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

(i) Lending practices.

(1) On loans [financing] made available to the program by the sponsor, the sponsor may not receive interest or similar

[and other financing] charges or fees in excess of the amount [amounts] which would be charged by unrelated lending institutions on comparable loans for the same purpose, in the same locality of the property if the loan is made in connection with a particular property. No prepayment charge or penalty shall be required by the sponsor on a loan to the program secured by either a first or junior or all-inclusive trust deed, mortgage, or encumbrance on the property, except to the extent that such prepayment charge or penalty is attributable to the underlying encumbrance. The sponsor shall be prohibited from providing financing for the program, except:

- (A)-(B) (No change.)
- (2) (No change.)
- (j)-(m) (No change.)

§117.7. *Rights and Obligations of Participants.*

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

(i) **Divident reinvestment plans.** A program may offer participants the opportunity to elect to have cash distributions reinvested in the program or subsequent programs if the following conditions are met:

(1) the program and subsequent programs in which the participants reinvest are registered or exempted under the state's blue sky laws;

(2) counsel for the program submits an opinion that the pooling of the funds for reinvestment is not in itself a security;

(3) the subsequent program has substantially identical investment objectives as the original program;

(4) the participants are free to elect or revoke reinvestment within a reasonable time and such right is fully disclosed in the offering documents;

(5) prior to each reinvestment the participants receive a current updated disclosure document which contains at a minimum the following information:

(A) the minimum investment amount;

(B) the type or source of proceeds (e.g., cash distributions from operations or the sale or disposition of properties) which may be reinvested;

(C) the tax consequences of the reinvestment to the participants;

(6) counsel for the program submits an opinion that different consideration paid on reinvestment is not in violation of the state law (the difference arises when one participant agrees to payment of commission to the broker-dealer and another participant does not agree to payment of commission);

(7) the broker-dealer or the issuer assumes responsibility for blue sky compliance and performance of due diligence responsibilities to ascertain whether the participants continue to meet the state's suitability standard for participation in each reinvestment;

(8) if a broker-dealer is involved, it shall obtain in writing an agreement from the client by which the client agrees to the payment of compensation to the broker-dealer in connection with individual reinvestments.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854770 Richard D. Latham
Commissioner
State Securities Board

Earliest possible date of adoption:

July 8, 1985

For further information, please call
(512) 474-2233.

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Chapter 133. Forms

★7 TAC §133.29

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Securities Board, 1800 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Securities Board proposes the repeal of §133.29, concerning sales under §109.4(11). The proposed repeal is intended to become effective September 1, 1985, to coordinate with the effective date of the proposed repeal of §109.4.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Latham also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of an unnecessary form since §109.4(11), the exemption to which the form relates, is also being proposed for repeal. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The repeal is proposed under Texas Civil Statutes, Article 581, §28-1, which authorizes the board to repeal prior rules and regulations.

§133.29. *Sales under Regulation 109.4(11).*

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854773 Richard D. Latham
Commissioner
State Securities Board

Proposed date of adoption:

September 1, 1985

For further information, please call
(512) 474-2233.

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The State Securities Board proposes new §133.29, which adopts by reference the form titled "Sales under Regulations 109.13(1)," which reflects references to the proposed new §109.13(1). Existing §133.29 is proposed to be repealed since §109.4(11), the section to which that form relates, is also proposed to be repealed. Proposed §133.29 is intended to become effective September 1, 1985, to coordinate with the effectiveness of proposed new §109.13(1) and the repeal of §109.4 and existing §133.29.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the rule as proposed is in effect there will be no fiscal implications for state or local government or small business as a result of enforcing or administering the rule.

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is a form that reflects references to and is available for use by issuers who rely upon the proposed new intrastate offering exemption, §109.13(1). There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The new section is proposed under Texas Civil Statutes, Article 581, §28-1, which provide that the board may adopt rules and regulations governing registration statements and applications, classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.29. *Sales under Regulation 109.13(1).* The State Securities Board adopts by reference the notice for Sales under Regulation 109.13(1). This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

This agency hereby certifies that the proposal has been reviewed by legal counsel

and found to be within the agency's authority to adopt.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854772 Richard D. Latham
Commissioner
State Securities Board

Proposed date of adoption:

September 1, 1985

For further information, please call
(512) 474-2233.

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TITLE 13. CULTURAL RESOURCES

Part VII. State Preservation Board

Chapter 111. Rules and Regulations of the Board

★ 13 TAC §§111.1-111.12

The State Preservation Board proposes new §§111.1-111.12, concerning rules and regulations of the board, i.e., official name of the board, officers of the board, Executive Committee, regular and special meetings, agenda, order of business, rules of order, minutes of the board, inventions or publishable material of the board, and additional rules. These rules and regulations will govern the day-to-day operations of the board.

Barbara J. Williams, assistant general counsel, 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.

Sytha G. Atwell, administrative assistant, has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is informing interested parties of the rules and regulations of the board. 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 Sytha G. Atwell, P.O. Box 13286, Austin, Texas 78711, or Room 315, State Archives and Library Building, Austin.

The new sections are proposed under Texas Civil Statutes, Article 6145-14, which provide the State Preservation Board with the authority to authorize rules.

§111.1. Official Name of the Board. The name of the board shall be the State Preservation Board.

§111.2. Chairman. The governor shall be chairman of the board.

§111.3. Vice Chairman. The lieutenant governor and the speaker of the house shall serve as co-vice chairmen. They shall perform the duties of the chairman in case of absence or disability of the chairman.

§111.4. Committees.

(a) Executive committee. The Executive Committee shall consist of the chairman and the vice-chairmen.

(b) Other committees. The chairman may appoint other committees from the board from time to time.

§111.5. Board Meetings.

(a) Regular meetings. The board shall meet not fewer than two times a year. These meetings shall be held at such designated places, times, and dates as may be determined by the chairman.

(b) Quorum. Four members of the board shall constitute a quorum.

(c) Special meetings. Special board meetings may be called by the chairman of the board at such times, dates, and places as become necessary for the transaction of State Preservation Board business. The notice of special meetings shall state the date, time, and place of the meeting and be forwarded to the members not less than seven days in advance of the time of meeting with the secretary of state. However, emergency meetings of the board may be called and notice posted in accordance with Texas Civil Statutes, Article 6252-17, §3A(h). All meetings shall be posted and shall be open to the public under the provisions of the Administrative Procedures and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

§111.6. Transaction of Business. The board may transact official business only when in session and shall not be bound in any way by any statement or action on the part of any individual member except when such statement or action is in pursuance of specific instructions of the board. No order or decree shall be adopted by the board except in open meeting and in accordance with the Texas Open Meetings Act.

§111.7. Agenda. The chairman, in cooperation with the architect of the Capitol, shall prepare and submit to each member of the board prior to each meeting of the board an advance copy of an agenda, outlining matters that will be considered by the board and such other matters, materials, and information as members have requested to be included for consideration.

§111.8. Order of Business. The order of business to be observed by the board should be as follows:

- (1) call to order;
- (2) introduction of visitors and guests;

- (3) reading and/or approval of the minutes of the previous meeting;
- (4) communications;
- (5) old or unfinished business;
- (6) new business;
- (7) final adjournment;
- (8) executive sessions on relevant subjects in accordance with the Open Meetings Act.

§111.9. Rules of Order. In its deliberations, the board shall be governed by *Roberts' Rules of Order, Revised*, except as otherwise provided by these rules and regulations or by statute.

§111.10. Minutes of the Board Meetings. Copies of the official minutes of each meeting of the board shall be distributed to members of the board, key personnel, the legislative and governor's budget offices, and to such private citizens as may make a formal request in writing. An official copy of all board minutes shall remain on file in the office of the architect of the Capitol available to any citizen desiring to examine them during regular business hours.

§111.11. Inventions or Publishable Material. Any invention or publishable material created by an employee of the State Preservation Board which results from his or her employment is the property of the State Preservation Board.

§111.12. Additional Rules. The State Preservation Board may adopt additional rules relating to the procedures of the board and the duties of the staff from time to time by majority vote.

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

Issued in Austin, Texas, on May 31, 1985.

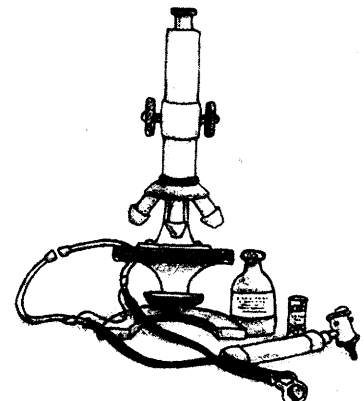
TRD-854814 Sytha G. Atwell
Administrative Assistant
State Preservation
Board

Earliest possible date of adoption:

July 8, 1985

For further information, please call
(512) 475-4218.

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TITLE 19. EDUCATION
Part II. Texas Education
Agency
Chapter 75. Curriculum
Subchapter D. Essential
Elements—Grades 9-12
Other Courses

★ 19 TAC §75.121, §75.122

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Education Agency proposes the repeal of §75.121 and §75.122, concerning dance and driver education. It is proposed that dance be deleted as a separate section and that §75.66, concerning physical education, and §75.67, concerning fine arts, be amended to include dance. It is proposed that §75.122, concerning driver education, be repealed. A new §75.121, concerning driver education, has also been proposed. In §75.66 and §75.67, there is no change proposed in the text of the material being moved.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is deletion of provisions for dance and driver education which are included in other sections of the Texas Administrative Code. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §21.101, which directs the State Board of Education to designate the essential elements for a well-balanced curriculum.

§75.121. *Dance.*
 §75.122. *Driver Education.*

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

Issued in Austin, Texas, on May 31, 1985.

TRD-854822 W. N. Kirby
 Commissioner of
 Education

Proposed date of adoption:
 July 13, 1985
 For further information, please call
 (512) 475-7077.

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★ 19 TAC §§75.121, 75.123, 75.124

The Texas Education Agency proposes new §75.121, and amendments to §75.123 and §75.124, concerning the essential elements in grades 9-12. The new section specifies the essential elements for driver education (one-half unit) and driver safety and education (one-half unit). Under the proposed new section, these units could not be counted toward credit for state graduation requirements.

It is proposed that §75.123, concerning ROTC, be renumbered to be §75.122. It is proposed that §75.124, concerning computer science, be renumbered to be §75.123. No changes in the text of either section are proposed.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is clarification of the essential elements to be included in driver education courses. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the Texas Education Code, §21.101, which directs the State Board of Education to designate the essential elements for a well-balanced curriculum.

§75.121. Driver Education.

(a) Driver education (one-half unit). Such unit may not be counted toward credit for graduation requirements specified in §75.151 of this title (relating to High School Graduation Requirements) and §75.152 of this title (relating to Advanced High School Program). Driver education classroom and in-car instruction shall include the following essential elements.

(1) Driver education classroom. The student shall be provided opportunities to:

- (A) understand the unique role of the driver, the passenger, and the pedestrian;
 - (B) understand the impact of alcohol and other drugs on traffic safety;
 - (C) explore the essential automobile systems and the importance of preventative maintenance;
 - (D) become aware of highway characteristics and engineering controls;
 - (E) identify the effects of physical laws on motor vehicle operation;
 - (F) demonstrate an understanding of the importance of occupant protection systems;
 - (G) analyze traffic laws as they relate to the safe operation of a motor vehicle;
 - (H) study driving strategies important to safe driver performance;
 - (I) list driving procedures required for the safe operations of a motor vehicle;
 - (J) identify accident avoidance procedures;
 - (K) analyze emergency procedures and first aid required at the scene of a traffic accident;
 - (L) study the roles of the two-wheeled vehicles in the traffic pattern;
 - (M) attain information concerning effective consumer practices as they relate to motor vehicle ownership; and
 - (N) explore the effects of the National Highway Safety Act and the Texas Traffic Safety Act and discuss current traffic safety issues and programs;
- (2) Driver education in-car. The student shall be provided opportunities to:
- (A) demonstrate the proper techniques in starting the engine and performing basic maneuvers;
 - (B) practice city driving techniques which include entering traffic, parking, turning, cruising, passing, and managing intersections; and
 - (C) perform rural and/or freeway driving maneuvers which include cruising, passing, parking, and emergency procedures.

(b) Driver and safety education (one-half unit). Such unit may not be counted toward credit for graduation requirements specified in §75.151 of this title (relating to High School Graduation Requirements) and §75.152 of this title (relating to Advanced High School Program). Driver and safety

education shall include the following essential elements.

(1) Driver education. The student shall be provided opportunities to:

(A) understand the unique role of the driver, the passenger, and the pedestrian;

(B) understand the impact of alcohol and other drugs on traffic safety;

(C) explore the essential automobile systems and the importance of preventative maintenance;

(D) become aware of highway characteristics and engineering controls;

(E) identify the effects of physical laws on motor vehicle operation;

(F) demonstrate an understanding of the importance of occupant protection systems;

(G) analyze traffic laws as they relate to the safe operation of a motor vehicle;

(H) study driving strategies important to safe driver performance;

(I) list driving procedures required for the safe operation of a motor vehicle;

(J) identify accident avoidance procedures;

(K) analyze emergency procedures and first aid required at the scene of a traffic accident;

(L) study the role of the two-wheeled vehicles in the traffic pattern;

(M) attain information concerning effective consumer practices as they relate to motor vehicle ownership; and

(N) explore the effects of the National Highway Safety Act and the Texas Traffic Safety Act and discuss current traffic safety issues and programs.

(2) Safety education. The student shall be provided opportunities to:

(A) understand the concepts of safety and accident prevention;

(B) identify basic fire prevention concepts;

(C) identify the types of accident problems associated with recreational activities;

(D) list the techniques passengers may use to protect themselves and others in motor vehicles;

(E) describe hazards and safety procedures for pedestrians;

(F) identify safety practices for riding buses and other public transportation;

(G) identify safety hazards commonly found in the home and describe techniques for their avoidance;

(H) identify means of coping with natural and man-made disasters; and

(I) describe the components of consumer product safety including packaging of drugs, poison control, and product safety.

(c) Courses described in subsections (a) and (b) of this section shall meet the standards for an approved course in driver

education in Chapter 77, Subchapter W, of this title (relating to Driver Education). The driver education course includes both classroom and in-car instruction and will provide the student the opportunity to obtain a driver's license. The driver education and safety course includes classroom instruction only and will provide the student the opportunity to obtain a learner's permit to drive. Students may earn state credit for only one of the two courses.

§75.122. [§75.123] *ROTC.* (No change.)

§75.123. [§75.124.] *Computer Science.*

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

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

Issued in Austin, Texas, on May 31, 1985.

TRD-854821

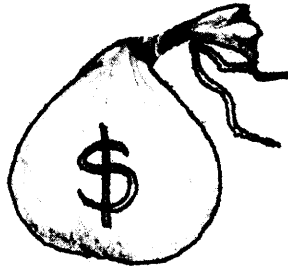
W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

July 13, 1985

For further information, please call
(512) 475-7077.

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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 proposes amendments to §§741.2, 741.64, 741.84, 741.163, 741.181, 741.193, 741.194, and 741.197; the repeal of §§741.121-741.129; and new §§741.121-741.123 and §§741.208-741.210, concerning speech-language pathologists and audiologists.

The amendments cover a definition of hearing screening, licensing requirements for aides, professional education

requirements, changes in fees, the new telephone number for the committee office, formal hearings, and appeal to district court from formal hearing decisions. New §§741.208-741.210 provide for committee publications. Sections 741.121-741.129 are repealed and replaced by §§741.121-741.123 and cover examination requirements.

Stephen L. Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect on state government is an estimated loss in revenue of \$171,106 each year in 1986-1990. There is no anticipated effect on local government. There is no anticipated economic effect on small businesses.

Mr. Seale also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is to safeguard the public health, safety, and welfare by establishing procedures and policies concerning the licensing and regulation of speech-language pathologists and audiologists and updating these rules and fiscal requirements.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is the annual fees that have been reduced and are itemized in §741.181.

Comments on the proposal may be submitted to June Robertson, Executive Secretary, State Committee of Examiners for Speech-Language Pathology and Audiology, 1100 West 49th Street, Austin, Texas 78756-3183. Comments will be received for 30 days from the date of publication of the proposed rules in the *Texas Register*.

Subchapter A. General Information

★ 22 TAC §741.2

The amendments are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

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

Hearing screening—The screening of human hearing shall be defined as the pass/fail result of a pure tone hearing sweep check administered with a pure tone audiometer at intensity levels and frequencies appropriate for screening.

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 3, 1985.

TRD-854836

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

Proposed date of adoption:

July 20, 1985

For further information, please call
(512) 458-7502.

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Subchapter D. Academic Requirements for Examination and Licensure for Speech- Language Pathologists

★22 TAC §741.64

The amendments are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.64. Requirements for a Licensed Aide in Speech-Language Pathology.

(a) The term "aide" will be used to designate those individuals who provide services and support of clinical programs of speech-language pathology, who are supervised by a Texas licensed speech-language pathologist, who have received the training specified as follows, and who hold a current and valid license as a licensed aide in speech-language pathology. [A licensed aide in speech-language pathology shall perform duties under the direct on-site supervision and direction of an individual who holds a valid license to practice speech-language pathology in the State of Texas.] The following are established as minimum requirements to function as a licensed aide in speech-language pathology:

(1) (No change.)

(2) no fewer than 21 [24] semester hours in speech-language pathology and/or [and] audiology course work, at least nine of which must be in the area for which license is being sought; [and]

(3) transcripts shall be reviewed as in §741.61(4) of this title (relating to Purpose); and

(4) upon application and each subsequent renewal, a statement shall be submitted by the supervising speech-language pathologist acknowledging his or her acceptance of the supervisory responsibilities.

(b) Although the licensed speech-language pathologist may delegate specific clinical tasks to an aide, the legal, ethical, and moral responsibility to the client for all services provided cannot be delegated. The aide may execute specific components of the clinical speech, language, and/or hearing program if the professional determines that the aide has received the training and has the skill to accomplish that task, and the professional provides sufficient supervision to ensure appropriate completion of the task assigned to the aide. The supervising professional maintains legal and moral responsibility for all services provided by the aide and must ensure that those services are in compliance with these sections, particularly with §741.41 of this title (relating to Code of Ethics).

(1) Examples of duties which aides may be assigned, provided appropriate planning, preparation for the task, and professional supervision, include the following:

(A) conducting or participating in speech, language, and/or hearing screening;

(B) conducting evaluative or management programs which may include the utilization of published materials for which the aide has received training;

(C) maintaining clinical records of client performance;

(D) preparing clinical materials;

and
(E) participating with the professional in research projects, staff development, public relations programs, or similar activities as designated and supervised by the professional.

(2) The aide should not engage in any of the following activities:

(A) interpreting observations or data into diagnostic statement, clinical management strategies, or procedures;

(B) determining case selection;

(C) presenting written reports of client information to those other than the supervisor without the signature of the supervisor;

(D) referring a client to other professionals or other agencies; or

(E) using any title which connotes the competency of a licensed professional, as defined in the Act, §2.

(3) Any references to the licensee's title shall state clearly that the license status is that of an aide.

(4) A surrogate parent or dormitory parent who utilizes only the concepts of daily living in his or her job performance is not required to be licensed as an aide and may not assume the duties of an aide as defined in these sections.

(c) Direct supervision of duties assigned to the aide shall be provided by a Texas licensed speech-language pathologist.

(1) A licensed aide in speech-language pathology shall be supervised by a Texas licensed speech-language pathologist.

(2) Following on-the-job training, the aide's initial client contact shall be directly supervised. Thereafter, the minimum supervision requirements for an aide by a licensed professional shall be no less than two hours a week, at least half of which is direct on-site supervision. Indirect methods of supervision such as audio and/or video tape recording, telephone communication, numerical data, or other means of reporting may be utilized.

(3) Supervisory records shall be maintained by the licensed professional which verify regularly scheduled monitoring/assessment/evaluation of aide and client performance. Such documentation may be requested by the committee.

(d) Licensed aides will be required to meet continuing education requirements for license renewal, §741.163 of this title (relating to Requirements for Continuing Professional Education).

(e) Special conditions for a time-limited waiver ending September 1, 1988, are provided.

(1) The committee on request may waive degree requirements for licensure as a licensed aide in speech-language pathology for applicants who by August 31, 1988, meet the following requirements:

(A) show proof of bona fide employment as a technician, assistant, or other support services personnel directly involved with the speech-language and/or hearing handicapped on September 1, 1984;

(B) perform their employment duties under the supervision of a Texas licensed speech-language pathologist. Upon application and each subsequent renewal, a statement shall be submitted by the supervising speech-language pathologist, acknowledging his or her acceptance of the supervisory responsibilities. The minimum supervision requirements for an applicant seeking license under these special conditions shall be no less than two hours a week of direct on-site supervision by a licensed professional;

(C) submit initial application forms and nonrefundable application fees for a licensed aide under these special conditions so that it will be received in the committee office no later than May 31, 1986;

(D) show annual proof of pursuit toward licensing as an aide in speech-language pathology by submitting original transcript(s) from the accredited institution(s) in which the 21 semester hours of course work in speech-language pathology are taken; and,

(E) submit by August 31, 1988, the application for licensed aide in speech-language pathology indicating that the full requirements have been met.

(2) Transcripts shall be reviewed as in §741.61(4) of this title (relating to Purpose).

(3) Applicants, and their licensed sponsors, shall be considered subject to §741.195 of this title (relating to Violations

by Nonlicensed Individuals) and §741.196 of this title (relating to Penalties).

(4) Applicants, meeting the criteria of this subsection, who do not succeed in acquiring a license as an aide by August 31, 1988, shall not be eligible for licensure under this time-limited waiver.

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 3, 1985.

TRD-854837 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7502.

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Subchapter E. Academic Requirements for Examination and Licensure for Audiologists

★ 22 TAC §741.84

The amendments are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.84. Requirements for a Licensed Aide in Audiology.

(a) The term "aide" will be used to designate those individuals who provide services and support of clinical programs of audiology, who are supervised by a Texas licensed audiologist, who have received the training specified as follows, and who hold a current and valid license as a licensed aide in audiology. [A licensed aide in audiology shall perform duties under the direct on-site supervision and direction of an individual who holds a valid license to practice audiology in the State of Texas.] The following requirements are established as minimum requirements to function as a licensed aide in audiology:

(1) (No change.)

(2) no fewer than 21 [24] semester hours in speech-language pathology and/or [and] audiology course work, at least nine of which must be in the area for which license is being sought; [and]

(3) transcripts shall be reviewed as in §741.81(4) of this title (relating to Purpose); and

(4) upon application and each subsequent renewal, a statement shall be submitted by the supervising audiologist, acknowledging his or her acceptance of the supervisory responsibilities.

(b) Although the licensed audiologist may delegate specific clinical tasks to an aide, the legal, ethical, and moral responsibility to the client for all services provided cannot be delegated. The aide may execute specific components of the clinical speech, language, and/or hearing program if the professional determines that the aide has received the training and has the skill to accomplish that task, and the professional provides sufficient supervision to ensure appropriate completion of the task assigned to the aide. The supervising professional maintains legal and moral responsibility for all services provided by the aide and must ensure that those services are in compliance with these sections particularly with the §741.41 (relating to Code of Ethics).

(1) Examples of duties which aides may be assigned, provided appropriate planning, preparation for the task, and professional supervision, include the following:

(A) conducting or participating in speech, language, and/or hearing screening;

(B) conducting evaluative or management programs which may include the utilization of published materials for which the aide has received training;

(C) maintaining clinical records of client performance;

(D) preparing clinical materials; and

(E) participating with the professional in research projects, staff development, public relations programs, or similar activities as designated and supervised by the professional.

(2) The aide should not engage in any of the following activities:

(A) interpreting observations or data into diagnostic statements, clinical management strategies, or procedures;

(B) determining case selection;

(C) presenting written reports of client information to those other than the supervisor without the signature of the supervisor;

(D) referring a client to other professionals or other agencies;

(E) using any title which connotes the competency of a licensed professional, as defined in the Act, §2.

(3) Any references to the licensee's title shall state clearly that the license status is that of an aide.

(4) A surrogate parent or dormitory parent who utilizes only the concepts of daily living in his or her job performance is not required to be licensed as an aide and may not assume the duties of an aide as defined in these sections.

(c) Direct supervision of duties assigned to the aide shall be provided by a Texas licensed audiologist.

(1) A licensed aide in audiology shall be supervised by a Texas licensed audiologist.

(2) Following on-the-job training, the aide's initial client contact shall be directly supervised. Thereafter, the minimum supervision requirements for an aide by a licensed professional shall be no less than two hours a week, at least half of which is direct on-site supervision. Indirect methods of supervision such as audio and/or video tape recording, telephone communication, numerical data, or other means of reporting may be utilized.

(3) Supervisory records shall be maintained by the licensed professional which verify regularly scheduled monitoring/assessment/evaluation of aide and client performance. Such documentation may be requested by the committee.

(d) Licensed aides will be required to meet continuing education requirements for license renewal, §741.163 of this title (relating to Requirements for Continuing Professional Education).

(e) Special conditions for a time-limited waiver ending September 1, 1988, are provided.

(1) The committee on request may waive degree requirements for licensure as a licensed aide in audiology for applicants who by August 31, 1988, meet the following requirements:

(A) show proof of bona fide employment as a technician, assistant, or other support services personnel directly involved with the speech-language and/or hearing handicapped on September 1, 1984;

(B) perform their employment duties under the supervision of a Texas licensed audiologist. Upon application and each subsequent renewal, a statement shall be submitted by the supervising audiologist, acknowledging his or her acceptance of the supervisory responsibilities. The minimum supervision requirements for an applicant seeking license under these special conditions shall be no less than two hours a week of direct on-site supervision by a licensed professional;

(C) submit initial application forms and nonrefundable application fees for a licensed aide under these special conditions so that it will be received in the committee office no later than May 31, 1986;

(D) show annual proof of pursuit toward licensing as an aide in audiology, by submitting original transcript(s) from the accredited institution(s) in which the 21 semester hours of course work in audiology are taken; and

(E) submit by August 31, 1988, the application for licensed aide in audiology indicating that the full requirements have been met.

(2) Transcripts shall be reviewed as in §741.81(4) of this title (relating to Purpose).

(3) Applicants, and their licensed sponsors, shall be considered subject to

§741.195 of this title (relating to Violations by Nonlicensed Individuals) and §741.196 of this title (relating to Penalties).

(4) Applicants, meeting the criteria of this subsection, who do not succeed in acquiring a license as an aide by August 31, 1988, shall not be eligible for licensure under this time-limited waiver.

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 3, 1985.

TRD-854838 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985
For further information, please call
(512) 458-7502.

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Subchapter G. Licensure Examinations

★ 22 TAC §§741.121-741.129

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the State Committee of Examiners for Speech-Language Pathology and Audiology, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

- §741.121. Purpose.
- §741.122. Frequency.
- §741.123. Applying for Examination.
- §741.124. Forms of Examination.
- §741.125. Location of Examination.
- §741.126. Grading.
- §741.127. Failures.

- §741.128. Notice of Results.
- §741.129. Failure to Appear for Examination.

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 3, 1985.

TRD-854839 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985
For further information, please call
(512) 458-7502.

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★ 22 TAC §§741.121-741.123

The new sections are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.121. Purpose. The purpose of this subchapter is to establish committee rules governing the procedures for examination of applicants for licensure as speech-language pathologists and audiologists.

§741.122. Frequency. Licensure examinations will be administered for the committee by the Educational Testing Service (ETS) to applicants at least twice a year. Requests to take the speech-language pathology or audiology examination should be mailed to Educational Testing Service, NTE Programs, Princeton, New Jersey 08541.

§741.123. Requirements.

(a) The executive secretary shall notify an applicant when all requirements for licensure have been met except the taking and passing of the required examination.

(b) An applicant wishing to take the required examination shall contact the ETS directly for any required registration forms or other information. All fees shall be paid to the testing service.

(c) Upon receiving the request to take an examination, the ETS will furnish a bulletin of information to the applicant that describes the program, procedures for registration, and any requirements or regulations pertinent to the applicant. The date, time, and place of the next scheduled examinations will be furnished to the applicant. A descriptive booklet with sample test questions, along with other materials, will

be furnished to all applicants who register for a particular examination.

(d) An applicant shall have satisfied the examination requirements of the committee if the applicant has passed the national examination in speech-language pathology or audiology administered by the ETS.

(e) Applicants shall indicate on the registration form the Code #8327 assigned to the committee so that the applicant's test score will be sent to the committee.

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 3, 1985.

TRD-854840 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985
For further information, please call
(512) 458-7502.

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Subchapter I. License Renewal

★ 22 TAC §741.163

The amendments are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.163. Requirements for Continuing Professional Education. Continuing professional education requirements must be [of such a nature that they can be] met for renewal of license [without necessitating an extended absence from the licensee's county of residence. All continuing education requirements must be met for renewal of license].

(1) Continuing professional education in speech-language pathology and audiology consists of a series of planned individual learning experiences beyond the basic educational program which has led to a degree or qualifies one for licensure.

(2) A continuing education unit (CEU) is the basic unit of measurement used to credit individuals with continuing education activities for licensure. One CEU is defined as 10 contact hours of participation in an approved continuing education experience.

