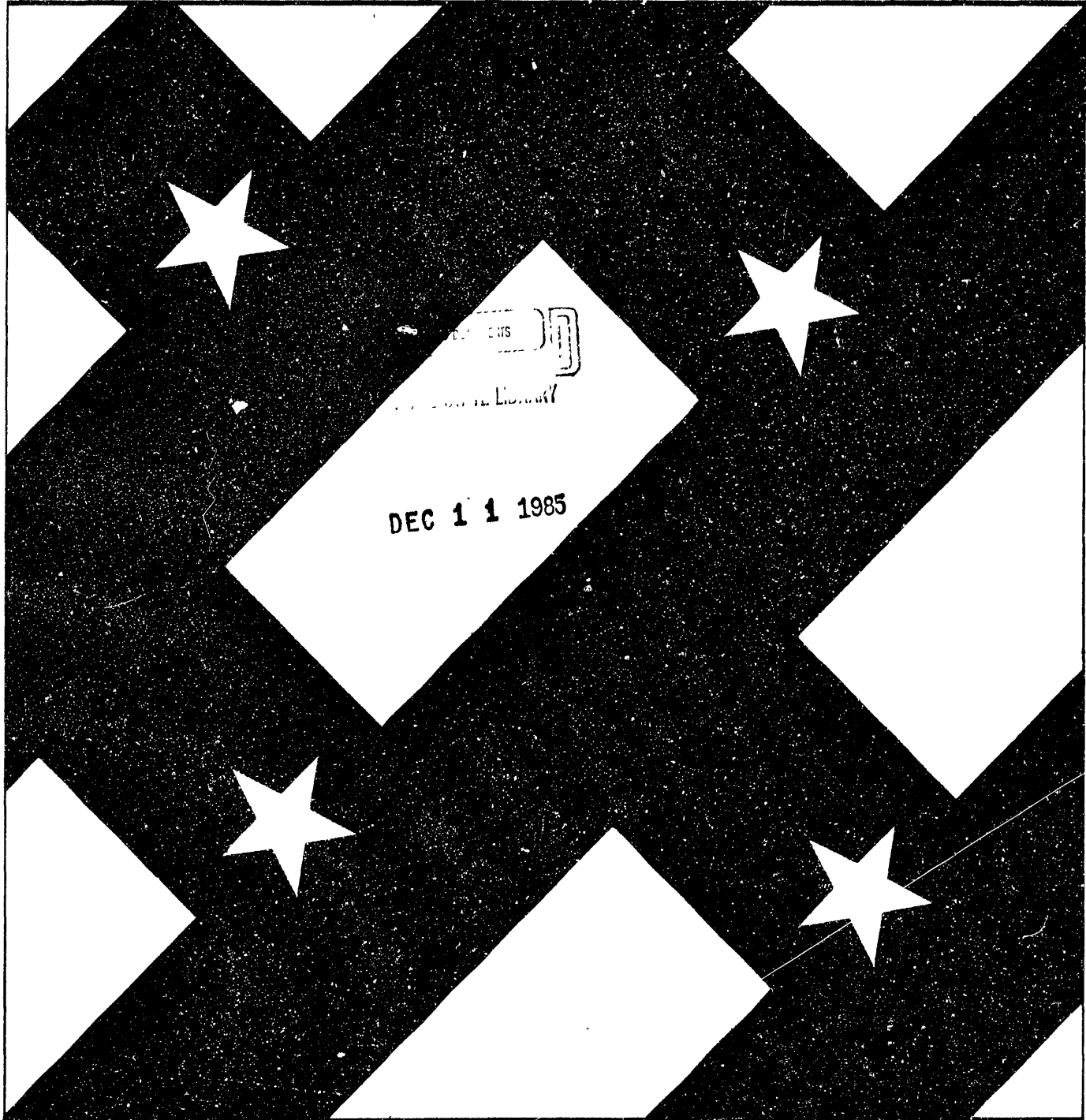


Texas Register

Volume 10, Number 91, December 10, 1985

Pages 4719 - 4759



DEC 11 1985

Highlights

The Texas Board of Architectural Examiners adopts an emergency amendment concerning registration and definitions. Effective date - December 3.....page 4724

The State Board of Insurance proposes new

sections concerning preferred provider plans. Earliest possible date of adoption - January 10.....page 4729

The Texas Department of Health proposes an amendment concerning lay midwives. Proposed date of adoption - January 31.....page 4726

Office of
the Secretary
of State

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Texas Register

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Information Available: The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

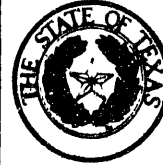
The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

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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TAC Titles Affected

TAC Titles Affected—December

The following is a list of the administrative rules that have been published this month.

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §3.804673

Part III. Office of the Attorney General

1 TAC §55.1014673

Part V. State Purchasing and General Services Commission

1 TAC §113.64688

1 TAC §113.104688

1 TAC §113.72, §113.734689

1 TAC §§121.2-121.8, 121.8, 121.94689

TITLE 7. BANKING AND SECURITIES

Part IV. Texas Savings and Loan Department

7 TAC §§51.1, 51.3, 51.4, 51.9, 51.144675

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

10 TAC §9.14737

TITLE 13. CULTURAL RESOURCES

Part V. Texas 1988 Sesquicentennial Commission

13 TAC §§51.1-51.184737

13 TAC §51.19, §51.204725

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

16 TAC §§5.616-5.6214676

TITLE 19. EDUCATION

Part II. Texas Education Agency

19 TAC §§81.271-81.2734690

19 TAC §77.4744691

19 TAC §145.444691

19 TAC §149.714692

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

22 TAC §1.23, §1.254724, 4726

Part IX. State Board of Medical Exams

22 TAC §175.14692, 4739

22 TAC §283.134692

22 TAC §281.344692

22 TAC §281.484693

22 TAC §283.2, §283.34693

22 TAC §283.114693

22 TAC §283.124693

22 TAC §283.144694

22 TAC §291.194694

22 TAC §§291.72, 291.74, 291.754694

22 TAC §291.754694

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §§37.141-37.1524679

25 TAC §37.1714726

25 TAC §§37.177-37.1804727

25 TAC §§61.2-61.4, 61.7, 61.104739

25 TAC §§97.151-97.1564727

25 TAC §§229.91-229.964741

25 TAC §§337.32-337.354742

25 TAC §337.36, §337.374743

25 TAC §§337.51-337.594743

25 TAC §337.604744

25 TAC §§337.111-337.1184744

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§3.3701-3.37054729

28 TAC §19.101, §19.102, §19.1044744

28 TAC §21.701, §21.7034745

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

31 TAC §289.14681

31 TAC §§289.11-289.224683

31 TAC §289.31, §289.324685

31 TAC §§289.41-289.444685

31 TAC §§289.51-289.534686

31 TAC §289.61, §289.624686

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.3034695

34 TAC §3.3124687

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part IX. Texas Commission on Jail Standards

37 TAC §259.2124695

37 TAC §261.2014695

37 TAC §263.224696

37 TAC §263.244696

37 TAC §263.534696

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §27.98504731

40 TAC §48.2911, §48.29184745

40 TAC §48.98024731

40 TAC §§85.2006, 85.2008, 85.2011, 85.2012,

85.2014, 85.2016, 85.2017, 85.2026,

85.2032-85.20354746

40 TAC §§85.2040-85.20444746

40 TAC §§85.3044, 85.3047, 85.3049,

85.3050-85.30524747

40 TAC §§85.3074-85.30764747

Part IX. Texas Department on Aging

40 TAC §§277.1-277.44696

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

43 TAC §§17.61-17.644733

43 TAC §§17.61-17.634734

The Governor

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

Appointments Made November 27

Ex-Prisoners of War Advisory Committee

For terms to continue at the pleasure of this Governor:

R. L. Cockrell
3513 Gila Drive
Temple, Texas 76501

Charles Easley
5907 Kuldell
Houston, Texas 77074

Harry L. Ettmueller
1007 South Congress #146
Austin, Texas 78704

Hubert Griffith
15340 Werling Court
El Paso, Texas 79927

Ken Jones
661 East 18th Street
Plano, Texas 75074

Chester Konkolewski
7454 Pipers Bluff
San Antonio, Texas 78251

Edward Leonard, Jr.
7106 Geneva Circle
Austin, Texas 78723

Delvin Smith
2118 68th Street
Lubbock, Texas 79412

Luther D. Victory
721 East Texas Avenue
Baytown, Texas 77520

Leroy Williamson
2415 Glenwood
Denton, Texas 76201

State Seed and Plant Board

For a term to expire October 6, 1986:

Darwyn Metcalf
229 Comanche Trail
Tulla, Texas 79088

Mr. Metcalf is replacing J. Owen Gilbreath of Lubbock, whose term expired.

Ben Smith
Route 1, Box 232
Waller, Texas 77484

Mr. Smith is replacing Eddie Lee Thompson of Waco, whose term expired.

Issued in Austin, Texas, on November 27, 1985.

TRD-8511266 Mark White
Governor of Texas

Appointments Made December 2

State Rural Medical Education Board

For a term to expire February 27, 1986:

James W. Caldwell, M.D.
3018 Bayside Drive
Rockwall, Texas 75087

Dr. Caldwell is replacing Dr. Joel Hartman Johnson of Brenham, who is deceased.

Veterans Affairs Commission

For a term to expire December 31, 1989:

Lindon Williams
701 West Baker
Baytown, Texas 77521

Judge Williams is replacing David Leonard Stein, Sr. of San Antonio, whose term expired.

Issued in Austin, Texas, on December 2, 1985.

TRD-8511266 Mark White
Governor of Texas

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Executive Order MW-35

Creating the Governor's Former Prisoners-of-War Advisory Council.

WHEREAS, many of the citizens of this State have unselfishly served their nation in periods of armed conflict; and

WHEREAS, many of our citizens have been captured by enemy forces and have been forced to endure periods of deprivation, isolation, hardship, and suffering at the hands of the enemy; and

WHEREAS, upon release from confinement, these brave citizens have frequently experienced serious difficulties in readjusting to their civilian lives; and

WHEREAS, it is important that these former service personnel be provided with and have access to any and all relevant state and federal benefits to which they may be entitled; and

WHEREAS, the State of Texas is committed to enriching the lives and well-being of all its citizens;

NOW, THEREFORE, I, Mark White, Governor of Texas, under the authority vested in me, do hereby create and establish the Governor's Former Prisoners-of-War Advisory Council, hereafter referred to as the COUNCIL. The purpose of the COUNCIL will be to advise the Governor of Texas regarding the needs of former prisoners of war for the aid and advancement of the well-being of Texas' former prisoners-of-war.

The COUNCIL shall consist of seven (7) members appointed by the Governor who shall serve for a period of two years, at the pleasure of the Governor, and who shall receive no salary, per diem or reimbursement for expenses incurred in connection with service on the COUNCIL. The Governor shall designate a chairperson and vice-chairperson from the membership of the COUNCIL who shall hold such positions at the pleasure of the Governor. The COUNCIL shall consist of persons who are former prisoners-of-war and contain representatives of World War II, the Korean War, and the Vietnam War.

The COUNCIL shall have as its principal charge the achievement of the following:

- (a) To aid the Governor in determining those areas of particular need and concern to Texas' former prisoners-of-war; and
- (b) To study the adequacy of state services which specifically relate to Texas' former prisoners-of-war; and
- (c) To report to the Governor from time to time regarding the needs of the Texas' former prisoners-of-war, along with recommendations as to how best these needs might be addressed.

The COUNCIL shall convene at least semi-annually and at the call of the chair. A majority shall constitute a quorum for the purpose of conducting the business of the COUNCIL. A vote of the majority of the members present shall be sufficient for all action of the COUNCIL.

All agencies of state and local governments are hereby directed to cooperate with and assist the COUNCIL in the performance of its duties.

This executive order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

Issued in Austin, Texas, on November 22, 1985.

TRD-8511285

Mark White
Governor of Texas

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 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners Chapter 1. Architects Subchapter B. Registration and Definitions

★22 TAC §1.23, §1.25

The Texas Board of Architectural Examiners adopts on an emergency basis an amendment to §1.23 and §1.25, concerning forms and instructions, and processing. The amendments announce the deadline for receipt of applications for the 1986 examination, and the deadline for procedure for application to the 1987 examination.

An emergency exists due to the limited time remaining for an applicant to prepare and submit an application for the 1986 examination.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 249a.

§1.23. *Forms and Instructions.*

(a) Application forms and instructions will be furnished upon request [in writing, addressed to the board offices].

(b) For the 1986 Architect Registration Examination (ARE) the forms required must be properly and completely executed, and returned over the signature of the applicant with fees required.

(c) For the 1987 ARE and subsequent examinations, the forms required must be properly and completely executed, and returned over the signature of the applicant with all required supporting documentation and fees.

§1.25. *Processing.*

(a) Applications for the 1986 [Architect Registration Examination (ARE)] must be postmarked no later than [received prior to] February 3, 1986 [1]. Applications

received after this date will be processed for the 1987 ARE [Examination the following year].

(b) Applications and all supporting documentation for the 1987 ARE and subsequent examinations must be postmarked no later than February 1, except where that date occurs on a Saturday or Sunday, in which case it shall be the following Monday.

(c)[(b)] When received complete and accompanied by required fees, they will be entered into the board records. Information submitted will be verified and evaluated, and subsequent submittals may be required of the applicant.

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

TRD-8511263

Robert H. Norris
Executive Director
Texas Board of
Architectural
Examiners

Effective date: December 3, 1985

Expiration date: April 3, 1986

For further information, please call
(512) 458-1363.

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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 13. CULTURAL RESOURCES

Part V. Texas 1986 Sesquicentennial Commission

Chapter 51. Operating Policy and Program Guidelines

★ 13 TAC §51.19, §51.20

The Texas 1986 Sesquicentennial Commission proposes new §51.19 and §51.20, concerning operating policies and program guidelines. The new sections describe sponsorship guidelines.

Lynn Nabers, executive director, has determined that for the first five-year period the proposed sections 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 sections.

Ms. Nabers also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is to make the sesquicentennial year more visible through the corporate sponsorship program and also to provide monies to the state. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Joanne Brown, Texas 1986 Sesquicentennial Commission, P.O. Box 1986, Austin, Texas 78767.

The new sections are proposed under Texas Civil Statutes, Article 6145-11, §7, which provides the Texas 1986 Sesquicentennial Commission with the authority to develop and use an official logo and adopt rules to sanction official sponsors and official commemorative and/or promotional products, and license the use of the logo in exchange for either a fee, or royalties, or both.

§51.19. Corporate Sponsorship for Non-Fortune 500 Companies.

(a) Sponsorships into the 1986 Sesquicentennial will be accepted by the Texas 1986 Sesquicentennial Commission (commission) from all corporations.

(b) Companies and their parent companies not listed in the "Fortune 500, 1985 Edition" are requested to contribute \$3,500 for complete corporate sponsorship.

(c) Also, the subsidiaries of large corporations will be asked to pay a separate sponsorship fee regardless of their parent company's contribution. For example, PEPSICO (Pepsi-Cola) would be requested to contribute \$10,000, and its subsidiaries, i.e., Frito-Lay or Taco Bell, would be requested to contribute additional monies.

(d) Corporate sponsorship does not give any exclusive license or title. Sponsorship of the 1986 Sesquicentennial allows use of the official logo for promotional purposes. Packaging for products, i.e., sacks, boxes, placemats, napkins, and labeling directly related to the product, may bear the "Proud Sponsor" logo and the corporate name.