(3) Continuing education requirements must be of such a nature that they

can be met without necessitating an extended absence from the licensee's county of residence.

(4) If the license has been prorated, the continuing education requirement will begin upon first renewal. Each subsequent renewal, after September 1, 1986, will require documentation of the continuing education experiences.

(5) Ten clock hours/year (one CEU) will be required for yearly renewal. Fifteen clock hours (1.5 CEUs) will be required for holders of dual licenses, at least six of which must be concentrated in each discipline.

(6) Evidence of the acquisition of these hours shall be submitted to the committee no later than the date of return of the license renewal form and fee.

(7) The committee will provide a list of approved continuing education sponsors which will be revised and updated periodically. Any continuing education activity which does not involve an approved sponsor must be approved in advance by the committee.

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 3, 1985.

TRD-854841 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7502.

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Subchapter J. Fees and Late Renewal Penalties

★ 22 TAC §741.181

The amendments are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.181. *Schedule of Fees and Late Renewal Penalties.* The purpose of this section is to establish a schedule of fees and penalties to provide the funds to support the activities of the committee:

- (1) application fee—\$25 [\$50];
- (2) initial license fee for speech-language pathologists (prorated)—\$15 [examination fee—\$50];
- (3) initial license fee for audiologists (prorated)—\$15 [\$60];

(4) initial license [renewal] fee if licensed in both speech-language pathology and audiology (prorated)—\$24 [\$60];

(5) [initial] license renewal fee for speech-language pathologists [aides (prorated)]—\$15 [\$36];

(6) license renewal fee for audiologists [aides]—\$15 [\$36];

(7) license renewal fee if licensed in both speech-language pathology and audiology—\$24;

(8) initial license fee for licensed aides in audiology or speech-language pathology (prorated)—\$15;

(9) initial license fee if licensed as aide in both speech-language pathology and audiology (prorated)—\$24;

(10) license renewal fee for licensed aide in audiology or speech-language pathology—\$15;

(11) license renewal fee if licensed as an aide in both speech-language pathology and audiology—\$24;

(12)[(7)] temporary certificate of registration license fee—\$15 [\$25];

(13)[(8)] duplicate license fee—\$10;

(14)[(9)] delinquency fee—\$50;

(15)[(10)] reinstatement fee—renewal fee plus all unpaid fees; [and]

(16)[(11)] late renewal penalty—\$15 per month following the 60-day grace period; and

(17) any licensee attaining the age of 65 years shall have their license renewal fee waived.

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 3, 1985.

TRD-854842 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7502.

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Subchapter K. Denial, Suspension, or Revocation of Licensure

★ 22 TAC §§741.193, 741.194, 741.197

The amendments are proposed under Texas Civil Statutes, Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.193. *Complaint Procedures.*

(a) An individual wishing to report a complaint or alleged violation of the Act or these sections shall notify the executive secretary, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7502 [458-7531]. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the executive secretary's office.

(b)-(g) (No change.)

§741.194. *Procedures for Denying, Suspending, or Revoking a License.*

(a) Prior to denying, suspending, or revoking a license for a violation of the Act or these sections, the subcommittee shall give the applicant or licensee the opportunity for a formal hearing in accordance with the provisions of subsections (b)-(f) of this section and §741.198 of this title (relating to Formal Hearings).

(b) The subcommittee shall give the applicant or licensee a written notice of the opportunity for formal hearing. The notice must be received by the applicant at least 20 days prior to the hearing. The applicant or licensee has 10 days from receipt of the notice to respond in writing to the subcommittee requesting a hearing. The post-marked date of the response is the date for determining if the response is within 10 days.

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

(f) Formal hearings shall be held in Austin, Texas; however, upon motion of either party or the hearing examiner and for good cause, the hearing officer may upon recommendation of the committee of examiners hold the hearing in another location.

§741.197. *Licensing of Individuals with Criminal Backgrounds to be Speech-Language Pathologists, Audiologists, Licensed Aides in Audiology and Licensed Aides in Speech-Language Pathology.*

(a) (No change.)

(b) Procedures for revoking, suspending, or denying a license to individuals with criminal backgrounds.

(1) (No change.)

(2) If the committee denies, suspends, or revokes a license under this subsection after hearing, the executive secretary will give the individual written notice of the reason for the decision.

(A) The written notice will also inform the individual that after exhausting administrative appeals, he or she may file an action either in a district court of Travis County, Texas, or in a district court of the county of his or her residence for review of the evidence presented to the committee and to review the committee decision; and

(B) The individual must begin the judicial review by filing a petition with the court within 20 [30] days after the committee'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.

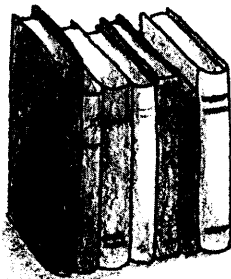
Issued in Austin, Texas, on June 3, 1985.

TRD-854843 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7502.

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Subchapter L. Publications

★22 TAC §§741.208-741.210

The new sections are proposed under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the 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.

§741.208. Registry.

(a) Each year the committee may publish a directory/roster of all licensees.

(b) The directory/roster may include, but not be limited to, names, business addresses, telephone numbers, and professional designations of all current licensees.

(c) Copies of the directory/roster will be available to licensees, other state agencies, and the general public on request.

§741.209. Consumer Information.

(a) The committee may prepare information of consumer interest which describes regulatory functions of the committee and procedures to handle consumer complaints.

(b) The committee may make consumer information available to the general public and appropriate state agencies.

§741.210. Other Publications. The committee, at its discretion, may prepare other publications pertinent to its functions for distribution to licensees and other appropriate recipients.

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 3, 1985.

TRD-854844 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7502.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Crippled Children's Service Program

The Texas Department of Health proposes the repeal of §§37.81-37.106 and new §§37.81-96, 37.98, and 37.107, concerning the Crippled Children's Services Program. The sections cover the areas of eligibility for patient services; services provided to patients; application process; authorization of services, denial, modification, and termination of services; rights and responsibilities of parents, guardians, and conservators; providers and facilities; payment for services; development and improvement of standards and services; appeal procedures; and miscellaneous sections.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect on state government is a reduction in cost of \$6.4 million for the year 1986 and \$5.6 million each year in the years 1987-1990. This is to conform to the funds appropriated for fiscal years 1986 and 1987. There is no anticipated economic cost to local government or small businesses as a result of enforcing or administering the rules.

Mr. Seale also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the updating and clarification of the existing rules and fiscal requirements.

The anticipated economic cost to individuals who are required to comply

with the rules as proposed is that the rules will eliminate some children from coverage, thereby making the patient responsible for his or her own medical bills which could be as little as \$20 per medical condition to \$44,500 per medical condition per child per year.

Comments on the proposal may be submitted to Punam Myer, M.D., M.P.H., Chief, Bureau of Crippled Children's Services Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*. In addition, a public hearing will be held on the proposed sections at 9:00 a.m. on Tuesday, June 25, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

★25 TAC §§37.81-37.106

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeals are proposed under Texas Civil Statutes, Article 4419c, §3, which provide the Texas Board of Health with the authority to adopt rules to implement the Crippled Children's Services Program.

- §37.81. Purpose.
- §37.82. Definitions.
- §37.83. General Purpose.
- §37.84. Introduction.
- §37.85. Conditions Covered.
- §37.86. Conditions Not Covered.
- §37.87. Applications Process.
- §37.88. Eligibility Criteria.
- §37.89. Eligibility Determination.
- §37.90. Authorization of Services.
- §37.91. Service Providers.
- §37.92. Consultants.
- §37.93. Services Provided.
- §37.94. Service Limitations.
- §37.95. Payment for Services.
- §37.96. Third Party Resources.
- §37.97. Service Modification, Suspension, of Termination.
- §37.98. Payment Suspension or Termination/Quality Assurance.
- §37.99. Utilization Review.
- §37.100. Rights and Responsibilities of Parents/Guardians or the Adult Patient.
- §37.101. Advisory Committee.
- §37.102. Gifts and Donations.
- §37.103. Cooperation with Other Agencies.
- §37.104. Confidentiality of Information.
- §37.105. Appeal Procedure.
- §37.106. Nondiscrimination Statement.

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 3, 1985.

TRD-854864

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

Proposed date of adoption:

July 20, 1985

For further information, please call
(512) 465-2680.



★ 25 TAC §§37.81-37.96, 37.98, 37.107

The new sections are proposed under Texas Civil Statutes, Article 4419c, §3, which provide the Texas Board of Health with the authority to adopt rules to implement the Crippled Children's Services Program.

§37.81. *Purpose.* The purpose of these sections is to implement the Crippled Children's Services Program authorized by Texas Civil Statutes, Article 4419c. The program of the Texas Department of Health was created by the legislature to provide rehabilitation services to crippled children who are eligible for services. By law, the program shall provide:

- (1) early identification of crippled children;
- (2) diagnosis and evaluation of crippled children;
- (3) rehabilitation services to crippled children; and
- (4) development and improvement of standards and services for crippled children.

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

Act—The Crippled Children's Services Act, Texas Civil Statutes, Article 4419c.

Active case—All aspects of eligibility have been met. Eligibility continues for a period not to exceed one year's duration, as long as each of the eligibility criteria (a medical condition that is coverable by the program, expectation of improvement/increase in functional independence, financial need, age and residency) are met.

Advisory committee—Those persons appointed by the department to serve in an advisory capacity to the program staff.

Anniversary date—The day in the year on which initial eligibility was established and from which program restrictions based on 12 month limitation periods will be measured.

Applicant—A person making application for the program, but not currently determined eligible.

Approved hospitals—Hospitals approved by the board to provide services to persons covered by the program.

Approved providers—Physicians or dentists approved by the board to provide services to persons covered by the program.

Board—Texas Board of Health.

Cancer—A malignant disease characterized by unrestricted growth of abnormal cells, the natural course of which is fatal; it includes, but is not limited to, leukemia, lymphoma, and histiocytosis.

Central office—The administrative staff of the Crippled Children's Services Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179.

Commissioner—The commissioner of health.

Crippled child—Any person under 21 years of age whose physical functions, movements, or sense of hearing are impaired by reason of a joint, bone, ossicular chain, muscle, neurological defect or deformity, or cancer, to the extent that the person is or may be expected to be totally or partially incapacitated for education or remunerative occupation. Persons with cystic fibrosis, regardless of age, are covered by the legislation.

Date of service—The actual date the service was initiated or provided.

Department—Texas Department of Health.

Eligibility date—The effective date of initial eligibility for the program, which is:

- (A) the date all eligibility requirements were met; or
- (B) the date of service if all written information to establish eligibility was received in the central office within 30 days.

Eligible person—A person who meets all program requirements for eligibility.

Emergency—The sudden onset of a life threatening situation in which a severe debilitating condition or death would result if immediate medical care were not provided.

Expectation of improvement—The person's diagnosis or condition must be such that it is reasonable to expect that as a result of treatment the problem will be corrected or controlled or that increased function will be gained.

Facility—Includes hospitals, ambulatory surgical centers, and outpatient clinics.

Increase in functional independence—The person should have more independent functioning related to the basic activities of daily living, with or without equipment, based on progress in relation to age appropriate tasks or developmental milestones.

Other benefits—Any other resource available to the eligible patient or the legally responsible adult(s) if the patient is a minor,

for the costs of rehabilitation services, including third-party insurance, personal financial resources or a legal cause of action, settlement, or judgment in behalf of the patient.

Patient—An eligible recipient of crippled children's services, also referred to as eligible person.

Program—Crippled Children's Services Program, Texas Department of Health Central Office, 1100 West 49th Street, Austin, Texas 78756-3179.

Rehabilitation—The process of restoring the functions(s) of the body destroyed or impaired by congenital defect, disease, or injury. There must be expectation of improvement based on the medical prognosis made by the physician, while increase in functional independence will be determined by the functional status and potential of the patient as certified by the physician.

Specialty center—A facility and staff which, by virtue of fulfillment of program established minimum standards, is designated by the board for program use for comprehensive diagnostic and treatment services for a specific medical condition.

State—The State of Texas.

Treatment plan—The patient's plan of care (time and treatment specific) certified by and implemented under the supervision of a program approved physician.

§37.83. *Eligibility for Patient Services.* In order for a person to be eligible for crippled children's services, the person has to meet the medical, financial and related criteria in this section.

(1) Medical criteria.

(A) Basic requirements. To be medically eligible for the Crippled Children's Services Program, the patient must have a coverable condition and there must be an expectation of improvement or increase in functional independence. Eligibility under the coverable condition does not mean that the patient is eligible for services under other coverable conditions.

(B) Categories of coverable conditions. The coverable conditions are listed in subparagraph (C) of this paragraph. These conditions include the general conditions described in the Act and the specific conditions approved by the board. The list in subparagraph (C) of this paragraph serves only as a broad guideline to assist potential applicants. The approved specific medical diagnoses for each of these conditions are described in §37.107 of this title (relating to Medical Eligibility Criteria).

(C) List of coverable conditions:

- (i) orthopedically crippling conditions;
- (ii) neurological disorders including epilepsy and spina bifida;
- (iii) cardiovascular conditions;
- (iv) cleft lip and/or palate and other severe craniofacial conditions;
- (v) congenital anomalies of the gastrointestinal tract;

- (vi) cystic fibrosis;
- (vii) cancer;
- (viii) chronic otological conditions affecting the ossicular chain if associated with cleft palate;
- (ix) congenital anomalies of the external genitalia and genitourinary tract, excluding kidneys;
- (x) hemophilia;
- (xi) orthopedic complications of sickle cell anemia;
- (xii) neurofibromatosis; and
- (xiii) severe burns.

(D) Expectation of improvement/increase in functional independence.

(i) The Act provides that a person is not eligible to receive services from the program unless there is expectation of improvement of the condition, or an increase in functional independence, as defined in §37.82 of this title (relating to Definitions). The two conditions of cancer and cystic fibrosis are exceptions to this policy.

(ii) Expectation of improvement will be based on the medical prognosis made by the physician, while increase in functional independence will be determined by the functional status and potential of the patient as certified by the physician. The criteria for these two components are established by the program and may be utilized to set priorities if budgetary limitations make it necessary to restrict services. The criteria by priority are as follows:

Criteria for Expectation of Improvement
By Priority Level

Priority	Expectation of Improvement
1	Excellent
2	Good
3	Fair
4	Poor
5	Grave

Priority	Increase in Functional Independence
1	Independent
2	Requires Minimal Assistance
3	Requires Moderate Assistance
4	Requires Maximum Assistance
5	Maintenance Only

(E) List of conditions not covered. Examples of conditions not covered include:

- (i) prematurity;
- (ii) hyaline membrane disease and respiratory distress syndrome;
- (iii) failure to thrive;
- (iv) apnea;
- (v) acute infectious diseases;
- (vi) digestive, metabolic, or endocrine disorders;
- (vii) fractures not requiring surgery or extensive hospitalization;
- (viii) ophthalmologic conditions;
- (ix) cases requiring life support systems without potential or rehabilita-

tion, including, but not limited to, ventilatory support;

(XII) emotional and psychological conditions;

(XIII) comatose conditions;

(XIV) conditions requiring organ transplantation or experimental procedures.

(2) Financial criteria.

(A) Financial need. Financial need is established on the basis of family income and assets which are legally available to the family.

(i) Family income. The family income used to determine eligibility is the gross income of those persons who have a legal obligation to provide for the applicant. Income includes earned wages, pensions or allotments, child support payments, alimony, or any monies received on a regular basis for family support purposes. Verification of income will be required as set out in §37.85(e) of this title (relating to Application Process of Patient). If the applicant is over the age of 18 and is determined to be in school, the applicant is considered to be a responsibility of the parent, guardian or conservator; if an applicant is over the age of 18, is not in school and/or has been gainfully employed or is living independently, eligibility will be determined by the applicant's individual situation.

(ii) Assets. Assets legally owned or available to the family must be considered as a source of support to provide services for the applicant. Assets include such items as savings, real property other than a homestead, stocks, bonds, mutual or trust funds, IRAs, etc. Exemptions include a homestead (or a farm homestead of not over 200 acres); one automobile for an individual/two for a two parent family. Total assets are limited to a percentage of the amounts established for supplemental security income (SSI) eligibility.

(I) The program will adjust the percentages by priority levels depending on available funds, as follows:

Priority Levels for Total Assets

Priority 1—100% or below of SSI limits
Priority 2—101% to 150% of SSI limits
Priority 3—151% to 200% of SSI limits
Priority 4—201% to 250% of SSI limits

(II) The SSI asset limitations are as follows:

Effective Date	One Parent Family (or Single Adult)	Two Parent Family
1-1-85	\$1,600	\$2,400
1-1-86	1,700	2,550
1-1-87	1,800	2,700
1-1-88	1,900	2,850
1-1-89	2,000	3,000

(iii) Priority level based on federal poverty guidelines. Income guidelines are based on percentages of the current federal poverty guidelines and may be adjusted by the program with the consent of the commissioner to meet budgetary li-

mitations. Coverage is based by program priority on percentages of federal poverty guidelines. Income guidelines are maintained on a current basis and are adopted by reference in §37.98 of this title (relating to Income Guidelines). The program will adjust priority levels depending on available funds. Priority levels in descending order are as follows:

Program Priorities Based on Federal Poverty Income Guidelines

Priority 1—100% or below
Priority 2—101% to 115%
Priority 3—116% to 130%
Priority 4—131% to 145%
Priority 5—146% to 160%
Priority 6—161% to 185%
Priority 7—186% to 200%
Priority 8—201% to 215%
Priority 9—216% to 230%
Priority 10—231% to 245%

(B) Program coverage.

(i) If the factors considered for financial eligibility are within program guidelines, the eligible person will be allowed coverage as defined by the program. Items covered may include physicians' services, hospitalization, occupational and physical therapy, drugs and limited medical supplies, and medical equipment approved for treatment of the condition.

(ii) For all services covered by the program, program payment is considered to be payment in full.

(3) Other benefits available. Any other resource available to the eligible person, or the parent/guardian/conservator if the patient is a minor, must be utilized prior to the use of program funds. This includes benefits from a legal cause of action, settlement, or judgment in behalf of the patient, as well as personal financial resources and third party insurance.

(4) Health insurance. All health insurance policies held by the applicant and/or family must be listed on the application. If insurance eligibility was effective prior to program eligibility, premium payments on individual or group health insurance must continue. If insurance cannot be maintained:

(A) verification of uninsurability from the carrier or the employer must be provided to the program; or

(B) verification of loss of employment and/or inability to make premium payments must be provided.

(5) Age. The applicant must be under the age of 21 except for persons with cystic fibrosis. Persons 18 years of age or over:

(A) may be required to verify age, and

(B) must be claimed as a dependent on the parent's income tax return.

(6) Residency.

(A) The person must be a bona fide resident of Texas. A bona fide resident means a person who:

(i) is physically present within

the geographic boundaries of the state;

(ii) has an intent to remain within the state, whether permanently or for an indefinite period;

(iii) actually maintains an abode within the state (i.e., house or apartment, not merely a post office box);

(iv) does not claim residency in any other state or country;

(v) is a minor child residing in Texas and his/her parent(s) or managing conservator or the guardian of the child's person is a bona fide resident; or

(vi) is a person residing in Texas who is the legal dependent spouse of a bona fide resident; or

(vii) is an adult residing in Texas and his/her legal guardian is a bona fide resident.

(B) A minor assumes the residency status of the parent, guardian, or conservator, with the exception that a child born in the United States of illegal alien parents residing in Texas, is eligible for program services. The child must be considered to be a resident of the state.

(C) Verification of residency will be requested in the form of a valid driver's license, voter registration, motor vehicle registration, rent or utility receipts for two months prior to the date of application, school records, or other proof of residency if determined valid by the central office.

(7) Determination of initial eligibility.

(A) The final determination of eligibility is made by central office personnel using the information provided by Part A and Part B of the application. The program may request verification of any information given to establish eligibility, but at a minimum will require that documentation of income and residency be submitted with Part A of the application.

(B) Eligibility criteria are:

(i) a medical condition that is coverable by the program;

(ii) expectation of improvement/increase in functional independence;

(iii) financial need;

(iv) age; and

(v) residency.

(C) The person's case is considered to be active when all aspects of eligibility have been met and continues for a period not to exceed one year's duration, as long as each of the eligibility criteria in subparagraph (B) of this paragraph are met. The program will respond in writing within 15 working days after the application is received in the central office regarding eligibility status.

(D) Medical eligibility covers only those conditions that are listed on Part B of the application that are coverable and approved by the program. Program coverage of additional conditions will require the submission of another Part B for further medical eligibility determination.

(E) At the time initial eligibility

is established, an eligibility date will be determined and entered into the program record. The eligibility date assigned will be:

(i) the date all requirements for eligibility were met, or

(ii) the date of service if the central office was notified of the need for an application to be made, and if all written information to establish eligibility was received in the central office within 30 days of the date of service.

(8) Determination of continuing eligibility. Eligibility is established for a maximum of one year. Financial and medical eligibility must be reestablished on at least an annual basis.

(A) Medical. On-going coverage of long term conditions may be provided if written plans of care are submitted which are time and treatment specific and are updated at least once per year. The program may request medical reports at any time the information submitted to the program is insufficient to determine continued eligibility or the need for specific services is unclear. Episodic conditions will require short term treatment plans on a more frequent basis. If the medical condition is improved to the degree the person no longer qualifies for the program, the case is considered closed. If the condition no longer meets the criteria for expectation of improvement/increase in functional independence, the person will be considered ineligible and the case will be closed. Upon closure of a case, the family and provider(s) will be notified. Administrative review is available (see §37.96, of this title (relating to Appeals)).

(B) Family circumstances.

(i) To maintain eligibility for program benefits the person must:

(I) continue to reside in the state;

(II) be age eligible;

(III) be in financial need as defined by the program;

(IV) continue health insurance premiums, if applicable;

(V) apprise the program within 30 days of changes in the following:

(-a-) permanent home address;

(-b-) insurance coverage;

(-c-) employment;

(-d-) income;

(-e-) assets.

(ii) The program may request current information when there is indication of a change of family circumstances but no less often than once a year.

(iii) Verification of income and residency will be required.

(iv) If insurance eligibility was established prior to program eligibility, premium payments on individual or group health insurance must continue. Noncompliance with this requirement will result in the termination of program benefits. If the person is considered uninsurable, verification of denial of coverage will be required from the carrier or the employer. If

the family is unable to continue premium payments, verification of unemployment or financial inability to continue premium payments will be required by the program.

§37.84. *Services Provided to Patient.* The Crippled Children's Program provides no direct services but utilizes a reimbursement process through authorization of services rendered by approved and other participating providers. The patient should receive services as close to the home community as possible except in those situations where program contracts or policies require treatment at specific facilities or specialty centers.

(1) Types of assistance.

(A) Initial examination (early identification).

(i) This service is available to those persons whose financial, residence, and age eligibility has been established and who are suspect of having a condition coverable by the program. Any licensed physician in the state may provide the examination, but authorization prior to the exam is required if program payment is to be made. Payment for the examination, inclusive of any office tests or procedures, will be according to program fee schedules. Part B of the application must be submitted as the medical report and attached to the voucher for payment. Only a program approved physician can be reimbursed for further diagnosis, evaluation, and rehabilitation services.

(ii) The examination is available to persons who do not have a family physician nor access to any medical resource in the local community. The examination is made to establish a medical diagnosis so that the applicant can be referred to the appropriate specialty. If the eligible applicant's condition is definable to the extent that a referral can be made directly to a specialist, an approved physician must be used.

(B) Diagnosis and evaluation. Only program approved physicians and dentists may be reimbursed for specialty diagnosis and evaluation. If the diagnostic workup is to include any procedures that are not routine, specific diagnostic tests and procedures must be outlined in the request for services in order for program reimbursement to be made. A medical report must be submitted to the central office on Part B of the application form and must contain prognosis and a plan of treatment, including procedures, equipment, medications, follow-up visits/care by the provider, and any services required in the home community.

(C) Rehabilitation services. As defined by the Act, rehabilitation services means a process of physical restoration of body functions destroyed or impaired by congenital defect, disease, or injury, and may include hospitalization, medical and dental care, braces, artificial appliances, durable medical equipment, medical sup-

plies, and occupational and physical therapy. To be eligible for program reimbursement, the treatment phase must be for a condition included in §37.107 of this title (relating to Medical Eligibility Criteria) and determined by a care plan which will need periodic updating, depending on the condition. The program may establish criteria to determine the necessity of updating plans.

(2) List of services. The following list provides a brief description of the services the program may provide. Authorization must be requested for all services. Services may be limited as to frequency, duration, and cost for budgetary and administrative reasons.

(A) Initial examinations. With authorization prior to service delivery, any person who is suspect of having a condition coverable by the program and who meets the eligibility requirements of Part A of the application may have an examination by any licensed physician in the state.

(B) Medical evaluation and treatment. These services must be provided by physicians approved to participate in the program, except in emergency situations.

(C) Dental evaluation and treatment. Dental care is limited to correction of conditions related to cleft palate and other severe craniofacial anomalies, and to treatment which is essential to prevent bacterial endocarditis before and after cardiac surgery.

(D) Treatment in approved facilities. Hospital care must be provided in facilities approved for program participation, except in emergency situations. The length of stay is limited according to diagnosis and condition of the patient.

(E) Braces and prosthetic devices. These devices must be related to a condition covered by the program and prescribed by an approved physician or dentist whose specialty is related to the condition for which the device is requested.

(F) Medications. Medications must be prescribed by an approved provider for treatment of a condition covered by the program. Payment is made only after delivery of the medications. The provider must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher.

(G) Durable medical equipment. Equipment must be related to a condition covered by the program and must be prescribed by an approved provider whose specialty is related to the equipment requested. Some equipment may be supplied on a contract basis and therefore ordered from a specific supplier. The provider must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher.

(H) Medical supplies. Supplies must be necessary in the treatment of a program covered condition and prescribed by an approved physician or dentist. The pro-

vider must submit proof of receipt by the patient and a copy of the physician's prescription. Articles of routine daily living (for example, diapers) are not provided.

(I) Speech-language pathology. Services are restricted to treatment of cleft palate and cranio-facial anomalies and must be provided by a speech-language pathologist licensed by the state and prescribed by a physician approved for program participation. Initial evaluations, treatment plans, and periodic progress reports covering no more than three months must be submitted to substantiate the need for services.

(J) Occupational and physical therapy. Services must be provided by a therapist licensed by the state and prescribed by a physician approved for program participation. Occupational and physical therapy services must be provided by comprehensive rehabilitation centers, hospitals, or physicians' offices except under extenuating circumstances. Initial evaluations, treatment plans, and periodic progress reports covering no more than three months must be submitted to substantiate the need for services.

(K) Transportation. The program may provide transportation for the patient and, if needed, a responsible adult, to the nearest medically appropriate facility. The lowest cost appropriate commercial carrier should be used. The program cannot assist if the patient is eligible for transportation through Medicaid.

(L) Meals and lodging. The program may provide meals and lodging. The purpose is to enable a parent to obtain inpatient or outpatient care for a child at a center located away from their home or to reduce the length of stay of hospitalization. No meals or lodging are available if the visit is not overnight or if the patient's home town is within a 50-mile radius of the treatment center. The reason for the inpatient or outpatient visit must be directly related to a condition covered by the program.

(M) Transporting of deceased patient. The following services may be provided:

(i) transportation cost for the remains of a patient who expires in an approved facility while receiving program services if the patient was not in the family's city of residence, and the transportation cost of a parent or other person accompanying the remains;

(ii) expenses incidental to embalming of the deceased, as required for transportation;

(iii) a casket purchased at a minimum price as required for transportation;

(iv) other necessary expenses directly related to the care of the deceased's remains and the return of the remains to the place of burial within the state.

(3) Program coverage. To be eligible for program coverage, a person must meet all eligibility requirements of the pro-

gram and be at or below the percentage of the federal poverty guidelines in effect for the program according to income priority levels. Coverage may be limited or restricted if necessary to remain within available funding. The program will notify patients and providers of the extent of coverage when eligibility is determined and when authorization is requested.

(4) Limitations. The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. If funding shortages occur, priority will be given to those persons already eligible and receiving services over those making initial application. The eligibility date will be used to make this determination. Services may also be limited by the following means (not listed by priority):

- (A) conditions covered;
- (B) services provided;
- (C) changes in income priority levels;
- (D) limit of expenditures—by case, by service, by diagnosis, by annual cost;
- (E) expectation of improvement;
- (F) level of independent functioning;
- (G) length of stay (LOS) by procedure.

§37.85. Application Process of Patient.

(a) Availability of application. Applications are available to anyone seeking assistance from the program. Application forms may be obtained from any local or regional health department or the central office. Many hospitals and physicians have application forms available. The completed application form is sent to the central office for eligibility determination. The application is in two parts. Part A provides eligibility information regarding family circumstances; and Part B provides medical eligibility information. Copies of the application forms (Part A and Part B) are available from the central office. To be considered by the program, the application must be made on department forms labeled Part A and Part B shown to be effective after September 1, 1985. Forms utilized prior to September 1985 may be accepted by the program through January 1, 1986, provided information requested on Part A and Part B is received by the program.