(e) A list of vendors will be provided and it is strongly suggested sponsors use the vendors on the provided list to ensure quality control and compliance with all guidelines. Although corporations will be able to use the official logo at their discretion, the commission reserves the right to stop use of the logo by a corporate sponsor if use of the logo is deemed inappropriate. Contributions will provide for the preservation of the spirit of Texas' heritage by funding:

(1) conferences for the statewide sesquicentennial committees to attend for planning their activities in 1986; and

(2) monthly newsletters and events reports on the sesquicentennial.

(f) Corporations will be provided with:

(1) carte blanche usage of the logo on any promotional ads, publications, or packaging having direct relation to corporations product, i.e., cartons and labels;

(2) press support and recognition;

(3) public recognition and appreciation from the commission;

(4) publicity touting the corporation or company as an official sponsor of the 1986 sesquicentennial celebration.

§51.20. Corporate Sponsorships for Fortune 500 Companies.

(a) Sponsorships into the 1986 Sesquicentennial will be accepted by the Texas 1986 Sesquicentennial Commission (commission) from all corporations.

(b) Companies and their parent companies listed in the Fortune 500, 1985 Edition are requested to contribute \$10,000 for complete corporate sponsorship.

(c) Also, the subsidiaries of large corporations will be asked to pay a separate sponsorship fee regardless of their parent company's contribution. For example, PEPSICO (Pepsi-Cola) would be requested to contribute \$10,000, and its subsidiaries, i.e., Frito-Lay or Taco Bell, would be requested to contribute additional monies.

(d) Corporate sponsorship does not give any exclusive license or title. Sponsorship of the 1986 Sesquicentennial allows use of the official logo for promotional purposes. Packaging for products, i.e., sacks, boxes, placemats, napkins, and labeling directly related to the product, may bear the "Proud Sponsor" logo and the corporate name.

(e) A list of vendors will be provided and it is strongly suggested sponsors use the vendors on the provided list to ensure quality control and compliance with all guidelines. Although corporations will be able to use the official logo at their discretion, the commission reserves the right to stop use of the logo by a corporate sponsor if use of the logo is deemed inappropriate. Contributions will provide for the preservation of the spirit of Texas' heritage by funding:

(1) conferences for the statewide sesquicentennial committees to attend for planning their activities in 1986; and

(2) monthly newsletters and events reports on the sesquicentennial.

(f) Corporations will be provided with:

(1) carte blanche usage of the logo on any promotional ads, publications, or packaging having direct relation to corporations product, i.e., cartons, and labels.

- (2) press support and recognition;
- (3) public recognition and appreciation from the commission; and
- (4) publicity touting the corporation or company as an official sponsor of the 1986 sesquicentennial celebration.

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 November 5, 1985.

TRD-8511324 Lynn Nabers
Executive Director
Texas 1986
Sesquicentennial
Commission

Earliest possible date of adoption:
January 10, 1986
For further information, please call
(512) 475-1986.

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TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 1. Architects Subchapter B. Registration and Definitions

★22 TAC §1.23, §1.25

The Texas Board of Architectural Examiners proposes amendments to §1.23 and §1.25, concerning forms, instructions, and processing. The amendments provide the procedures and deadline for making application for the architect registration examination.

Robert H. Norris, AIA, executive director, has determined that for the first five-year period the proposed sections 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 sections.

Mr. Norris also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is adequate time to verify an applicant's qualifications for examination and licensure. The anticipated economic cost to individuals who are required to comply with the proposed sections will be a one-time cost per applicant of \$5.00 each year in 1986-1990.

Comments on the proposal may be submitted to Robert H. Norris, AIA, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

The amendments are proposed under Texas Civil Statutes, Article 249a, which

provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

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

TRD-8511264 Robert H. Norris
Executive Director
Texas Board of
Architectural
Examiners

Earliest possible date of adoption:
January 10, 1986
For further information, please call
(512) 458-1363.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Lay Midwives

★25 TAC §37.171

The Texas Department of Health proposes an amendment to §37.171 and new §§37.177-37.180, concerning purpose and practice of lay midwives. The amendment and new sections cover educational and examination requirements for lay midwives. Specifically, the amendment and new sections cover requirements for a lay midwifery course, qualifications for course instructors, eligibility requirements for taking the examination, and the issuance of the examination.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five year period the sections will be in effect will be an estimated additional cost of \$4,500 each year for the years 1986-1990, an estimated increase in revenue of \$5,000 for 1986, and \$200 each year for the years 1987-1990. There will be no fiscal implications on local government or small businesses for the first five year period the sections will be in effect.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be to update and upgrade the knowledge and skills of lay midwives in the State of Texas for the benefit of their clients/patients and others in the health care system. The anticipated economic cost to individuals who are required to comply with the sections as proposed will be as follows.

An approved lay midwifery training course may be offered by a local health department, an accredited post-secondary institution, or an audit education program. The entity offering the course may charge a reasonable fee for the course. If the number of approved courses in a region are insufficient to satisfy the demand, such a course may be made available by the department on a temporary basis through the regional office. The department may charge a fee not to exceed \$50, and may waive a portion of the fee charged to an individual. There is a \$25 fee for every lay midwifery examination given.

Comments on the proposals may be submitted to Joey Alexander, CNM, Coordinator, Lay Midwifery Program, Bureau of Maternal and Child Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4512i, §§8, 10, 11, and 12, which provide the Lay Midwifery Board, subject to the approval of the Texas Board of Health, with the authority to establish requirements for an approved lay midwifery training course, qualifications for training course instructors, eligibility for taking the final examination, and issuing a final examination.

§37.171. Purpose. The purpose of these rules is to describe the procedures by which lay midwives identify themselves to county clerks each year, by which lay midwives disclose in oral and written form to a prospective client the limitations of the skills and practices of a lay midwife, [and] by which the Texas Department of Health receives and processes complaints relating to the practice of lay midwifery in the State of Texas. These sections also will cover the issuance of the *Lay Midwifery Manual* and the education and examination requirements for lay midwives.

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 November 27, 1985.

TRD-8511147 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:
January 31, 1986
For further information, please call
(512) 458-7700.

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★25 TAC §§37.177-37.180

The new sections are proposed under Texas Civil Statutes, Article 4512i, §§8, 10, 11, and 12, which provide the Lay Midwifery Board, subject to the approval of the Texas Board of Health, with the authority to establish requirements for an approved lay midwifery training course, qualifications for training course instructors, eligibility for taking the final examination, and issuing a final examination.

§37.177. Lay Midwifery Course. The requirements for our approved lay midwifery course are as follows.

(1) Approved training course. An approved lay midwifery training course may be offered by a local health department, an accredited post-secondary institution, or an adult education program. The entity offering the course may charge a reasonable fee for the course.

(2) Availability of course. If the number of approved courses in a region are insufficient to satisfy the demand, such a course may be made available to the department on a temporary basis through the regional office. The department may charge a fee not to exceed \$50, and may waive a portion of the fee charge to an individual.

(3) Course outline. The subject matter for the course is that which is covered by the Texas Lay Midwifery Manual which is adopted by reference in §37.176 of this title (relating to Lay Midwifery Manual.)

(4) Duration of the course. The course should consist of a minimum of 15 classes and a maximum of 18 classes. Each class will be at least three hours long.

(5) Requirements for attending the course. The course should be available to all residents of Texas, verified by driver's license or utility bill.

(6) The facility where the course will be taught. A room should be used for instruction which can comfortably accommodate between 10 and 20 participants and have facilities for instructional equipment.

(7) Class size. The class size should be no more than 20 participants, and may be as few as two to three participants.

(8) Form of instruction. Although a certain amount of teaching will have to be didactic, a great deal of emphasis should be on discussion and practice in class. Above and beyond the course, practical apprenticeship should be emphasized as well as practical experience as a primary birth attendant.

(9) Absence. Each student is only allowed one absence. If more than one class is missed, the extra classes will have to be made up by special arrangement or during a later service.

(10) Course completion. The instructor will notify the Lay Midwifery Program of the students who have satisfied the course requirements with no more than one absence.

§37.178. Course Instructors.

(a) The qualifications for the lay midwife training course instructors are that they must come within at least one of the following categories.

(1) a physician who is an obstetrician or family practitioner with experience in obstetrics;

(2) a Certified Nurse Midwife with experience with home deliveries; or

(3) a lay midwife with extensive experience, that is, four years of practice with more than 100 deliveries during that time.

(b) In areas where the instructors in subsection (a)(1)-(3) of this section may not be available, special exceptions may be made by the Lay Midwifery Board.

§37.179. The Lay Midwifery Examination. The eligibility requirements for the lay midwifery examination are as follows.

(1) A person is eligible if he or she has completed the course and has received a letter of course completion from the instructor.

(2) A person who wishes to take the examination without taking the course must have been identified as a lay midwife for two consecutive years.

§37.180. The Final Examination.

(a) The Texas Lay Midwifery Board will issue a final examination which is to be offered at regional or local offices to those who are eligible to take the examination.

(b) The examination will be offered in English and Spanish and in oral or written form.

(c) To make arrangements to take the examination, an applicant must complete an application form and submit these forms to the department with a fee of \$25.

(d) The department will then make arrangements for the examination and notify the applicant of the time and place.

(e) A letter of completion will be issued by the Lay Midwifery Program at the Texas Department of Health to those who pass the 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 November 27, 1985.

TRD-8511148

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

Proposed date of adoption:

January 31, 1985

For further information, please call
(512) 458-7700.

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Chapter 97. Communicable Diseases

Vaccination Stamps

★25 TAC §§97.151-97.156

The Texas Department of Health proposes new §§97.151-97.156, concerning vaccination stamps. The sections cover the criteria by which the department will issue vaccination stamps to physicians who administer yellow fever and cholera vaccines to persons who travel outside the United States.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect will be an estimated increase in revenue of \$2,500 each year for the years 1986-1990. There will be no effect on local government. The cost of compliance with the section for small businesses will be the cost of the vaccination stamps as stated in the sections. The cost per employee for small businesses compared to large businesses are the same.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated will be to describe the criteria the department will use in issuing vaccination stamps to physicians who administer yellow fever and cholera vaccines to persons who travel outside the United States. The anticipated economic cost to individuals who are required to comply with the sections as proposed will be the cost of the vaccination stamps as stated in the sections.

Comments on the proposed sections may be submitted to Robert D. Crider, Jr., Director, Immunization Division, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756. Comments will be received for 30 days after publication of these sections in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 4419b-1, §2.02, which provide the Texas Board of Health with the authority to adopt rules to control communicable diseases, and Article 4414c, §2(a), which authorize the board to charge fees for public health services.

§97.151. Purpose and Scope. The U.S. Public Health Service has designated the Texas Department of Health as the governmental entity in the State of Texas which is responsible for determining which physicians in the state are authorized to administer the yellow fever vaccine and validate cholera vaccinations for persons who travel outside the United States. The department provides this authorization by issuing vaccination stamps to designated physicians. There are two types of stamps: yellow fever

vaccination stamps and cholera stamps. These sections cover the criteria by which the department issues the vaccination stamps to physicians.

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

Cholera vaccination stamp—A vaccination stamp issued by the department to a physician authorizing him or her to validate cholera vaccinations for persons who travel outside the United States.

Department—The Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756

Division—The Immunization Division, Bureau of Communicable Disease Services, Texas Department of Health.

Physician—A physician licensed to practice medicine in the State of Texas.

Site—The location where a physician is authorized to administer the yellow fever vaccine.

Yellow fever vaccination stamp—A vaccination stamp issued by the department to a physician authorizing him or her to purchase and administer yellow fever vaccines and validate cholera vaccinations for persons who travel outside the United States.

§97.153. Criteria for Issuing Yellow Fever Stamps to Physicians.

(a) Previous stamp holders.

(1) Physicians who have administered 20 or more doses of yellow fever vaccine for one year prior to the effective date of this section are authorized to receive a new yellow fever vaccination stamp. Physicians may apply for the stamp by sending an application form to the division in accordance with the requirements of subsection (d) of this section. Physicians shall return their old stamps to the division upon receipt of the new stamp.

(2) Physicians who have administered less than 20 doses of yellow fever vaccine for one year preceding the effective date of this section are required to return their old stamps to the division within 60 days after the effective date of this section. These physicians may be authorized to receive new stamps only for valid cause. The division will determine valid cause on an individual basis. The criteria which the division will use to determine valid cause are as follows:

(A) the number of doses of yellow fever vaccine administered on an annual basis. Physicians who administer less than 20 doses of yellow fever vaccine will be requested to relinquish their yellow fever vaccination stamp.

(B) the requirement to administer 20 doses of yellow fever on an annual basis may be waived if the stamp is issued to a physician who provides the vaccine in an underserved geographical area.

(b) Authorized use of a yellow fever vaccination stamp. Physicians may use the stamp only for the purposes of administering vaccines and validating immunization certificates.

(c) U.S. Public Health Services (PHS) requirements. Physicians shall administer yellow fever vaccines in accordance with the vaccine manufacturer and PHS requirements. The PHS requirements are described in 42 Code of Federal Regulations, §71.3, as published in the Federal Register, page 1519, dated January 11, 1985, and PHS publications entitled, "Division of Quarantine Circular No. 106," revised on January 7, 1983, "Advisory Memorandum No. 66," issued on January 7, 1983, and "Advisory Memorandum No. 72," issued on October 5, 1984. The department adopts these publications by reference. The publications may be reviewed during regular working hours at the Immunization Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas.

(d) Application for yellow fever vaccination stamp. In order to receive a yellow fever vaccination stamp, a physician shall submit a completed application form to the division. Copies of the application forms may be obtained from the division.

(e) Site for use of the yellow fever vaccination stamp. A physician shall use the yellow fever vaccination stamp only at the site where the yellow fever vaccine is delivered. If the physician chooses to administer the vaccine at a site other than that designated on the current application request, prior approval must be obtained from the division stating the reason for vaccine administration at a non-designated site and the means for ensuring that appropriate temperatures are maintained and documented during transit of the vaccine. If a physician chooses to administer yellow fever vaccine at a non-designated site more than twice in a 12-month period, an application for permission to administer the vaccine at that site shall be filed with the division. The physician to whom the yellow fever vaccination stamp has been issued is not authorized to administer a yellow fever vaccine on board ship or aircraft.

(f) Physician record keeping. The physician to whom the yellow fever stamp is issued is responsible for maintaining the following information:

(A) name, address, birthdate, sex, race, and occupation of the vaccine recipient;

(B) reason for immunizing the vaccine recipient;

(C) destinations of the vaccine recipient;

(D) time, date, and address of vaccine administration; and

(E) lot number and expiration date of the vaccine.

(g) Charges for the stamp.

(1) In January of each year, each physician is required to pay an annual

charge of \$25 to cover the cost to the department in issuing and renewing stamps. The physician shall submit the \$25 by personal check, cashier's check, or money order to the division with the application form. If the division denies the application, the division will return the \$25 to the physician.

(2) The \$25 charge will be waived for public health departments, public health districts, and public health regions.

(h) Non-assignability of stamps. A physician may not assign, loan, or give the stamp to another person.

(i) Loss or theft of stamps. A physician shall report immediately to the division any loss or theft of the stamp.

(j) Annual report. In January of each year, a physician shall report to the division the number of doses of yellow fever and cholera vaccines administered during the preceding year. Reporting forms are available from the division.

(k) Local health requirements. Local health departments and public health districts may choose to require additional measures for yellow fever vaccinations occurring within their jurisdictions.

§97.154. Criteria for Issuing Cholera Vaccination Stamps.

(a) U.S. Public Health Services (PHS) requirements. Physicians administering cholera vaccine shall follow the vaccine manufacturer and PHS requirements. The PHS requirements are described in the PHS publication entitled, "Foreign Quarantine," 42 Code of Federal Regulations part 71.3, "Designation of Yellow Fever Vaccination Centers; Validation Stamps," issued on January 11, 1985, and "Division of Quarantine Circular No. 106," revised on January 7, 1983, which the department adopts by reference. Copies of the publications may be reviewed during regular working hours at the Immunization Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas.

(b) Applications for cholera stamps. In order to receive a cholera vaccination stamp, a physician shall submit a completed application form to the division. Copies of the application forms are available from the division.

(c) Previous stamp holders. The division will contact each physician who is a stamp holder as of the effective date of this section to determine if he or she wants to continue administering cholera vaccine. Physicians who do not want to continue administering cholera vaccine will be requested to return their cholera vaccination stamp to the division. Physicians who want to continue as cholera vaccination stamp holders must complete the application form which is available from the division.

(d) Charges for the stamp.

(1) In January of each year, each physician is required to pay an annual charge of \$10 to cover the cost to the department in issuing and renewing stamps. The physician shall submit the \$10 by personal

check, cashier's check, or money order to the division with the application form. If the division denies the application, the division will return the \$10 to the physician.

(2) The charge of \$10 per stamp will be waived for public health departments, public health districts, and public health regions.

§97.155. Format of the Yellow Fever Vaccination Stamp and the Cholera Stamp. The format of the yellow fever vaccination stamps and cholera stamps will be according to federal guidelines "Division of Quarantine Circular No. 106," which is adopted by reference in §97.154 of this title (relating to Criteria for Issuing Cholera Vaccination Stamps).

§97.156. Denial, Suspension, or Revocation of Stamp.

(a) The division may deny an application for a stamp or suspend or revoke an existing stamp if the applicant or holder fails to comply with the requirements of these sections. The applicant or holder has the opportunity to request a hearing on any of these actions in accordance with department formal hearing rules, §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(b) The department will not suspend or revoke a stamp without a prior hearing, except if the division determines that immediate suspension or revocation is necessary because of imminent threat to public health; the division may suspend or revoke the stamp and offer the holder the opportunity for a post-action hearing.

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

Issued in Austin, Texas, on November 27, 1985.

TRD-8511149

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

Proposed date of adoption:

January 31, 1986

For further information, please call
(512) 458-7284



TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 3. Life, Accident, and Health Insurance and Annuities

Subchapter X. Preferred Provider Plans

★28 TAC §§3.3701-3.3705

The State Board of Insurance proposes new §§3.3701-3.3705, concerning preferred provider plans. A preferred provider plan as specified in these sections occurs when an insurer arranges through its policy for the payment of a higher level of coverage or other economic incentive which is more favorable to the insured if the insured uses preferred providers than the basic level of coverage provided for in the policy. A preferred provider is defined as a health care provider which is under contract with an insurer to provide such higher level of services or economic incentive. The sections apply only to a plan arranged or provided for by an insurer through its insurance policy. The sections are not an interpretation of any law requiring licensure. Persons and other entities must comply with applicable licensing laws without regard to these sections.

Woody Pogue, deputy insurance commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. The emergency of preferred provider insurance plans will have fiscal implications for the State Board of Insurance, but that impact is caused by the plans themselves, and not by these sections. The sections themselves are what the State Board of Insurance proposes to establish as standards to make sure that the practices of insurers marketing preferred provider plans will be consistent with statutory law.

There will be a cost to small business insurers from these provisions. However, much of what the board believes is necessary to assure compliance with statutory law requirements. This is true of §3.3703 and §3.3704, which are designed primarily to reduce the likelihood of de facto unfair discrimination regarding the health care provider of choice of persons insured under a preferred provider plan. To this end the sections prevent a preferred provider plan which unfairly discriminates between health care providers and between classes of health care providers. It is also largely true of §3.3705, which requires insurers to set up certain systems to assure the quality, availability, and accessibility of health care furnished under the preferred provider plan. This will promote preferred provider

plans which work in a just, nondiscriminatory, and nonmisleading fashion. The cost of compliance will vary depending on the present administrative practices of each individual insurer. For some insurers, the cost might be little; for others it could be a great deal. The cost will also vary depending on the degree to which preferred provider plans are marketed. Any cost to insurers would likely be passed on to insureds in the form of higher premiums. It is believed that the costs to the insureds will be more than offset by the benefit of the sections to them. There is expected to be no difference in the cost of compliance between large and small businesses on a cost per hour of labor basis.

Mr. Pogue also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the adoption in rule form of regulations to assure that preferred provider plans comply with applicable law and provide insureds with a quality plan.

The possible economic cost to individuals required to comply with the sections will be to insurers. This will result from the requirements which are adopted to assure compliance with statutory law. This is true of §3.3703 and §3.3704, which are designed primarily to reduce the likelihood of de facto unfair discrimination regarding the health care provider of choice of persons insured under a preferred provider plan. To this end the sections prevent a preferred provider plan which unfairly discriminates between providers and between classes of providers. It is also largely true of §3.3705, which requires insurers to set up certain systems to assure the quality, availability, and accessibility of health care furnished under the preferred provider plan; this will promote preferred provider plans which work in a just, nondiscriminatory and nonmisleading fashion. The cost of compliance will vary depending on the existing administrative practices of each insurer. For some insurers, the cost might be little; for others it could be a great deal. The cost will also vary depending on the degree to which preferred provider plans are marketed. Any cost to insurers would likely be passed on to insureds in the form of higher premiums. It is believed that the costs to insureds would be more than offset by the benefits of the sections to them.

Comments on the proposal may be submitted to Woody Pogue, Deputy Insurance Commissioner, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Articles 3.42(g) and (k), 3.51-6, §3 and §5, 21.21, §3 and §4(1), (2), and (7), 21.21, §13, 12.35A, and 21.52. Article 3.42(g) authorizes the board to disapprove any form which is unjust or which does not comply with the insur-

ance Code. Article 3.42(k) authorizes the board to adopt rules to implement and accomplish the purposes of Article 3.42. As indicated, two of the main purposes of Article 3.42 are to make certain insurance coverage just and complies with the Insurance Code. The sections are designed to accomplish those purposes. The board believes the coverage will not be just if insureds do not have freedom to utilize the health care provider of their choice. The sections are applied particularly to practitioners designated in Articles 3.70-2, 21.35A, and 21.52, since they have been singled out by the legislature. Section 3.3703 and §3.3704 require that health care providers, as defined therein, and classes of health care providers have reasonable access to becoming a provider in the preferred provider plan. Insureds must be permitted freedom of choice. Otherwise, insureds could be forced or pressured to use providers or classes of providers with whom they are not comfortable. This purpose is buttressed by Article 3.51-6, §3, which prescribes a policy requirement that a service be rendered by a particular hospital or person. The sections are certainly designed in part to carry out the provisions of Article 3.51-6, §3 by assuring reasonable access of health care providers to being designated as a preferred provider and by assuring that the level of benefits between preferred provider coverage and basic coverage is not so great as to in fact compel the use of preferred provider coverage. Article 3.51-5, §5 authorizes the board to issue rules to carry out the provisions of Article 3.51-6.

The provisions of §3.3705 are designed to achieve a just and legal result as well. If persons purchase a preferred provider plan they should certainly be assured of the quality, availability, and accessibility of the preferred provider services. As previously mentioned, Articles 3.70-2, 21.35A, and 21.52 require that certain classes of providers be available to insureds under certain circumstances. The requirements of availability and accessibility are designed to cause those laws to be effective. Article 21.21, §3 and §4(7)(b) prohibits the making or permitting of any unfair discrimination between individuals of the same class and essentially the same hazard in the amount of premium in any policy of accident or health insurance, or in the benefits payable thereunder, or in any of the terms or conditions of the contract or in any manner whatever. In requiring accessibility and availability of coverage to each insured as well as requiring reasonable access to different health care providers and classes of providers, the board is attempting to cause different assureds of the same class and of equal hazard to be treated equally. Defacto discrimination could very obviously occur if availability and accessibility to health care providers in general, and in particular to the health care provider of one's choice, were not

reasonably equally available to all insureds. Article 21.21, §4(1) and (2) prohibit untrue, deceptive, or misleading statements in respect to the business of insurance. Certainly there is at least an implicit representation as to the quality, availability, and accessibility of coverage in a preferred provider plan. Article 21.21, §13 authorizes the board to promulgate such rules as are necessary in the accomplishment of the purposes of Article 21.21.

§3.3701. Scope. These sections apply to a preferred provider plan in which an insurer arranges through its policy for the payment of a higher level of coverage or other economic incentive which is more favorable to the insured if the insured uses a preferred provider than the basic level of coverage provided by the policy. The sections do not apply to nor do they sanction any plan arranged or provided for by any provider, employer, union, third party entity, or any person or entity other than an insurer authorized to engage in the business of health insurance in this state. These sections are not an interpretation of and have no application to any law requiring licensure to act as a principal or agent in the insurance or related businesses; this includes, but is not limited to, health maintenance organizations.

§3.3702. Definitions. The following words and terms when used in these sections, have the following meanings, unless the context clearly indicates otherwise.

Health care provider—Any practitioner or institutional provider that is furnishing or providing any health care services under a license, certificate, or other legal authorization issued or granted under the laws of this state.

Health insurance policy—A group insurance policy or contract providing benefits for medical or surgical expenses incurred as a result of an accident or sickness, which is approved under the Insurance Code, Article 3.42.

Hospital—A licensed public or private institution as defined by the Texas Hospital Licensing Law, Texas Civil Statutes, Article 4437F, or by the Texas Mental Health Code, Texas Civil Statutes, Article 5547-88, §88.

Institutional provider—A hospital, nursing home, or any other health-related service facility caring for the sick or injured or providing care for other coverage which may be provided in an accident or sickness insurance policy.

Insurer—Any life, health and accident, or health insurance company authorized to issue, deliver, or issue for delivery in this state, health insurance policies approved under the Insurance Code, Article 3.42.

Practitioner—One who professes or practices a healing art and is specified in the Insurance Code, Article 3.70-2(B), 21.35A, or 21.52.

Preferred provider—A health care provider under contract with an insurer as specified in this section that agrees to provide a higher level of services or other economic incentive which is more favorable to the insured than the basic level of coverage in the policy.

§3.3703. Requirements. An insurance policy that includes benefits for a higher level of coverage or other economic incentive which is more favorable to the insured than the basic level of coverage in the policy for utilization of preferred providers shall not be considered unjust under the Insurance Code, Article 3.42, of unfair discrimination under the Insurance Code, Article 21.21, §4(7)(b), or to violate the Insurance Code, Articles 3.70-2, 21.35A, or 21.52, if:

(1) any health care provider licensed to treat injuries or illnesses or to provide services covered by the policy that complies with the terms and conditions established by the insurer for designation as a preferred provider may apply for and receive such designation as a preferred provider;

(2) the terms and conditions established by the insurer for designation as a preferred provider shall be reasonable, shall not violate any law, shall be based solely on economic and quality considerations, and shall be applied in accordance with reasonable business judgement; any term or condition limiting participation on the basis of quality shall be consistent with established standards of care for the profession. In the case of practitioners with hospital privileges who provide a significant portion of care in a hospital setting, terms and conditions may include the possession of practice privileges at preferred hospitals, except that if no participating hospital privileges shall not be a basis for denial of participation to practitioners of that class; and

(3) all classes of practitioners licensed to treat illnesses or injuries or to provide services covered by the policy shall be afforded an equivalent opportunity to become preferred providers. Under the preferred provider plan, insureds shall be provided with direct and reasonable access to all classes or practitioners licensed to treat illnesses or injuries or to provide services covered by the policy and all preferred provider practitioners within a class; there shall be no requirement that the insured be referred by a practitioner of another class or by a subspecialty within the same class, except that a plan may provide for a higher level of coverage or other economic incentive for use of a nonparticipating practitioner if a referral is made by a participating practitioner.

§3.3704. Freedom of Choice. Under Article 3.51-6, §3, the policy must not require that a service be rendered by a particular hospital or person. A policy offered by an insurer which provides for a bonus or higher level of coverage or other economic incen-

tive which is more favorable to the insured than the basic level of coverage in the policy for utilization of preferred providers shall not be considered to unlawfully restrict freedom of choice in the selection of hospitals or practitioners by insured provided:

(1) the basic level of coverage, excluding a reasonable difference in deductibles, is not more than 20% less than the higher level of coverage. A reasonable difference in deductibles shall be determined considering the benefits of each individual policy;

(2) the right of an insured to exercise full freedom of choice in the selection of hospital or practitioner is not restricted by the insurer;

(3) the basic level of coverage is reasonably consistent with other policies offered in the service area which do not provide for a higher level of coverage or economic incentive for utilization of a preferred provider, and such basic level includes adequate coverage for emergency services and out-of-area care;

(4) the policy and all promotional, solicitation, and advertising material concerning the policy shall clearly describe in bold typeface the distinction between preferred and nonpreferred providers and the obligation of the insured to pay any portion of a charge otherwise due on owing but not reimbursed by the insurer; such information and a list of participating providers shall be distributed to all prospective insureds prior to enrollment. Any illustration of preferred provider benefits must be in close proximity to an equally prominent description of basic benefits; and

(5) both preferred provider benefits and basic level benefits must be readily available to all insureds.

§3.3705. Procedure to Assure Adequate Treatment. Insurers which market a preferred provider plan must:

(1) establish an internal system of quality control which gives prospective insureds reasonable assurance that the quality of health care furnished under the policy will be in accordance with prevailing standards of health care in the state of Texas; and

(2) establish a system to assure that health care services, including treatment of illnesses and injuries, will be provided under the proposed policy in a manner assuring both availability and accessibility of adequate personnel, specialty care, and facilities.

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 December 3, 1985.

TRD-8511298

James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
January 10, 1986
For further information, please call
(512) 483-6327.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 27. Intermediate Care Facility for Mentally Retarded

Subchapter UUUU. Support Documents

★ 40 TAC §27.9850

The Department of Human Services proposes the repeal of §27.9850, concerning reimbursement methodology for intermediate community services (ICS), in its intermediate care facility for mentally retarded chapter.

The department is proposing a new reimbursement methodology for ICS, §48.9802, in this issue of the *Texas Register*. The proposed methodology is filed in the community care for aged and disabled (CCAD) chapter, and replaces the methodology in §27.9850. Changes to the current methodology are explained in the preamble of §48.9802

Clifton Martin, associate commissioner for programs, 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 governments or small businesses as a result of enforcing or administering the repeal.

Mr. Martin also has determined that for each year of the first five years the repeal as proposed is in effect, the public benefit will be the deletion of obsolete material from department sections. There is no anticipated economic costs to individuals who are required to comply with the repeal as proposed.

Comments may be sent to Cathy Rosenberg, Administrator, Policy Development Support Division-643, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§27.9850. Reimbursement Methodology for Intermediate Community Services (ICS).

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 December 4, 1985.

TRD-8511321

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
January 10, 1986
For further information, please call
(512) 450-3766.

Chapter 48. CCAD Support Documents

★ 40 TAC §48.9802

The Texas Department of Human Services proposes new §48.9802, concerning reimbursement methodology for intermediate community services (ICS), in its community care for aged and disabled (CCAD) chapter. The current reimbursement methodology, §27.9850, is being repealed since it more appropriately belongs in the CCAD chapter.