(1) To be eligible for the program, the applicant must:

- (A) have a medical condition that is coverable by the program;
- (B) have a condition for which there is expectation of improvement and/or an increase in functional independence;
- (C) be in financial need as defined by the program;
- (D) be under the age of 21 except for persons with cystic fibrosis;
- (E) be a resident of Texas as defined by the program.

(2) The person is considered to be

an applicant from the time the central office is notified (in writing or by telephone) that the person wishes to make application until the determination of eligibility is made by the central office. The program will respond in writing within 15 working days after Part A and Part B of the application are received in the central office regarding eligibility status. Applications will be considered:

(A) denied if eligibility requirements are not met;

(B) incomplete if sufficient family information is not provided (Part A) or if a form effective before September 1, 1985, is used after January 1, 1986;

(C) pending if medical information is not yet available (Part B);

(D) approved if all criteria are met.

(b) Part A—family circumstances.

(1) The applicant, or parent/guardian/conservator if a minor, must submit a properly completed, signed, and notarized application form to the central office. Any documentation requested on the application must be attached to the form or it will be returned as incomplete.

(2) Information required on Part A includes, but is not limited to:

(A) data about the applicant—name, present location, date of birth, place of birth, social security number if applicable, and whether the applicant is currently eligible for Medicaid;

(B) data about the applicant's legally responsible person(s)—name, relationship, present address and permanent address, telephone, how long at present address, whether a resident of the state (requires verification), citizenship status;

(C) health insurance policies providing coverage for the applicant—insurer, policy number, group number, certificate number, and amount of monthly premium;

(D) Income of legally responsible person(s)—requires verification;

(E) assets of legally responsible person(s)—description, value, monthly income available;

(F) other members of the household—name, relationship, age, marital status;

(G) other benefits available to the family or applicant;

(H) parent's statement of applicant's medical or health problem;

(I) name of family physician or medical facility used, if applicable;

(J) agreement to furnish the program a copy of the police report if applicant was injured in an auto accident (the police report must be received in the central office before any payment will be made);

(K) whether applicant's legally responsible adult can provide transportation out of town for medical treatment, if necessary;

(L) name, address, and phone number of person assisting the applicant's family in completing the application.

(3) An application, Part A, is considered incomplete for any of the following reasons:

(A) failure to provide information as requested on the form;

(B) lack of supporting documents, as requested on the form (i.e., income, residency, etc.);

(C) omission of signature on the application of parent/guardian/conservator or the adult applicant;

(D) failure of notarization.

(c) Part B—medical information.

(1) In order to determine medical eligibility for the program, Part B of the application form must be completed and sent to the central office. The physician must provide at least the following:

(A) applicant's name, current address, date of birth, and crippled children's case number if available;

(B) diagnosis by *International Classification of Diseases, Ninth Edition, Clinical Modification*, (ICD-9 Codes) and name(s);

(C) services needed, including procedure (with ICD-9 Codes), equipment, and medications;

(D) names and addresses of facilities to be utilized;

(E) medical prognosis;

(F) functional status, current and future;

(G) treatment plan for a period not to exceed 12 months, including follow-up visits, occupational therapy and physical therapy services, drugs, equipment, and any services required in the home community.

(2) An initial examination is available to persons who do not have a family physician nor access to any medical resource in the local community. The examination is made to insure referral of the applicant to the appropriate specialty. Part A of the application process must be completed and the person determined eligible before authorization for an initial examination can be made. Part B must be submitted as the medical report and attached to the voucher for payment.

(d) Emergency situations. Emergency situations are treated as any other request and notification must be received within five working days of emergency care. The program will require the following specific information: the nature of the emergency; diagnosis; services being requested; name and address of facility; name and address of physician; name, current address, and date of birth of patient/applicant; name, address, and telephone of parents if patient/applicant is a minor. Eligibility must be established before any payment for services can be made; the central office must receive a completed application (Part A and Part B) no later than 30 days after the date of

service was initiated. Failure to comply with this 30-day deadline will forfeit the provider's and patient's/applicant's right to any claim for payment.

(e) Verification. The program may request verification of any information given to establish eligibility. This may include more documentation than required on the application if there is incomplete, inadequate, or conflicting information provided. Verification of income, assets, and residency is required as a minimum. Any application that is not accompanied by appropriate documentation will be returned to the sender as an incomplete application. The following information is required:

(1) Residency.

(A) Verification of Texas residency must be attached to the application and may be in the form of a copy of one of the following:

(i) a valid driver's license;

(ii) voter registration;

(iii) motor vehicle registration;

(iv) rent or utility receipts for two months prior to the month of application;

(v) school records; or

(vi) other documents of proof of residency if considered valid by the central office.

(B) If the applicant is a minor, the residency status of the parent/conservator is applied.

(2) Age. The program may require verification of age through a copy of the applicant's birth certificate or Texas public school record.

(3) Income/assets.

(A) All income of the applicant or legally responsible person(s) must be verified in at least one of the following ways:

(i) copy of the most recent pay check;

(ii) copy of the most recent pay check stub/monthly employee earnings statement;

(iii) employer's written verification of gross monthly income;

(iv) pension/allotment award letters;

(v) Internal Revenue Service Form 1040 and supporting schedules for the most recently completed year. The program may require submission of this item to verify income and assets;

(vi) other documents of proof of income if considered valid by the central office.

(B) If the applicant is over the age of 18, a copy of the legally responsible person's Internal Revenue Service Form 1040 may be required to establish the applicant as a dependent.

(C) If the responsible person(s) is unemployed, a statement of termination from the employer or evidence of Texas unemployment insurance enrollment is required. If the applicant can be confirmed

as Medicaid eligible, no verification of income is required.

(D) The program will request current information on family circumstances on an annual basis or at any time there appears to have been a change that would affect eligibility status.

(f) Notification of acceptance. Notification of eligibility status will be mailed within 15 working days after Part A and Part B of the application have been received by the central office. Any limitations or restrictions of services will be explained, whether related to financial status, the treatment plan, or the budgetary limitations of the program. Any questions regarding coverage should be addressed to the program and not the provider. Incomplete applications will be returned to the applicant.

(g) Denial. The denial of any application to the program will be in writing and will include the reason(s) for such denial. The applicant has the right of administrative review and an administrative hearing as set out in §37.96 of this title (relating to Appeals).

(h) Reapplication. Any person has the right to reapply for program coverage at any time or when there is change of situation or condition. If there has been no service authorized by the program since September 1, 1984, reapplication will be required for continued program coverage. An updated Part A and Part B must be received by the program on each patient at least once every 12 months so that eligibility can be redetermined.

§37.86. Authorization of Services.

(a) Types of authorization.

(1) Standard authorization. Authorization is the program's method of approving the payment of services for an active case. If a service is authorized, payment is guaranteed to the provider if the service is not covered by a third party resource. A request for authorization may be received by telephone or in writing prior to the date of service but must be received within five working days of the service date. The program will not pay for any service rendered more than five working days prior to receipt of notification. All conditions of eligibility must be met. These conditions include a completed application, current and sufficient financial information, current and sufficient medical information, services that are related to a coverable condition, determination by the program that the applicant is eligible, and either:

(A) an approved provider if required under §37.90 of this title (relating to Approved Providers and Facilities);

(B) services prescribed by an approved physician or dentist, or

(C) a provider as classified in §37.91 of this title (relating to Other Participating Providers and Facilities). Any procedures or treatment must be among those services listed under §37.84(2) of this title (relating to Services Provided to Pa-

tient). The program may prioritize or restrict services according to budgetary limitations. It is the provider's responsibility to request services in specific terms so that an authorization may be issued and sufficient monies encumbered to cover the cost of the service.

(2) Conditional authorization.

(A) A conditional authorization is the program's method of approving payment on a conditional basis when there is insufficient information available in the central office to determine eligibility or the need for service. The program must receive notification within five working days of the date of service. The program will not pay for any service rendered more than five working days prior to receipt of notification. Conditional authorization will be used under the following circumstances:

(i) when services need to be provided and eligibility status has not been determined;

(ii) when medical or financial information on an approved patient needs updating; and/or

(iii) when the necessity for a service needs written documentation.

(B) Notification of conditional authorization will be provided in writing to providers and parents with the understanding that the authorization will be honored by the program only if all information needed to establish or confirm eligibility or information to justify the need for a service is received in the central office within 30 days of the date the service was initiated, and if all conditions of eligibility are met. The notification letter will include those items needed by the program to remove the conditional status. If the information is received within the time allowed, a voucher will be issued to the provider. Conditional authorizations will be canceled after the 30 day deadline if the information is not received.

(3) Recurring authorization. A recurring authorization is the program's method of approving a series of services related to an on-going course of treatment for a period of up to 12 months. Recurring authorizations will be issued only if a written plan of treatment is submitted to the program and progress reports are received as requested by the program.

(b) Third-party reimbursement. Under the provisions of the law, any private or public medical insurance or other benefits available to the patient must be utilized prior to the use of program funds.

(1) Public or private health insurance.

(A) Any health insurance policies that provide coverage to the applicant/patient must be utilized before the program can be of assistance. Providers must request authorization of service but must bill private insurance to determine the amount of coverage available prior to submitting any claim to the program for pay-

ment. Third party explanation of benefits (EOB's) must accompany any claim sent to the program for payment. If a claim is rejected by a third party, the provider may bill the program if the service was authorized, and if the rejection letter or EOB is received by the program within 30 days of the date of the rejection, but no later than 180 days from the date of service. Claims rejected by Medicaid or any private insurance on the basis of late filing will not be considered for payment by the program.

(B) The program will not supplement any Medicaid payments; however, services beyond Medicaid coverage can be provided.

(C) The program will not pay any claim rejected by Medicaid on the basis of lack of medical justification.

(2) Liability cases. If a patient's medical condition has resulted from accidental injury in which a claim (liability claim) could be filed, services may be authorized. The program may file an intervention action at the direction of the commissioner through the attorney general's office in any liability suit to gain reimbursement of expended state funds.

(c) Encumbrance system. At the time of authorization, an encumbrance of monies approximate to the cost of service or according to fee schedules as established by the program will be executed in order to provide a means of fiscal accountability and guarantee of payment to providers.

(d) Limitations. The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. The program may establish priorities by type of service for budgetary reasons.

(1) Inpatient hospital care. Payment of inpatient hospital care is limited to 60 days during a 12-month period, based on the patient's anniversary date, and specifically to the number of days allowable according to condition and procedure. Any extension of the specific allowable will require a conditional authorization from the central office and will be based on medical justification. Friday and weekend admissions are not allowed unless an emergency exists. In emergency situations, unapproved providers may request a maximum of two days authorization, or coverage until the patient is stabilized, whichever is less.

(2) Inpatient rehabilitation care. Payment of rehabilitation inpatient care is limited to 90 days during a 12-month period, based on the patient's anniversary date. An initial admission not to exceed 30 days must be based on the functional status and potential of the patient as certified by the physician. Any extension will be dependent on the patient's medical condition, plan of treatment, and progress.

(3) Physical and occupational therapy services.

(A) Physical and occupational therapy services are limited to certain con-

ditions and must not be available from any other source. Services may be provided when progress can reasonably be expected, and when one or more of the following circumstances exist:

(i) the child is age 0-3 and progress can reasonably be expected;

(ii) the child is over three years of age, not presently eligible for special education services through the public school system, and has experienced a change in medical status resulting in a handicapping condition requiring therapy services;

(iii) the child needs short term therapy to assist the rehabilitation process following medical intervention, for example, surgery;

(iv) the child and/or family needs the assistance of a therapist for instruction in activities of daily living, with or without the use of specialized equipment, to develop independence in the home environment.

(B) Services are authorized in relation to evaluation and therapy plan, and may be limited as to frequency and duration.

(4) Other limitations. The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. Services may be limited in the following ways (not listed by priority):

(i) conditions covered;

(ii) services provided;

(iii) changes in income guidelines;

(iv) limit of expenditure by case, diagnosis, service, or annual cost;

(v) expectation of improvement;

(vi) level of independent functioning;

(vii) length of stay (LOS) by procedure.

(e) Services related to surgery (anesthesiology, radiology, pathology). Services related to surgery are considered authorized at the time of the authorization for surgery, if the individual anesthesiologist, radiologist, and/or pathologist request authorization for payment of services within five working days of the date of service. If the patient is covered by public or private health insurance, a copy of the letter of rejection must be attached to the claim and received in the central office within 30 days of the date of rejection (see subsection (a)(1) and (2) of this section).

(f) Approved facilities. The program may make special arrangements with medical facilities or providers to provide specialty services for medical screening, diagnosis, treatment and follow-up for groups of patients for cost-effective reasons. Any such arrangements must be in writing as a letter of agreement or contract, as provided in §37.92 of this title (relating to Contracts and Written Agreements).

(g) Out-of-state services.

(1) Since the Act requires that physicians and dentists be licensed to practice in Texas and hospitals be approved by the Board of Health, authorizations for out-of-state services for medical, dental, or hospital care will not be made. The quality of care at medical centers within the state is comparable to that available in other major centers out-of-state, and services should be provided as close to the patient's home as possible. No out-of-state payments will be made for accidents or injuries or illness that occur out of the state.

(2) Exception: Exceptions may be made in those situations that develop in Texas where it is clearly a hardship or clearly a great risk for a child to be transported to an adequate medical facility in Texas when an out-of-state facility within 50 miles of the Texas border is closer. Under these circumstances, all program policies and procedures will apply, including the legal requirement that physicians and dentists licensed to practice in Texas be utilized.

§37.87. *Denial/Modification/Suspension/Termination of Services.*

(a) Reasons.

(1) Any person requesting or receiving benefits from the program may be notified that such benefits may be denied, modified, suspended, or terminated if:

(A) application information is erroneous or falsified;

(B) the person is no longer a resident of Texas;

(C) pertinent information is not provided when requested;

(D) the medical condition is no longer considered rehabilitative;

(E) the medical condition is improved to the degree that the person no longer qualifies for services;

(F) obligated reimbursement to the program is not provided. (Any person or persons who have a legal obligation to support the patient and have received third party or liability payments must reimburse the department by lump sum payment or, at the department's discretion, in monthly installments);

(G) the patient attains the age of 21, except for patients with cystic fibrosis; or

(H) program funds are reduced or curtailed.

(2) Persons eligible prior to September 1, 1985, and who have received program benefits after April 1, 1985, will remain eligible for program benefits for a one-time only grace period ending March 31, 1986, or six months after the program notifies the responsible person, whichever is earlier. After March 31, 1986, all patients must qualify within the criteria stated in these sections to remain eligible for program coverage. Patients eligible prior to September 1, 1985, and who have not received program benefits after April 1, 1985, must re-apply for program benefits.

(b) Procedure. The program will no-

tify the parent/guardian/conservator or the patient, if an adult, of the action taken and the reasons for such action in writing. The right of appeal is available as stated in §37.96(a) of this title (relating to Appeals).

§37.88. *Rights and Responsibilities of Parents/Guardian/Conservator or the Adult Patient.*

(a) Rights. The parent/guardian/conservator shall have the right:

(1) to apply for eligibility determination;

(2) of free choice of providers within program limitations of approved providers;

(3) to receive services as close to the home community as possible, except when program contracts or policies require the use of specific facilities or specialty centers;

(4) of notification of modification, suspension, or termination of service;

(5) to refuse entry into the home to any employee, agent, or representative of the department;

(6) to appeal program decisions within 10 working days of the date of written notification of program decisions.

(b) Responsibilities. The parent/guardian/conservator shall have the responsibility:

(1) to provide accurate information regarding any change of circumstance which might affect eligibility, within 30 days of such change;

(2) to reimburse the program if third-party payments are made directly to the patient or parent/guardian/conservator for services or equipment purchased by the program;

(3) to consult the provider regarding authorization of service prior to service delivery;

(4) to utilize provided services appropriately, especially to keep appointments and to use supplies and equipment judiciously;

(5) to utilize insurance and other assets and to inform service providers of such benefits/assets;

(6) to notify the program of any other benefits available to the patient at the time of application or thereafter;

(7) to bear a portion of the expense of medical or dental care if deemed financially able by the program items of routine daily living, such as diapers, are not covered by the program.

§37.89. *Providers and Facilities.*

(a) The Act authorizes the board to select the physicians, dentists, facilities, and specialty centers to participate in the program according to criteria and procedures adopted by the board. Because of the varied needs of handicapped children and many disciplines that work with these children, the program has two types of facilities and providers:

(1) those who have made application for participation in the program and have been notified that they are "approved"; and

(2) those not required to be approved by the program that are considered "other participating providers."

(b) In addition, the law requires that all providers accept program payment as payment in full for services furnished or rendered. Since program fee schedules may be lower than customary charges, the program will make every effort to inform all providers of program policies and procedures prior to the delivery of any service.

(c) Providers must request authorization in specific terms in order for the program to determine cost and encumber adequate funds for payment of services so that provider payment can be assured.

(d) The law specifies that payment for program services are secondary to other public and private health insurance programs. Providers must agree to utilize all third-party resources available to the patient, including Medicaid, prior to requesting payment.

(e) Reimbursement for overpayment of services. Overpayments made in behalf of patients to providers must be reimbursed to the department by lump sum payment or, at the discretion of the department, in monthly installments or out of current claims due to be paid the provider.

§37.90. Approved Providers and Facilities. All approved providers must agree to abide by program rules and regulations, to accept program fees as payment in full, and not to discriminate against patients on the basis of insurance or Medicaid status. The following groups of providers must be processed through an application process to determine their desire to participate within the program's rules as approved by the board and to determine their qualifications in relation to the criteria for participation as decided by the board.

(1) Physicians and dentists. To be approved for program participation the person must submit a fully completed application and attach the documents as requested on the form. Criteria and stipulations include but are not limited to:

(A) a valid license to practice medicine or dentistry in Texas;

(B) board certification in a recognized specialty of the Texas American Board of Medical Specialties, or certification by American dental specialty boards (this requirement may be waived by the program only in exceptional situations, for example, medical emergencies and geographic coverage);

(C) an established practice located within Texas;

(D) a specialty practice in the state for at least one year (in exceptional situations, this requirement may be waived).

(2) Hospitals.

(A) Criteria for hospital approval

includes, but is not limited to:

(i) current approval by the Joint Commission on Accreditation of Hospitals;

(ii) location within Texas, unless as provided in §37.86(h) of this title (relating to Authorization of Services);

(iii) program approved medical staff sufficient to meet anticipated program case load;

(iv) a definable pediatric unit or facilities, equipment, and qualified staff necessary to meet the special needs of program eligible patients, as determined by the program;

(v) an occupancy rate during the previous two years not less than the statewide average for the period;

(vi) on-site visits and/or audit privileges to program staff.

(B) To facilitate the availability of medical treatment in all areas of the state, while retaining the assurance of quality care, approval of some hospitals may be on a conditional basis, with restrictions limiting the hospital to treatment of certain specific conditions. Application materials should be updated at least every two years. The program may contract with a limited number of facilities to assure program cost containment.

(3) Ambulatory surgical care facilities.

(A) Ambulatory surgery services may be utilized by the program as a cost efficient means as long as quality of care is assured. Any hospital approved for program participation whose Joint Committee on Accreditation of Hospitals accreditation includes hospital-sponsored ambulatory care services may be utilized for ambulatory surgery. Other facilities that apply for approval and that meet the criteria as set forth by the program, may also qualify for participation. The program may contract with a limited number of facilities to assure program cost containment. As a minimum, such criteria must include:

(i) rights of patients;

(ii) governance;

(iii) administration;

(iv) quality of care;

(v) quality assurance program;

(vi) medical records;

(vii) facilities and environment;

(viii) surgical services;

(ix) pathology and medical laboratory services;

(x) radiology services; and

(xi) other professional and technical services.

(B) The program may also use Medicare certification for ambulatory surgical services provided such centers are proficient in pediatric oriented surgery or services related to handicapping conditions. The criteria used by the Bureau of Licensing and Certification, Special Health Services, Texas Department of Health, includes:

(i) staff requirements;

(ii) record keeping;

(iii) state licensure (not applicable in Texas);

(iv) administration;

(v) medical staff; and

(vi) surgical services.

(4) Specialty centers. The program may recognize centers in various localities in the state which may be designated for program use for diagnosis and treatment of certain conditions needing specialized evaluation and treatment, and comprehensive planning and follow-up. Such facilities must meet specific criteria as set forth by the program. Lists of facilities which are approved for program participation may be obtained from the program.

(5) Other approved providers and facilities. With changes in the health delivery system and in consideration of cost effectiveness and efficiency, the program may, with the approval of the board, establish other areas of approved providers and facilities.

(6) Provider application for program approval.

(A) Applications may be obtained from the central office on request. A copy of the program's rules and regulations and a provider's manual will be mailed to the applicant to provide current information regarding the program. The completed application will be reviewed by program staff for correctness and to verify that all professional criteria have been met, including required documentation. Notification of the status of the application will be made within 15 days of program receipt of the application.

(B) Any provider may withdraw from program participation at any time by notifying the program in writing of its desire to do so.

(7) Denial/modification/suspension/termination of provider or facility approval.

(A) The program may deny, modify, suspend, or terminate the approval of providers or facilities for due cause. Any provider or facility submitting false or fraudulent claims or failing to provide and maintain quality services or medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions.

(B) A due process hearing is available to any provider for the resolution of conflict between the program and the provider.

§37.91. Other Participating Providers and Facilities. The program may use other types of providers that are not required to apply for approval, and may use nonapproved providers for emergency or follow-up care, or in areas of the state where there are no approved providers available. Like approved providers, unapproved providers must adhere to program rules and the fol-

lowing payment procedure to be assured of program payment.

(1) Examples. Examples of other participating providers and facilities are:

(A) nonapproved physicians used for emergencies or follow-up in the local community;

(B) nonapproved hospital outpatient clinics used for follow-up care or related services;

(C) pharmacists;

(D) comprehensive rehabilitation centers, private therapists;

(E) medical supply and/or equipment companies;

(F) meals/lodging facilities;

(G) transportation companies or providers; and

(H) consultants.

(2) Authorization. Providers must request authorization prior to the delivery of service or within five working days of the date of service. The program may cover eligible services rendered no more than five working days prior to the receipt of notification. No payment in advance of service delivery can be made. See §37.86(a) of this title (relating to Authorization of Services).

(3) Quality assurance. All providers and facilities must meet state licensing, registration, or certification laws as required for their discipline or organization.

(4) Program fee schedules. All providers and facilities must accept the fees as set by the program as payment in full. This means that the provider or facility cannot bill parent/guardian/conservator or the adult recipient for the difference between their regular fees and those paid by the program.

§37.92. *Contracts and Written Agreements.* In order to conserve funds and effectively administer the program, the central office may contract on a bid basis for treatment, equipment, medications, supplies, and other services. The program may enter into contracts or written agreements with individuals or organizations in regard to the development and improvement of standards and services for the program. The program may utilize consultants from any medical or dental specialty or other discipline to address specific issues and problems in relation to the identification, diagnosis, and evaluation, or rehabilitation of handicapped children or young adults.

§37.93. *Payment of Services.* No payment will be made for services not authorized by the program except as indicated in paragraph (8) of this section. Payment for any service authorized by the program may be made only after the delivery of the service. If a service has been authorized by the program for payment, the family must not be billed for the service or be required to make a pre-admission or pre-treatment payment or deposit. Providers and facilities must agree to accept established fees as pay-

ment in full although such fees may be below usual and customary charges.

(1) Claims payment, denial, rejection. All payments made in behalf of a recipient will be for claims received by the program within 90 days of the date of service, or the latter date shown on the preprinted program voucher (90-day filing deadline), and/or within the submission deadlines listed in subparagraphs (B) and (C) of this paragraph. Claims will either be paid, denied, or rejected, generally within 60 days of receipt by the program.

(A) Claims will be paid if submitted on the program approved voucher, if authorized and if required documentation is received with the voucher.

(B) Denied claims are claims which are incomplete, submitted on the wrong form, or contain inaccurate information when originally submitted.

(i) Payment may be made if the provider 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.

(ii) If the claim is incomplete because it lacks other third party explanation of benefits (EOB), payment may be made if the original claim and completed EOB's are received by the program within 30 days from the date of the third-party EOB, but no later than 180 days from the date of service.

(iii) Claims that have been denied in error by the program may be reconsidered for payment if the claims, with the error identified, are returned to the program within 30 days of the date of the denial notice, or within the initial 90-day filing deadline, whichever is later.

(iv) Claims that have been denied and are resubmitted for payment must be corrected and be accompanied by a copy of the program notice of denial. Corrections must be made to the original voucher (claim) if at all possible. If a new voucher is submitted, the original claim form must accompany the new voucher. Additional services will not be considered for payment on a resubmitted claim.

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

(i) Claims which have been rejected in error by the program may be reconsidered for payment if the claims, with the error identified, are returned to the program within 30 days of the date of the rejection notice, or within the initial 90-day filing deadline, whichever is later.

(ii) Claims which have been rejected but filed within the 90-day period, if resubmitted for payment, must be corrected. A copy of the program rejection notice must accompany the original claim. Corrections must be made on the original voucher (claim) if at all possible. If a new voucher is prepared, the original voucher

must accompany the new claim form. Additional services will not be considered for payment on a resubmitted claim.

(D) Denied or rejected claims which do not meet the criteria in subparagraphs (B) or (C) of this paragraph may still be appealed through the program administrative review process or through the due process hearing procedure of the department.

(2) Hospitals.

(A) Ratio of Medicare allowable costs to charges (RCC).

(i) Payments to hospitals will be adjusted by the hospital's appropriate RCC, for the date and type of service provided. All hospitals participating in the program are required to submit a sworn statement of costs allowable under provisions of Title XVIII, Social Security Act (Medicare allowable costs), as amended, and the charges used to determine their current RCC. If a submitted RCC exceeds 1.0, the program will reduce the RCC to 1.0 when processing claims. The program may reimburse at less than 100% of the RCC due to equity of reimbursement and/or availability of funds. The participating hospitals must submit the RCC statement within 90 days after the close of their fiscal year. The previous RCC statement would be for the fiscal year immediately preceding the fiscal year covered by the current RCC statement. The current RCC statement will become effective 90 days after the end of the hospital's fiscal year and will apply to all services provided after that date. By definition, the current RCC statement is the statement for the most recently completed fiscal year for the hospital. The previous RCC statement will be used for services provided prior to the effective date of the current RCC. If the current RCC statement is not received by the date it is to become effective, claims for services provided after the effective date will be denied/rejected until the current RCC statement is received.

(ii) Inpatient RCC's will be provided using the Medicare allowable inpatient costs to charges.

(iii) Outpatient RCC's will be provided using the Medicare allowable outpatient costs to charges.

(iv) Hospitals may request revision of their RCC's during the year by submitting a revised RCC statement. The revision will be effective from the date the revised statement is received by the program.

(v) When requested, hospital records supporting these statements will be made available for examination by duly authorized representatives of the department.

(vi) All charges submitted to the program for inpatient or outpatient services will be reduced by the amount that is provided by any other third-party resource covering the patient. The RCC will be applied to the total charges, excluding personal items, before deducting the third-

party payment. An itemized billing detailing services rendered to the patient must be submitted with the payment voucher.

(B) The program may utilize other methods of payment to hospitals if the RCC is discontinued by Medicare or if the program adopts a more cost effective method to pay for inpatient care. The program must give at least a 30-day notice to approved hospitals at any time there is a change in method of payment.

(3) Claims with insurance coverage. Any health insurance policies that provide coverage to the applicant/patient must be utilized before the program can be of assistance. Providers must bill private or public insurance to determine the amount of coverage available prior to submitting any claim to the program for payment. The provider may bill the program if the service was authorized, and if the explanation of benefits (EOB) or the rejection letter is attached to the voucher and is received by the program within 30 days of the date of the rejection, but no later than 180 days after the date of service.

(4) Program fee schedules. The program has adopted fee schedules which apply to most authorized services. Fee schedules are revised as appropriate in relation to available funding and customary charges. The program may adopt other fee schedules through contract or written agreement for budgetary or administrative reasons.

(5) Required documentation. The program requires documentation of the delivery of goods and services from the provider or facility. Program provider information is available to various kinds of providers and facilities on request and notification will be given regarding changes in policies and procedures for required documentation needed.

(6) Ninety-day claims submission deadline. No claim may be considered for program payment if it reaches the central office later than 90 calendar days after the date of service, except for claims involving third party reimbursement, as provided in paragraph (1) of this section.

(7) Overpayments. Overpayments made in behalf of patients to providers must be reimbursed to the department by lump sum payment or, at the department's discretion, out of the current claims due to be paid the provider in behalf of patients. This will also apply to any person or persons who have a legal obligation to support the patient and have received third-party or liability payments. The opportunity for an administrative hearing is available to providers and to the patient or person(s) responsible for the patient, as provided in §37.96 of this title (relating to Appeals).

(8) Linkage with Medically Needy Program. Patients eligible for both the program and the Medically Needy Program (MNP) through the Texas Department of Human Resources (DHR) may submit un-

paid claims used in meeting the MNP spend-down provision, for payment consideration by the program if the services were rendered for a program eligible condition and the services were rendered no more than 30 days prior to the date the program received the patient's application. Claims must be submitted to program after submission to DHR's Medically Needy Program. The program may consider these claims for payment if funds are available and if the program receives within 30 days the claim returned by DHR. These are the only claims that the program may consider for payment without authorization.