The proposed reimbursement methodology differs from the one currently filed under §27.9850 in the following ways. The proposal changes the current fee for service method of reimbursement to a uniform daily rate for the second and subsequent years of program operation. The current reimbursement methodology requires annual rates to be in effect for the rate period of January 1-December 31. The proposal changes the rate period to September 1-August 31, which coincides with the implementation date of the program. This will begin in 1986. The current reimbursement methodology requires a cost report analysis and market survey analysis, the lower of which determines the reimbursement for the ICS Program. The proposal changes rate determination to be based on cost report analysis and market survey comparison of costs. The legislative rider, special provisions relating only to the Department of Mental Health and Mental Retardation and the Department of Human Services, to the 1986-1987 Appropriations Act changed the rate ceiling criteria for the ICS Program. The proposal changes the ceiling criteria to match the language in the 1986-1987 Appropriations Act

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rule.

Mr. Martin also has determined that for each year of the first five years the section as proposed is in effect the public benefit will be cost-effective alternatives to long-term institutionalization. There is no anticipated economic costs to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-643, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The new section is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§48.9802. Reimbursement Methodology for Intermediate Community Services (ICS).

(a) Reimbursement methodology.

(1) For the initial period of program operation, not to exceed one year, contracted providers are reimbursed based on a uniform per diem rate of \$45.90 per recipient. The per diem rate is based on a review and analysis of a projected budget for the operation of a core cluster serving a total of 30 recipients who reflect the level-of-care mix currently reimbursed under the Intermediate Care Facility for Mentally Retarded Program.

(2) For the second and subsequent years of operation, reimbursement rates are determined according to the rate determination process in subsection (f) of this section.

(3) The department conducts an annual market survey of providers offering substantially similar services in the competitive market. The results of the market survey are compared with cost reports of contracted providers to ensure that the rate reflects a reasonable level of reimbursement for services delivered.

(b) General information.

(1) Reimbursement rates apply to all providers uniformly, regardless of geographic location, classification of the recipient, or other factors.

(2) The rate period is the state fiscal year, September 1-August 31, which coincides with the implementation date of the program. Reimbursement rates are determined prospectively by projecting the costs reported on the cost report for the most recently completed reporting year to the next ensuing rate period. Reimbursement rates are determined at least annually.

(3) Financial audits (desk audits and on-site audits) are performed periodically on all providers participating in the program. The frequency and nature of the audit are determined by the department, but are not less than that required by federal regulations relating to the administration of the program. Failure to allow the department to perform an audit in sufficient detail to verify reported information results in the

withholding of provider payments, and may result in cancellation of the provider contract.

(4) Providers must retain financial records according to the provisions of §51.50 of this title (relating to Record Retention Requirements). Providers must ensure that records are in sufficient detail to support the information reported in the reimbursement claim. Failure to comply with this requirement may result in cancellation of the provider's contract.

(c) Market survey. The department develops and implements the necessary processes to conduct, verify, and analyze an annual survey of providers offering substantially similar services to those offered as part of the ICS Program.

(i) Content of market survey. The department collects financial and statistical information in a prescribed format in sufficient detail to ensure that the reimbursement rate is reasonable and adequately reimburses an economic and efficient provider.

(2) Survey period. The market survey is completed to reflect the prevailing or customary charge during the current fiscal year. Market surveys may be required for other periods at the discretion of the department.

(3) Market survey due date. The market survey is completed no later than three months before the end of the current rate period.

(d) Cost reporting. Each provider must submit financial and statistical information at least annually in a cost report prescribed by the department.

(1) Content of cost report. The cost report contains financial and statistical information in a format prescribed by the department. Providers must ensure that the cost report is in sufficient detail to allow the department to ensure that the reimbursement rate is reasonable and adequately reimburses an economic and efficient provider.

(2) Reporting period. The provider must prepare the cost report to reflect the activities of the provider during his fiscal year. Cost reports may be required for other periods at the discretion of the department.

(3) Cost report due date. The provider must submit the cost report not later than three months from the end of the provider's fiscal year. The department may grant an extension of a due date for good cause. Good cause is that cause outside the control of the provider. The provider must submit a request in writing for an extension of the due date.

(4) Failure to file an acceptable cost report. Failure to file a cost report according to all applicable rules and instructions results in the State of Texas withholding all provider payments until the provider submits the report. If the provider does not submit an acceptable cost report within 60 days of notification that the cost report is

past due, the department initiates the process to cancel the provider's contract.

(5) Accounting requirements. The provider must ensure that financial and statistical information submitted in cost reports are based upon the accrual method of accounting, except for governmental institutions operated on the cash method of accounting. For financial or statistical items, the provider must use the generally accepted accounting principles (GAAP) approved by the American Institute of Certified Public Accountants.

(6) Factors affecting allowable costs. To be allowable under this program, the provider must ensure that costs are:

(A) necessary and reasonable for the proper and efficient administration of a program to deliver services contracted for by the department;

(B) authorized or not prohibited under state or local laws or regulations;

(C) consistent with any limitations or exclusions described in this section, federal or state laws, or other governing limitations as to types or amounts of cost items;

(D) consistent with policies, regulations, and procedures that apply uniformly to both the ICS Program and other activities of the organization of which the provider is a part;

(E) treated consistently using generally accepted accounting principles appropriate to the circumstances;

(F) not allocatable to or included as a cost of any other program in either the current or a prior period;

(G) the net of all applicable credits.

(7) Definition of reasonableness. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. In determining the reasonableness of a given cost, the department considers the following:

(A) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the business or the performance under the contract;

(B) the restraints or requirements imposed by generally accepted sound business practices, arm's length bargaining, federal and state laws and regulations, and contract terms and specifications; and

(C) the action that a prudent person would take in the circumstances, considering his responsibilities to the public, the government, his employees, clients, shareholders, or members and the fulfillment of the purpose for which the business was organized.

(8) Unallowable costs. The following list of expenses is not intended to be inclusive of all possible unallowable costs. It is a general guide to the various unallowable costs frequently encountered in costs reports submitted by providers. Unallowable costs

are expenses incurred by a provider which are not directly or indirectly related to the provision of contracted services according to applicable laws, rules, and standards:

(A) advertising expenses except yellow page advertising, advertising for employee recruitment, and advertising to meet statutory or regulatory requirements;

(B) allowances for bad debts or other uncommon accounts;

(C) business expense from business operations not related to the provision of services contracted for by the department;

(D) contributions to political activities or contributions to charity;

(E) discounts for administrative reasons; courtesy, cash, trade, and quantity discounts; rebates; or other discounts granted;

(F) dues and membership fees to organizations whose primary emphasis is not related to the service contracted for by the department;

(G) entertainment expenses except for entertainment which is reported as an employee benefit and which meets the applicable criteria;

(H) expenses incurred for services not related to the provision of services contracted for by the department;

(I) expenses for purchases of goods and services from revenues received from restricted or unrestricted gifts, donations, endowments, and trusts;

(J) expenses which are not the legal obligation of the provider;

(K) expenses of donated items, including depreciation and amortization of the value of the donations;

(L) fees for corporation or association board of directors; partnership or corporation filing fees;

(M) fines and other penalties for violation of statute or ordinance; penalties for late payment of taxes, utilities, mortgages, and other similar penalties;

(N) fund-raising, promotion, and public relations expenses;

(O) insurance expenses for life insurance premiums if the beneficiary is the provider organization; for insurance on assets not related to the delivery of services contracted for by the department;

(P) interest expense on loans for assets not related to the delivery of services contracted for by the department; interest expenses must be reduced or offset by interest income except interest income from funded depreciation accounts or qualified pension funds;

(Q) personal compensation paid to individuals not providing services contributory to the delivery of services contracted for by the department;

(R) personal expenses not related to the delivery of services contracted for by the department;

(S) purchase of services, facilities, or supplies from related parties is limited

to the lower of the reported transaction cost or the cost of comparable services, facilities, or supplies purchased in an arm's length transaction applying the principle of a prudent buyer. If the determination of comparable cost can not be reasonably made, the cost of the transaction is limited to the actual cost to the related party;

(T) rental or lease expense on any item not related to the delivery of services contracted for by the department;

(U) tax expense for federal, state, or local income tax; and tax levied on assets not related to the delivery of services contracted for by the department; and

(V) transportation expenses for vehicles which are not generally suited to functions related to the provision of services contracted for by the department. Mileage expense can be included at a cost per mile not to exceed the current reimbursement rate set by the Texas Legislature for state employee travel. Mileage is allowable provided that there is adequate documentation and that the expense incurred was related to the delivery of services contracted for by the department.

(e) Special legislative limitation on program expenditures. No funds shall be expended for services under this waiver program where the average state cost per client per day exceeds the average state cost per client per day in the Intermediate Care Facility for Mentally Retarded (ICF-MR) community-based program.

(f) Reimbursement rate determination.

(1) The cost reporting process recasts reported expense data in a consistent manner to determine the allowable expense per cost center. The total cost per center is inflated by those economic factors determined to be reasonable and appropriate by the department to project costs to the next ensuing rate period. The costs are arrayed in arithmetic order by cost center. The median cost per cost center is then multiplied by 1.07. The result of these computations is designated the cost report reimbursement rate.

(2) The results of the market survey are inflated by those economic factors determined to be reasonable and appropriate by the department to project costs to the next ensuing rate period. The costs are arrayed in arithmetic order by cost center. The median cost per cost center is compared to the results of the cost report analysis in paragraph (1) of this subsection.

(3) The market survey cost per cost center results are then compared to the results of the cost report analysis. If the results of the cost report analysis reveal a significant deviation from the results of the market survey, the results of the cost report analysis may be adjusted.

(4) The prospective per diem reimbursement rate for the Intermediate Community Services (ICS) Program may not exceed the maximum client per day rate in the

ICF-MR community-based program according to legislative rider 4(c)(3), special provisions relating only to the Department of Mental Health and Mental Retardation and the Department of Human Services, of the 1986-1987 Appropriations Act.

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

Issued in Austin, Texas, on December 4, 1985.

TRD-8511322

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

January 10, 1986

For further information, please call
(512) 450-3766.

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TITLE 43.

TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 17. Motor Vehicle Division

Dealer License Plate Cancellation

★ 43 TAC §§17.61-17.64

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the State Department of Highways and Public Transportation, Dewitt C. Greer State Highway Building, 11th and Brazos, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Department of Highways and Public Transportation proposes the repeal of §§17.61-17.64, concerning dealer license plate cancellation, and new §§17.61-17.73, concerning dealers and manufacturers vehicle license plates. The title of Chapter 17 is amended to reflect a new title. The new sections provide guidelines for the qualification of dealers, use of dealers license plates and cardboard tags, for the cancellation of dealers license. The department proposes this repeal of existing rules and adoption of new rules to comply with the Dealer License Law, Texas Civil Statutes, Article 6886 as amended by House Bill 1953, 69th Legislature, 1985.

R. W. Townsley, director, Division of Motor Vehicles, 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 enforcing or administering the repeal.

Mr. Townsley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be permanency of dealer location, controlled use of dealer plates and cardboard tags, and uniform regulation of persons and firms customarily engaged in the business of buying, selling, or exchanging motor vehicles. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to R. W. Townsley, Director, Division of Motor Vehicles, 40th and Jackson Avenue, Austin, Texas 78779

The repeal is proposed under Texas Civil Statutes, Article 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules and regulations for the conduct of the work of the State Department of Highways and Public Transportation, and under Texas Civil Statutes, Article 6686, which provide the department with the authority to promulgate reasonable rules and regulations for the orderly administration of statutory provisions relating to dealer's and manufacturer's license plates.

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 December 4, 1985

TRD-8511328 Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Earliest possible date of adoption:
January 10, 1986
For further information, please call
(512) 475-2141.



Chapter 17. Division of Motor Vehicles [Vehicle Division] Dealers and Manufacturers Vehicle License Plates

★43 TAC §§17.61-17.63

The new sections are proposed under Texas Civil Statutes, Article 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules and regulations for the conduct of the work of the State Department of Highways and Public

Transportation, and under Texas Civil Statutes, Article 6686, which provide the department with the authority to promulgate reasonable rules and regulations for the orderly administration of statutory provisions relating to dealer's and manufacturer's license plates.

§17.61. Dealer. Any person who is regularly and actively engaged in the business of buying, selling, or exchanging new or used motor vehicles, motorcycles, house trailers, or trailers or semi-trailers as defined in the Registration Law, Texas Civil Statutes, Article 6675a-1, or the Certificate of Title Law, Texas Civil Statutes, Article 6687-1, at either wholesale or retail, either directly, indirectly, or by consignment, is in violation of the Dealer License Law, Texas Civil Statutes, Article 6686, if such person does not have a valid general distinguishing number. However, such person is excluded if he sells or offers for sale less than five vehicles of the same type as herein described in a calendar year and such vehicles are owned by him and registered and titled in his name.

§17.62. House Trailer; Travel Trailer. The term house trailer as used in the Dealer License Law, Texas Civil Statutes, Article 6686, shall mean travel trailer which is the same as the term house trailer as defined in the title law, Texas Civil Statutes, Article 6687-1, except that the size of such vehicle shall be less than eight body feet in width and less than 40 body feet in length, excluding the hitch.

§17.63. More Than One Location. A dealer holding a general distinguishing number for a particular type of vehicle may operate from more than one location within the limits of a city, provided each such location meets the requirements of an established and permanent place of business and is approved by the department.

§17.64. Off-site Sales. Unless otherwise authorized by statute, a dealer is not permitted under Texas Civil Statutes, Article 6686, to sell or offer for sale vehicles from a location other than an established and permanent place of business which has been approved by the department.

§17.65. Motorcycle Dealer Bond. A motorcycle dealer to whom a general distinguishing number is to be issued must meet the bond requirements as provided in Texas Civil Statutes, Article 6686, §1-A, unless licensed by the Texas Motor Vehicle Commission.

§17.66. Assignment of Security and Letter of Credit. In lieu of a surety bond required by statute, the department will accept an assignment of security or an irrevocable letter of credit on forms approved by the attorney general. An assignment of security or an irrevocable letter of credit must be executed by a bank, savings and loan institution, credit union, or other

financial institution insured by an agency of the United States Government.

§17.67. Temporary Cardboard Tags. Instructions for having the cardboard tags printed are furnished to the dealer when a general distinguishing number is issued. Homemade cardboard tags or cardboard tags which have buyer's tag information printed on one side and dealer's tag information printed on the other side are not acceptable.

§17.68. Display of Dealer License Plates and Temporary Cardboard Tags.

(a) Metal dealer license plates shall be attached to the rear license plate holder of vehicles on which such plates are to be displayed. If the vehicle on which a metal dealer plate is to be attached displays Texas multi-year plates that have not been validated for the current registration period, such multi-year plates shall be removed and placed under lock and key. The multi-year plates should be placed back onto the vehicle when it is sold or if the metal dealer plate is removed from the vehicle.

(b) Buyer's temporary cardboard tags and dealer's temporary cardboard tags may be displayed either in the rear window or on the rear license plate holder of unregistered vehicles. When displayed in the rear window, the tag shall be attached in such a manner that it is clearly visible and legible when viewed from the rear of the vehicle. If the vehicle on which a temporary cardboard tag is to be attached displays Texas multi-year license plates that have not been validated for the current registration period, the temporary cardboard tag may be displayed in the rear window as prescribed in this section or placed over the rear license plate. The multi-year plates should not be removed from the vehicle.

(c) Metal dealer license plates and temporary cardboard tags may not be displayed on laden commercial vehicles being operated or moved upon the public streets or highways or on the dealer's service or work vehicles.

(1) Examples of vehicles considered as service or work vehicles are:

- (A) wreckers and car carriers;
- (B) pickup trucks used in connection with the operation of the dealership's shops or parts department;
- (C) courtesy cars on which courtesy car signs are displayed;
- (D) rental and lease vehicles;
- (E) dealer-owned vehicles loaned to schools; and
- (F) any boat trailer owned by a dealer or manufacturer which is used to transport more than one boat.

(2) A pickup truck with a camper unit mounted thereon is not considered to be a commercial vehicle carrying a load.

(d) Each unregistered vehicle being conveyed utilizing the full mount method, the saddle mount method, the tow bar method, or any combination thereof in ac-

cordance with Texas Civil Statutes, Article 6686(a), §6, shall have a dealer's temporary cardboard tag or a buyer's temporary cardboard tag; whichever is applicable, affixed to it. If the vehicle being transported is of a type which is prohibited from operating upon the public streets and highways (i.e., off-highway vehicle or self-propelled machine) and, thus, cannot qualify for registration, a cardboard tag shall be displayed thereon; and such tag shall be marked in bold letters with the notation "For Off-Highway Use Only."

(e) Metal dealer license plates and temporary cardboard tags may be displayed only on the type of vehicle for which the general distinguishing number is issued.

(f) A metal dealer license plate or dealer temporary cardboard tag may not be displayed on a vehicle for which a sale has been consummated.

(g) A buyer's temporary cardboard tag may not be displayed on any vehicle being operated upon the public streets and highways for which a sale has not been consummated. (A sale is considered to have been consummated when a buyer has signed a purchase agreement for a specific vehicle and/or has tendered a monetary deposit or other consideration on the purchase of a specific vehicle.)

(h) When an unregistered vehicle is sold to another dealer, the selling dealer shall remove his dealer's temporary cardboard tag. In such instances, the selling dealer may attach his buyer's temporary cardboard tag to the vehicle; or the purchasing dealer may display his dealer's temporary cardboard tag on the vehicle.

(i) Road testing of a vehicle that displays a dealer's temporary cardboard tag shall be made within a reasonable distance of the dealership by a person qualified to test the vehicle.

§17.69. Established and Permanent Place of Business. A dealership must meet the following requirements at each location where vehicles are sold or offered for sale.

(1) Office requirements.

(A) The office facility must be open to the public during normal working hours. The structure must have a degree of permanency and must be of sufficient size to accommodate the usual office furniture and equipment, such as a desk, file cabinet, chairs, etc. As a minimum, the office must be equipped with a desk and chairs from which the dealer transacts his business and be equipped with a telephone listed in the name of the dealership.

(B) If the dealership is located in a residential structure, the office must be completely separated from and have no direct access into the residential quarters and be in compliance with all applicable local zoning ordinances. Such an office shall not be used as a part of the living quarters and must be readily accessible to the public without having to pass into or through any part of the living quarters.

(C) Portable-type office structures may qualify, provided they meet the minimum requirements as set forth herein and are tied in to all necessary available public utilities.

(D) Dealerships that are operated in conjunction with another business owned by the same person may use the same telephone instrument for both businesses. However, if the name of the dealership differs from that of the other business, a separate telephone listing for the dealership is required.

(E) If a dealership is operated in conjunction with another business but both businesses are not owned by the same person, the same telephone number may be used by both businesses; however, the dealer shall have his own separate desk, a separate telephone instrument, and a separate telephone listing in the name of the dealership. The dealer must either own the property or have a separate lease agreement from the owner for a continuous period of one year.

(F) In those instances when two or more dealers occupy the same business location and operate their respective dealerships under different names, one office structure for all dealers operating from such location will be acceptable; provided, however, each dealer must, in addition to having a qualifying dealership sign conspicuously displayed on the premises, have:

(i) his own separate desk from which he transacts his business and keeps his business records;

(ii) a separate telephone instrument and listing in the name of his dealership;

(iii) space to display at least five vehicles of the type for which the general distinguishing number was issued. (At least five display spaces are required for each dealership when two or more dealerships occupy the same premises;)

(iv) a separate lease agreement for a continuous period of one year covering his share of the office facility and display area, unless such dealer owns the property.

(2) Sign requirements.

(A) Display a sign of permanent construction with letters at least six inches in height showing the name of the dealership, in which the general distinguishing number was issued.

(B) The term "sign of permanent construction" as used in this paragraph means that the dealership sign should be mounted on a pole or poles permanently fixed in the ground or the sign may be painted on or permanently attached to the dealer's building. Such signs must be high enough above the ground so as to be visible over parked vehicles or other obstructions. The sign shall be in the immediate vicinity of the area where the vehicles are displayed and shall be visible from the public street or thoroughfare. In some in-

stances, it may be necessary that a supplemental sign be displayed. Temporary signs, removable signs, or so-called blow-away signs are not acceptable.

(C) If a dealership is conducted in conjunction with another type of business, a supplemental sign indicating vehicles are for sale may be required. The letters on the supplemental sign must also be at least six inches in height.

(3) Display space requirements.

(A) Have an off-street display area sufficient to display at least five vehicles of the type for which the general distinguishing number was issued.

(B) The display area cannot be on a public easement, right-of-way, or driveway. Such area shall be located within the immediate vicinity of the dealer office location and must be owned or leased for the exclusive use by the dealer for a continuous term of not less than one year. If the display area is in conjunction with other parking facilities, such area shall be separated by use of chains or barriers so as to prevent its use for any purpose other than a display area. Subject to approval by the department, the display area may be located within a building.

(C) If the dealership is operated in conjunction with another type of business, the vehicles in stock and for sale shall be displayed in a specified display area; and such area shall be controlled by the dealer so that it cannot be used for any other purpose.

§17.70. Cancellation of Dealer License.

A dealer's general distinguishing number shall be subject to cancellation for any of the following reasons:

(1) failure to maintain a good and sufficient bond in the amount of \$25,000 or be currently licensed by the Texas Motor Vehicle Commission constitutes immediate cancellation;

(2) failure of the dealer to maintain an established and permanent place of business conforming to the department's regulations pertaining to office, sign, and display space requirements;

(3) refusal by the dealer to permit a representative of the department to examine, during normal working hours, the current and previous years' sales records and ownership papers for vehicles owned by him or under his control and evidence of ownership or lease agreement on the property upon which the dealership is located;

(4) a dealer holding a special wholesale dealer license is found to be selling vehicles to someone other than a licensed dealer;

(5) a dealer holding a travel trailer dealer license or a trailer/semitrailer dealer license is found to be selling motor vehicles or motorcycles;

(6) failure of the dealer to notify the department of a change of address within 10 days after such change;

(7) failure to notify the department of a change of dealership name or ownership within 10 days after such change;

(8) issuing more than one buyer's temporary cardboard tag for the purpose of extending the purchaser's operating privileges for more than 20 days;

(9) failure to immediately remove out-of-state license plates from vehicles which are purchased by the dealer or consigned to the dealer;

(10) misuse of a metal dealer license plate or a temporary cardboard tag;

(11) failure to display dealer license plates or cardboard tags in a manner conforming to the department's regulations pertaining to the display of such plates and cardboard tags on unregistered vehicles;

(12) failure to notify the State Department of Highways and Public Transportation of a sale or transfer of a motor vehicle, motorcycle, house trailer, trailer, or semitrailer to a retail purchaser as provided in Texas Civil Statutes, Article 6686(d). Notification to the department shall be an application for certificate of title in the name of the retail purchaser filed with the appropriate county tax assessor-collector as provided by law;

(13) holding open titles. (All certificates of title, manufacturer's certificates, or other basic evidence of ownership for vehicles owned by a dealer must be properly executed showing transfer of ownership into the name of the dealership;)

(14) failure of a dealer to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the general distinguishing number is issued;

(15) violation of any of the provisions of Texas Civil Statutes, Article 6686, or any rule or regulation filed herein.

§17.71. Notification-Hearing-Cancellation. With the exception of a dealer who fails to maintain a \$25,000 bond as explained in §17.70 (1) of this title (relating to Cancellation of Dealer License) a dealer will be notified upon committing an act which subjects the dealer's general distinguishing number to cancellation. A letter will be mailed from the department informing the dealer that his dealer's license will be cancelled unless he, within 15 days from the date of the letter, submits a written request for the department to hold a hearing to permit him to show cause why his dealer's license should not be cancelled. When a hearing is requested by a dealer, the hearing procedure shall be as follows.

(1) The department shall, within 10 days from the date of such request, set a date for the hearing and notify the dealer of such date. The hearing date shall not be less than 10 days from the date the dealer requested the hearing. Such hearing shall be held at the regional office of the division of motor vehicles.

(2) The dealer, acting for himself or through legal counsel, will be heard to determine what action should be taken by the department. At the conclusion of the hearing, the department will consider all evidence presented; and the dealer will be notified of the department's decision within 10 days.

§17.72. Refund of Fees. When a dealer's general distinguishing number and license

plates are cancelled, no refund of the fees will be made.

§17.73. Manufacturer's Test Car License Plates.

(a) Manufacturers located in Texas that manufacture or assemble new vehicles in this state may apply for and secure manufacturer's test car license plates for display on such unregistered vehicles which are being operated for the purpose of testing.

(b) Manufacturer's test car license plates must be used exclusively for the purpose of testing such vehicles and may not be used in conjunction with other business activities such as displayed on a vehicle operated by a representative of the manufacturer who uses the vehicle to contact dealers.

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 December 4, 1985.

TRD-8511327

Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Earliest possible date of adoption:
January 10, 1986
For further information, please call
(512) 475-2141.

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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 *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 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

★ 10 TAC §9.1

The Texas Department of Community Affairs (TDCA) adopts an amendment to §9.1, without changes to the proposed text published in the October 29, 1985, issue of the *Texas Register* (10 TexReg 4211).

The amendment concerns the allocation of community development block grant (CDBG) nonentitlement area funds under the Texas Community Development Program (TCDP).

The amendment clarifies the performance threshold requirements for community development project fund and statewide area revitalization fund contracts. The requirements take effect March 1, 1986.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413(201), §4A, which provide the TDCA with the authority to allocate federal CDBG nonentitlement area funds to eligible units of general local government in Texas in accordance with rules and regulations adopted by the TDCA.

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 December 2, 1985.

TRD-8511225

Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Effective date: December 23, 1985
Proposal publication date: October 29, 1985
For further information, please call
(512) 834-6060.

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TITLE 13. CULTURAL RESOURCES

Part V. Texas 1986

Sesquicentennial

Commission

Chapter 51. Operating Policy and Program Guidelines

★ 13 TAC §§51.1.-51.18

The Texas 1986 Sesquicentennial Commission, adopts new §§51.12-51.15, with changes to the proposed text published in the October 11, 1985, issue of the *Texas Register* (10 TexReg 3940). New §§51.1-51.11 and 51.16-51.18 are adopted without changes to the text, and will not be republished.

The new sections are justified to fulfill the responsibility set forth by the 66th Legislature in the execution and observance with the 150th anniversary of the State of Texas. The changes made since the sections were proposed were done to clarify the language.

The guidelines will be dispersed throughout the proper community/associations and sanction vendors with the enforcement of said policies to be the responsibility of the Texas Sesquicentennial Commission.

No comments were received regarding the adoptions.

The new sections are adopted under Texas Civil Statutes, Article 6145-11, §7, which provide the Texas 1986 Sesquicentennial Commission with the authority to adopt rules, develop use of an official logo, and support guidelines.

§51.12. Promotional Products Program.

(a) The Promotional Products Program is designed to help the local Texas independence communities/associations to earn money through the sale of impulse price point merchandise developed by the commission or by the local committee.

(b) The committees may sell or appoint retailers to sell promotional products within their jurisdiction.

(c) Royalty fee on promotional products.

(1) Any sanctioned Texas independence community/association may develop and/or sell promotional products

themselves and receive the full mark on profit for each item sold with the Texas/independence community logo on it.

(2) The community/association may designate a store or stores within their area to sell merchandise with a negotiated royalty to be returned to the committee for their projects.

(3) The commission recommends that where counties, communities, and associations overlap that the royalties be shared by all parties.

(4) Promotional products manufacturers will remit a 7.0% royalty fee, based on the number of units shipped at wholesale cost. The manufacturer is responsible for the royalty due net 30 days following the end of the month in which the shipment is made.

(d) All marketing of promotional products is done through the sanctioned Texas independence community/association or through retailers that have qualified as major retailers pursuant to the commissioner's operating policies and program guidelines (51.3). No committee has the right to infringe into an area not within their jurisdiction as specified in the master plan, with the commission as final arbiter.

§51.13. Retail Program.

(a) The retail plan is designed to allow major retailers to purchase commemorative and promotional products directly from the manufacturer.

(b) A major retailer is defined as a company or corporation with 10 or more stores located in more than one city within the State of Texas or its contiguous states.

(c) Retailers must agree to return a standard royalty fee of 5.0% of wholesale cost to the Texas independence community based on number of units of products (both commemorative and promotional products) sold within that community's jurisdiction. The royalty is due net 30 days following the end of the month in which the shipment is made. Where an agreement for distribution of commemorative products has been contracted between the vendor and the retailer prior to November 1, 1985, no 5.0% remittance need be provided to the community/associations. Where there is a question regarding the jurisdiction, the commission will become the final arbiter of where and how the monies will be remitted.

(d) Retailers, not classified as major under the definition in subsection (b) of this section will be able to purchase commemorative products through the free market system directly from the manufacturer.

(e) Retailers not classified as major under the definition in subsection (b) of this section, will be able to purchase promotional products only from the sanctioned communities.

(f) Major retailers participating in this program are exempt from purchasing promotional products directly from the local community, however, retailers may purchase products from local committees.

(g) Major retailers will have complete control of what is purchased and sold within their store. Each retailer will be asked to work with the local communities and carry customized products in addition to any products utilizing the state's logo.

(h) Retailers classified as major but not participating in this program will be treated as nonmajor retailers and subject to the same privileges and restrictions.

§51.14. Corporate/Industrial Accounts.

(a) Criteria for the selection of manufacturers. After the submission of an application, the commission will evaluate each proposal based on its adherence to the guidelines set forth in this chapter. The applicant's marketing strategy, method of financing, and description of the product will be important criteria in the selection process.

(b) Product criteria.

(1) The product submitted can be distributed as a giveaway and self-liquidating by nature of disbursement. Items for sale must be sanctioned products that are currently produced by licensed manufacturers/vendors of the commission. A list of such items and vendors will be available, provided the account is approved. New items not previously sanctioned by the commission may be sold, giveaway, or self liquidating in nature but must be submitted for corporate industrial approval by December 30, 1985. Any product utilizing the Texas Sesquicentennial Commission logo in conjunction with any other corporate/non-profit logo will be considered as a corporate/industrial account.

(2) A product currently listed as a promotional product of the Texas 1986 sesquicentennial may be used for a corporate/industrial account only if approved by the executive committee of the commission. All other promotional products will remain under the guidelines as products to be used by local sanctioned committees for the benefit of the local group.

(3) Commemorative products may be used as corporate/industrial products providing they are resubmitted according to the procedure listed in this section. A commemorative product used on the corporate/industrial level may not use the words

"Official Commemorative of the Texas 1986 Sesquicentennial Commission."

(c) Royalty Fee. A standard royalty fee of 6.0% of the wholesale cost to the corporate/industrial account will be paid to the commission on products. The remittance of the royalty fee is the responsibility of the manufacturer and is due net 30 days following the end of the month in which the shipment is made.

(d) Logo use. Any sanctioned organization has the right to authorize the use of the Texas independence community/association logo on products for corporate/industrial accounts exclusively within their area of jurisdiction as specified in the original master plan for sanctioning.

(e) Procedure for product sanction.

(1) A written proposal must be submitted to the commission for approval and must include:

(A) a description of the product including size, colors, and artwork. A sample of the product should accompany the written proposal;

(B) a description of the sesquicentennial logo placement on the product and a tentative placement of a corporate logo;

(C) list of the corporate/industrial accounts to be contacted;

(D) a complete list of references, including credit references from banks and other financial institutions and businesses that have dealt with the applicant in the past on similar projects;

(E) warranties and other guarantees of product quality as suggested by the applicant;

(F) any other terms or conditions of sale of the product as imposed by the manufacturer or distributors.