§37.94. *Payment Suspension or Cancellation.* The program may suspend or cancel payment for services if false or fraudulent claims are submitted by a provider or supplier. Any provider or supplier failing to provide and maintain quality services or medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions. Providers may request a due process hearing from the department.

§37.95. *Development and Improvement of Standards and Services.*

(a) Advisory committees. The department may establish advisory committees to assist the program with the development of policy alternatives as recommendations to the department. Such areas as medical criteria for program coverage and standards for providers may be addressed by the committee. The composition of advisory committees should include representation by physicians, dentists, facilities, other providers, and the general public. The department will decide the composition, mission, and member compensation of each committee prior to the establishment of the committee. In addition to policy advisory committees, the department may establish an advisory medical review team to review exceptional medical cases of applicants and patients and recommend to the program the extent of coverage permissible under the existing medical policies of the program.

(b) Utilization review.

(1) Utilization review activities may be accomplished through monitoring systems developed to ensure that services are of the appropriate quality and quantity. Utilization review will focus on the medical necessity of all services and the quality of care as reflected by the choice of services provided and the type of provider involved, to ensure an efficient and cost effective administration of the program.

(2) For economies of scale, and with the consent of the commissioner, the program may contract for concurrent or retrospective reviews of all or part of patient care services reimbursed through the program.

(c) Quality assurance. The program may establish a quality assurance unit to review the delivery of services at all levels, that is, central office, regional and local

health departments, and direct service providers. The unit may provide professional support as well as reviewing service delivery components. It should also review consumer satisfaction.

(d) Cooperation with other agencies. The department will cooperate with public agencies, federal, state, and local, and with private agencies and individuals interested in the welfare of crippled children. The program will make every effort to establish cooperative agreements with other state agencies to define the responsibilities of each agency in relation to specific programs to avoid duplication of services.

§37.96. *Appeals.*

(a) Right of appeal. Any person aggrieved by a program decision to modify, suspend, or terminate benefits or participation rights may appeal the decision in the following manner.

(1) Administrative review.

(A) Within 10 working days after receiving notice of modification, suspension, or termination of benefits, the person aggrieved must respond to, or question, the program's decision and notify the central office by certified mail of their request for an administrative review of the program's decision. Additional information bearing on the decision may be submitted at this time.

(B) Upon receipt of this response, a program administrative review team will affirm or reverse the proposed action, and respond in writing to the person, giving the reason(s) for the decision.

(C) Any person aggrieved by the program's administrative review may request a due process hearing from the department.

(2) Due process.

(A) Within 10 working days after receiving the administrative review team's decision, the person must send a notice to the central office by certified mail requesting a due process hearing.

(B) The department will set a date and time at the Texas Department of Health central office in Austin, for the hearing.

(C) The hearing will be conducted in accordance with the provisions of the Act.

(b) Confidentiality of information. All medical records and other information maintained by the department which is confidential by law shall not be disclosed to the public.

(c) Gifts and donations. The department may receive gifts and donations in behalf of the program, which are deposited in the State Treasury and reappropriated to the program.

(d) Nondiscrimination statement. The Texas Department of Health operates in compliance with Title VI, Civil Rights Act of 1964 (Public Law 88-352) and Part 80 of Title 45, Code of Federal Regulations, so that no person will be excluded from participation in, or otherwise subjected to dis-

crimination on the grounds of race, color, or national origin.

§37.98. *Income Guidelines.* The department adopts by reference the income guidelines set out in these sections. A copy of the guidelines is indexed and filed in the Bureau of Crippled Children's Services, Texas Department of Health, 1101 East Anderson Lane, Austin, Texas, and is available for public inspection during regular working hours.

§37.107. *Medical Eligibility Criteria.* The department will apply the medical eligibility criteria as follows:

INFECTIOUS AND PARASITIC DISEASES

COVERABLE DIAGNOSES

ICD-9 CODES

015 (015.0-015.9)
137.3
138

DIAGNOSES LABELS

Tuberculosis of bones and joints
Late effects of tuberculosis of the bone
Late effects of acute poliomyelitis

NEOPLASMS

COVERABLE DIAGNOSES

ICD-9 CODES

140-208
211.3
216
225;228.02
237.7

DIAGNOSES LABELS

All malignant neoplasms
Polyposis Syndrome
Giant blue nevus
Pigmented nevus
Benign neoplasm of brain and other parts of nervous system
Neurofibromatosis

CONDITIONAL DIAGNOSES

ICD-9 CODES

213

DIAGNOSES LABELS

Benign neoplasm of bone (eligible only if medical documentation substantiates a resultant crippling condition)

ENDOCRINE, NUTRITIONAL, METABOLIC, AND IMMUNITY DISORDERS

COVERABLE DIAGNOSES

ICD-9 CODES

255.2
268.0;268.1;275.4
277.00
277.01

DIAGNOSES LABELS

Adrenogenital syndrome
Rickets
Cystic Fibrosis without Ileus
Cystic Fibrosis with Ileus

DISEASES OF BLOOD AND BLOOD-FORMING ORGANS

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

286.0	Congenital factor VIII disorder
286.1	Congenital factor IX disorder
286.2	Congenital factor XI disorder
286.3	Congenital deficiency of other clotting factors
286.4	Von Willebrand's disease

CONDITIONAL DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

287.4	Thrombocytopenia (eligible if secondary to leukemia)
282.6	Sickle cell anemia (eligible only for treatment involving bone or joint)

NEUROLOGICAL DISORDERS

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

237.7	Neurofibromatosis
336.0	Syringomyelia
342 (342.0;342.1)	Hemiplegia
343 (343.0-343.9)	Infantile Cerebral Palsy
344 (344.0-344.4)	Paralytic Syndromes
345 (345.0-345.9)	Epilepsy
741 (741.0-741.93)	Spina Bifida
742.0	Encephalocele
742.3	Congenital Hydrocephalus
191;192	Malignant neoplasm of the brain and nervous system
225	Benign neoplasm of brain and nervous system
952.05-952.09	C6-C7 complete and incomplete spinal cord lesion.
952.1	T1-T12 complete and incomplete spinal cord lesion.
430	Subarachnoid hemorrhage
432.1	Subdural hemorrhage
432.9	Intracranial hemorrhage
436	Cerebrovascular accident

NEUROLOGICAL DISORDERS, continued

CONDITIONAL DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
437.3	Cerebral aneurysm
805	Fracture of vertebral column--no spinal cord injury
331.3	Communicating Hydrocephalus (coverable only if post-hemorrhagic)
331.4	Obstructive Hydrocephalus (coverable only if aqueduct stenosis or secondary to brain tumor)
344.61	Neurogenic Bladder (only eligible with spina bifida or spinal cord injury)
348.0	Cerebral Cysts (coverable only if Arachnoid or Porencephalic)
353.0	Brachial Plexus Lesions (coverable only if associated with neurofibromatosis or trauma)
353.1-353.4	Lumbosacral Plexus Lesions, Cervical Root Lesion, Thoracic Root Lesion, and Lumbrosacral Root Lesion (coverable only if associated with spina bifida or trauma)
354.2;354.3	Ulnar Nerve Lesion (coverable only if associated with trauma)
438	Late effects of cerebrovascular accident (eligible only if sequelae includes paralysis)
742.51	Diastematomyelia (coverable only if associated with spina bifida)
806	Fracture of vertebral column with spinal cord injury (coverable depending on respiratory ability)
952.04;952.05	C4-C5 complete and incomplete spinal cord lesion (coverable depending on respiratory ability)

OTOLOGICAL CONDITIONS

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

383.1
385.22
385.32;385.33
744.04
744.01

Chronic Mastoiditis
Arkylosis of Ossicle
Cholesteatoma of Middle Ear/Mastoid
Anomalies of Ear Ossicles (congenital)
Absence of external ear

OTOLOGICAL CONDITIONS

CONDITIONAL DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

381.10;381.19
381.20;381.29
381.3;381.4
382.3;382.4

Chronic Serous Otitis Media*
Chronic Mucoid Otitis Media*
Chronic Non-suppurative Otitis Media*
Chronic Suppurative Otitis Media*

*These conditions are eligible only if they coexist with cleft palate.

CARDIAC CONDITIONS

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

394.0
394.1
394.2
395.0
395.1
395.2
396 (396.0-396.8)
397.0
397.1
425.1
425.3
425.4
426.0
426.12
426.7
427.0
427.1

Mitral Stenosis
Rheumatic Mitral Insufficiency
Mitral Stenosis with Insufficiency
Rheumatic Aortic Stenosis
Rheumatic Aortic Insufficiency
Rheumatic Aortic Stenosis with
Insufficiency
Diseases of Mitral and Aortic Valves
Diseases of Tricuspid Valve
Rheumatic Diseases of Pulmonary Valve
Hypertrophic Obstructive Cardiomyopathy
Endocardial Fibroelastosis
Primary Cardiomyopathies
Artioventricular Block, Complete
Artioventricular Block/Mobitz II
Anomalous AV Excitation (Wolff-
Parkinson-White Syndrome)
Paroxymal Supraventricular Tachycardia
Paroxymal Ventricular Tachycardia

CARDIAC CONDITIONS, continued

COVERABLE DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
427.32	Atrial Flutter
427.81	Sinoatrial Node Dysfunction
745 (745.0-745.7)	Bulbus Cordis Anomalies and Anomalies of Cardiac Septal Closure
746.01	Congenital Pulmonary Valve Atresia
746.02	Congenital Stenosis of Pulmonary Valve
746.09	Congenital Insufficiency of Pulmonary Valve
746.1	Congenital Tricuspid Atresia/Stenosis
746.2	Ebstein's Anomaly
746.3	Congenital Aortic Valve Stenosis
746.4	Congenital Aortic Valve Insufficiency
746.5	Congenital Mitral Stenosis
746.6	Congenital Mitral Insufficiency
746.7	Hypoplastic Left Heart Syndrome (Norwood Procedure not coverable)
746.81	Subaortic Stenosis
746.82	Cor triatriatum
746.83	Infundibular Pulmonic Stenosis
746.85	Coronary Artery Anomalies
746.86	Congenital Heart Block
747.0	Patent Ductus Arteriosus
747.1	Coarctation of Aorta
747.21	Anomalies of Aortic Arch
747.22	Atresia and Stenosis of Aorta
747.29	Congenital Aneurysm of Aorta
747.3	Atresia, Coarctation, Hypoplasia, Stenosis of Pulmonary Artery
747.41	Total Anomalous Pulmonary Venous Connection
747.42	Partial Anomalous Pulmonary Venous Connection
747.49	Congenital Stenosis of Vena Cava; Transposition of Pulmonary Veins
747.81	Cerebral Arteriovenous Aneurysm, Congenital

CONDITIONAL DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
428.0	Congestive Heart Failure (eligible <u>only</u> if secondary to a coverable cardiac condition)
429.4	Functional disturbances following

CARDIAC CONDITIONS, continued

CONDITIONAL DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

746.87	cardiac surgery (eligible <u>only</u> if surgery was performed for coverable cardiac condition.)
746.89	Malposition of the heart and cardiac apex (coverable <u>only</u> if diagnosis is Ectopia Cordis)
746.9	Other Anomalies of Heart (coverable <u>only</u> if diverticulum, left ventricle) Congenital Heart Anomaly, unspecified (coverable <u>only</u> for diagnostic services - specific diagnosis must be provided for authorization of treatment services)

RESPIRATORY SYSTEM

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

748.0	Choanal Atresia
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CONDITIONAL DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

471	Nasal Polyps (eligible if associated with Cystic Fibrosis)
466;480-491	Pneumonia, Influenza, and Bronchitis (eligible <u>only</u> with Cystic Fibrosis and Cancer)

GASTROINTESTINAL DISORDERS

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

750.3

Tracheosophageal Fistula, Esophageal
Atresia and Stenosis
Congenital Hypertrophic Pyloric Stenosis
Meckel's Diverticulum
Atresia and Stenosis of Small Intestine
Atresia and Stenosis of Large Intestine,
Rectum and Anal Canal
Hirschsprung's Disease and other
Congenital Functional Disorders of Colon
Anomalies of Intestinal Fixation with or
without Volvulus
Congenital Diaphragmatic Hernia
Anomalies of Abdominal Wall
Gastroschisis/Exomphalos/Omphalocele

750.5

751.0

751.1

751.2

751.3

751.4

756.6

756.7

CONDITIONAL DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

550

Inguinal Hernia
(for children less than 6 months old)

560.3

Impaction of Intestine
(eligible if associated with
Hirschsprung's Disease)

751.61

Biliary Atresia
(eligible if child is 3 months of age or
less)

GENITOURINARY DISORDERS

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

344.61

Neurogenic Bladder
(if associated with Spina Bifida or
Spiral Cord Injury)

596.1

599.1

619 (619.0-619.8)

752.5

752.6

752.7

Intestinovesical Fistula
Urethral Fistula
Female Genital Fistula
Undescended Testicle
Male Hypospadias/Epispadias
Indeterminate Sex

GENITOURINARY DISORDERS, continued

COVERABLE DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
753.2	Congenital Obstructive Defects of Ureter, Stricture of Ureter, Atresia of Ureter, Hydroureter
753.5	Bladder Exstrophy
753.6	Atresia and Stenosis of Urethra and Bladder Neck, Congenital Bladder Neck Obstruction, Congenital Stricture/Stenosis of Urethra
753.7	Anomalies of Urachus

CONDITIONAL DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
593.7	Vesicoureteral Reflux (for surgical intervention only)
599.0	Urinary Tract Infection (coverable only if associated with spina bifida, spinal cord lesion, or coverable congenital urinary anomaly)
611.72	Mass or Lump in Breast (coverable only for evaluation to rule out malignancy)

MUSCULOSKELETAL CONDITIONS

COVERABLE DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
711.0	Pyogenic Arthritis
714.31;714.32;714.33	Juvenile Rheumatoid Arthritis
718.3	Recurrent Dislocation of Joint
718.4	Joint Contracture
719.2	Villorodular Synovitis
726.91	Exostosis
727.0	Synovitis and Tenosynovitis
727.4	Ganglion Cyst of Synovium, Tendon, and Bursa
727.5	Rupture of Synovium
727.6	Rupture of Tendon
728.3	Arthrogryposis
730	Osteomyelitis and Periostitis
732.0	Juvenile Osteochondrosis

MUSCULOSKELETAL CONDITIONS, continued

COVERABLE DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

733.1	Pathological Fracture
733.2	Cyst of Bone
733.4	Aseptic Necrosis of Bone
733.8	Malunion and nonunion of Fracture
736 (736.0-736.81)	Acquired Deformities of Limbs
737 and 754.2	Curvature of Spine
754.3	Congenital Dislocation of Hip
754.40	Congenital Genu Recurvatum
754.5	Varus Deformities of Feet
754.6	Valgus Deformities of Feet
755.0	Polydactyly
755.1	Syndactyly
755.2-755.4	Reduction Deformities of Limbs
755.5-755.69	Congenital Anomalies of Limbs
756.0	Anomalies of Skull and Face Bones
756.1	Anomalies of Spine
756.4	Chondrodystrophy
832	Dislocation of Elbow
835	Traumatic Dislocation of Hip
756.5	Osteodystrophy

Fractures due to injury are coverable only if they are (1) compound, and/or (2) require open reduction. EXCEPT:

1. Fractures of the Femur
2. Fractures of the Ankle

CONDITIONAL DIAGNOSES

ICD-9 CODES

DIAGNOSES LABELS

710.3	Dermatomyositis (eligible for muscle/bone involvement only)
710.4	Polymyositis (eligible for muscle/bone involvement only)
719.5	" Pain in Joint (cover only for evaluation for diagnosis)
719.7	Difficulty in Walking (cover only for evaluation for diagnosis)
800-804	Fracture of Skull (<u>Must</u> be depressed fracture; coverable in acute phase if no coma present; consider rehabilitation services depending on child's condition)

MUSCULOSKELETAL CONDITIONS, continued

CONDITIONAL DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
719.0	Effusion of Joint (cover only for evaluation for diagnosis)
719.1	Hemarthrosis (cover only for evaluation for diagnosis)
723.5;754.1	Torticollis (eligible for children under 6 months)

OTHER CATEGORIES OF DIAGNOSES NOT ALREADY SPECIFIED
IN OTHER BODY SYSTEMS

COVERABLE DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
749	Cleft Palate and Cleft Lip
895-897	Amputation of Limbs

CONDITIONAL DIAGNOSES

<u>ICD-9 CODES</u>	<u>DIAGNOSES LABELS</u>
758;759.57;759.8	Chromosomal Anomalies (eligible if associated with coverable condition and/or craniofacial anomalies)
940-949	Burrs (eligible for 2nd degree if hypertrophic scarring is present, and eligible for 3rd degree burrs)

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 3, 1985.

TRD-854863 Robert A. MacLean,
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption:
July 20, 1985
For further information, please call
(512) 458-7236.

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**Chapter 61. Chronic Diseases
Kidney Health Care Program
Benefits**

★25 TAC §§61.1-61.10, 61.12, 61.13

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Health proposes the repeal of and new §§61.1-61.10,

61.12, and 61.13, concerning Kidney Health Care Program benefits. The new sections are to provide for clarity and consistency of language and to facilitate compliance with and administration of the rules. In addition, the rules concern out-of-state facilities, applying for benefits through military hospitals, authorizing a drug formulary, and changing the appeals process. Under the new language for establishing benefit categories, the department is authorized to discontinue co-insurance payments for Method II home patients.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect on state government is a reduction in cost of approximately \$238,000 each year in 1986-1990. There is no anticipated economic effect on local government or small businesses.

Mr. Seale also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is that, administratively, program access and eligibility will be facilitated. In addition, Method II home dialysis recipients will be responsible for the Medicare co-payment portions of their medical expenses, as all other recipients have been since September 1, 1983.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is an increased recipient copayment of approximately \$3,769 per individual per year.

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. 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 1:30 p.m. on June 24, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The repeal is 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.*
- §61.2. *Eligibility Requirements.*
- §61.3. *Payment of Program Benefits.*
- §61.4. *Applications.*
- §61.5. *Residency.*
- §61.6. *Documentation of Residency.*
- §61.7. *Denial of Application; Modification, Suspension, or Termination of Patient Benefits.*

- §61.8. *Kidney Health Care Approved Facilities.*
- §61.9. *Denial, Modification, Suspension, or Termination of Facility Approval; Vendor Hold.*
- §61.10. *Patient Reimbursement Obligation.*
- §61.12. *Nondiscrimination Statement.*
- §61.13. *Forms.*

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 3, 1985.

TRD-854861 Robert A. MacLean
 Deputy Commissioner
 Professional Services
 Texas Department of
 Health

Proposed date of adoption:
 July 20, 1985

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

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The new sections are proposed under Texas Civil Statutes, Article 4477-20, §3(13), which provides 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) In April 1973, the 63rd Legislature of Texas passed the Kidney Health Care Act (Texas Civil Statutes, Article 4477-20), which established the Kidney Health Care Program (hereinafter called program) under the Texas Department of Health. This law authorizes state funds to be expended for the care and treatment of Texans suffering from end-stage renal disease (ESRD).

(b) End-stage renal disease 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, persons 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 military or Veterans Administration hospital located in Texas which has a Joint Commission on Accreditation of Hospitals (JCAH) approved renal unit. Also, the patient must have been certified as having ESRD by a nephrologist licensed to practice in Texas or in the state in which the facility is located through which the application was submitted. Benefits are available for dialysis treatments, hospitalization, laboratory charges, physi-

cian charges, home dialysis supplies, drugs, and transportation.

(c) As used in these sections, the following terms have the meanings indicated.

- (1) Program—The Texas Kidney Health Care Program.
- (2) Department—The Texas Department of Health.
- (3) Recipient—ESRD patient that is eligible for and receiving program benefits.
- (4) Applicant—ESRD patient applying for program benefits.
- (5) Participating facility—Facility approved to participate in the program, which includes: contracted outpatient dialysis facilities, contracted out-of-state facilities, Medicare-approved hospitals located in Texas, and Veterans Administration and military hospitals located in Texas which have a JCAH-approved renal unit.
- (6) Provider—Any person or organization providing approved ESRD-related services to program recipients.
- (7) KHP—Kidney Health Care Program.

§61.2. Eligibility Requirements.

(a) A person will be eligible to receive program benefits when he or she receives program approval after meeting all of the following requirements:

- (1) has a medical diagnosis of end-stage renal disease;
- (2) is a bona fide resident of Texas, is actually present in the state, and furnishes documentation of residency as required by §61.6 of this title (relating to Documentation of Residency);
- (3) makes application through a program-contracted facility, a Medicare-approved hospital licensed in Texas, or a military or Veterans Administration hospital located in Texas which has a JCAH-approved renal unit;
- (4) continues premium payments on individual or group health insurance, prepaid medical plan, and health insurance plans under the Social Security Act, Title XVIII, as amended, where eligibility was effective prior to program eligibility, or provide a completed form KHP-10 to the department as to why such insurance cannot be maintained.

(b) To maintain eligibility for receipt of program benefits, a recipient must meet the following requirements in addition to those listed in subsection (a) of this section:

- (1) maintain Texas residency and, upon demand, furnish evidence of such as referred to in §61.6 of this title (relating to Documentation of Residency);
- (2) apprise the department within 30 days of changes in the following:
 - (A) permanent home address;
 - (B) treatment status and medical diagnosis;
 - (C) insurance coverage; and
 - (D) location of treatment;
- (3) provide income data as requested by the department for purposes of

determining reimbursement obligation;

- (4) reimburse the department as requested for overpayments made to or in behalf of the recipient;
- (5) receive services through participating facilities and providers;
- (6) submit claims for reimbursement in a timely fashion, as specified in §61.3(f) of this title (relating to Payment of Program Benefits) and §61.7(a)(2)(C) of this title (relating to Denial of Application; Modification, Suspension, or Termination of Patient Benefits).

(c) To regain eligibility for receipt of program benefits, a recipient must reapply for benefits in cases where eligibility has lapsed.

§61.3. Payment of Program Benefits.

(a) Depending on the recipient's eligibility status, benefits are available for dialysis treatments, hospitalization, laboratory charges, home dialysis supplies, drugs, and transportation, up to a maximum per recipient based upon:

- (1) available funds;
- (2) covered services, supplies, and drugs;
- (3) any contract between the department and the recipient's participating facility; and
- (4) the reimbursement rates as determined by the department.

(b) Benefits are payable only after all other possible third parties (e.g., private/group insurance, Medicare, Medicaid, or the Veterans Administration) have met their liability. The Texas Board of Health delegates to the commissioner of health the authority to waive this requirement in individually considered cases where its enforcement will deny services to a class of end-stage renal disease patients because of conflicting state or federal laws or regulations.

(c) The department may restrict or categorize service reimbursement to meet budgetary limitations. Categories will be prioritized based upon medical necessity, Medicare eligibility, and projected Medicare payments for the different treatment modalities. 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 department may affect changes in benefits by either adding or deleting entire categories or by proportionate changes across categories, or by a combination of both these methods. The priority list, in order of highest priority, is as follows:

- (1) benefits for drugs and transportation for all patients regardless of Medicare status;
- (2) benefits for dialysis treatments and medical care during the pre-Medicare waiting period;
- (3) benefits for dialysis treatments and medical care for patients not eligible for Medicare coverage;
- (4) benefits for Medicare-eligible patients who dialyze at home but do not re-

ceive all their support from a dialysis facility;

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

(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) Payment can be made either directly to providers of eligible services, or as a reimbursement to the recipient for charges which he or she has paid for eligible services.

(2) Dialysis treatments will be reimbursed at the rates established in the contract with participating facilities.

(3) Payment to hospitals.

(A) RCC statement: Ratio of Medicare allowable costs to charges (RCC) statement. Payments to hospitals will be adjusted by the hospital's appropriate RCC, for the date and type of service provided. All hospitals participating in the program are required to submit a sworn statement of costs allowable under provisions of the Social Security Act, Title XVIII, (Medicare-allowable costs), as amended, and the charges used to determine their current RCC. If a submitted RCC exceeds 1.0, the program will reduce the RCC to 1.0 when processing claims. The participating hospitals must submit the RCC statement within 90 days after the close of their fiscal year. By definition, the current RCC statement is the statement for the most recently completed fiscal year for the hospital. The previous RCC statement would be for the fiscal year immediately preceding the fiscal year covered by the current RCC statement. The current RCC statement will become effective 90 days after the end of the hospital's fiscal year and will apply to all services provided after that date. The previous RCC statement will be used for services provided prior to the effective date of the current RCC. If the current RCC statement is not received by the date it is to become effective, claims for services provided after the effective date will be denied/rejected until the current RCC statement is received.

(B) Inpatient RCCs will be provided using the Medicare-allowable inpatient costs to charges.

(C) Outpatient RCCs will be provided using the Medicare allowable outpatient costs to charges, for outpatient services other than dialysis.

(D) Inpatient dialysis treatments will be reimbursed at the rate of outpatient dialysis for the hospital's geographic area.

(E) Hospitals may request revision of their RCCs during the year by submitting a revised RCC statement. The revision will be effective from the date the revised statement is received at the program.

(F) When requested, hospital records supporting these statements will be made available for examination by duly authorized representatives of the department.

(G) All charges submitted to the program for inpatient and/or nondialysis outpatient services will be reduced by the amount that is provided by any other third-party resource covering the recipient. The RCC will be applied to the total charges, excluding personal items, before deducting the third-party payment. An itemized billing detailing services rendered to the recipient must be submitted with the payment voucher.

(4) Physician services which are related to routine dialysis supervision and follow-up services will be reimbursed 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 maximum affordable payment schedule (MAPS) currently approved for the program by the department. Allowable services and reimbursement rates not listed in the MAPS will be as determined by the department.

(e) All benefits provided in behalf of recipients are limited to charges incurred in Texas except that recipients who are receiving treatment in a participating facility located out-of-state are eligible for transportation benefits to and from the facility, for medical services received at the facility, and for drugs purchased out of state.

(f) All benefits paid in behalf of recipients will be for claims received by the program within 90 days after the date of service rendered (90-day filing deadline) and/or within the submission timetables listed in paragraphs (1)-(3) of this subsection. Claims will either be paid, denied, or rejected. The procedure in paragraphs (1) and (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 newly eligible recipients.

(1) Denied claims are claims which are returned because they are incomplete or contain inaccurate information.

(A) A 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) A 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. Payment may be made if the denied claim and completed EOBs are received by the program within 30 days from the date of the third-party EOB, or within the initial 90-day filing deadline, whichever is later.

(C) Claims which have been denied in error by the program may be reconsidered for payment if the claims, with the error identified, are returned to the program within 30 days of the date of the denial letter, or within the initial 90-day filing deadline, whichever is later.

(D) Claims which have been denied and are resubmitted for payment under the provisions of this policy must be corrected, complete, and be accompanied by a copy of the program letter of denial. Corrections must be made to the original claim form if at all possible. If a new claim form is prepared, the original claim form must also accompany the new claim form when it is resubmitted. Additional services or charges will not be considered for payment on a claim that was initially denied and then resubmitted.

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

(A) Claims which have been rejected in error by the program may be reconsidered for payment if the claims, with the error identified, are returned to the program within 30 days of the date of the rejection letter, or within the initial 90-day filing deadline, whichever is later.

(B) Claims which have been rejected and are resubmitted for payment under the provisions of this policy must be corrected and have been previously filed within the 90-day filing deadline. A copy of the program return letter of rejection must accompany the original claim. Corrections must be made on the original claim if possible. If a new claim form is prepared, the original claim form must accompany the new claim form. Additional services or charges will not be considered for payment on a claim that was initially rejected and then resubmitted.

(3) Initial claims for newly eligible recipients will be processed according to the provisions of subsection (f)(1) and (2) of this section and must meet the coverage limitations of subsection (h) of this section relating to retroactive coverage. Additionally, the following filing criteria will apply:

(A) For newly eligible recipients, claims received within 30 days after the date of the program eligibility letter will be processed for payment. The 90-day filing deadline does not apply during this 30-day period.

(B) Claims received after 30 days from the date of the program eligibility letter will be subject to the full provisions of this subsection and the 90-day filing deadline will apply.

(4) Denied or rejected claims, which cannot be resolved through paragraphs (1)-(3) of this subsection, may be appealed through the department's administrative hearing process as outlined in §61.7 (a)(3) of this title (relating to Denial of Ap-

plication; Modification, Suspension, or Termination of Patient Benefits).

(g) Recipients who regain kidney function after dialyzing for a minimum of three consecutive months and who continue to reside in Texas may remain eligible for program benefits for a maximum of 12 months after the date of their last dialysis treatment. Recipients who regain kidney function after dialyzing less than three months will have their program benefits terminated, effective the day after their last dialysis treatment.

(h) Program benefits may be retroactive as follows.

(1) Except as provided in paragraph (2) of this subsection, benefits may be retroactive a maximum of 90 days prior to the date on which the department receives a complete application (See §61.4 of this title (relating to Applications)); however, such retroactive benefits will not extend prior to the date on which Texas residency was established or for more than 30 days before the date of the first dialysis or transplant surgery.