(2) Commission approval process.

(A) The commission reviews the proposal based on the value and desirability of the entire proposal.

(B) Upon approval, the commission will provide the vendor with a letter identifying the vendor as authorized to use the sesquicentennial logo on the product approved.

(C) A letter from the corporate/industrial account must be returned to the commission identifying the type of promotion that the product will be used for, the product to be used, and the pricing per product.

(D) The vendor will provide the commission with a finalized sample or artwork identifying the placement for the state logo as well as the corporate logo for the executive committee's final approval of the account.

(E) A letter of agreement with the vendor will be signed on completion of the process described in this section enabling the vendor to proceed with the production of the product using the Texas 1986 sesquicentennial logo.

(F) A report will be given to the executive committee on the area to be impacted and how the product will be used.

(f) Commission's rights. As an agency of the State of Texas, the Texas 1986 Sesquicentennial Commission and all its adopted rules and policy are enforced by the state attorney general. The commission may, at its discretion, revoke its sanction from an official corporate/industrial product manufacturer or distributor which does not act in accordance with the guidelines and policy described in this chapter. Each applicant should be aware that no royalties, salaries, wages, fees, or other benefits may accrue to any member of the Texas 1986 Sesquicentennial Commission or to any member of the commission staff. The commission, or its designee reserves the right to audit records of any entity involved in manufacturing or distributing corporate/industrial products.

§51.15. Private Sector Program.

(a) Private sector projects are special projects of nonprofit entities which are sanctioned by the Texas 1986 Sesquicentennial Commission to use a special form of the official logo.

(b) To be sanctioned, private sector projects must meet the following criteria.

(1) They must have substantial educational, informational, or publicity value to the Texas sesquicentennial.

(2) They must have been created especially for the Texas sesquicentennial of 1986 (or substantially revised for it).

(3) No private sector project involving a product to be sold directly to the public may be considered for sanctioning, with the following exceptions:

(A) private sector projects involving a limited edition product (500, or less, items);

(B) private sector projects involving a product to be sold directly through a sanctioned Texas independence community/county or Texas independence association, and remitting a substantial royalty fee to those organizations.

(c) Sanctioned private sector projects must display the special form of the official logo that incorporates the phrase "We Support the Texas Sesquicentennial."

(d) The private sector logo may be displayed upon the product (if any), and upon promotional materials directly associated with the project. It may not be used on company stationary or in general advertising not directly related to the project as approved by the Texas Sesquicentennial Commission.

(e) Proposals for approval as private sector projects must be submitted on the form provided by the commission, and must include the following information:

(1) a summary of the proposed project;

(2) a substantiation that the project has informational, educational, or publicity value to the Texas sesquicentennial;

(3) a detailed description of all proposed uses of the sesquicentennial logo in association with the project;

(4) if the proposed project involved any product, a statement of how the product qualifies for consideration under subsection (b)(3) of this section;

(5) a marketing plan, if appropriate.

(f) Proposals for approval as private sector projects which involve products for consideration that are books must be reviewed by the sesquicentennial book committee.

(g) Any approved private sector project which involves a product of some kind must provide the Texas Sesquicentennial Commission with two samples of the product for placement in the Texas State Archives.

§51.18. Prohibition.

(a) An individual, company, association, or corporation that is not sanctioned or licensed by the commission may not use the official sesquicentennial logo in whole or in part, nor represent itself as a sponsor of the sesquicentennial, nor market a product as a commemorative or promotional product of the sesquicentennial.

(b) No sanctioned individual, private organization, local sesquicentennial committee, or governmental body may grant or license any sesquicentennial sponsorship or use the official state sesquicentennial logo in whole or part without the express approval of the Texas 1986 Sesquicentennial Commission.

(c) The attorney general on behalf of the commission, or a private lawyer approved by the Attorney General, is authorized to institute civil action against any violation of Texas Civil Statutes, Article 6145-11; and in addition to securing an injunction to prevent further violations may also recover actual damages for any violation and at the discretion of the court may recover statutory damages up to \$5,000 per violation and attorney fees are obtainable.

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 November 5, 1985.

TRD-8511259

Lynn Nabers
Executive Director
Texas 1986
Sesquicentennial
Commission

Effective date: December 24, 1985
Proposal publication date: October 11, 1985
For further information, please call
(512) 475-1986.

★ ★ ★



TITLE 22. EXAMINING BOARDS

Part IX. State Board of Medical Exams

Chapter 175. Schedule of Fees

★22 TAC §175.1

The Texas State Board of Medical Examiners adopts an amendment to §175.1, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3163).

Costs of processing applications for licensure by examination and reciprocal endorsement have risen steadily. Also, cost of giving the examination has increased. Therefore, the board deemed it necessary to amend the fee schedule to more accurately reflect the actual licensure costs.

The section will enable the agency to more efficiently and expeditiously process applications for licensure by examination and reciprocal endorsement.

No comments were received regarding adoption of the amendment.

Texas Civil Statutes, Article 4495b, provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

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

Issued in Austin, Texas, on December 2, 1985.

TRD-8511205

G. V. Brindley, Jr.
Executive Director
Texas State Board of
Medical Examiners

Effective date: December 23, 1985
Proposal publication date: August 20, 1985
For further information, please call
(512) 452-1078.

★ ★ ★

Part XV. Texas State Board of Pharmacy

Chapter 295. Pharmacists

★22 TAC §295.5

The Texas State Board of Pharmacy adopts an amendment to §295.5, without changes to the proposed text published in the September 17, 1985, issue of the *Texas Register* (10 TexReg 3549).

The amendment ensures that pharmacists are practicing pharmacy within the laws and rules governing the practice of pharmacy in the interest of the public health and welfare.

This amendment addresses pharmacist license renewal fees of a pharmacist licensed 50 years or more.

No comments were received regarding the adoption.

Texas Civil Statutes, Article 4542a-1, §39, provide the board with the authority to not charge more than \$75 per year for processing an application and the issuance or renewal of a pharmacist license for a pharmacist who has been licensed by the board for at least 50 years and who does not actively practice pharmacy.

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 December 3, 1985.

TRD-8511323

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

Effective date: December 25, 1985
Proposal publication date: September 17, 1985
For further information, please call
(512) 478-9827.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 61. Chronic Diseases Kidney Health Care Program Benefits

★25 TAC §§61.2-61.4, 61.7, 61.10

The Texas Department of Health adopts amendments to §§61.2-61.4, 61.7, and 61.10, without changes to the proposed text published in the September 24, 1985, issue of the *Texas Register* (10 TexReg 3674).

The amendments are adopted for clarity and consistency of language and to facilitate compliance with and administration of the sections. The amendments will permit required changes to program benefits and program operations.

Rules are established concerning payment for emergency medical services received out-of-state, defining the program's drug formulary, and implementing a prospective recipient co-payment liability.

No comments were received regarding adoption of the amendments.

The amendments are adopted 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.

§61.2. Eligibility Requirements.

- (a) (No change.)
- (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)-(2) (No change.)
 - (3) provide income data as requested by the department for purposes of determining reimbursement obligation/co-pay liability;
 - (4)-(6) (No change.)
- (c) (No change.)

§61.3. Payment of Program Benefits.

- (a)-(d) (No change.)
- (e) All benefits provided in behalf of recipients are limited to charges incurred in Texas except for:
 - (1) recipients who are receiving treatment from a participating facility located out-of-state. These recipients are eligible for transportation benefits to and from the facility, for medical services received at the facility, and for drugs purchased out-of-state; and
 - (2) emergency situations where it is a great risk for the recipient to return to an adequate Texas facility for medical services. Under such circumstances, the department would determine whether the program would reimburse a noncontracted out-of-state facility for medical services provided on an emergency basis. The services must be covered by the program under normal circumstances. Routine chronic dialysis treatments are not considered an emergency situation and will not be reimbursed under this provision.
- (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) (No change.)
 - (B) A claim which meets the initial 90-day filing deadline but is incomplete because it lacks other third party explanation of benefits (EOB's) will be denied. Payment may be made if the denied claim and

completed EOB's are received by the program within 30 days from the date of the third party EOB, within 30 days from the program's notice of denial, or within the initial 90-day filing deadline, whichever is later.

- (C)-(D) (No change.)
- (2)-(4) (No change.)
- (g)-(k) (No change.)
- (l) Drug and transportation (D&T) benefits are available for all program recipients regardless of their treatment mode.
 - (1) The department will establish applicable mileage rates and monthly maximums.
 - (2) The department drug formulary will consist of the following:
 - (A) over-the-counter (OTC) drugs determined allowable by the department;
 - (B) prescription drugs determined allowable by the department;
 - (C) all prescribed drugs in the Texas Department of Human Services, Texas Drug Code Index.
 - (m) Cyclosporin A (CYA) drug benefits are available for program eligible transplant recipients who are not eligible for drug benefits from any other source (Medicaid, private insurance, VA, etc.). The CYA must be provided by a program-approved facility and billed directly to the program on a medical services claim. The CYA cost, when billed under the CYA benefit, will not be included in the recipient's monthly D&T limit.
 - (n) 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.
 - (o) 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.

- (p) Overpayments made to or in behalf of recipients must be reimbursed to the department. Reimbursement may be made 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, Termination, or 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)-(2) (No change.)
 - (3) applicant financial date. Applicant financial data must be provided to determine applicant co-pay liability. Although basic program eligibility will be determined without the financial data documents, specific benefit eligibility cannot be determined and claims against the benefit cannot be processed. As an example, D&T benefits eligibility cannot be determined without financial data to establish co-pay liability; therefore, D&T claims would be rejected until the financial data was provided. The financial data documents required are:
 - (A) a copy of the first page of the applicant's IRS Individual Income Tax Return Form 1040, 1040A, or 1040EZ for the most recently completed tax year (or the form for those persons legally obligated to support the applicant); or
 - (B) if no tax return was filed, then a sworn statement (notarized) listing the applicant's total (gross) income for the same period (or the gross income for those persons legally obligated to support the applicant); or
 - (C) if the applicant's current gross income is significantly reduced from what is reflected on the previously mentioned documents, then a sworn statement listing the applicant's current gross income information may be included for the program's consideration (or the current gross income information for those persons legally obligated to support the applicant).
 - (4) Incomplete applications.
 - (A)-(B) (No change.)
 - (5) Eligibility date. 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)-(C) (No change.)
- §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)-(C) (No change.)

(D) the person fails or refuses to submit to the department a recipient financial status report for the purpose of determining reimbursement obligation/co-pay liability;

(E)-(G) (No change.)

(2) (No change.)

(b) Procedures for the denial of applications or modification, suspension, or termination of benefits.

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

(5) 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 the hearing procedures as outlined in subsection (c) of this section. To initiate the appeal process, the applicant/recipient must notify the department, in writing, that he or she requests a hearing on the decision. The request 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.

(c) (No change.)

§61.10. Recipient Reimbursement Obligation/Co-Pay Liability.

(a) Recipient reimbursement obligation (effective until December 31, 1985).

(1) The Texas Kidney Health Care Act, Texas Civil Statutes, Article 4477-20, §3, authorizes 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 for services provided through December 31, 1985, must pay back to the program either:

(A) an amount not to exceed 50% of the recipient's adjusted gross income (or the adjusted gross income of those who have a legal obligation to support the recipient, 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 those who have a legal obligation to support the recipient and if the department has paid for services upon which the claims for the proceeds are based; minus the following deductions:

(i) \$1,000 (standard deduction); and

(ii) 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

(B) an amount equal to the benefits received from the program, whichever is the smaller amount.

(2) 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.

(b) Recipient co-pay liability (effective January 1, 1986).

(1) The Texas Kidney Health Care Act, §3, authorizes 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 all program recipients provide financial data to the program to enable the department to determine the recipients co-pay liability. Based on the recipient's AGI, or the AGI of the person(s) who have a legal obligation to support the recipient, the department will establish what portion of the claims for reimbursement the recipient is responsible for paying (co-pay liability). The program will then reduce the claims by the co-pay liability percentage and reimburse the difference.

(2) The department will determine which categories of claims will be included under the co-pay liability requirement and may change these categories as necessary to meet budgetary limitations.

(3) For the purposes of the co-pay liability, the department will use the AGI of the recipient or 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.

(4) If no tax return was filed, then a sworn statement (notarized) listing the recipient's total (gross) income for the same period (or the gross income for those persons legally obligated to support the recipient); or

(5) if the recipient's current gross income is significantly reduced from what is reflected on the previously mentioned documents, then a sworn statement listing the applicant's current gross income information may be included for the program's consideration (or the current gross income information for those persons legally obligated to support the recipient).

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 November 27, 1985.

TRD-8511150

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

Effective date: December 18, 1985
Proposal publication date: September 24, 1985
For further information, please call
(512) 465-2854.

Chapter 229. Food and Drug Bottled Drinking Water Certificates of Competency

★ 25 TAC §§229.91-229.96

The Texas Department of Health adopts the repeal of §§229.91-229.96, without changes to the proposed text published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3254).

The repeals are adopted in order to replace the existing set of sections with a new and updated version.

These sections are being replaced by §§337.111-337.118. The adoption of the new sections is in this issue of the *Texas Register*.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 4477-1, §11(a), which provide the Texas Department of Health with the authority to issue bottled drinking water certificates of competency, and §23(b) which provides the Texas Board of Health with the authority to adopt rules covering the certificates.

§229.91. *Definitions.*

§229.92. *Types of Certificates.*

§229.93. *Prerequisites for Certificate of Competency.*

§229.94. *Written Examination for Certificate.*

§229.95. *Period of Validity of Certificates.*

§229.96. *Minimum Grade on Certificate.*

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 November 27, 1985.

TRD-8511151

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

Effective date: December 30, 1985
Proposal publication date: August 27, 1985
For further information, please call
(512) 458-7236.

Chapter 337. Water Hygiene Certification of Persons to Install, Exchange, Service, or Repair Residential Water Treatment Facilities

★ 25 TAC §§337.32-337.35

The Texas Department of Health adopts an amendment to §337.34 with changes to the proposed text published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3256). Sections 337.32, 337.33, 337.35, and new §§337.36, 337.37 are adopted without changes and will not be republished.

House Bill 1593, §53, 69th Legislature, 1985, requires the department to adopt rules concerning classes of certificates, duration of certificates, and fees for applicants or holders of a certificate. These sections will permit the department to comply with the new legislation.

These sections cover definitions, classes and duration of certificates, instruction on certification requirements, and fee schedules.

In §337.34(c)(4), (5), and (6), a comma for suggested that information on examination scores and reexamination procedures be included. The department agrees and has added paragraphs (4), (5), and (6).

The Texas Water Quality Association commented in favor of the sections.

The amendments are adopted under Texas Civil Statutes, Article 8243-101, §3A, which authorize the Texas Board of Health to certify water treatment operators, to set standards of qualifications for the operators, and to adopt rules concerning classes of certificates for water treatment operators, duration of the certificates, and fees for the certificates.

§337.34. *Qualification Requirements.*

(a) Requirements.

(1) Experience, education and training requirements are as follows:

<u>Certificate</u>	<u>Minimum Working Experience</u>	<u>Education</u>	<u>Approved Training</u>	<u>Validity Period</u>
Class 1	NONE	less than high school	None	2 yrs.
Class 2	If 3 yrs.	less than high school	Basic course	3 yrs.
	If 2 yrs.	high school or GED	Basic course	3 yrs.
	If 1 yr.	1 yr. college	Basic course	3 yrs.
Class 3	If 3 yrs.	high school or GED	Basic and Intermediate courses	5 yrs.
	If 2 yrs.	2 yrs. college	Basic and Intermediate courses	5 yrs.
	If 1 yr.	college degree	Basic and Intermediate courses	5 yrs.

(2) Substitution of acceptable experience for educational and training requirements will be considered by the department for entry levels of classification. In addition to experience and education, each applicant must pass an examination designed and administered by the department in order to receive a certificate.

(b) Approved training. Credit hours of training toward certification are earned for satisfactory completion of department approved courses. Such courses must be relevant to public health and water hygiene. The number of hours of training necessary to qualify for the various class levels of certification will be determined by the department.

(c) Examinations.

(1) (No change.)

(2) An eligible person may apply for examinations in any one of three different levels, ranging from Class 1 through Class 3, with the third level being the highest or most advanced. Class 1 has been established as an entry level and is intended to simplify entry of new personnel into the certification program or for those persons needing certificates at the basic level only. Class 2 level has been established to test installers, repairmen, and servicemen primarily who do not work on reverse osmosis and deionization equipment without assistance. Class 3 level is usually for persons in respon-

sible charge of operation, supervision, or management.

(3) The Class 3 examinations are of difficult nature, involving design as well as water chemistry, bacteriology, and physics. The applicant will need to be prepared to perform fairly difficult computations in the science of water control.

(4) The passing score for the examination for each class of certificate shall be 70%.

(5) Any applicant who fails to pass an examination may repeat the same examination after a period of 180 days following the date of the previous examination.

(6) Following the failure of an examination, an applicant's application shall

be held by the department for a maximum of nine months pending the applicant's repeating the examination. If the examination is not repeated within these nine months, the applicant shall submit another application with the appropriate fee. This shall not apply to Class 3 unless deemed otherwise by the department.

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

Issued in Austin, Texas, on November 27, 1985

TRD-8511152

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

Effective date: December 30, 1985

Proposal publication date: August 27, 1985

For further information, please call

(512) 458-7536.

★ ★ ★

★25 TAC §§337.36, §337.37

The new sections are adopted under Texas Civil Statutes, Article 6243-101, §3A, which authorize the Texas Board of Health to certify water treatment operators, to set standards of qualifications for the operators, and to adopt rules concerning classes of certificates for water treatment operators, duration of the certificates, and fees for the certificates.

§337.36. *Revocation of Certificates.*

§337.37. *Fees.*

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 November 27, 1985.

TRD-8511153

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

Effective date: December 30, 1985

Proposal publication date: August 27, 1985

For further information, please call

(512) 458-7536.

★ ★ ★

Certification of Waterworks Personnel

★25 TAC §§337.51-337.59

The Texas Department of Health adopts an amendment to §337.57 with changes to the proposed text published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3256). Sections 337.51-337.51, 337.58, 337.59, and new

§337.60 are adopted without changes and will not be republished.

House Bill 1593, §53, 69th Legislature, 1985, requires the department to establish fees for applicants and holders of certificates of competency. In addition, Senate Bill 249, 69th Legislature, 1985, transfers program responsibility for the certification of wastewater personnel to the Texas Water Commission. These sections will permit the department to comply with the new legislation.

These sections cover definitions, grades of certificates, instructions on certification requirements, and establish fee schedules.

Concerning §337.57(c)(2), a commentor suggested that the language be clarified to state that any one of the requirements in the subparagraphs under paragraph (2) has to be met for renewal. The department agrees and has modified the language in paragraph (2) accordingly. Concerning §337.57(c)(2)(A), a commentor suggested that an operator be permitted to renew a certificate by retaking and passing the written examination. The agency agrees and has revised this subsection accordingly. Concerning §337.60(a), a commentor suggested the annual fee be reduced to \$5.00 annually instead of the \$10 fee in the proposed sections. The agency disagrees as this fee amount was established by the legislature and cannot be changed by the rulemaking process. The City of Canyon, the Dallas Water Utilities, and Gerald McMillian commented on the proposed sections. None of the commentors were against the adoption of the sections in their entirety; however, some of the commentors had questions, objections, and recommendations regarding specific items in the sections.

The amendments are adopted under Texas Civil Statutes, Article 4477-1, §11(a), which authorize the Texas Board of Health to issue certificates of competency for the certification of waterworks personnel; §23(b), which authorize the board to adopt rules concerning certificates of competency; and §23(b), which authorize the board to adopt rules concerning classes of certificates, duration of certificates, and fees for certificates.

§337.57. *Certificates.*

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

(1) (No change.)

(2) One of the following requirements shall be met for renewal:

(A) retaking and passing the written examination with 30 days following the expiration date of the certificate, in which case renewal shall be effective on the date of examination; or

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

(F) When the certificate of an operator expires while he or she is in military service, it may be renewed without

examination upon proof of military service and of the previously held certificate.

(3) Certificates of competency issued under past rules and regulations shall be renewed on the basis of the requirements in effect at that time and payment of the appropriate fees. After the initial renewal, however, certificates of competency shall be subject to renewal on the basis of the requirement as stated in these rules and regulations. For example, Grade A certificates issued in perpetuity under past rules will not be subject to any renewal requirements. Grade A certificates issued after the effective day of these rules shall be renewed in accordance with the stated requirements.

(4) Operators holding a valid Grade B or C surface water certificate and changing employment to a groundwater system will be issued, without examination and with payment of the appropriate fee, the same grade of groundwater certificate provided he or she can demonstrate the required designated courses have been completed.

(5) Operators holding a valid Grade B or C groundwater certificate and changing employment to a surface water system will be issued, without examination and with payment of the appropriate fee, the same grade of surface water certificate provided he or she can demonstrate the required designated courses have been completed.

(6) Upon application and payment of the appropriate fee, an operator who maintains a valid certificate for 30 years shall retain his certification in perpetuity.

(d) Application renewal procedure.

(1) Before the expiration date of the certificate, the department shall mail to the certified operator a renewal application showing the expiration date, the requirements for renewal, and the fee to be paid. The department shall mail the renewal application to the operator at the most recent address provided by the operator to the department.

(2) The operator shall return the renewal application with the appropriate fee to the department, and shall submit any required record or evidence of completion of training credit.

(3) (No change.)

(e) Revocation of certificates.

(1) The certificate of an operator shall be revoked if:

(A) the certificate was issued erroneously; or

(B) the operator obtained the certificate through fraud, deceit, or through the submission of incorrect data on his or her qualifications; or

(C) the operator practiced fraud and deceit, or failed to use reasonable care, judgement, or application of his or her knowledge in the performance of his or her duties.

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

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

Issued in Austin, Texas, on November 27, 1985

TRD-8511154 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: December 30, 1985
Proposal publication date: August 27, 1985
For further information, please call
(512) 458-7536.

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Chapter 337. Water Hygiene Certification of Waterworks Personnel

★25 TAC §337.60

The new sections are adopted under Texas Civil Statutes, Article 4477-1, §11(a), which authorize the Texas Board of Health to issue certificate of competency for the certification of waterworks personnel; §23(b), which authorize the board to adopt rules concerning certificates of competency; and §23(b), which authorize the board to adopt rules concerning classes of certificates, duration of certificates, and fees for certificates.

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 November 27, 1985.

TRD-8511155 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: December 30, 1985
Proposal publication date: August 27, 1985
For further information, please call
(512) 458-7536

★ ★ ★

Certification of Bottled Water Plant Operators

★25 TAC §§337.111-337.118

The Texas Department of Health adopts new §§37.111-337.118, without changes to the proposed text published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3257)

The new sections provide clarification of terms, definitions, training requirements, examinations, and comply with new legislation requiring the collection of fees.

The new sections replace §§229.91-229.96, which are adopted as repealed rules in this issue of the *Texas Register*.

These sections cover definitions, instructions on registration requirements, and establish fee schedules.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 4477-1, §11(a), which authorize the Texas Board of Health to issue certificates of competency for bottled water plant operators, §23(b), which authorize the board to adopt rules concerning certificates of competency; and §23b, which authorize the board to adopt rules concerning classes of certificates, duration of certificates, and fees for certificates.

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 November 27, 1985.

TRD-8511224 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: December 30, 1985
Proposal publication date: August 27, 1985
For further information, please call
(512) 458-7536

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TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 19. Agents Licensing Subchapter B. Examinations of Legal Reserve Life Insurance Agent Applicants and Accident and Health Insurance Agent Applicants

★28 TAC §19.101, §19.102, §19.104

The State Board of Insurance adopts amendments to §§19.101, 19.102, and 19.104 (Rules 059.59.01.001, .002, and .004), with changes to the proposed text published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3425).

The amendments specify certain textbooks to be studied and procedures to be followed by prospective insurance agents under the Insurance Code, Articles 21.07 and 21.07-1. The amendments update the list of textbooks to be studied for the agents' examination, change the place and time of taking the examination, and require at least 20 days notice to the board for anyone wishing to take the agents' examination. The only change

from the rules as proposed is in §19.104, where the new zip code for the State Board of Insurance has replaced the old one.

One comment was received regarding the proposal. The Merritt Company believes that the manual it publishes should also be used as official study material for applicants. It states that the reason its manual is smaller than other texts is because of style, not actual substantive material. It publishes manuals in 26 other states, and the Texas manual reflects the cumulative experience in many states. It believes its manual is concise because it is well written and well organized. Its manual addresses all the traditional as well as newer life insurance products. It asserts that its manual is the largest selling manual. It regularly competes with the other manuals and believes it is the undisputed leader in agent's licensing publication. It requests that the board reconsider its publication. The board believes that while there are many good materials to be considered, it should follow the advice of its advisory committee which has spent many hours comparing various texts in order to determine the texts which should be designated as official. Accordingly, it disagrees with the foregoing comment. There are two changes in the rules from the proposal. In §19.101, a reference to Article 21.07, §4, is deleted as being inappropriate respecting the study material referred to in the rule. In §19.104 the zip code for the State Board of Insurance is corrected.

The amendments are adopted under the Insurance Code, Article 21.07-1, §15, pursuant to which the board may adopt rules to administer the Insurance Code, Article 21.07-1; and Article 21.07, §13, pursuant to which the board may adopt rules to administer Article 21.07.

§19.101. Study Material.

(a) Textbooks. The following textbooks are hereby designated as official materials to be studied by applicants in preparation for the legal reserve life insurance agent examination administered under the Insurance Code, Article 21.07-1:

(1) (No change.)

(2) *Passkey for Life Insurance and Passkey for Health Insurance* (with Texas Supplement) by R & R Newkirk, Division of Longman Financial Services, Inc., 500 North Dearborn Street, Chicago, Illinois 60610.

(3) *Life, Accident, and Health Insurance by Cal State Exams*, 2049 Century Park East, Suite 2714, Los Angeles, California 90067.

(b) (No change.)

(c) Although an applicant might find it helpful to review and study all three texts, they differ mainly in teaching and learning approaches employed.

§19.102. Place and Time of Examinations.

(a) Regularly scheduled exams in Austin. The examinations for licenses under the Insurance Code, Article 21.07-1 and Article 21.07, §4, shall be conducted simultaneously on Mondays and Fridays of each week (except for Mondays and Fridays designated by the legislature of the State of Texas as holidays for state employees) beginning at 9.30 a.m. and 1 p.m. in Room 115 of the State Fire Marshal's office located at 7901 Cameron Road, Austin, Texas.

(b) (No change.)

§19.104. Written Request to Take Examinations. Each applicant for license under the Insurance Code, Article 21.07-1 and Article 21.07, §4, must file a written request to take the qualifying examination with the State Board of Insurance. Such request must be on a form provided by the State Board of Insurance and must be received by the State Board of Insurance at its address at least 20 days prior to the particular examination date desired by the applicant. The form is available to qualified applicants on request, by writing to the License Division of the State Board of Insurance at 1110 San Jacinto Street, Austin, Texas 78701-1998.

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 November 27, 1985.

TRD-8511269 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: December 24, 1985
Proposal publication date: September 10, 1985
For further information, please call
(512) 463-6327.

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**Chapter 21. Trade Practices
Subchapter H. Unfair
Discrimination**

★28 TAC §21.701, §21.703

The State Board of Insurance adopts an amendment to §21.701 (Rule 059.21.21.121), and new §21.703 (Rule 059.21.21.123), without changes to the proposed text published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3601)

These sections address unfair practices under the Insurance Code, Article 21.21, §4(7), and the Insurance Code, Article 21.21-3. New §21.703 is added to define physical or mental impairment, as used in §21.702, and handicap or partial handicap as used in Article 21.21-3.

One comment was received on the proposed sections. Health Insurance Association of America believes the definitions of "physical or mental impairment" and "handicap or partial handicap" in §21.703 are overly broad. For example, it states the use of the word "any" as an adjective to psychological disorder could be construed to cover any conceivable ailment not normally considered to be a physical or mental impairment. Similarly, it believes the words "substantially limits one or more of the person's major life activities" to define handicap or partial handicap is vague. It believes that continued reliance on statutory language is preferable to overly broad definitions. The board disagrees with this comment. Section 21.702 and Article 21.21-3 do not mandate coverage. They simply prohibit a refusal to provide coverage or a limitation of coverage, or a different rate for coverage solely because of a physical or mental impairment, or handicap or partial handicap. Under the definition of physical or mental impairment, the insurer would be choosing which impairment would restrict or effect the price of coverage; there would therefore seem to be little danger in a broad definition. The insurer would simply be required to have a good reason based on sound actuarial principles or reasonably anticipated experience to do so. The definition of handicap or partial handicap has been used in statutory language elsewhere. Again, the prohibition is discrimination without a sound actuarial or experiential reason for doing so. This is certainly a reasonable requirement.

The amendment and new section are adopted under the Insurance Code, Article 21.21, §13, which authorizes the State Board of Insurance to promulgate and enforce reasonable rules necessary to accomplish the purposes of Article 21.21 and under the Insurance Code, Article 21.21-3, which prohibits the refusal to insure, to continue to insure, or to limit the amount, extent, or kind of coverage available to an individual or to charge an individual a different rate for the same coverage, solely because of a handicap or partial handicap, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

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 November 27, 1985.

TRD-8511268 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: December 24, 1985
Proposal publication date: September 20, 1985
For further information, please call
(512) 463-6327.

**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE
Part I. Texas Department
of Human Services
Chapter 48. CCAD
Eligibility**

★40 TAC §48.2911, §48.2918

The Texas Department of Human Services adopts amendments to §§48.2911 and 48.2918 without changes to the proposed text published in the October 8, 1985, issue of the *Texas Register* (10 TexReg 3885). The amendments concern eligibility for family care and primary home care. The amendments reflect an increase in the required score on the client needs assessment questionnaire.

Adoption of the amendments is justified to target in-home community care services to clients with a greater level of functional disability.

The amended sections will function as eligibility criteria for family care and primary home care. In addition to meeting other eligibility criteria stated in the sections, applicants/clients must score 23 or above on the client needs assessment questionnaire.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§48.2911. Family Care.

§48.2918. Eligibility for Primary Home Care.

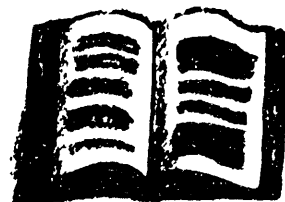
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 27, 1985.

TRD-8511185 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 1, 1986
Proposal publication date: October 8, 1985
For further information, please call
(512) 450-3766.