(2) Access surgery benefits for covered services may be retroactive for a maximum period of 120 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 days before the date of the first dialysis.

(i) Benefits for in-center dialysis recipients are available for covered medical services performed during the waiting period required for Medicare chronic renal disease coverage (pre-Medicare waiting period).

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

(k) Medicare Part A and B premiums may be paid by the program for those recipients that meet certain criteria:

(1) To be eligible for this benefit, recipients must meet the following criteria:

(A) they must be age 65 or over;

(B) they must not be eligible for "premium free" Part A coverage;

(C) they are not covered by a state "buy-in" agreement with the Texas Department of Human Resources (DHR). "Buy-in" occurs when Medicaid covers hospitalization (Part A) and DHR purchases Part B on behalf of their clients.

(2) If a recipient meets the criteria in paragraph (1) of this subsection, then they must take the following actions:

(A) apply through their local Social Security Administration office during the "open-enrollment period" (January through March, with effective date the following July, of each year); and

(B) sign an agreement for the program to purchase Medicare coverage in their behalf.

(C) when the premium billings are received from Medicare, submit them promptly to the program and the program will make payment directly to Medicare.

(l) Drug and transportation benefits are available for all program recipients regardless of their treatment mode.

(m) Transplant patients: Medical care benefits for Medicare noneligible recipients will terminate three years after a successful transplant; however, drug and transportation benefits will remain available as long as program eligibility is maintained.

(n) In the event a recipient is dialyzing at a participating facility that loses its program approval, the program will notify the recipient of this situation. The recipient will remain eligible for all program benefits except those benefits covering medical services which are provided under the contract between the department and the participating facility. To remain eligible for the benefits which cover these contracted medical services, the recipient must transfer to another outpatient dialysis facility that has a KHP approval. Recipient benefits normally provided under contract by an approved outpatient dialysis facility are not eligible for reimbursement while the recipient is dialyzing at a nonapproved facility.

(o) Overpayments made to or in behalf of recipients may be reimbursed to the department by lump sum payment or, at the department's discretion, out of the current claims due to be paid to or in behalf of the recipient. This will also apply to any person or persons who have a legal obligation to support the recipient and have received the overpayment. An opportunity for an administrative hearing, as provided in §61.7 of this title (relating to Denial of Application; Modification, Suspension, or Termination of Recipient Benefits), will be afforded to the recipient or person(s) responsible for support at their request.

§61.4. Applications.

(a) Persons meeting the eligibility requirements set forth in §61.2(a)(1), (2), and (4) of this title (relating to Eligibility Requirements) must make application for benefits through a KHP-contracted facility, a Medicare-approved hospital licensed in Texas, or a military or Veterans Administration hospital located in Texas which has a JCAH-approved renal unit.

(1) Completed application. A complete application shall consist of all of the following:

(A) a properly completed, signed, and notarized original application for program benefits, Form KHP 1;

(B) a copy of the properly completed, signed, and dated Health Care Financing Administration (HCFA) Medical Form 2728-U4;

(C) three documents which are acceptable to the department to provide

evidence of bona fide Texas residency (See §61.6 of this title (relating to Documentation of Residency)); and

(D) a completed KHP-10 statement of health insurance coverage for additional private insurance coverage (if applicable); and

(E) social security card:

(i) a copy of the applicant's personal social security card or a copy of an application for a replacement social security card. A valid Medicare card may be substituted for the social security card if it is in the applicant's own social security number; or

(ii) a copy of an application for a social security number, if the applicant never had a number issued previously. The program application for benefits will be granted provisional approval pending receipt of the copy of the actual card, assuming the application is otherwise complete. The applicant will be put in a suspended benefits status for 90 days or until the copy of the card is received, whichever occurs first. If the 90-day period elapses, the provisional approval will be canceled and the program application will be sent back to the submitting facility. Claims filed during the suspended benefits period will be held until the program application is complete and then they will be processed. If the program application is sent back after 90 days, all claims will also be returned without processing; and

(F) a copy of an official Social Security Administration Medicare denial notification acceptable to the department, if this has already been determined; and

(G) copies of all of the applicant's currently valid public and private health insurance cards. If insurance cards are not issued by the company(ies), a written statement indicating this fact must be provided.

(2) All documentation must be provided in English or have an accurate English translation attached to the document.

(3) Incomplete applications.

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

(i) failure to provide information requested in the application form;

(ii) lack of supporting documents;

(iii) lack of, or improper signatures:

(I) the application must be signed by the applicant; or

(II) an application signed with a "mark" by the applicant must be attested to by the notary; or

(III) if a member of the applicant's immediate family signs for the applicant, the reason they are doing so must be stated on the application;

(iv) the application is not notarized or has an invalid notarization;

(v) lack of legal residency documentation.

(B) Incomplete applications will be returned to the submitting facility or hospital for correction, with the deficiencies noted.

(i) A copy of the letter notifying the facility or hospital that the application is incomplete will be sent to the applicant.

(ii) If the application is incomplete, eligibility will not be determined thereon. The KHP eligibility date will be determined when a properly completed, signed, and notarized application is received. Payment of claims will not be made until an eligibility date has been established.

(4) The KHP eligibility date will be based on the date the department receives a complete KHP application for benefits as specified in this section. The KHP eligibility date will be computed as follows:

(A) 90 days prior to the date the department received a complete application;

(B) 30 days prior to the first dialysis treatment or transplant surgery; or

(C) the date Texas residency was established, whichever is later.

§61.5. Residency. A bona fide resident means a person who:

(1) is physically present within the geographic boundaries of the State of Texas; and

(2) has an intent to remain a resident of the State of Texas, whether permanently or for an indefinite period; and

(3) actually maintains an abode (i.e., a house, apartment, etc., but not merely a post office box) within this state; and

(4) does not claim residency in any other state or country; or

(5) is a minor child residing in Texas and his or her parent(s) or managing conservator or the guardian of the child's person is a bona fide resident; or

(6) is a person residing in Texas who is the legal dependent spouse of a bona fide resident; or

(7) is an adult residing in Texas and his or her legal guardian is a bona fide resident.

§61.6. Documentation of Residency.

(a) Except as provided in subsection (c) of this section, an applicant may submit to the department for consideration the following documentary evidence of bona fide Texas residency: copies of three of the following documents, all in the applicant's name and current address:

(1) a current, valid Texas driver's license, or an identification card issued by the Texas Department of Public Safety;

(2) a complete copy (both sides) of a current, valid Texas voter's registration card;

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

trust to the applicant's abode, mortgage payment receipts from two of the three months immediately preceding the date of the application, rent payment receipts from two of the three months immediately preceding the date of the application, utility payment receipts from two of the three months immediately preceding the date of the application. Only one of the documents in this paragraph may be used;

(5) a current, valid Texas Medicaid card;

(6) current Texas AFDC records;

(7) Texas property tax receipts for the most recently completed tax year;

(8) two of the three most recent payroll or retirement checks received within the three consecutive months immediately preceding the date of application, employment/unemployment records, a statement from a financial institution. Only one of the documents in this paragraph may be used;

(9) a complete copy of United States Immigration and Naturalization Service (INS) Form I-151 or Form I-551 (Alien Registration Receipt Card), a copy of the applicant's most recent change of status application, as submitted to INS, and updated every six months, a complete copy of the forms issued to the applicant by 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-181, and these must be renewed every six months. Only one of the documents in this paragraph may be used.

(b) If three of the documents listed in subsection (a) of this section cannot be provided, then copies of two of the documents listed in subsection (a) of this section may be provided along with a copy of one of the following documents (it must support Texas residency):

(1) a Texas birth certificate;

(2) military service separation records (entry into service from Texas address or separation to a Texas address);

(3) school records;

(4) most recent medical records that contain the applicant's name and current address, other than Form HCFA 2728-U4;

(5) Texas baptismal certificate.

(c) If the requirements of subsection (a)(1)-(8) of this section cannot apply to the applicant, 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) documents relating to and in the name of the applicant's spouse, parent(s), managing conservator(s), or guardian(s); or

(2) a combination of documents relating to and in the name of either the applicant and/or the applicant's spouse, parent(s), managing conservator(s), or guardian(s).

(d) Applications submitted under subsection (c) of this section must also include documentary evidence of the relationship upon which the submission rests as illustrated by, but not limited to, the following:

(1) a marriage license or declaration of nonceremonial marriage to document the marriage of the applicant and spouse;

(2) the birth certificate showing the names of the parents of a minor;

(3) the judgment or other document reciting the appointment of the guardian for the minor or adult ward; or

(4) divorce decree naming the applicant's managing conservator.

(e) If there is a difference between the current name and address of the applicant and the name and address contained on any document submitted to support a determination of bona fide residency, the application must be accompanied by additional documentation as follows:

(1) for documents relating to residency that do not show the applicant's current address or show more than one address, a statement explaining the reason for the difference in the addresses;

(2) for documents relating to residency that show different names each of which is intended to signify the same individual, whether that individual is the applicant or an individual through whom the applicant is seeking to claim bona fide Texas residency, additional documents are required (such as a marriage license or a judgment from a court of competent jurisdiction) to explain the difference in the names shown.

§61.7. Denial of Application; Modification, Suspension, or Termination of Patient Benefits.

(a) Persons applying for or receiving benefits from the program will/may have their application denied or their benefits modified, suspended, or terminated for any of the following reasons.

(1) Benefits will be denied, modified, suspended, or terminated if:

(A) the person is not a bona fide resident of the state;

(B) the person fails or refuses to provide the periodic documentation of residency required in §61.6(b) of this title (relating to Documentation of Residency);

(C) the person does not have end-stage renal disease, regains kidney function, or voluntarily stops treatment for end-stage renal disease;

(D) the person fails or refuses to submit to the department a recipient financial status report for the purpose of determining reimbursement obligation;

(E) the person refuses to reimburse the department after being notified of third-party benefits, recipient reimbursement obligations, or program overpayments;

(F) the person notifies the program in writing that they no longer want to claim program benefits. Such a statement does not free the recipient, or persons with legal obligation to support the recipient, of any reimbursement obligation owing the program at the time of withdrawal;

(G) the person dies.

(2) Benefits may be denied, modified, suspended, or terminated if:

(A) the person submits an application form or any document required in support of the application which contains a misstatement of fact which is material to the department's determination that the person is eligible for program benefits;

(B) the recipient submits false claims to the program;

(C) the program has not paid a claim for benefits on behalf of the recipient during any one-year period;

(D) program funds are curtailed;

(E) funds allocated for payments on behalf of a recipient are exhausted.

(3) Procedures for the denial of applications or modification, suspension, or termination of benefits: Any applicant for or recipient of benefits from the program will be notified if their application may be denied or their benefits may be modified, suspended, or terminated. Notification will be by certified mail to the most recent address known to the program.

(A) These procedures do not apply to adjustments made by the program in the type of program benefits or the amount of benefits available when such adjustments are necessary to conform to budgetary limitations as provided in §61.3 of this title (relating to Payment of Program Benefits).

(B) Within 30 days after receiving the notice mentioned in this paragraph, the applicant/recipient notified or that person's authorized representative must respond to the program's notice with a written response to the program. The response must be by certified mail to the following address: Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Failure to respond will be deemed a waiver of the opportunity to respond to the program and a waiver of the opportunity for a hearing and the proposed action will become final.

(C) Upon receipt of the applicant's/recipient's response, the program will affirm or reverse its proposed action in writing to the applicant/recipient (by certified mail), giving the reason(s) for the decision.

(D) Any applicant/recipient aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal process will be in accordance with department hearing procedures. To initiate the appeal process, the applicant/recipient must notify the department, in writing, that he or she re-

quests a hearing on the decision. The request must be by certified mail and must be received by the department within 10 working days from the receipt of the program's decision letter. Failure to provide written notice will be deemed a waiver of the opportunity for a hearing and the proposed action will become final.

§61.8. Kidney Health Care Approved Outpatient Dialysis Facilities and Out-of-State Facilities.

(a) An approved outpatient dialysis facility is one that:

(1) has met all Medicare certification requirements;

(2) has been assigned a Medicare ESRD provider number;

(3) has entered into a contract with the department to participate in the Texas Kidney Health Care Program and agrees to cooperate with the program in accordance with Texas Civil Statutes, Article 4477-20, and the program rules adopted by the Texas Board of Health; and

(4) has submitted facility operation cost reports for the most recent fiscal year of operation, in a manner prescribed by the department, no later than 90 days after the close of the facility's fiscal year, and an audited (by an independent certified public accountant) cost report within 180 days of fiscal year end;

(5) has authorized the department to conduct audits of its records, at reasonable time intervals, to determine the cost of providing services.

(b) The program approval date may not be earlier than the approval date granted by the Health Care Financing Administration for Medicare ESRD approval.

(c) Facilities under interim approval for Medicare participation also will be classified as interim approval by the program. Recipient claims will be held by the program until the facility is approved by HCFA; however, applications for program benefits will be processed for approval.

(d) The department may contract only with facilities located within the State of Texas. An exception to this requirement may be a situation where it is clearly a hardship or great risk for a program recipient to travel to an adequate medical facility in Texas when an out-of-state medical facility within 50 miles of the Texas border is closer. The out-of-state facility must meet all the requirements of this section for approved facilities within the State of Texas. A contract entered into with an out-of-state facility will be renewed provided all the requirements of this section are met and the department has determined that the hardship or great risk situation continues to exist.

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

(a) The following are reasons for the denial, modification, suspension, or ter-

mination of program facility approval. A program-approved outpatient dialysis facility or out-of-state facility will have its privilege to participate in the program denied, modified, suspended, or terminated if:

(1) the facility loses Medicare approval;

(2) the facility fails or refuses to enter into a contract with the department to participate in the program;

(3) the facility with interim approval from the program fails to get Medicare/HCFA approval;

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

(A) facility fails to comply with terms of applicable contracts and fails to cure such failure within 30 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 contracting parties are unable to agree upon any amendment which would therefore be needed to enable substantial continuation of the provision of recipient services contemplated in the contract;

(D) facility voluntarily withdraws from participation in the program by providing the department with 60 days written notice;

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

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

(A) requested by the department for the purpose of determining the facility's compliance with the provisions of the Texas Kidney Health Care Act or these program rules;

(B) requested by the department for the purpose of monitoring the facility's performance under the contract between the facility and the department;

(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: A copy of the applicable Medicare cost report (HCFA Form 265 or HCFA Form 2552, Supplemental Worksheet I, or their successors) for the fiscal year ending during the period covered by the contract. These copies are due within 90 calendar days after the close of the facility fiscal year. Audited (by an independent certified public accountant) cost reports shall be submitted to the department within 180 days after the close of the facility's fiscal year.

(ii) if the facility is a hospital, to provide the required RCC statement as outlined in §61.3(d)(3) of this title (relating to Payment of Program Benefits);

(iii) other reports as prescribed by the department;

(iv) changes in the facility's Medicare assignment policy and/or Medicare reimbursement rates as they occur;

(v) quarterly verification reports, which are forwarded by the department to each facility, for verification of recipients who are being treated by the facility and for whom benefits have been sought from or paid by the department;

(6) the facility submits false or misleading information to the department and the information is material to the department's determination that the facility is:

(A) approved to participate in the program;

(B) in compliance with the provisions of the Texas Kidney Health Care Act and the program rules; or

(C) in compliance with the provisions of the contract between the facility and the department;

(7) the facility fails to reimburse the program when overpayments have been made;

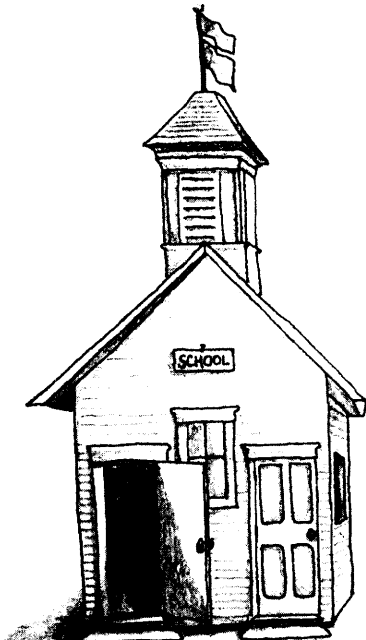
(8) the facility fails to reimburse the program where primary liability for payment of recipient claims has not been satisfied;

(9) the facility files false claims.

(b) Procedures for the denial, modification, suspension, or termination of program facility approval.

(1) The program shall notify the administrator by certified mail of its intent to deny, modify, suspend, or terminate program approval.

(2) Within 30 days after receiving this notice, the facility must respond to the program's notice with a written response to the program. The response must be by certified mail to the following address: Kidney Health Care Program, Texas Department



of Health, 1100 West 49th Street, Austin, Texas 78756. Failure to respond will be deemed a waiver of both the opportunity to respond and of the opportunity for a hearing, and the proposed action will become final.

(3) Upon receipt of the facility's written response, the program will affirm or reverse its proposed action in writing to the facility administrator by certified mail, giving the reason(s) for the decision.

(4) A facility aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal process will be the same as that set forth in §61.7 of this title (relating to Denial of Application, Modification, Suspension, or Termination of Patient Benefits).

(c) Vendor hold. If the department has reasonable cause to believe that a reason for the modification, suspension, or termination of facility approval exists, the department may, without notice to the affected facility, withhold payments to the facility during the pendency of the administrative hearing and appeal process set forth in subsection (b) of this section.

§61.10. Patient Reimbursement Obligation.

(a) Although there is no means test for receiving benefits through the program, the Texas Kidney Health Care Act, §3, does authorize the Texas Board of Health to determine financial standards for the eligibility of recipients to receive program benefits. Under this authority the Texas Board of Health requires that any recipient who has received benefits from the program must pay back to the program either:

(1) an amount not to exceed 5.0% of the recipient's adjusted gross income (or the adjusted gross income of those responsible for the recipient's debts, e.g., spouse, parent) plus the proceeds of insurance, group health plan or prepaid medical care plan, if the proceeds are paid to the recipient or to those responsible for the recipient's debts and if the department has paid for the services upon which the claims for the proceeds are based; minus the following deductions:

(A) \$1,000 (standard deduction); and

(B) the yearly premiums paid by the recipient or the person or persons who have a legal obligation to support the recipient for insurance, group health insurance plan, or prepaid medical care plan which provides benefits to pay the cost or part of the cost of the services required by the recipient because of end-stage renal disease; or

(2) an amount equal to the benefits received from the program, whichever is the smaller amount.

(b) For the purposes of the reimbursement obligation, the program will use the adjusted gross income (AGI) of the recipient and of the person or persons who

have a legal obligation to support the recipient as shown on his or her federal income tax return, Forms 1040, 1040A, or 1040EZ. The person or persons who have a legal obligation to support the recipient will be determined by the applicable law.

§61.12. Nondiscrimination Statement. The department operates in compliance with Title VI, Civil Rights Act of 1964 (Public Law 88-352) and Part 80 of Title 45, Code of Federal Regulations, so that no person will be excluded for participation in, be denied benefits, or otherwise subjected to discrimination on the grounds of race, color, or national origin, sex, creed, handicap or age.

§61.13. Forms. Forms which have been developed by the department for use in the program will be provided to applicants, participating facilities, and providers, as necessary.

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 3, 1985.

TRD-854862

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

Proposed date of adoption:
July 20, 1985

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

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Chapter 73. Laboratories Serologic Testing

★25 TAC §73.11

The Texas Department of Health proposes new §73.11, concerning serologic testing for antibodies to human T-cell lymphotropic virus, type III (HTLV-III).

The new section will authorize the department's laboratory to provide serologic testing for the detection of antibodies to HTLV-III, the virus which may cause Acquired Immunodeficiency Syndrome (AIDS). The new section also will authorize the department to charge fees for the testing, depending on the cost of the reagents. This section is intended to be a permanent replacement of department emergency §73.11, upon its expiration. Emergency §73.11 concerns the same subject and became effective on March 18, 1985.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated additional cost of \$144,000 each year in 1986-1990 and an increase in revenue of

\$144,000 each year in 1986-1990. The anticipated effect on local government is an estimated additional cost of \$192,000 each year in 1986-1990 and an estimated increase in revenue of \$192,000 each year in 1986-1990. There is no anticipated adverse economic effect on small businesses.

Mr. Seale also has determined that for each year of the first five-years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is authorization for the department to assist in reducing the public health hazards posed by AIDS and to reduce the cost of the program to the State of Texas by charging fees for testing.

The anticipated economic cost to individuals who are required to comply with the rule as proposed will vary among local health departments, which will gather the sample and submit to the department's laboratory. It is anticipated that the average cost will be \$8.00 per test.

Comments on the proposal may be submitted to Charles E. Sweet, Dr.P.H., Chief, Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments on the proposal will be accepted for 30 days after publication of this proposal in the *Texas Register*. In addition, a public hearing will be held at 9 a.m. on Thursday, June 27, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 4414c, §2, which provide the Texas Board of Health with the authority to charge fees to persons who receive public health services from the department.

§73.11. Serologic Testing for Antibodies to Human T-Cell Lymphotropic Virus, Type III (HTLV-III).

(a) The department's laboratory may provide serologic testing for the detection of antibodies to HTLV-III, the virus which may cause Acquired Immunodeficiency Syndrome (AIDS). The testing service will be available to local health departments and to other entities as the department may determine.

(b) The department may charge a fee for the testing, up to a maximum of \$20 per test, depending on the cost of the reagents.

(c) The department may not charge a fee which exceeds the cost to the department of providing the service.

(d) The department shall make a reasonable effort to collect the fees, but the department may waive collection if the administrative cost of collection will exceed the fee to be collected.

(e) Fees collected by the department shall be deposited in the state treasury to a special fee fund to be entitled the Texas

Department of Health public health services fee fund.

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 3, 1985.

TRD-854834

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

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7318.

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Chapter 133. Hospital Licensing Standards

★25 TAC §133.21

The Texas Department of Health proposes amendments to §133.21, concerning standards for hospital licensing. The amendments update standards concerning safety, fire prevention, and sanitary provisions that are followed in the design and construction of new hospitals and in renovations, modifications, and additions to existing hospitals.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated increase in fee income of \$178,529 each year in 1986-1990 and a like decrease in general revenue. The net effect is zero. There is no anticipated effect on local government.

The cost of compliance with the rule for small businesses will be the fees set out in Appendix C. The fee is based on the cost of construction. The cost of the plan review would be the same for a small business as for a large business, assuming like construction costs.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is updated standards which are more compatible with federal standards and accreditation entities whose participating hospitals have been granted deemed status under the Texas Hospital Licensing Law, and to offset the cost of the Hospital Licensing Program through increased fee collections. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be the fees listed in Appendix C.

Comments on the proposal may be submitted to Gerald W. Guthrie, Director, Hospital and Professional Licensure Di-

vision, 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 on at 10 a.m. on Friday, June 28, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 4437f, §5, which provide the Texas Board of Health with the authority to adopt minimum standards on safety, fire prevention, and sanitary conditions in hospitals in Texas.

§133.21. Adoption by Reference.

(a) The Texas Department of Health adopts by reference the rules contained in the department publication titled *Hospital Licensing Standards, as amended, 1985*.

(b) Copies of this document are indexed and filed in the Hospital and Professional Licensure Division [Licensing Division], Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

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

Issued in Austin, Texas, on June 3, 1985.

TRD-854835

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

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7531.

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TITLE 28. INSURANCE Part I. State Board of Insurance

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

Powers and Duties Summary Procedures for Routine Matters

★059.01.11.041-.044

The State Board of Insurance proposes amendments to Rules 059.01.11.041-.044, concerning procedures for summary disposition of certain routine matters com-

ing before the State Board of Insurance. These proposals are a modified version of amendments adopted on an emergency basis by board Order 46291, which appeared in the March 1, 1985, issue of the *Texas Register* (10 TexReg 721).

The rules are proposed under the Insurance Code, Article 1.33, which authorizes the board to create summary procedures for certain activities, including the matters addressed in these rules. The activities which are subject to this procedure are ones which are deemed by the board to be routine. They are confined to activities which are voluminous, repetitive, believed to be noncontroversial, and are of limited interest to any persons except those immediately involved or affected by the proposed action.

Certain necessary matters not contained in the original rules are proposed in this amendment. Those matters are added in Rule 059.01.11.042(1) and (2) and in Rule 059.01.11.043(1). The matters added relate to filings by health maintenance organizations, and prepaid legal service contracts and applications for and renewals of licenses for insurance agents and premium finance companies. There are minor editorial changes and corrections in Rule 059.01.11.044, along with a more workable procedure for notice of proposed action and actual decisions.

Doyce R. Lee, general counsel, has determined there will be no fiscal implications for state or local government as a result of these amendments. The cost of additional filings and applications will be offset by the deletion of a requirement of certified mail for proposed negative action and a streamlined procedure for notices of decisions. The cost to small businesses resulting from these amendments will be the direct effect on insurers and other entities which are small businesses and whose filings or other business activities are directly affected. However, there are expected to be no cost implications from these amendments as compared to present procedures.

Mr. Lee also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the rules is an easier and more efficient review process for the agency and persons and entities regulated by the agency. There is no anticipated cost to individuals required to comply with the rules as proposed.

These amendments are proposed under the Insurance Code, Article 1.33, which authorizes the State Board of Insurance to adopt rules to create a summary procedure and designate certain activities as routine matters which should be handled by a summary procedure as authorized by that statute.

.041. Purpose and Scope. The intent of **Rules 059.01.11.041-.045** [these rules] is to formalize agency decision-making chan-

nels and to facilitate agency review of routine matters, pursuant to the Insurance Code, Article 1.33. The board has determined the activities designated in Rule 059.01.11.042 of this title (relating to Designated Activities) to be routine, voluminous, repetitive, noncontroversial, and of limited interest to persons other than those immediately involved in or affected by the proposed agency decision.

.042. Designated Activities. The following statutorily prescribed applications are designated for summary procedure disposition.

(1) Life, accident, or health insurance, health maintenance organization, or pre-paid legal services forms or filings. Filings of life, accident, or health insurance policy form applications respecting [for] approval or disapproval, but not [for] withdrawal of approval, made pursuant to the Insurance Code, Article 3.42, filings of health maintenance organization evidence of coverage respecting approval or disapproval, but not withdrawal of approval, made pursuant to the Insurance Code, Chapter 20A.09, filings by health maintenance organizations for which approval is required under the Insurance Code, Article 20A.04(b), and filings of prepaid legal services forms respecting approval or disapproval but not withdrawals of approval pursuant to the Insurance Code, Article 5.13-1 and Chapter 23.

(2) [Agents] Licenses. Filings of application or renewal for agents and adjusters licenses pursuant to the Insurance Code, Articles 1.14-2, 3.75, 9.35-9.38, 9.41-9.43, 9.56, 20A.15, 21.07, 21.07-1, 21.07-2, 21.07-3, 21.07-4, 21.09, 21.11, 21.14, 23.23, and insurance premium finance licenses pursuant to the Insurance Code, Article 24.03.

(3)-(10) (No change.)

.043. Delegation. The State Board of Insurance hereby delegates to the following deputy commissioners administration over the filings designated in paragraphs (1)-(3)(4) of this rule.

(1) Deputy commissioner for life insurance is responsible for Rule 059.01.11.042(1) of this title (relating to Designated Activities) [filings,] life, accident, and health insurance [forms], health maintenance organization or pre-paid legal services forms or filings and 059.01.11.042(2) of this title (relating to Designated Activities) certain [agents] licenses.

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

.044. Summary Procedure; Notice.

(a) Notice regarding 059.01.11.042(1)-(6). Before taking any action under subsections (c) and (d) [subsection (b)] of this rule with regard to any delegated activities designated under paragraphs (1)-(6) of Rule 059.01.11.042 of this title (relating to Designated Activities), the delegated deputy commissioner specified in Rule 059.01-

.11.043 of this title (relating to Delegation), shall cause to be prominently placed a notice of the proposed agency action on a bulletin board located in the foyer, first floor, 11th Street entrance of the State Board of Insurance Annex, 211 East 11th Street, Austin. The notice shall be posted not less than five days before any action is taken and each notice shall contain:

(1) (No change.)

(2) for matters listed in Rule 059.01.11.042(1) of this title (relating to Designated Activities), the notice shall list the name of the insurer or other entity and shall identify the filing, [type of] form or application number, and the proposed disposition of the matter; and

(3) for matters listed in paragraph (2) of Rule 059.01.11.042 of this title (relating to Designated Activities) the notice shall list the name of the applicant, the [business] address of record of the applicant, the license number of the applicant if applicable, the agency file number of the application and the proposed disposition of the matter; and

(4) for matters listed in paragraphs (3)-(6)(7) of Rule 059.01.11.042 of this title (relating to Designated Activities), the notice shall list the name of the insurer and the name of the insured, where applicable, and the proposed disposition of the matter.

(b) (No change.)

(c) Actual notice for proposed negative action. In the case of proposed negative action, parties directly involved shall be given actual notice at least one week in advance of the action proposed and the reasons for the proposed negative action. Actual notice means notice by [certified] mail, [return receipt requested,] addressed to the last known address of the applicant or if the applicant is represented by an attorney to the applicant's attorney of record.

(d) Notice of decision. For paragraphs (1) and (3)-(10)[(1)-(10)] of Rule 059.01.11.042 of this title (relating to designated Activities), the appropriate deputy commissioner shall record his or her decision by causing the appropriate filing, application, or form to be stamped either "approved by" or "disapproved by" (name of appropriate deputy) deputy commissioner of insurance (appropriate division) and the date and by causing the decision to be recorded by a like stamp on file copy, a microfilm or microfiche copy or by recording said decision in the agency's computer files and causing said stamped filing, application, or form to be mailed to the applicant [in a letter sent to the applicant, a copy of which shall be retained and filed with the application and, in case of a negative action, the return receipt coupon shall be attached thereto]. For paragraph (2) of Rule 059.01.11.042 of this title (relating to Designated Activities), the appropriate deputy commissioner shall indicate his or her positive decision by causing the appropriate license to be mailed to the appli-

cant, and by causing the decision to be recorded in the agency's computer files. Notice of any proposed negative decision with respect to paragraph (2) of said rule shall be in accordance with subsection (c) of this rule.

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

Issued in Austin, Texas, on May 29, 1985.

TRD-854747 James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 475-2950.

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Surplus Lines Insurance

059.01.14.021

The State Board of Insurance proposes an amendment to Rule 059.01.14.021, which adopts by reference Form F-SBI-SL-5, the surplus lines agent's semiannual tax report. The form is amended to delete the words "See Instruction Nos. 1 & 3" and "See Instruction Nos. 1 & 2." These references were inadvertently left in the form when the rule adopting it by reference was amended. The references are to instructions which were formerly contained in the forms but are no longer there. They are therefor proposed to be removed. No cost or fiscal implications are expected from this amendment since the change is editorial only.

Richard B. Schroeter, Excess and Surplus Lines Division manager, has determined that for the first five year period the rule as proposed 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 rule.

Mr. Schroeter also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule is a form with incorrect references deleted. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Richard B. Schroeter, Manager, Excess and Surplus Lines Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendment is proposed under the Insurance Code, Article 1.14-2, §12, which requires surplus lines agents to file semiannual tax reports with the board; Article 1.10(9), which requires the board to

furnish blank forms for statements required to be filed with the board; and Article 1.04; and Texas Civil Statutes, Article 6252-13a, §4, pursuant to which the board may adopt rules which are necessary for it to carry out its statutory function.

.021. Uniformity of Reporting Forms.

(a) Information and memorandums under Article 1.14-2, and required by these rules relating to surplus lines insurance shall be submitted on the forms listed in paragraphs (1)-(5) of this subsection. These forms and Form F-SBI-SL-1 are adopted herein by reference and are made a part of these rules and regulations in order to establish uniformity of records and to facilitate the orderly processing of required information.

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

(4) surplus lines agent's semiannual tax report—Form F-SBI-SL-5 (revised 1985);

(5) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on May 29, 1985.

TRD-854748 James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 475-2950.

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Examination and Corporate Custodian and Tax

★ 059.01.15.204

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Insurance proposes the repeal of Rule 059.01.15.204, concerning reporting by insurers of additional balance sheet liability for reinsurance on paid and unpaid losses due from unauthorized insurers. This rule has been rendered obsolete by the passage of the Insurance Code, Article 3.10A and Article 5.75-2, which now control the subject matter of the rule for most companies. No cost or fiscal implications are expected from this repeal since a change has already been caused by the cited statutes.

Millard Morris, assistant chief examiner, has determined that there will be no

fiscal implications for state or local government or small businesses as a result of this repeal.

Mr. Morris also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the removal of an out-of-date rule. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Millard Morris, Assistant Chief Examiner, State Board of Insurance, 1110 San Jacinto Street, Austin.

The repeal is proposed under the Insurance Code, Article 3.10A and Article 5.75-2, relating to credit which may be taken in the financial statements of certain domestic ceding insurers on account of reinsurance of policies or reinsurance reserve ceded to an assuming insurer which is not licensed to do business in Texas.

.204. Additional Balance Sheet Liability for Reinsurance on Paid and Unpaid Losses Due from Unauthorized Companies.

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

Issued in Austin, Texas, on May 29, 1985.

TRD-854749 James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 475-2950.

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★ 059.01.15.212

The State Board of Insurance proposes amendments to Rule 059.01.15.212, concerning electronic machines constituting a data processing system or systems, and other office equipment, furniture, and labor-saving devices as admitted assets under the Insurance Code, Article 3.01, §10(b). Subsection (b) of the rule lists certain insurers to which the rule is applicable. These amendments add certain other insurers and rewrite a sentence to make it clear that the rule is applicable to every type of insurer to which the Insurance Code, Article 3.01, §10(b), is made applicable by law. Since the only change in the rule is to reference existing law, there will be no fiscal or cost implications as a result of the amendments.

Millard Morris, assistant chief examiner, 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 the rule as proposed.

Mr. Morris also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the the amending of a rule to reflect properly existing statutory law. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Millard Morris, Assistant Chief Examiner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendments are proposed under the Insurance Code, Article 3.01, §10; Article 9.47, §2; and Article 16.24, which relates to the treatment of data processing systems, office equipment, furniture, machines, and labor saving devices as admitted assets of various types of insurers.

.212. Admitted Assets—Insurance Code, Article 3.01, §10(b).

(a) (No change.)

(b) The items enumerated in Article 3.01, §10(b), may be reported as admissible assets only by insurers subject to that law including [in] life insurance companies, title insurance companies, local mutual aid associations, local mutual burial associations, statewide mutual assessment corporations, farm mutual insurance companies, and stipulated premium companies. No other company may include these items as admitted assets. Any asset taken for items enumerated in Article 3.01 should be referred to as an "admitted asset" rather than an "investment." The aggregate assets of both the mortuary and expense funds may be considered as the basis for calculating the 5.0% limitation in determining the amount which may be admitted by a company regulated by the Insurance Code, Chapter 14. Only equipment, furniture, machines, and labor-saving devices used in the offices may be considered as admissible assets. Motor vehicles, aircraft, other transportation equipment, and any equipment other than that normally construed as office equipment are excluded and are not admissible.

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

Issued in Austin, Texas, on May 29, 1985.

TRD-854750 James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 475-2950.

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General Provisions Agents Licensing

059.21.01.111

The State Board of Insurance proposes an amendment to Rule 059.21.01.111, concerning certain qualifications necessary for a person to become an agent for variable life insurance and variable annuity products. This amendment permits qualification under subsection (b) of the rule by successful completion of the National Association of Securities Dealer Series 1 examination. The Series 1 examination is no longer administered. Its inclusion in the rules will permit persons who have heretofore successfully completed it to qualify under subsection (b) of the rule. The board believes that successful completion of the Series 1 examination meets the examination standards necessary under subsection (b).

Woody Pogue, deputy insurance commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. The amendment will result in a savings to small businesses to the extent that a person who is a small business or is connected with a small business qualifies under subsection (b) of the rule by having already successfully completed the Series 1 examination.

Mr. Pogue also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a rule which properly takes into account all examination qualifications appropriate for licensure as a variable contract agent.

There is expected to be a savings to individuals required to comply with the amendment to the extent that the individual qualifies under subsection (b) of the rule by having successfully completed the Series 1 examination.

Comments on the proposal may be submitted to Woody Pogue, Deputy Insurance Commissioner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendment is proposed under the Insurance Code, Article 3.75, §8, pursuant to which the State Board of Insurance may establish such rules as are reasonable and appropriate for the implementation of the Insurance Code, Article 3.75, including, but not limited to, the licensing of agents.

.111. Securities Dealer's License. As a condition of licensure, a variable contract agent (hereinafter referred to simply as "agent") must meet the following requirements:

(a) (No change.)

(b) provide evidence of successful completion of an examination on general

securities principles administered by the National Association of Securities Dealers on either:

- (1) Series 1;
 - (2)[(1)] Series 2;
 - (3)[(2)] Series 6; or
 - (4)[(3)] Series 7; and
- (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 May 29, 1985.

TRD-854752 James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 475-2950.

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Unfair Practices Based on Sex or Marital Status

059.21.21.107

The State Board of Insurance proposes amendments to Rule 059.21.21.107, which is one in a series of rules concerning unfair practices in insurance based on sex or marital status. This rule provides generally that coverage in individual policies must be continued for an individual who otherwise loses coverage due to a change in marital status. It provides in part that for coverage other than life and accident and health, the inception date of new coverage need not precede the earliest date required to maintain continuity of coverage, and that such coverage shall have the same expiration date as the policy under which coverage was issued prior to a change in marital status. The board has determined to amend the later provision respecting the expiration date to permit the insured and insurer to agree on a later expiration date than the same expiration date as the coverage which was issued prior to a change in marital status.

James W. Norman, chief clerk, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small business as a result of enforcing or administering the rule. A later expiration date is purely voluntary. If chosen, it would involve a longer period of exposure to the insurer and a likely increased premium to the insured. The amounts of each would depend on the length of the longer period of exposure and the charge for the particular coverage.

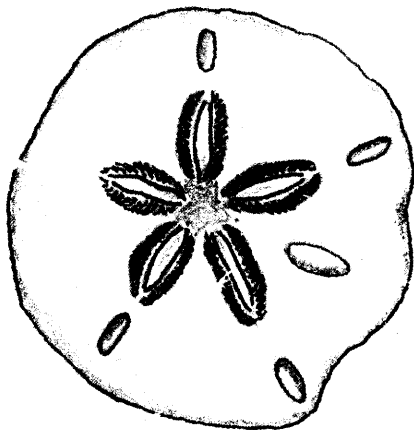
Mr. Norman also has determined that for each year of the first five years the rule as proposed is in effect the public bene-

fit anticipated as a result of enforcing the rule as proposed is a rule which will provide greater flexibility to policyholders and insureds under the rule. There is no anticipated economic cost to individuals required to comply with the rule as proposed. A later expiration date for coverage is purely voluntary. If chosen, it would involve a longer period of exposure to the insurer and a likely increased premium to the insured. The amounts of each would depend on the length of the longer period of exposure and the charge for the particular coverage.

Comments on the proposal may be submitted to James W. Norman, Chief Clerk, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendment is proposed under the Insurance Code, Article 21.21, §3 and §4, which prohibits unfair practices in insurance; under the Insurance Code, Article 21.49-2, pursuant to which the State Board of Insurance may prescribe reasonable rules as to the cancellation of all policies of insurance adopted by the board under the Insurance Code, Chapter 5; and the Insurance Code, Article 3.42, which authorizes the board to disapprove unfair provisions in certain insurance policies.

107. *Continuance of Coverage.* In individual policies, if a person loses coverage due to a change in marital status, that person shall be issued a policy which the insurer is then issuing which most nearly approximates the coverage of the policy which was in effect prior to the change in marital status. The new policy will be issued without evidence of insurability and will have the same effective date as the policy under which coverage was afforded prior to the change in marital status. Provided, however, as respects insurance other than life, accident, and health, the inception date of the policy issued to provide continuity of coverage need not precede the earliest date required to maintain such continuity, and such policy shall have the same expiration date as the policy under which coverage



as issued prior to the change in marital status **except that the insurer and insured may agree on a later expiration date.**

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

Issued in Austin, Texas, on May 29, 1985.

TRD-854753

James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
July 8, 1985

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

(Editor's note: The Texas Water Development Board has filed additional new rules and amendments concerning industrial solid waste which will be published in a future issue of the Texas Register.)

Chapter 335. Industrial Solid Waste

Subchapter D. Standards Applicable to Transporters of Hazardous Industrial Solid Waste

★ 31 TAC §335.91, §335.93

The Texas Department of Water Resources proposes amendments to §335.91 and §335.93, concerning standards applicable to transporters of hazardous industrial solid waste.

The amendments update two references in these provisions to correctly cite the current version of the regulations. These amendments are consistent with other minor clarifications to the industrial solid waste regulations that are proposed simultaneously.

The proposal amends §335.91 to substitute the term "Subchapter A" for the reference to specific sections in Subchapter A, in accordance with the intent of the provision and to allow expansion of the sections in Subchapter A without necessitating an amendment.

The proposal amends §335.93 to delete the incorrect section reference and the date of revision in the State of Texas Oil and Hazardous Substance Spill Contingency Plan, which includes provisions applicable to hazardous waste discharges, since the spill contingency

plan and its section numbers have been revised several times since April 1978. The most recent revision of the spill contingency plan should be referred to in the event a hazardous waste discharge occurs. For further information regarding notification of spills and the contingency plan, please call (512) 463-7727.

Mike Hodges, Fiscal Services Section Chief, 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. Hodges also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the clarification and consistency of the industrial solid waste regulations by updating references and deleting references that are overly specific, to avoid the necessity of later amendments. 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 Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8091.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. The amendments also are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste management by all practical and economically feasible methods consistent with the power and duties given it under the Act and other existing legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.91. Scope.

(a) This subchapter establishes standards for transporters transporting hazardous industrial solid waste to off-site storage,

processing, or disposal facilities. These standards are in addition to any applicable provisions contained in **Subchapter A** [§§335.1-335.16] of this **chapter** [title] (relating to Industrial Solid Waste Management in General).

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

§335.93. *Hazardous Waste Discharge.*

(a) In the event of a discharge of hazardous waste during transportation, the transporter shall notify the department as soon as possible and not later than 24 hours after the occurrence according to the provisions of the Texas Water Code, §26.039, and the procedures set out in the state oil and hazardous substances spill contingency plan [, §.007 (revised April 1978)] and also take immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge).

(b)-(e) (No change.)

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

Issued in Austin, Texas, on June 3, 1985.

TRD-854851 Susan Plettman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 463-8091.

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Subchapter E. General Facility Standards

★ **31 TAC §335.114**

The Texas Department of Water Resources (TDWR) proposes an amendment to §335.114, concerning general waste analysis at the hazardous waste management facility. The amendment adopts the use of the term "manifest" as a replacement for the term "shipping ticket" in accordance with the joint rule-making efforts of the U.S. Environmental Protection Agency (EPA) and the Department of Transportation (DOT), resulting in a final rule published in the March 20, 1984, issue of the *Federal Register* (49 FedReg 10490). The EPA/DOT rules, which became effective September 20, 1984, establishes a uniform hazardous waste manifest form and requires the use of the new form for all regulated shipments of hazardous waste. The TDWR intends to use the uniform manifest form for all shipments of Class I industrial solid waste, and has adopted the federal form for the state's purposes. These rules were incorporated into the TDWR industrial solid waste regulations in proposed rules published in the September 4, 1984, issue of the *Texas Register* (9 TexReg 4709) and published as final rules in the December 4, 1984, issue of the *Texas Register* (9 Tex-

Reg 6132). This amendment merely changes the terminology from shipping ticket to manifest in some provisions that were overlooked in the earlier rule-making.

The proposal amends §335.114 to substitute the term "manifest" for the term "shipping ticket" at each appearance in the section.

Mike Hodges, Fiscal Services Section Chief, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is consistency in terminology with other provisions of the industrial solid waste regulations. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8091.

These amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. The amendments also are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorize the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste, and further directs the department to promulgate rules requiring persons who generate, transport, process, store or dispose of Class I industrial solid waste or hazardous waste to provide record keeping and use a manifest or other appropriate system to assure that such wastes are transported to a storage, processing, or disposal facility permitted or to otherwise authorized for that purpose. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste-management by all practical and economically feasible methods consistent with the powers and duties given it under

the Act and other existing legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.114. *General Waste Analysis.*

(a) Before an owner or operator stores, processes, or disposes of any hazardous waste, he must:

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

(3) the analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated:

(A) (No change.)

(B) for off-site facilities, when the results of the inspection required in paragraph (4) of this subsection indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying **manifest** [shipping ticket] or shipping paper.

(4) The owner or operator of an off-site facility must inspect and, if necessary, analyze each hazardous waste movement received at each facility to determine whether it matches the identity of the waste specified on the accompanying **manifest** [shipping ticket] or shipping paper.

(b) (No change.)

(c) For off-site facilities the waste analysis plan required in subsection (b) of this section must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying **manifest** [shipping ticket] or shipping paper. At a minimum, the plan must describe.

(1)-(2) (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 3, 1985.

TRD-854852 Susan Plettman
General Counsel
Texas Water
Development Board

Earliest possible date of adoption:
July 8, 1985
For further information, please call
(512) 463-8091.

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Subchapter G. Contingency Plan and Emergency Procedures

★ **31 TAC §335.157**

The Texas Department of Water Resources (TDWR) proposes an amendment to §335.157, concerning contingency plans and emergency procedures. The amendment updates the reference to the

State of Texas oil and hazardous substances spill contingency plan, in accordance with other clarifications to the industrial solid waste regulations that are proposed simultaneously in this issue. The proposal amends §335.157 to delete the incorrect section reference and the date of revision in the State of Texas oil and hazardous substances spill contingency plan, which includes provisions on releases at a facility, since the spill contingency plan has been revised several times since April 1978. The most recent revision of the spill contingency plan should be referred to in the event a hazardous waste discharge occurs. For further information regarding notification of spills and the contingency plan, please call (512) 463-7727.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the clarification and consistency of the industrial solid waste regulations by updating references and deleting references that are overly specific to avoid the necessity of later amendments. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas (512) 463-8091.

The amendment is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. The amendment also is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste management by all practical and economically feasible methods consistent with the powers and duties given it under the Act and other ex-

isting legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.157. *Emergency Procedures.*

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

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, he must report his findings as follows.

(1) (No change.)

(2) He must immediately notify the department according to procedures set out in [§.007 of] the **State of Texas oil and hazardous substances spill contingency plan**, Revised April 1978].

(A)-(F) (No change.)

(e)-(j) (No change.)

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

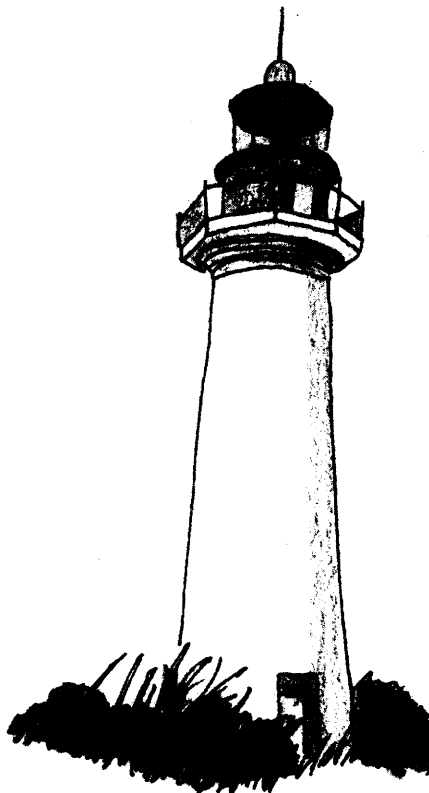
Issued in Austin, Texas, on June 3, 1985.

TRD-854848

Susan Plettman
General Counsel
Texas Department of
Water Resources

Proposed date of adoption:
July 8, 1985

For further information, please call
(512) 463-8091.



Subchapter H.

Recordkeeping and Reporting Requirements

★31 TAC §335.173

The Texas Department of Water Resources (TDWR) proposes an amendment to §335.173, concerning record keeping and reporting requirements for hazardous waste. The amendment clarifies and correctly references the citations within these provisions that are inaccurate due to later regulatory amendments or typographical errors. The proposed amendment to §33.173 inserts the reference to Subchapter B to distinguish between the appendices to Subchapters A and B. The manifest sections which were published as final sections in the December 4, 1984, issue of the *Texas Register* (9 TexReg 6132), adopted an appendix to Subchapter A and therefore created a need to clarify that prior references to appendices are located in Subchapter B.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is clarification and consistency of the industrial solid waste regulations. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8091.

The amendment is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. The amendment also is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste management by all practical and economically feasible methods consis-

tent with the powers and duties given it under the Act and other existing legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.173. *Operating Record.*

(a) (No change.)

(b) The following information must be recorded as it becomes available and maintained in the operating record until closure of the facility.

(1) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by **Subchapter B**, Appendix I;

(2)-(6) (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 3, 1985.

TRD-854853

Susan Plettman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 8, 1985

For further information, please call
(512) 463-8091.

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Subchapter M. Tanks

★31 TAC §335.267

The Texas Department of Water Resources (TDWR) proposes amendments to §335.267, concerning requirements for wastes in tanks.

The amendments clarify the citations within these provisions that need updating as a result of regulatory amendments. The manifest rules, which were published as final rules in the December 4, 1984, issue of *Texas Register* (9 TexReg 6132), adopted an appendix to Subchapter A and therefore created a need to specify which subchapter an appendix appears in. The proposal amends §335.267 to specify that the referenced appendix appears in Subchapter B.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the

clarification and consistency of the industrial solid waste regulations. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8091.

The amendments are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. These amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste management by all practical and economically feasible methods consistent with the powers and duties given it under the Act and other existing legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.267. *Special Requirements for Incompatible Wastes.*

(a) Incompatible wastes, or incompatible wastes and materials (see **Subchapter B**, Appendix IV, for examples) must not be placed in the same tank unless §335.118(b) of this title (relating to General Requirements for Ignitable, Reactive, or Incompatible Wastes) is complied with.

(b) (No change.)

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

Issued in Austin, Texas, on June 3, 1985.

TRD-854846

Susan Plettman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 8, 1985

For further information, please call
(512) 463-8091.

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Subchapter R. Incinerators

★31 TAC §335.361

The Texas Department of Water Resources (TDWR) proposes amendments to §335.361, concerning incinerators of hazardous waste.

The proposal amends Subchapter R to incorporate the regulatory changes promulgated by the U.S. Environmental Protection Agency (EPA) in the *Federal Register* publication of January 4, 1985, at 50 FedReg 614. Technical corrections to the January 4, 1985, rules were published at 50 FedReg 14216 on April 11, 1985. The new regulations revise the definitions of solid and hazardous wastes, address the question of which materials are solid and hazardous wastes when recycled, and set forth standards and definitions for various other waste management activities. The preamble to the federal regulations and the preambles to Subchapter A and Subchapter B of the Texas industrial solid waste regulations appearing in this issue of the *Texas Register* may provide assistance in understanding the intent and scope of these regulations.

The amendment incorporates the federal regulations by amending the definition of solid and hazardous wastes and provides other definitions and standards for various types of waste management activities.

The proposal amends §335.361 to clarify the applicability of the provisions imposing standards on incinerators of hazardous waste. Subchapter R will apply to owners and operators of industrial solid waste facilities that incinerate hazardous waste, except as provided in §335.41, which describes the applicability of the hazardous industrial solid waste provisions to certain activities and materials. Section 335.361 now specifies which facility owners and operators are considered to incinerate hazardous waste, including owners and operators of devices that meet the definition of "incinerator" in §335.42, and owners and operators who burn wastes in boilers or industrial furnaces to destroy the wastes.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the improvement of the state's ability to assure protection of human health and the environment by clarifying existing regulations and providing consistency with the federal hazardous waste program under the Resource Conservation and Recovery

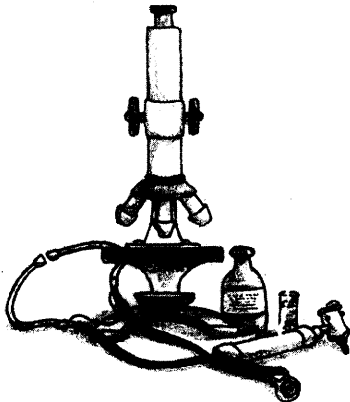
Act (RCRA) in response to regulatory amendments promulgated by the EPA. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8091.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. These amendments also are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste management by all practical and economically feasible methods consistent with the powers and duties given it under the Act and other existing legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.361. Applicability.

(a) Except as provided in §335.41 of this title (relating to Purpose, Scope, and Applicability) [subsection (b) of this section], this subchapter applies to owners and operators of industrial solid waste facilities that incinerate [process] hazardous waste [in incinerators]. The following facility owners or operators are considered to incinerate hazardous waste:



(1) owners or operators of hazardous waste incinerators (as defined in §335.42 of this title (relating to Definitions)); and

(2) owners or operators who burn hazardous waste in boilers or in industrial furnaces in order to destroy the wastes.

(b) (No change.)

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

Issued in Austin, Texas, on June 3, 1985.

TRD-854856

Susan Plettman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 8, 1985

For further information, please call
(512) 463-8091.

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Subchapter S. Thermal Processing

★31 TAC §335.381

The Texas Department of Water Resources (TDWR) proposes amendments to §335.381, concerning thermal processing of hazardous industrial solid waste.

The proposal amends Subchapter S to incorporate the regulatory changes promulgated by the U.S. Environmental Protection Agency (EPA) in the *Federal Register* publication of January 4, 1985, at 50 FedReg 614. Technical corrections to the January 4, 1985, rules were published at 50 FedReg 14216 on April 11, 1985. The new regulations revise the definition of solid and hazardous wastes, address the question of which materials are solid and hazardous wastes when recycled, and set forth standards and definitions for various other waste management activities. The preamble to the federal regulations and the preambles to Subchapters A and B of the Texas industrial solid waste regulations appearing in this issue of the *Texas Register* may provide assistance in understanding the intent and the scope of these regulations.

The amendments incorporate the federal regulations amending the definition of solid and hazardous wastes and provides other definitions and standards for various types of waste management activities.

The proposal amends §335.381 to clarify that Subchapter S applies to owners and operators of industrial solid waste facilities that thermally process hazardous waste in devices other than those enclosed devices using controlled flame combustion, except as provided in §335.41, which describes the applicability of the hazardous waste provisions to certain materials and activities. Section

335.381 also provides that thermal processing in units that qualify as incinerators is subject to regulation under Subchapter R, governing incinerators.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the improvement of the state's ability to assure protection of human health and the environment by clarifying existing regulations and providing consistency with the federal hazardous waste program under the Resource Conservation and Recovery Act (RCRA) in response to regulatory amendments promulgated by the EPA. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8091.

The amendments are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. These amendments are also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the department to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Department of Water Resources is designated as the state solid waste agency with respect to the management of industrial solid waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste management by all practical and economically feasible methods consistent with the powers and duties given it under the Act and other existing legislation. Section 3(b) grants to the department the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.381. Applicability. This subchapter applies to owners and operators of industrial solid waste facilities that thermally process hazardous waste in devices other

than enclosed devices using controlled flame combustion, except as §335.41 of this title (relating to Purpose, Scope, and Applicability) provides otherwise. Thermal processing in enclosed devices using controlled flame combustion is subject to the requirements of Subchapter R of this chapter (relating to Incinerators) if the unit is an incinerator [incinerators].

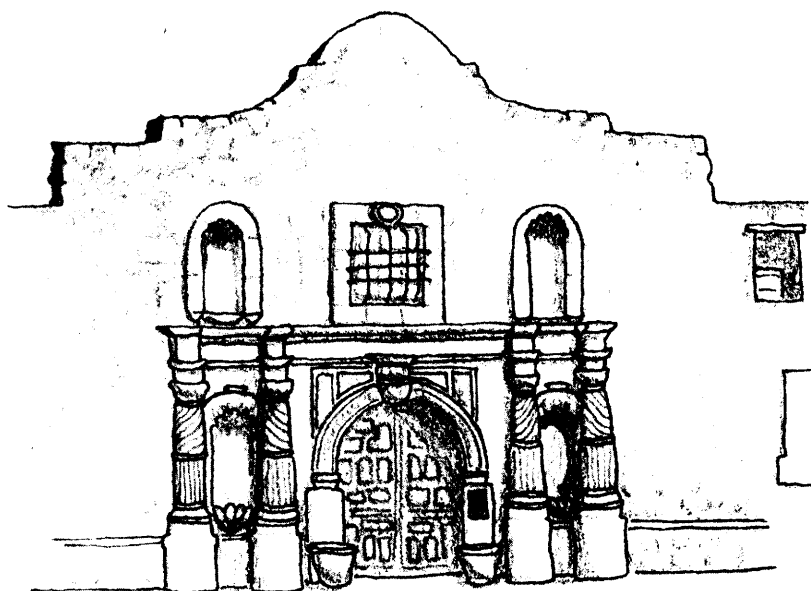
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 3, 1985.

TRD-854859 Susan Plettman
 General Counsel
 Texas Department of
 Water Resources

Earliest possible date of adoption: .
July 8, 1985
For further information, please call
(512) 463-8091.

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Withdrawn

Rules An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

★7 TAC §109.9

The State Securities Board has withdrawn from consideration for permanent adoption the proposed repeal of §109.9, concerning transactions exempt from registration. The notice of the proposed repeal appeared in the January 1, 1985, issue of the *Texas Register* (10 TexReg 18).

Issued in Austin, Texas, on May 29, 1985.

TRD-854725 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: May 29, 1985
For further information, please call
(512) 474-2233.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Crippled Children's Services Program

★25 TAC §§37.81-37.96, 37.98, 37.107

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed new §§37.81-37.96, 37.98, and §37.107, concerning the Crippled Children's Services Program. The text of the proposed new sections appeared in the May 7, 1985, issue of the *Texas Register* (10 TexReg 1392).

Issued in Austin, Texas, on June 3, 1985.

TRD-854865 Dan LaFleur
Liaison Officer
Texas Department of Health

Filed: June 3, 1985
For further information, please call
(512) 458-7236.

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★25 TAC §§38.81-37.106

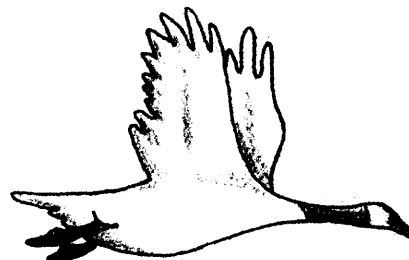
The Texas Department of Health has withdrawn from consideration for permanent adoption the proposed repeal of §§37.81-37.106, concerning the Crippled Children's Services Program. The notice of the proposed repeal appeared in the May 7, 1985, issue of the *Texas Register* (10 TexReg 1392).

Issued in Austin, Texas, on June 3, 1985.

TRD-854866 Dan LaFleur
Liaison Officer
Texas Department of Health

Filed: June 3, 1985
For further information, please call
(512) 458-7236.

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Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Texas Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

★7 TAC §109.3

The State Securities Board adopts amendments to §109.3, without changes to the proposed text published in the March 1, 1985, issue of the *Texas Register* (10 TexReg 724).

The amendments create an exemption from registration which will facilitate offers and sales of unregistered securities to institutional investors. At the present time, such purchasers are not able to purchase certain securities because such securities have not been and will not be registered under the Act, §7. It is believed that some securities are not registered under the Act because of the necessary delays and costs involved in registration. Nonetheless, some such securities may be desirable investments from the points of view of the prospective purchasers. The section assumes that the purchasers within the named categories are of at least the same level of sophistication as accredited investors within the meaning of Regulation D under the Federal Securities Act of 1933.

The section exempts the offer and sale of certain unregistered securities to institutional investors.

Roy Mouer of Johnson and Swanson, Austin, pointed out minor publication errors which are corrected in the adopted language. Thomas Hurtekant of Johnson and Swanson, Dallas, initially expressed concern that the new exemption would be very limited in scope; however, subsequently he decided that such limitation is appropriate.

The amendments are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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

Issued in Austin, Texas, on May 30, 1985.

TRD-854777 Richard D. Latham
Commissioner
State Securities Board

Effective date: June 20, 1985
Proposal publication date: March 1, 1985
For further information, please call
(512) 474-2233.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife Subchapter A. Statewide Hunting and Fishing

★31 TAC §65.26

The Texas Parks and Wildlife Department adopts the repeal of §65.26, without changes to the proposed text published in the March 19, 1985, issue of the *Texas Register* (10 TexReg 924).

The requirement of a buck permit for forked antlered deer in certain counties was instigated by the department 10 years ago to stop the decline in numbers and quality of buck deer. An evaluation of this system indicated that this method of restricting harvest has failed to accomplish its purpose of improving the quality of buck deer. Studies conducted have demonstrated that the long-term decline in deer quality is due to nutritional stress caused by excessive numbers of deer and domestic livestock utilizing the available forage rather than an excessive harvest of bucks. Since the program did not produce the desired results, there was no need in continuing the buck permit system.

The repeal will permit game managers to take buck deer resources according to their requirements.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Wildlife Conservation Act of 1983, Texas Parks and Wildlife Code, Chapter 61, which provides the Texas Parks and Wildlife Commission with the authority to provide wildlife resource regulations for this state.

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

Issued in Austin, Texas, on May 28, 1985.

TRD-854718 Boyd M. Johnson
Legal Counselor
Texas Parks and Wildlife
Department

Effective date: September 1, 1985
Proposal publication date: March 19, 1985
For further information, please call
(512) 479-4805 or (800) 792-1112.

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

Texas Adult Probation Commission

Wednesday, June 5, 1985, 2 p.m. The Audit Review Committee of the Texas Adult Probation Commission made an emergency addition to the agenda for a meeting held in the Customs Room, Quality Hotel Market, 2015 North Industrial Boulevard, Dallas. The addition concerned an initial review for Potter County. The emergency status was necessary because the item was omitted from the original agenda.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: June 3, 1985, 2:23 p.m.
TRD-854904

Thursday, June 6, 1985, 9 a.m. The Texas Adult Probation Commission made emergency additions to the agenda for a meeting held in Room B and Room C, Commerce Ballroom, Quality Hotel Market Center, 2015 North Industrial Boulevard, Dallas. The additions concerned a status report by L. W. Vineyard, Dallas County Adult Probation Department director; a resolution concerning Byron L. McClellan, Gatesville; special program funding; and the setting of the date and location of the next meeting. The emergency status was necessary because the items were omitted from the original agenda.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: June 3, 1985, 2:22 p.m.
TRD-854905

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Texas Aeronautics Commission

Tuesday, June 11, 1985, 1:30 p.m. The Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. Items on the agenda summary include the air carrier administration report, the staff attorney's report, the

director's report, the election of a vice-chairman, and a work session.

Contact: Thomas L. Butler, 410 East Fifth Street, Austin, Texas, (512) 476-9262.

Filed: May 31, 1985, 2:32 a.m.
TRD-854820

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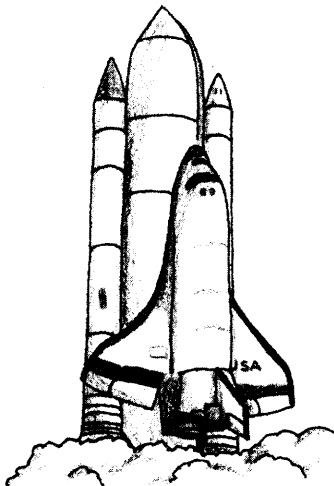
Automated Information Systems Advisory Council

Friday, June 14, 1985, 9 a.m. The Board of the Automated Information Systems Advisory Council will meet in the conference room, basement, 410 South Congress Avenue, Austin. Items on the agenda include approval of the May 13, 1985, meeting minutes; procurement proposals; and House Bill 2375 (the Automated Information and Telecommunications Council). The board also will meet in executive session.

Contact: Charlotte D. Craig, P.O. Box 13564, Austin, Texas 78711, (512) 475-2362 or STS 822-2362.

Filed: June 3, 1985, 3:28 p.m.
TRD-854926

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Criminal Justice Policy Council

Tuesday, June 18, 1985, 1:30 p.m. The Criminal Justice Coordinating Council of the Criminal Justice Policy Council will meet in Room 102, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda, the council will review the TDC Ruiz settlement agreement, discuss proposed projects and interim studies, and review enactments of the 69th Legislature, 1985.

Contact: Ronald D. Champion, Sam Houston Building, Room 410, 201 East 14th Street, Austin, Texas 78701, (512) 475-1281.

Filed: June 3, 1985, 11:39 a.m.
TRD-854869

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Texas State Board of Dental Examiners

Thursday, June 6, 1985, 5 p.m. The Texas State Board of Dental Examiners made emergency additions to the agenda of a meeting held in the dean's conference room, Baylor Dental College, Dallas. The additions concerned the request of Dr. Patricia Morton to begin a 30-day downtime on July 15th, rather than July 1; and the request of Dr. Robert Burns for approval of an off-campus extramural dental practice program. The emergency status was necessary because this was the last meeting of the board for the fiscal year and these requests are scheduled to begin during the summer.

Contact: William S. Nail, 411 West 13th Street, Suite 503, Austin, Texas 78701, (512) 475-2443.

Filed: June 4, 1985, 9:12 a.m.
TRD-854955

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Texas Employment Commission

Tuesday, June 11, 1985, 8:30 a.m. The Texas Employment Commission (TEC) will

meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider prior meeting notes; consider internal procedures of commission appeals; consider and act on higher level appeals in unemployment compensation cases on commission Docket 24; and set the date of the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas 78701, (512) 463-2226.

Filed: June 3, 1985, 10:43 a.m.
TRD-854868

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Texas Education Agency

Tuesday, June 4, 1985, 8:30 a.m. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be administered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for certification tests for generic special education (K-12), kindergarten (K), ESL (K-12) and industrial arts (7-12). The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854824

Tuesday and Wednesday, June 4 and 5, 1985, 8:30 a.m. daily. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be administered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for certification tests for professional development (1-12), art (K-12), music

(K-12), and physical education (K-12). The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854829

Tuesday and Wednesday, June 4 and 5, 1985, 6 p.m. and 8:30 a.m. respectively. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be administered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for elementary comprehensive certification tests. The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854828

Wednesday, June 5, 1985, 8:30 a.m. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be administered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for certification tests for life/earth science (7-12), early childhood education (PreK/K), and bilingual (1-6). The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854823

Thursday, June 6, 1985, 8:30 a.m. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be administered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for certification tests for economics (7-12), government (7-12), history (7-12), geography (7-12), chemistry (7-12), physical science (7-12), physical science (7-12), earth science (7-12), biology (7-12), and physics (7-12). The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854825

Thursday and Friday, June 6 and 7, 1985, 6 p.m. and 8:30 a.m. respectively. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be administered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for certification tests for vocational home economics, vocational agriculture-horticulture, and vocational agriculture-production. The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854827

Friday, June 7, 1985, 8:30 a.m. The Texas Educator Initial Test Advisory Committee of the Texas Education Agency met in emergency session at the Austin South Plaza Hotel, IH 35 and Woodward Street, Austin. According to the agenda summary, the committee considered items to be tested on the initial teacher certification tests to be ad-

ministered in June 1986 and thereafter. Tests are being developed under a contract between National Evaluation Systems, Amherst, Massachusetts, and the TEA. The meetings were open until times specified on the agenda according to attorney general Opinion H-484, 1974, and H-780, 1976. The committee reviewed the test items to be developed for certification tests for health education (7-12), English (7-12), math (7-12), composite social studies (7-12), and composite science (7-12). The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

Contact: Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: May 31, 1985, 4:09 p.m.
TRD-854826

Friday, June 7, 1985, 10 a.m. The Committee for Finance and Programs of the State Board of Education of the Texas Education Agency (TEA) made an addition to the agenda of a meeting to be held in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. The addition concerns the appointment of trustees for the Randolph Field Independent School District.

Contact: W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

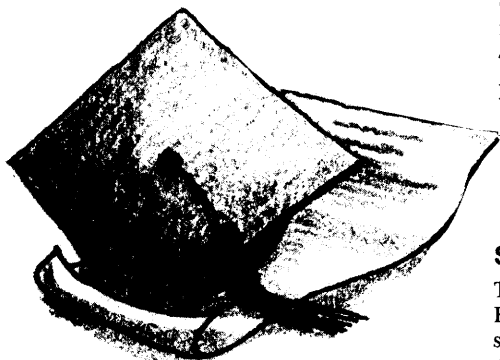
Filed: May 30, 1985, 4:18 p.m.
TRD-854782

Saturday, June 8, 1985, 8:30 a.m. The State Board of Education of the Texas Education Agency made an addition to the agenda of a meeting to be held in the boardroom, TEA North Building, 1200 East Anderson Lane, Austin. The addition concerns the appointment of trustees for the Randolph Field Independent School District.

Contact: W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: May 30, 1985, 4:18 p.m.
TRD-854781

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Texas Department of Health

Friday, May 31, 1985, 2 p.m. The Crippled Children's Services Committee of the Texas Board of Health of the Texas Department of Health submitted an emergency revised agenda for a meeting held in Room T-604, 1100 West 49th Street, Austin. According to the revised agenda summary, the committee discussed proposed rules concerning the Crippled Children's Services Program. The emergency status was necessary because it appeared imminent that the program may exceed its authorized expenditures.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: May 31, 1985, 11:17 a.m.
TRD-854796

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Texas Historical Commission

Tuesday, June 25, 1985, 8:15 a.m. The Main Street Committee of the Texas Historical Commission will meet at Gethsemane Lutheran Church, 1510 North Congress Avenue, Austin. According to the agenda, the committee will consider progress on the main street handbook, Linda Gale White's main street tour, and future plans of the Main Street Department.

Contact: Anice Read, P.O. Box 12276, Austin, Texas, (512) 475-4407.

Filed: June 3, 1985, 9:11 a.m.
TRD-854873

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Texas Indian Commission

Monday, June 10, 1985, 10 a.m. The Advisory Board of Directors of the Alabama-Coushatta Tribal Enterprises of the Texas Indian Commission will meet in emergency session in the Tribal Council Room, Administration Office, Alabama-Coushatta Indian Reservation. According to the agenda summary, the board will approve the February 27, 1985, meeting minutes, hear reports, and consider tribal enterprise operations.

Contact: Dan Boursaw, 9434 Viscount, Suite 122, El Paso, Texas 79925, (409) 563-4391.

Filed: June 4, 1985, 9:20 a.m.
TRD-854952

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State Board of Insurance

Thursday, May 30, 1985, 2 p.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 a petition by the Texas Catastrophe Property Insurance Association for approval of an agreement of reinsurance between the association and Aetna Casualty and Surety Company. The emergency status was necessary because of the hurricane season.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: May 30, 1985, 11:39 a.m.
TRD-854754

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.

Tuesday, June 11, 1985, 9 a.m. In Room 342, the section will consider Docket 8041—whether disciplinary action should be taken against Robert Gene Schmitt, Kansas City, Missouri, who holds a nonresident agent's license and Group II insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 3, 1985, 1:03 p.m.
TRD-854891

Tuesday, June 11, 1985, 1:30 p.m. In Room 353, the section will consider Docket 8009—whether disciplinary action should be taken against Guerin Insurance Agency, Granbury, which holds a surplus lines agent's license.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 3, 1985, 1:04 p.m.
TRD-854892

Tuesday, June 11, 1985, 3 p.m. In Room 342, the section will consider Docket 8010—whether disciplinary action should be taken against Associated Managing Agents, Dallas, which holds a surplus lines agent's license.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: June 3, 1985, 1:04 p.m.
TRD-854893

Wednesday, June 12, 1985, 9 a.m. In Room 353, the section will consider Docket 8037—whether disciplinary action should be taken against Thomas Louis Mitchell, Houston, who holds a local recording agent's license.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 3, 1985, 1:04 p.m.
TRD-854894

Wednesday, June 12, 1985, 1:30 p.m. In Room 342, the section will consider Docket 8073—whether disciplinary action should be taken against Albert J. Draper, Jr., Desoto, who holds Group I and Group II insurance agent's licenses.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 3, 1985, 1:04 p.m.
TRD-854895

Thursday, June 13, 1985, 9 a.m. In Room 353, the section will consider Docket 9010—application of Champions Life Insurance Company, Richardson, to acquire control of Western American Life Insurance Company, Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 3, 1985, 1:05 p.m.
TRD-854898

Thursday, June 13, 1985, 9 a.m. In Room 342, the section will consider Docket 8074—whether disciplinary action should be taken against Walter J. Porter, Brownwood, who holds a Group I local recording agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 3, 1985, 1:05 p.m.
TRD-854897

Thursday, June 13, 1985, 10 a.m. In Room 342, the section will consider Docket 9018—application for amendment to the articles of incorporation of Family Life Insurance Company of Texas, Waco.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 3, 1985, 1:05 p.m.
TRD-854896

Thursday, June 13, 1985, 1:30 p.m. In Room 342, the section will consider Docket 9004—application for amendment to the articles of incorporation of Great American Reserve Insurance Company, Dallas.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 3, 1985, 1:05 p.m.
TRD-854899

Thursday, June 13, 1985, 3 p.m. In Room 342, the section will consider Docket 8012—whether disciplinary action should be taken against the Travelers Company, Houston, which holds a local recording agent's license.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 3, 1985, 1:05 p.m.
TRD-854900

Friday, June 14, 1985, 9 a.m. In Room 342, the section will consider Docket 8091—application for original charter of Sunrise Life Insurance Company, Fort Worth.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: June 3, 1985, 1:05 p.m.
TRD-854901

Friday, June 14, 1985, 9 a.m. In Room 353, the section will consider Docket 8042—whether disciplinary action should be taken against Mark Kindrel Onley, Lubbock, who holds a Group II insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 3, 1985, 1:05 p.m.
TRD-854902

Monday, June 17, 1985, 9 a.m. In Room 342, the section will consider Docket 9014—application of Family Life Insurance Company of Texas, Waco, to acquire control of American Insurance Company of Texas, Fort Worth.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: June 3, 1985, 1:05 p.m.
TRD-854903

Tuesday, June 18, 1985, 9 a.m. The State Board of Insurance will meet in the hearing room, DeWitt Greer Building, 11th and Brazos Streets, Austin. According to the agenda, the board will conduct a public hearing to consider a proposal by the National Council on Compensation Insurance to update the payroll offsets for the second year of the change in the payroll limitation rule from \$300 per week to total payroll that was implemented effective May 1, 1984. The revision of the payroll offsets is necessary to recognize the second stage of the three-year transition program and to update any payroll offsets to maintain proper premium levels.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: June 3, 1985, 4:56 p.m.
TRD-854935

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Texas Department of Labor and Standards

Wednesday, June 26, 1985, 10 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet at 10251 Harry Hines, #34, Dallas. According to the agenda, the division will conduct an informal hearing of a consumer complaint regarding manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: May 31, 1985, 9:53 a.m.
TRD-854790

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Legislative Council

Wednesday, June 12, 1985, 10 a.m. The Legislative Oversight Committee on Men-

tal Health and Mental Retardation of the Legislative Council will meet at 1111 West 24th Street, Austin. According to the agenda, the committee will review the legislative outcome of its efforts and review the Texas Department of Mental Health and Mental Retardation plan for implementation of new legislation.

Contact: Karen F. Hale, 1111 West 24th Street, Austin, Texas 78705, (512) 476-0611.

Filed: June 4, 1985, 9:21 a.m.
TRD-854936

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Texas State Board of Medical Examiners

Friday, June 7, 1985, 10:30 a.m. The Ad Hoc Committee to Study a Proposed Rule on Authority of Physicians to Supply Drugs of the Texas State Board of Medical Examiners rescheduled a meeting to be held at 1101 Camino La Costa, Austin. According to the agenda, the committee will discuss attorney general Opinion JM-304 and options available to the board. The committee also will meet in executive session under the authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d) and §5.06(e)(1), and attorney general opinion H-484, 1974. The meeting originally was scheduled to be held at 11:30 a.m. on the same day.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: May 30, 1985, 4:32 p.m.
TRD-854783

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North Texas State University

Thursday, June 13, 1985, 3 p.m. The Role and Scope Committee of the Texas College of Osteopathic Medicine (TCOM) of North Texas State University (NTSU) will meet in the boardroom, administration building, NTSU, Denton. Items on the agenda include TCOM items including personnel transactions, promotion and tenure recommendations, and a name change for the Academic Department; and NTSU items including faculty of modified service for 1984-1985, the end of semester enrollment report for spring 1985, promotion and tenure recommendations for 1985-1986, and the holiday schedule for 1985-1986. The committee also will meet in executive session to consider TCOM items.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: June 3, 1985, 9:23 a.m.
TRD-854871

Friday, June 14, 1985, 9 a.m. The Board of Regents of the Texas College of Osteopathic Medicine (TCOM) of North Texas

State University (NTSU) will meet in the boardroom, administration building, NTSU, Denton. Items on the agenda include TCOM items including approval of minutes, personnel transactions, promotion and tenure recommendations, a name change for the Academic Department, a gift report, acquisition of an integrated library automation system, and election of officers; and NTSU items including approval of minutes, faculty of modified service for 1984-1985, the end of semester enrollment report for spring 1985, promotion and tenure recommendations for 1985-1986, the holiday schedule for 1985-1986, a gift report, a fee register for fiscal year 986, rental rates for NTSU apartments and Eagle Arms Apartments, room and board rate increases, an increase in the union fee, an increase in the student service fee, an amendment to the golf course lease agreement, continued renovation of Terrill Hall (phase II), converting the lab school gym to a large classroom, remodelling the Quad I Building, parking and traffic proposals for 1985-1986, and other business. The board also will meet in executive session to consider TCOM items.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: June 3, 1985, 9:23 a.m.
TRD-854872

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Board of Nurse Examiners

Thursday, June 13, 1985, 9 a.m. The Board of Nurse Examiners will meet at the Joe C. Thompson Conference Center, 26th and Red River, Austin. Items on the agenda include a public hearing to take testimony regarding regulations relating to the delegation by registered professional nurses of selected nursing tasks to unlicensed personnel; a report from the Finance Committee and from the executive secretary regarding an attorney general opinion request; a report from a representative of Hay Associates; and information regarding House Bill 900 and HCSBN delegates.

Contact: Margaret L. Rowland, R.N., 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 835-4880.

Filed: June 3, 1985, 9:29 a.m.
TRD-854870

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Texas Board of Licensure for Nursing Home Administrators

Wednesday, June 12, 1985, 9 a.m. The Texas Board of Licensure for Nursing Home Administrators will meet at 3407 IH 35 North, Austin. According to the agenda, a hearing officer approved by the attorney general of Texas will conduct a formal hearing to receive testimony regarding

possible violations of 22 TAC §247.2(2), concerning minimum educational requirements, and Texas Civil Statutes, Article 4442d, §11, concerning the licenses of nursing home administrators Brenda E. Freeman, NHA 4934; Julia Ann Merrill, NHA 5098; Regina Faye Knickerbocker, NHA 4804; Lillie O. Bryant, NHA 4634; and Hope Annetta Gestes, NHA 5183.

Contact: Dottie Mathieson, 3407 IH 35 North, Austin, Texas, (512) 479-0922.

Filed: May 31, 1985, 1:56 p.m.
TRD-854819

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Board of Pardons and Paroles

Monday-Friday, June 10-14, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: May 31, 1985, 10:37 a.m.
TRD-854792

Tuesday, June 11, 1985, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: May 31, 1985, 10:37 a.m.
TRD-854791

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Texas State Board of Podiatry Examiners

Thursday-Sunday, June 13-16, 1985, 2 p.m. Thursday, 9 a.m. daily Friday-Sunday. The Texas State Board of Podiatry Examiners will meet in the Hilton LBJ, 4801 LBJ Freeway, Dallas. According to the agenda summary, on Thursday the board will meet to conduct routine board business, including discussion of current complaint files, rules concerning assumed names, a letter from the National Board of Podiatry

Association concerning a pedicurist, rules for continuing education, the issuance of temporary licenses, setting of the time, place, and dates for the January 1986 examination, and inspection of the credentials of candidates to take the examination; on Friday and Saturday, the board will conduct examinations for licensure; and on Sunday, the board will compile grades and sign licenses.

Contact: Sandra Marshall, 411 West 17th Street, Suite 504, Austin, Texas 78701, (512) 475-1770.

Filed: June 4, 1985, 9:11 a.m.
TRD-854956

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Texas Pork Producers Board

Wednesday, June 19, 1985, 6:30 p.m. The Texas Pork Producers Board of the Texas Department of Agriculture will meet in the Quincy Room, Howard Johnson's Motel, IH 35 and U.S. Highway 183, Austin. Items on the agenda include minutes of the last meeting, the treasurer's report, results and implementation of a referendum, 100% check-off participation, and personnel items.

Contact: Ken Horton, P.O. Box 10168, Austin, Texas 78766, (512) 453-0615.

Filed: June 3, 1985, 2:49 p.m.
TRD-854906

Thursday, June 20, 1985, 12:30 p.m. The Texas Pork Producers Board of the Texas Department of Agriculture will meet in the Quincy Room, Howard Johnson's Motel, IH 35 and U.S. Highway 183, Austin. Items on the agenda include minutes of the last meeting, the treasurer's report, reports by the Finance and Check-Off Committee and Promotion, Research, and Education Committee, approval of the proposed 1985-1986 budget, election of officers, and setting the meeting dates for the new fiscal year.

Contact: Ken Horton, P.O. Box 10168, Austin, Texas 78766, (512) 453-0615.

Filed: June 3, 1985, 2:50 p.m.
TRD-854907

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Texas Public Building Authority

Wednesday, June 12, 1985, 9:30 a.m. The Texas Public Building Authority will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include the approval of the April 18, 1985, meeting minutes; a report on the final results of the 69th legislative session, 1985; a discussion of self-funding for the agency; a report from underwriters regarding the status of first bond package

and financing alternatives; and the setting of the time and place for the next meeting.

Contact: Gayle Colby, 400 West 15th Street, Suite 404, Austin, Texas 78701, (512) 475-0290.

Filed: May 30, 1985, 3:33 p.m.
TRD-854779

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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.

Monday, June 10, 1985, 9 a.m. A rescheduled prehearing conference in Docket 6177—application of Kendall County Utility Company for a certificate of convenience and necessity in Kendall County. The meeting originally was scheduled for June 10, 1985, at 1:30 p.m. as published at 10 TexReg 1645.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 31, 1985, 3:13 p.m.
TRD-854816

Monday, June 10, 1985, 1:30 p.m. A prehearing conference in Docket 6294—petition of Alexa Enterprises, doing business as Engel Utility Company, for authority to terminate water utility services within Henderson County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 30, 1985, 3:05 p.m.
TRD-854769

Tuesday, June 11, 1985, 1 p.m. An informal meeting in Docket 6307—in the matter of the PURA, §43(h), rate increase of Waller Country Club Estates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 30, 1985, 3:05 p.m.
TRD-854769

Wednesday, June 12, 1985, 9 a.m. Docket 6055—notice of intent by Southwestern Public Service Company for a certificate of convenience and necessity for a proposed generating station within Lubbock County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 3, 1985, 3:10 p.m.
TRD-854923

Thursday, June 20, 1985, 10 a.m. A rescheduled hearing in Docket 6138—complaint of Rose Monroe against Houston

Lighting and Power for disconnection of service. The meeting originally was scheduled for June 4, 1985, at 10 a.m. as published at 10 TexReg 1498.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 31, 1985, 3:14 p.m.
TRD-854815

Wednesday, July 24, 1985, 10 a.m. A hearing on the merits in Docket 6163—application of Hewitt Company to sell to the City of Hewett.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 3, 1985, 3:10 p.m.
TRD-854924

Monday, August 26, 1985, 10 a.m. A hearing on the merits in Docket 5642—inquiry of the commission into service rendered and rates charged by Martin Utility Company.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 30, 1985, 3:05 p.m.
TRD-854768

Thursday, October 10, 1985, 10 a.m. A hearing on the merits in Docket 6197—application of the City of Hillsboro to amend water and sewer certificates of convenience and necessity within Hill Country.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 3, 1985, 3:10 p.m.
TRD-854925

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Railroad Commission of Texas

Monday, June 3, 1985, a.m. The Gas Utilities Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in Room 309, 1124 IH 35 South, Austin. According to the revised agenda, the commission considered Dockets 5434-5441—statements of intent filed by Lone Star Gas Company to change residential and commercial rates in environs of various cities. The emergency status was necessary to insure that the public welfare is not jeopardized by the imposition of utility rates which have not been determined by the commission to be just and reasonable.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: May 31, 1985, 2:19 p.m.
TRD-854798

Monday, June 10, 1985, 9 a.m. Divisions of the Railroad Commission of Texas will

meet in Room 309, 1124 IH 35 South, Austin. Divisions and agendas follow.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: May 31, 1985, 2:19 p.m.
TRD-854810

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: May 31, 1985, 2:18 p.m.
TRD-854807

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: May 31, 1985, 2:15 p.m.
TRD-854805

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: May 31, 1985, 2:19 p.m.
TRD-854811

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1231.

Filed: May 31, 1985, 2:16 p.m.
TRD-854802

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 475-1301.

Filed: May 31, 1985, 2:18 p.m.
TRD-854806

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1283.

Filed: May 31, 1985, 2:17 p.m.
TRD-854800

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978,

§§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1209.

Filed: May 31, 1985, 2:16 p.m.
TRD-854801

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: May 31, 1985, 2:17 p.m.
TRD-854799

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1391.

Filed: May 31, 1985, 2:16 p.m.
TRD-854803

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: May 31, 1985, 2:16 p.m.
TRD-854804

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: May 31, 1985, 2:18 p.m.
TRD-854809

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1330.

Filed: May 31, 1985, 2:17 p.m.
TRD-854808

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Teacher Retirement System of Texas

Friday, June 14, 1985, 9 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet in the board room, 1001 Trinity Street, Austin. According to the agenda, the board will approve the minutes; review investments for the quarter ending May 31, 1985; review discussions and recommendations at the IAC meeting; hear a report from actuary; consider the Building Committee recommendations; hear a report from the Audit Com-

mittee; discuss the proposed research study of retiree issues; hear a legislative report; consider a proposal for implementing a health insurance plan; hear a report from the general counsel; and hear a report from the Member Benefits Division. The board also will meet in executive session to discuss personnel.

Contact: Mary Godzik, 1001 Trinity Street, Austin, Texas 78701, (512) 397-6400.

Filed: June 4, 1985, 9:47 a.m.
TRD-854949

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University of Texas System

Tuesday, June 4, 1985, 9:30 a.m. The Land and Investment Committee of the Board of Regents of the University of Texas System will meet in the conference room, ninth floor, Ashbel Smith Hall, 201 West Seventh Street, Austin. According to the agenda, the committee will meet in executive session to discuss land acquisition, purchase, exchange, lease, or value of real property located in Travis County, pursuant to Texas Civil Statutes, Article 6252-17, §2(f).

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

Filed: May 30, 1985, 1:24 p.m.
TRD-854755

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Veterans Land Board

Wednesday, June 12, 1985, 10 a.m. The Veterans Land Board 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 7, 1985, meeting minutes; consider adoption of a resolution approving bidding instructions, official notice, and official statement for veterans land bonds, Series 1985 A and B; consider adoption of a resolution authorizing the issuance of and sale of veterans land bonds, Series 1985 A and B; consider bids and award contract for paying agent/ registrar services; take such action in connection with the sale of bonds as shall be considered by the board to be appropriate and/or necessary; consider Beulah Berger's request for board approval of an assignment to her of account Number 410-054329, Jesse Alvin Brazeal, deceased; hear a progress report of the LaMoca Ranch subdivision; and consider general business of the board.

Contact: Richard Keahey, Room 738, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-6755.

Filed: May 31, 1985, 8:57 a.m.
TRD-854789

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Texas Water Commission

Tuesday, June 11, 1985, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider water district bond issues, release from escrow, use of surplus funds, use of underground water by a city, water quality proposed permits, amendments and renewals, water use applications, and extension of time applications.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 30, 1985, 2:53 p.m.
TRD-854766

Wednesday, June 12, 1985, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the application by Chemical Waste Management, Inc., for an amendment to Permit WDW-150, Jefferson County, Neches-Trinity Coastal Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 30, 1985, 2:52 p.m.
TRD-854763

Wednesday, June 12, 1985, 1:30 p.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a general discussion with Paul Kutschinski, Rio Grande watermaster on the watermaster operations.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 30, 1985, 2:52 p.m.
TRD-854764

Thursday, June 13, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of the City of Freeport, 128 East Fourth Street, Freeport, Texas 77541, to the Texas Department of Water Resources for a temporary order to authorize the early commencement of construction of expansions and modifications to its existing permitted treatment facility, located immediately south of State Highway 288 on the east bank of the Brazos River Diversion Canal, Segment 1201 of the Brazos River Basin in Branzoria County. The applicant has stated that the commission order is necessary for the city to comply with Brazoria County District Court Or-

der 84-C1256, as well as §26.027(c) of the Texas Water Code and current permit conditions concerning proper treatment of wastewater, as set forth in Permit 10882-01.

Contact: Scott Peterson, P.O. Box 13087, Austin, Texas 78711, (512) 563-8079.

Filed: May 31, 1985, 2:08 p.m.
TRD-854818

Thursday, June 27, 1985, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the examiners's proposal for a decision on applications by the City of Robinson for renewal of Permits 10780-01, 10780-02, and 10780-03 to authorize irrigation and/or discharge of treated domestic sewage effluent from the north, town, and south sewage treatment plants, McLennan County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 30, 1985, 2:52 p.m.
TRD-854765

Tuesday, July 9, 1985, 9:30 a.m. The Texas Water Commission will meet in the council chambers, second floor, Conroe City Hall, Conroe. According to the agenda summary, the commission will consider the application of Homer Treadway, Jr., doing business as Waukegan Estates, Route 19, Box 5590, Conroe, Texas 77303, to the Texas Department of Water Resources for proposed Permit 12985-01 to authorize a discharge of treated wastewater effluent at a volume not to exceed an average flow of 48,000 gallons per day from the proposed Waukegan Estates Wastewater Treatment Plant which is to serve a proposed mobile home subdivision.

Contact: Joseph O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 3, 1985, 2:36 p.m.
TRD-854910

Addition to the previous agenda:

Application of the City of Shenandoah, 801 Maplewood, Spring, Texas 77381, to the Texas Department of Water Resources for an amendment to Permit 12212-02 to authorize an increase in discharge of treated wastewater effluent from a volume not to exceed an average flow of 500,000 gallons per day to two million gallons per day, with an interim flow of 750,000 gallons per day. Ammonia nitrogen limitations of 3 mg/l have been added. The domestic wastewater facility will serve residential and commercial sites.

Contact: Joseph W. O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 3, 1985, 2:36 p.m.
TRD-854909

Tuesday, July 9, 1985, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on the amended petition for creation of Harris County Municipal Utility District 284, containing 345.66 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: June 3, 1985, 2:40 p.m.
TRD-854922

Addition to the previous agenda:

A hearing on the petition for creation of Harris County Municipal Utility District 240, containing 425.3850 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 31, 1985, 2:08 p.m.
TRD-854817

Wednesday, July 17, 1985, 9 a.m. The Texas Water Commission will meet in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a public hearing in order to receive evidence to determine whether Permit 02440 issued to Bob Cass, doing business as BC Feed, Box 267, Fabens, Texas 79838, on September 22, 1980, which authorizes the disposal by irrigation of treated wastewater from a cattle feedlot which is located within the city limits of Tornillo on the north side of State Highway 20 in El Paso County, Texas, should be revoked for cause.

Contact: Wade Russell, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: June 3, 1985, 2:40 p.m.
TRD-854921

Additions to the previous agenda:

A public hearing to receive evidence to determine whether Permit 12660-01, issued to Rodrick J. White, 1714 North Mesa Street, El Paso, Texas 79902, on October 11, 1983, which authorizes the disposal by evaporation of treated domestic wastewater effluent from a mobile home park located 0.15 mile east of Highway 20 and 0.35 mile south of Borderland Drive in El Paso County should be revoked for cause.

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

Filed: June 3, 1985, 2:39 p.m.
TRD-854920

A public hearing to receive evidence to determine whether Permit 02146, issued to W.A. Estes, Route 5, Box 61, Hereford, Texas 79045, on June 12, 1978, which authorizes the disposal by natural evaporation and irrigation of process wastewater plus rainfall runoff from a milking operation located on the south side of FM Road 2856 at a point approximately six miles west

and one mile south of Hereford in Deaf Smith County should be revoked for cause.

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

Filed: June 3, 1985, 2:39 p.m.
TRD-854919

A public hearing to receive evidence to determine whether Box 156, Port Arthur, Texas 77640, on October 16, 1981, which authorizes a discharge of treated domestic wastewater effluent from wastewater treatment facilities located on the east side of State Highway 87, at a point approximately ½ mile south of the Taylor Bayou Bridge, south of the City of Port Arthur, Jefferson County, should be revoked for cause.

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

Filed: June 3, 1985, 2:39 p.m.
TRD-854918

A public hearing to receive evidence to determine whether Permit 01592 issued to D & D Feedlot, P.O. Drawer 570, Giddings, Texas 78042, on November 19, 1971, which authorizes the disposal by irrigation of wastewater runoff from a cattle feedlot operation located approximately 1.5 miles north of the intersection of FM Road 448 with FM Road 2239 and approximately 3.5 miles south of U.S. Highway 290 at a point approximately four miles southwest of the City of Giddings, Lee County, should be revoked for cause.

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

Filed: June 3, 1985, 2:38 p.m.
TRD-854917

A public hearing to receive evidence to determine whether Permit 12337-01 issued to Dr. Anil K. Sinha, P.O. Box 1522, Pearland, Texas 77581, on October 13, 1981, which authorizes a discharge of treated domestic wastewater effluent from the Pearland Rest Home Wastewater Treatment Facilities which the applicant proposed to construct approximately 690 feet west and 750 feet south of the intersection of County Road 101 and FM Road 1128 in Brazoria County should be revoked for cause.

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

Filed: June 3, 1985, 2:38 p.m.
TRD-854916

A public hearing to receive evidence to determine whether Permit 12678-01 issued to Vanmark Enterprises, Inc., 8700 Commerce Park, Suite 200, Houston, Texas 77026, on August 15, 1983, which authorizes a discharge of treated domestic wastewater effluent from the Hartwick Place Sewage Treatment Plant which the applicant proposed to construct at 2401

Hartwick Lane, at a point approximately 2,300 feet east of Aldine-Westfield Road in Harris County should be revoked for cause.

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

Filed: June 3, 1985, 2:38 p.m.
TRD-854915

A public hearing to receive evidence to determine whether Permit 12750-01 issued to Arthur Edelstein and William E. Crawford, 3770 Garnet, Southside Place, Texas 77005, on October 3, 1983, which authorizes a discharge of treated domestic wastewater effluent from the Magnolia Village Wastewater Treatment Plant which the applicant proposed to construct approximately 1,300 feet south of State Highway 6 and approximately 2.25 miles northwest from the intersection of State Highway 6 and FM Road 288 in Fort Bend County should be revoked for cause.

Contact: Wade Russell, P.O. Box 13087, Austin, Texas 78701, (512) 463-7906.

Filed: June 3, 1985, 2:38 p.m.
TRD-854914

A public hearing to receive evidence to determine whether Permit 02551 issued to Cotija and Texas Corporation, P.O. Box 646, Wharton, Texas 77488, on February 8, 1982, which authorizes disposal by spray irrigation of process wastewater from a cheese manufacturing plant which is located at 4900 Highway 59 by-pass, approximately two miles north of the City of Wharton in Wharton County should be revoked for cause.

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

Filed: June 3, 1985, 2:37 p.m.
TRD-854913

A public hearing to receive evidence to determine whether Permit 02127 issued to Tex-Iowa, Inc., P.O. Box 170BB, Jourdan, Texas 78026, which authorizes the disposal by irrigation of treated wastewater effluent from a commercial swine operation located adjacent to and on the east side of a county road, at a point approximately 1.8 miles south of the intersection of FM Road 2146 and State Highway 173 in Atascosa County should be revoked for cause.

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

Filed: June 3, 1985, 2:37 p.m.
TRD-854912

A public hearing to receive evidence to determine whether Permit 01881 issued to Howard Carlton Dairy, Route 1, Trent, Texas 79561, which authorizes disposal by evaporation and irrigation of wastewater plus rainfall runoff from a dairy operation which is located immediately north of a county road at a point approximately 2 1/4 miles north of IH 20 and 5 1/2 miles east of

Texas State Highway 70, and further located immediately north of the Noland County line and south of Sweetwater Creek in Fisher County should be revoked for cause.

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

Filed: June 3, 1985, 2:36 p.m.
TRD-854911

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Regional Agencies Meetings Filed May 30

The Burnet County Appraisal District will meet at 215 South Pierce Street, Burnet, on June 13, 1985, at 6:30 p.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Capital Area Rural Transportation System (CARTS), Board of Directors, met in the conference room, Suite 100, 2520 IH 353 South, Austin, on June 6, 1985, at 9:30 a.m. Information may be obtained from Nancy Kowieski, 2201 Post Road, #103, Austin, (512) 385-7473.

The Region VII Education Service Center, Board of Directors, will meet at the Kilgore Community Inn, Highway 259, Kilgore, on June 12, 1985, at 10 a.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas 75662, (214) 984-3071.

The Hays County Central Appraisal District, Board of Directors, met at the Hays Consolidated Independent School District Building, Buda, on June 3, 1985, at 6:30 p.m. Information may be obtained from Lynnell Sedlar, 102 LBJ Drive, San Marcos, Texas 78666, (512) 396-4777.

The Lower Colorado River Authority, Audit and Budget Committee, met in emergency session at 3700 Lake Austin Boulevard, Austin, on June 3, 1985, at 9 a.m. The Energy Operations Committee met at the same location, on June 4, 1985, at 1 p.m. The Board of Directors met at the same location on the same day at 3 p.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

TRD-854762

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Meetings Filed May 31

The Bell County Appraisal District, Appraisal Review Board, will meet in the commissioners courtroom, second floor, Bell County Courthouse, Belton, on June 19, 1985, at 9:30 a.m. and 1:30 p.m. The board will meet at the same location on the same

day at 7 p.m. The Appraisal Review Board will meet at the same location on June 21, 1985, at 9:30 a.m. and 1:30 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-3521, ext. 410.

The Coryell County Appraisal District, Board of Directors, met in the council chambers, City Hall, Copperas Cove, on June 6, 1985, at 7 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Dallas Area Rapid Transit Authority, Service Plan/Work Program, met in emergency session at 601 Pacific Avenue, Dallas, on May 31, 1985, at 3:30 p.m. The Real Estate Committee met at the same location on June 3, 1985, at 10 a.m. The Budget and Finance Committee met at the same location on the same day at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Education Service Center Region I will meet at the Bahia Mar Resort Hotel, South Padre Island, on June 21, 1985, at 7 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611.

The Education Service Center Region VII will meet at the Community Inn, Highway 259, Kilgore, on June 12, 1985, at 10 a.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas, (214) 984-3071.

The Upshur County Appraisal District, Board of Directors, will meet at Warren and Trinity Streets, Gilmer, on June 10, 1985, at 7:30 p.m. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas 75644, (214) 843-3041.
TRD-854787

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Meetings Filed June 3

The High Plains Underground Water Conservation District 1, Board of Directors, will meet in the conference room, 2930 Avenue Q, Lubbock, on June 11, 1985, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Jasper County Appraisal District, Appraisal Review Board, will meet in the County Courthouse Annex, 102 North Austin Street, Jasper, on June 17, 1985, at 9 a.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Middle Rio Grande Development Council, Regional Alcoholism Advisory Committee, will meet in the Uvalde City

Council Chambers, Uvalde, on June 5, 1985, at 2 p.m. Information may be obtained from Ramon S. Johnston, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The Education Service Center Region IX, Board of Directors, will meet at 301 Loop 11, Wichita Falls, on June 13, 1985, at 2 p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.

The San Patricio County Appraisal District, Board of Directors, will meet in the Courthouse Annex, Sinton, on June 13, 1985, at 9:30 a.m. Information may be obtained from Bennie L. Stewart, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-854867

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Meetings Filed June 4

The Blanco County Central Appraisal District, Board of Directors, will meet in the Blanco County Courthouse Annex, Johnson City, on June 10, 1985, at 6 p.m. In-

formation may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Education Service Center Region IV, Board of Directors, will meet in the board room, 7145 West Tidwell, Houston, on June 11, 1985, at 4 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 868-1051.

The Central Appraisal District of Erath County, Board of Directors, will meet at 1390 Harbin Drive, Stephenville, on June 12, 1985, at 10 a.m. Information may be obtained from James Bachus, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Fannin County Appraisal District, Board of Directors, will meet in the Peeler Building, 401 North Main, Bonham, on June 11, 1985, at 7 p.m. Information may be obtained from Pat Pickett, 401 North Main, Bonham, Texas 75418, (214) 583-9546.

The Gregg Appraisal District, Board of Directors, will meet at 2010 Gilmer Road, Longview, on June 11, 1985, at noon. In-

formation may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Hale County Appraisal District, Board of Directors, will meet in the Central Appraisal Office, Plainview, on June 11, 1985, at 8 p.m. Information may be obtained from Linda Jaynes, P.O. Box 29, Plainview, Texas 79072, (806) 293-4226.

The Lee County Appraisal District, Board of Review, will meet at 218 East Richmond Street, Giddings, on June 13, 1985, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Wheeler County Appraisal District, Board of Directors, will meet in the district's office, County Courthouse Square, Wheeler, on June 11, 1985, at 10 a.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas, (806) 826-5900.

TRD-854950

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In Addition

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

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

Office of the Attorney General Solid Waste Enforcement

Notice is given by the State of Texas of the following proposed resolution of a to-be-filed environmental enforcement lawsuit under the Texas Solid Waste Disposal Act, the Texas Injection Well Act, and the Texas Water Quality Act. Not less than 30 days from the date of this notice, a plaintiff's original petition and an agreed final judgment will be submitted to a state district court in Jefferson County. The following is a summary of the nature of the lawsuit and the proposed agreed judgment.

Case Title and Court. State of Texas v. Chemical Waste Management, Inc., in the State District Court, Jefferson County.

The Complaint. The company operates an industrial solid waste landfill on State Highway 73, about 3.2 miles west of the intersection of Taylor Bayou and State Highway 73, in Jefferson County. The landfill operates under the authority of Texas Water Commission Permit 39012-02, amended (the permit), and other permits issued by the commission. The state alleges numerous violations of the permit as well as certain rules and regulations of the Texas Department of Water Resources. In general, the state alleges that the company did not operate and maintain the liquid retrieval system which had been constructed into each of the landfill trenches. There is no allegation of harm to the environment nor public health as a result of these claimed violations.

The Judgment. Investigation and Remediation. The proposed agreed final judgment establishes a program under the continuing jurisdiction of the court for the resolution of technical difficulties at the site. First, the company agrees to undertake immediately certain actions, such as placing markers at each trench, installing additional monitoring wells, and the like. Additionally, the company will prepare an investigative protocol for submission to the state which will describe the investigations which may be required at the site. After completion of the investigative protocol, the company will prepare a

work plan describing work that is reasonably determined to be necessary based on the information gathered by the investigative protocol. Following approval, the work plan will be implemented.

Civil Penalty. The company shall pay a civil penalty in the amount of \$1 million. Comments and requests for copies or inspection of the pleadings or judgment may be submitted to Brian E. Berwick, Texas Attorney General's Office, Environmental Protection Division, P.O. Box 12548, Austin, Texas 78711, (512) 475-1101. Copies are available at the main Beaumont Public Library and at the Port Arthur Public Library.

Issued in Austin, Texas, on May 28, 1985.

TRD-854742 Brian E. Berwick
Assistant Attorney General
Office of the
Attorney General

Filed: May 30, 1985

For further information, please call (512) 475-5445.

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State Banking Board Cancellation of Hearing

As no opposition has been noted in the application for the conversion application for Itasca State Bank, Itasca the hearing previously scheduled for Thursday, June 6, 1985, has been canceled.

Issued in Austin, Texas, on May 29, 1985.

TRD-854812 James L. Sexton
Commissioner
State Banking Board

Filed: May 31, 1985

For further information, please call (512) 475-4451.

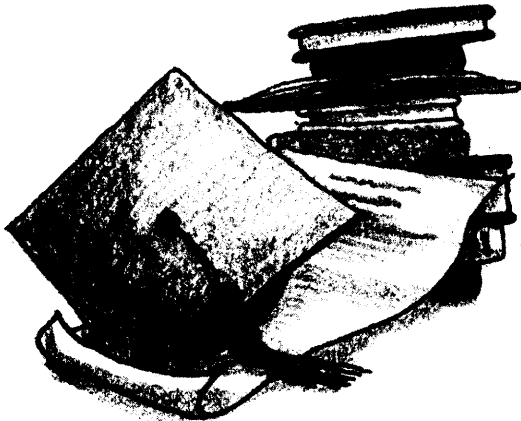
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Banking Department of Texas Applications to Acquire Control of State Banks

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 3, 1985, the banking commissioner received an application to acquire control of the First State Bank of San Diego by B. A. Newman of Freer.

On May 31, 1985, 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 May 31, 1985.

TRD-854833 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: June 3, 1985
For further information, please call (512) 475-4451.

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On May 29, 1985, the banking commissioner received an application to acquire control of Citizens State Bank, Royse City, by Peter J. Adang, Gregory S. Brown, G. Wesley Burke, Paul W. Duke, A. M. Gallegos, John P. Gargan, Lorenzo Sanchez, and John K. White.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on May 29, 1985.

TRD-854756 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: May 30, 1985
For further information, please call (512) 475-4451.

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Public Hearing

The hearing officer of the Banking Department of Texas will conduct a hearing on Monday, June 24, 1985, at 9:30 a.m., at 2601 North Lamar Boulevard, Austin, on the proposed cancellation and nonrenewal of permit to sell prearranged or prepaid funeral services or funeral merchandise of Family Security Funerals Company, Fort Worth.

Additional information may be obtained from Margaret M. Bennett, Hearing Officer, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on May 30, 1985.

TRD-854832 Jorge Gutierrez
General Counsel
Banking Department of Texas

Filed: June 3, 1985
For further information, please call (512) 475-4451.

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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⁾ Agricul- tural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 06/03/85-06/09/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 06/01/85-06/30/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 07/01/85-09/30/85	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 07/01/85-09/30/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 07/01/85-09/30/85	16.50%	N/A
Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 07/01/85-09/30/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 07/01/85-09/30/85	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 07/01/85-09/30/85	18.42%	N/A
Judgment Rate— Article 1.05, §2 06/01/85-06/30/85	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
- (3) Credit for personal, family, or household use.
- (4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on May 29, 1985.

TRD-854708 Sam Kelley
Consumer Credit
Commissioner

Filed: May 29, 1985
For further information, please call (512) 475-2111.

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Texas Employment Commission Wagner-Peyser Funding Allocation for Employment Service Activities

The Wagner-Peyser Act, as amended by the Job Training Partnership Act (JTPA), Title V, establishes a formula for distributing funds to states for employment service activities. With this formula, Texas will receive \$41,986,955 for program year 1985, beginning July 1, 1985, and ending June 30, 1986. Ninety percent of this amount must be used for basic labor exchange services under the Act, §501, subsection 7(a); 10% will be reserved for use at the governor's discretion with legislatively designated parameters under subsection 7(b).

Texas Civil Statutes, Article 5221b-10, designate the Texas Employment Commission (TEC) as the state agency to

administer activities funded by the Wagner-Peyser Act. Planning for these activities has been coordinated by the TEC, the Texas Department of Community Affairs (TDCA) (with responsibility for Job Training Partnership Act activities), and the governor's office and has been approved by the State Job Training Coordinating Council. As required by federal regulation (20 Code of Federal Regulations §652.4), the state herein presents the method and schedule proposed for distributing substate resources under §501, subsection 7(a), as well as the procedures for public review, comment, and complaint resolution.

Pending approval by the governor, staff positions supported by the 90% portion of funds will be distributed to TEC administrative regions throughout the state according to the following formula:

- (1) 50% on the basis of the relative number of job applicants registered in the area's employment service offices (as compared to the total number in the state);
- (2) 50% on the basis of the relative number of job openings listed with the area's employment service offices (as compared to the total number in the state); and with
- (3) a minimum level of at least 90% of the area's previous year's share of the allocation.

These allocations will be available to support staff and nonpersonal services (rent, utilities, equipment, and supplies, etc.) effective July 1, 1985. Actual disbursement of these funds will be made from the TEC state office in accordance with the federally approved cost accounting system and state procurement guidelines. The respective TEC regional directors have the discretion for hiring and assignment of specific individuals and for purchases and contracts for nonpersonal services within federal and state guidelines; however, these funds may not be applied to functions other than labor exchange services.

Comments and complaints in regard to the substate distribution of Wagner-Peyser funds should be submitted in writing to Charles W. Crockett, E. S. Director, Texas Employment Commission Building, 15th Street and Congress Avenue, Austin, Texas 78778.

Information in regard to the specific allocation for any service delivery area as a result of this distribution formula is available from the same source. Any requests for modification of or complaints about the distribution formula must be received by June 14, 1985, to be considered for the program year 1985 funding cycle. Such requests or complaints will be jointly addressed by the TEC, the TDCA, and the governor's office.

Issued in Austin, Texas, on May 30, 1985.

TRD-854780 C. Ed Davis
Special Counsel
Texas Employment Commission

Filed: May 30, 1985
For further information, please call (512) 463-2226.

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Texas Department of Human Resources Consultant Contract Award Amendment

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) published notice of an award of a consultant contract. The invitation for offers was published in the October 30, 1984, issue of the *Texas Register* (9 TexReg 5594).

The notice of award was published in the January 4, 1985, issue of the *Texas Register* (10 TexReg 93).

Description of Study. The contractor will consult with regional and state office staff at DHR in developing the quality improvement project designed to improve the accuracy levels in the AFDC and Food Stamp Programs.

Value of Contract. The original contract term runs from December 10, 1984-December 31, 1985, for a total cost not to exceed \$190,000. The term of the contract remains the same and the total cost will be increased by \$34,800.

Issued in Austin, Texas, on May 31, 1985.

TRD-854788 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: May 31, 1985
For further information, please call (512) 450-3766.

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State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for admission to do business in Texas of American Travelers Assurance Company, a foreign life insurance company. The home office is in Des Moines, Iowa.

(2) Application for admission to do business in Texas of Monarch Fire and Casualty Insurance Company, a foreign fire and casualty insurance company. The home office is in Carmel, Indiana.

(3) Application for incorporation of Alliance Health Plan, Inc., to be a domestic health maintenance organization. The home office is proposed to be in Houston.

(4) Application for a name change of Fidelity Interstate Life Insurance Company, a foreign life insurance company. The home office is in Philadelphia, Pennsylvania. The proposed new name is AMI Health and Life Insurance Company.

(5) Application for admission to do business in Texas of Republic-Franklin Insurance Company, a foreign fire insurance company. The home office is in Columbus, Ohio.

(6) Application for a name change by Chilton Insurance Company, a domestic fire insurance company. The home office is in Dallas. The proposed new name is Continental Southwestern Insurance Company.

Issued in Austin, Texas, on May 28, 1985.

TRD-854745 James W. Norman
Chief Clerk
State Board of Insurance

Filed: May 30, 1985
For further information, please call (512) 475-2950.

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Texas Low-Level Radioactive Waste Disposal Authority Consultant Contract Award Amendment

In the September 21, 1984, issue of the *Texas Register* (9 TexReg 4992), the Texas Low-Level Radioactive Waste Disposal Authority published a notice of the award of

a consultant contract to George Bokorney, P.O. Box 1216, New Braunfels, Texas 78130, in the amount of \$15,000. Notice of a proposed amendment to the contract increasing the contract amount to \$35,000 was published in the December 4, 1984, issue of the *Texas Register* (9 TexReg 6150). Notice of intent to amend the contract to increase the amount payable to \$45,000 was published in the May 17, 1985, issue of the *Texas Register* (10 TexReg 1599).

The contract amount specified in the latter notice (\$45,000) is incorrect, as well as the proposed scope of work under the amended contract. The authority intends to amend the contract to increase the amount payable to \$51,000, rather than \$45,000. For the additional consideration, Mr. Bokorney will provide to the authority finished brochures describing low-level radioactive waste disposal methods, describing beneficial uses of low-level radioactive materials in Texas, and containing questions and answers concerning low-level radioactive waste disposal. Mr. Bokorney will also provide camera-ready proofs for a brochure concerning medical aspects of low-level radioactive materials. The ending date of the contract remains August 31, 1985.

Issued in Austin, Texas, on May 28, 1985.

TRD-854723 Lee H. Mathews
General Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: May 29, 1985
For further information, please call (512) 835-6795.

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Texas State Board of Medical Examiners Correction of Error

An open meeting notice submitted by the Texas State Board of Medical Examiners contained an error as published in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1798).

The meeting will be Friday, June 7, 1985, at 2 p.m. and Saturday-Thursday, June 8-June 13, 1985, at 8 a.m. daily.

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Panhandle Regional Planning Commission Consultant Proposal Request

Invitation for Proposal. Panhandle Regional Planning Commission (PRPC) announces its consultant proposal request pursuant to Texas Civil Statutes, Article 6252-11c, under the negotiation method to perform auditing. The PRPC is soliciting proposals to perform services which will include three annual audits in accordance with the provisions of the Single Audit Act.

Detailed information regarding the project is set forth in the request for proposal instructions which will be available on or after June 3, 1985, from Gayle Briggs,

CPA, Director of Finance, Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo, Texas 79105.

The deadline for submission of proposals in response to this request will be 5 p.m. on Monday, June 28, 1985.

The PRPC reserves the right to accept or reject any or all proposals submitted. The PRPC is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractual alternatives. PRPC will base its choice on demonstrated competence, qualifications, and evidence of superior conformance with criteria.

This request does not commit PRPC to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates PRPC to award a contract or pay any cost incurred in the preparation of a response. PRPC specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where PRPC feels it to be its own best interest.

Issued in Austin, Texas, on June 3, 1985.

TRD-854831 Gayle Briggs
Director of Finance
Panhandle Regional Planning
Commission

Filed: June 3, 1985
For further information, please call (806) 372-3381.

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Railroad Commission of Texas Public Hearing

The Railroad Commission of Texas, LP-Gas Division, will hold a public hearing to receive comments and evidence regarding a request for exception to the regulations for compressed natural gas (CNG) fuel systems filed by Dual Fuel Systems, Inc. The exception, if granted would exempt the applicant from use of required insulators between containers and mounting systems as required by §13.33(j) of the regulations.

The hearing will be held at 10 a.m. on June 6, 1985, in the hearings room, 105 West Riverside Drive, Austin. If necessary, the hearing will be continued at a time and place announced on the record.

The commission invites all interested persons to appear at the hearing. Copies of the notice of public hearing may be obtained from the LP-Gas Division. To be considered, written comments must be received in the division offices at least two days in advance of the hearing date. Requests for any information regarding the hearing should be directed to Donn G. Miller, Hearings Examiner, Railroad Commission of Texas, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

Issued in Austin, Texas, on May 31, 1985.

TRD-854797 Walter Earl Lillie
Special Counsel
Railroad Commission of Texas

Filed: May 31, 1985
For further information, please call (512) 445-1186.

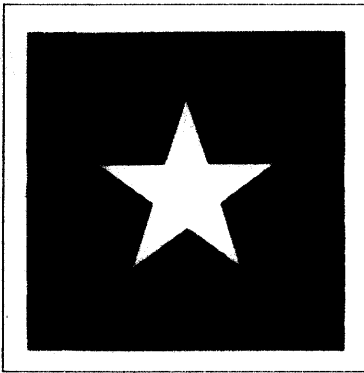
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