★ ★ ★



Chapter 85. General Licensing Procedures

Subchapter U. Day Care Licensing Procedures

★ 40 TAC §§85.2006, 85.2008, 85.2011, 85.2012, 85.2014, 85.2016, 85.2017, 85.2026, 85.2032-85.2035

The Texas Department of Human Services adopts amendments to §§85.2034, 85.3044, 85.3047, 85.3049, 85.3050, and new §§85.2040, 85.2042, 85.2044, and §§85.3074-85.3076 with changes to the proposed text published in the September 24, 1985, issue of the *Texas Register* (10 TexReg 3583). Sections 85.2006, 85.2008, 85.2011, 85.2012, 85.2014, 85.2016, 85.2017, 85.2026, 85.2032, 85.2033, 85.2035, 85.2041, 85.2043, 85.3051, and 85.3052 are adopted without changes and will not be republished.

The amendments and new sections are justified to implement legislation passed by the 69th Legislature, 1985. House Bill 1593 requires the department to charge certain child care facilities and child-placing agencies fees for applications, provisional and biennial licenses, and registrations.

The adopted sections will function to improve the quality of care to children in child care facilities, because the facilities will share in funding the licensing program through the fee payments. To be consistent with statutory requirements and to clarify that child-placing agencies must pay different fees than child care facilities, §§85.3047, 85.3049, 85.3050 and 85.3075 have had information added to them. Subsection (b) of §85.3047 clarifies that the provisional license fee for child-placing agencies is \$50 as opposed to \$35 for other child care facilities. The same information has been added to §85.3049. Subsection (4) of §85.3050 adds that child-placing agencies pay a \$100 annual license fee. The same information is added to §85.3075. Sections 85.2040 and 85.3074 also state that corporate checks are acceptable forms of payment. Editorial changes were made to subsections (c) of §§85.2034, 85.2042, 85.2044, and 85.3076 to accommodate administrative changes.

No comments were received regarding the adoption of the sections.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§85.2006. *Submission and Acceptance of Application.*

§85.2008. *Application Received after Revocation or Denial of License.*

§85.2011. *Separate Licenses.*

§85.2012. *Issuance of Provisional License.*

§85.2014. *Issuance of Biennial License.*

§85.2016. *Notice of Expiration Letter.*

§85.2017. *Changing the Restrictions/Terms on a License-Requested by Licensee.*

§85.2026. *Change of Facility Ownership.*

§85.2032. *Failure To Register.*

§85.2033. *Initial Registration.*

§85.2034. *Re-registration.*

(a) To maintain its registration status, the caregiver must pay the annual registration fee and complete and return the re-registration certificate form by the state date.

(b) If the caregiver indicates "not operating" on the form, the registration expires and no further notification to the caregiver is required.

(c) When a caregiver has not returned a form and paid the registration fee within 30 days after the mail date, licensing staff mails a second form to the registered family home. If the second form with registration fee is not received from the caregiver within 30 days after the mail date, the registration expires with no further notice.

§85.2035. *Denial or Revocation of a Registration.*

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 November 27, 1985.

TRD-8511161

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: December 18, 1985
Proposal publication date: September 24, 1985
For further information, please call
(512) 450-3766.

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★ 40 TAC §§85.2040-85.2044

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§85.2040. *Licensing Fees.* All licensing fees must be made payable to the Department of Human Services and must be made only by cashier's check, corporate check, money order, or certified check. Licensing fees include:

- (1) application license fee;
- (2) provisional license fee;
- (3) annual license fee;
- (4) amendment license fee; and
- (5) all registration fees.

§85.2041. *Annual License Fee.*

§85.2042. *Nonpayment of Annual License Fee.*

(a) If the governing body fails to pay the annual license fee within one month after the due date, the license is suspended

until the fee is paid. Children must not be in care at the facility while the license is suspended.

(b) The department may revoke a facility's license after it has been suspended for not paying its licensing fees if the facility continues caring for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing care while the license is suspended for failure to pay the licensing fee.

(c) To appeal the decision, the licensee must send a written request for an appeal within 30 days after receiving the revocation letter. The licensee must send the assistant commissioner for licensing a letter stating the reasons against the revocation. If the licensee appeals a decision and continues to care for children, he and his staff must permit licensing staff to inspect the facility during the appeal process.

§85.2043. *Annual Registration Fee.*

§85.2044. *Nonpayment of Annual Registration Fee.*

(a) If the registered family home caregiver fails to pay the annual registration fee within one month after the due date, the registration is suspended until the fee is paid. Children must not be in care while the registration is suspended.

(b) The department may revoke a registration following suspension for not paying registration fees if the caregiver continues to care for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing child care while under suspension for not paying registration fees.

(c) To appeal the decision, the caregiver must submit a written request for an appeal within 30 days after receiving the revocation letter. The caregiver must send the assistant commissioner for licensing a letter stating the reasons against revocation. If the caregiver appeals a decision and continues to care for children, the caregiver and his staff must permit licensing staff to inspect the home during the appeal process.

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 November 27, 1985.

TRD-8511162

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: December 18, 1985
Proposal publication date: September 24, 1985
For further information, please call
(512) 450-3766.

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Subchapter EE. Agency and Institutional Licensing Procedures

★40 TAC §§85.3044, 85.3047, 85.3049, 85.3050-85.3052

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§85.3044 Application

(a) Each governing body planning to operate a facility subject to licensing or certification must complete an application and send it to licensing staff. Facilities subject to licensing must attach a \$35 non-refundable application fee plus \$35 (or \$50 for a child-placing agency) provisional license fee to the department's licensing fee schedule and send these to the department. The provisional license fee may be refunded if the department does not issue the provisional license.

(b) The requirements do not apply to:

- (1) facilities that require certification;
- (2) nonprofit 24-hour care facilities that:

(A) charge no fees for their services; or

(B) provide care for children in the department's managing conservatorship.

(3) licensed foster family homes and foster group homes

(c) The applicant is entitled to a written notice from the licensing representative if the application is incomplete or compliance is not substantiated.

(d) An applicant who pays the initial fees and later withdraws the application, but reapplies within 30 days, does not have to pay new fees.

§85.3047 Issuance of Provisional License.

(a) (No change.)

(b) A provisional license is issued when a facility meets all the appropriate minimum standards (except those where waivers or variances have been granted) and has paid the \$35 application fee and \$35 (or \$50 for a child-placing agency) provisional license fee

§85.3049 *Facilities Not Providing Services in Provisional Licensing Period.* Provisional licensees who do not become operational during the provisional licensing period are not eligible for a biennial license since the department cannot determine compliance with all minimum standards. The facility is entitled to be notified in writing of the right to appeal. The only issue on an appeal is whether there was continuing compliance with all minimum standards based on information available to the department. The licensee may apply for another provisional license by completing another application form and submitting a new \$35 application

fee and \$35 provisional license fee for child care facilities and \$35 application fee and \$50 provisional fee for child-placing agencies.

§85.3050. *First Biennial License.* A facility is eligible for a first biennial license providing:

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

(4) the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve or \$100 for a child-placing agency has been paid. An annual fee for a biennial license may be refunded if the licensee pays the fee but the department does not issue the license.

§85.3051. *Subsequent Biennial License.*

§85.3052. *Denial of Subsequent Biennial Application.*

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 November 27, 1985

TRD-8511163

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: December 18, 1985

Proposal publication date: September 24, 1985

For further information, please call
(512) 450-3766.

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★40 TAC §§85.3074-85.3076

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§85.3074 *Licensing Fees.* All licensing fees must be made payable to the Department of Human Services and must be made only by cashier's check, corporate check, money order, or certified check.

§85.3075. *Annual License Fee.* Before the annual anniversary date of the biennial issuance, the governing body of the facility must pay the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve or \$100 for a child-placing agency. At least two months before the anniversary date of issuance, licensing staff sends the governing body a notice that the payment is due.

§85.3076. *Non-payment of Annual License Fee.*

(a) If the governing body fails to pay the annual license fee within one month after the due date, the license is suspended until the fee is paid. Children must not be in care at the facility while the license is suspended.

(b) The department may revoke a facility's license after it has been suspended for not paying the licensing fees if the facility continues caring for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing care while the license is suspended for failure to pay the licensing fee.

(c) To appeal the decision, the licensee must send a written request for an appeal within 30 days after receiving the revocation letter. The licensee must send the administrator of residential child care licensing a letter stating the reasons against the revocation. If the licensee appeals a decision and continues to care for children, he and his staff must permit the licensing staff to inspect the facility during the appeal process.

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 November 27, 1985.

TRD-8511164

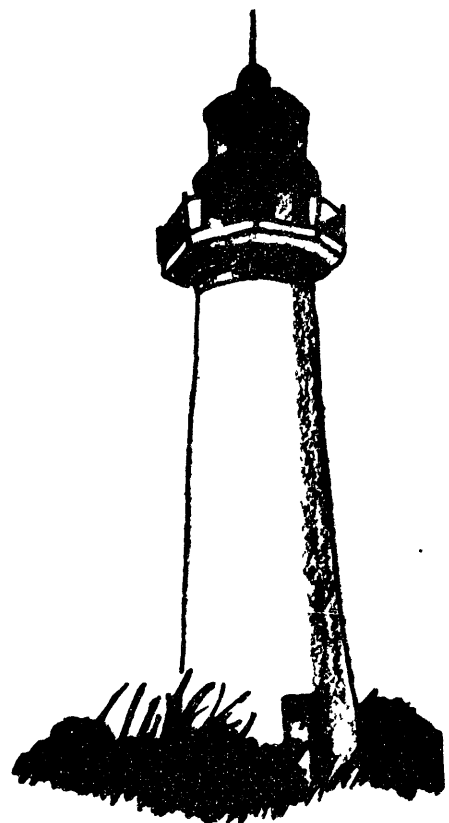
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: December 18, 1985

Proposal publication date: September 24, 1985

For further information, please call
(512) 450-3766

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**State Board of Insurance
Notification Pursuant to the
Insurance Code, Chapter 5,
Subchapter L**

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has adopted amendments to the Texas Automobile Manual. Rule 38, §G of the Texas Automobile Manual has been amended to include a new subsection 16 reading as American Traffic Safety Council doing business as Cliff Summar School of Defensive Driving-Driver Improvement Course Credit

(1) An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provided satisfactory evidence (certificate of completion or photostat thereof issued by American Traffic Safety Council doing business as Cliff Summar School of Defensive Driving) is presented to the company that the principal operator of such auto has successfully completed the American Traffic Safety Council doing business as Cliff Summar

School of Defensive Driving-Driver Improvement Course.

(2) If the policy insures two or more autos, credit shall apply only to the autos principally operated by the person awarded the American Traffic Safety Council doing business as Cliff Summar School of Defensive Driving-Driver Improvement Course Certificate of Completion.

(3) The credit shall apply for a period of 36 months subsequent to the date of issuance of the certificate of completion. Following such 36 month period, in order to again qualify for such credit, the course must be successfully completed and evidence again presented to the company. The credit shall only apply if the certificate of completion is issued on or after February 1, 1986

This amendment is effective February 1, 1986

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas, on November 27, 1985

TRD-8511213 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date February 1, 1986
For further information, please call
(512) 463-6327

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The State Board of Insurance has adopted amendments to the Texas Automobile Manual Rule 38, §G of the Texas Automobile Manual has been amended to include a new subsection 17 reading

D & M Education Enterprises—Driver Improvement Course Credit.

(1) An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provided satisfactory evidence (certificate of completion or photostat thereof issued by D & M Education Enterprises) is presented to the company that the principal operator of such auto has successfully completed the D & M Education Enterprise-Driver Improvement Course

(2) If the policy insures two or more autos, credit shall apply only to the autos principally operated by the person awarded the D & M Education Enterprise-Driver Improvement Course Certificate of Completion

(3) The credit shall apply for a period of 36 months subsequent to the date of issuance of the certificate of completion. Following such 36 month period in order to again qualify for such credit, the course must be successfully completed and evidence again presented to the company. The credit shall only apply if the certificate of completion is issued on or after February 1, 1986.

This amendment is effective February 1, 1986.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

issued in Austin, Texas, on November 27, 1985.

TRD-8511214 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: February 1, 1986
For further information, please call
(512) 463-6327.

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*.

State Banking Board

Thursday, December 12, 1985, 2 p.m. The State Banking Board will meet at 2601 North Lamar, Austin. According to the agenda summary, the board will consider the approval of previous minutes; applications for charter; interim charter applications; domicile change applications; review of applications approved, but not yet open; and a motion to rescind order. The board also will meet in executive session to discuss pending litigation.

Contact: William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: December 4, 1985, 2:51 p.m.
TRD-8511366

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Criminal Justice Policy Council

Wednesday, December 18, 1985, 9 a.m. The Criminal Justice Policy Council will meet in the Senate Chamber, State Capitol, Austin. According to the agenda summary, the council will consider old and new business.

Contact: Ronald D. Champion, 410 Sam Houston Building, Austin, Texas 78701, (512) 463-1810.

Filed: December 3, 1985, 3:52 p.m.
TRD-8511295

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Texas Economic Development Commission

Wednesday, December 11, 1985, 8 a.m. The Texas Small Business Industrial Development Corporation (TSBIDC) of the Texas Economic Commission will meet in Room 318, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation will consider the proposed is-

suance of its revenue bonds (the bonds) in an amount not to exceed \$340,000 to finance the cost of the acquisition of approximately 29,000 square feet of land and the construction thereon of a wholesale warehouse center for the distribution of engines, parts and accessories for the air-cooled engine trade, together with equipment and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned by HMW, Ltd., a Texas general partnership, and leased to S & W Engines, Inc. The project will be located at 1006 West 34th Street, Houston, Harris County. All interested persons are invited to attend and express any comments regarding the proposed issuance of the bond and the project to be financed.

Contact: John H. Kirkley, 410 East Fifth, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985, 4:50 p.m.
TRD-8511306

Wednesday, December 11, 1985, 10 a.m. The TSBIDC will meet in the Waller Creek Ballroom, Waller Creek Plaza Hotel, 500 IH 35, Austin. According to the agenda summary, the corporation will consider the approval of the agenda; approval of minutes; consider and take action on the election of officers to include vice president, secretary, treasurer, and assistant secretary; and projects requesting bond resolutions.

Contact: John H. Kirkley, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985 4:49 p.m.
TRD-8511310

Wednesday, December 11, 1985, 10 a.m. The TSBIDC of the Texas Economic Development Commission will meet in Room 318, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation will consider the proposed issuance of its revenue bonds (the bonds) in an amount not to exceed \$610,000 to finance the cost of the construction thereon of a concrete tilt-wall manufacturing facility containing approximately 26,000 square feet

to be used as a facility for steel manufacturing and machining, together with equipment (a bridge crane and forklift) and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned by B & B Properties and leased to Vicron Industries. The project will be located on an approximately 2 acre site at the southwest corner of the intersection of Commercial Boulevard East and Enterprise East, Arlington, Texas 76107. All interested persons are invited to attend and express any comments regarding the proposed issuance of the bonds and the project to be financed thereby.

Contact: John H. Kirkley, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985, 4:50 p.m.
TRD-8511307

Wednesday, December 11, 1985, 10 a.m. The TSBIDC of the Texas Economic Development Commission will meet in Room 318, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation will consider the proposed issuance of its revenue bonds (the bonds) in an amount not to exceed \$325,000 to finance the cost of the acquisition of equipment to strip mine, process and sell barite ore, together with equipment and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned by Chaparral Mining Corporation. The project will be located on the 70,000 acre Galvan Ranch in northwest Webb County, approximately 45 miles northwest of Laredo. All interested persons are invited to attend and express any comments they have regarding the proposed issuance of the bonds and the project to be financed thereby.

Contact: John H. Kirkley, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985, 4:51 p.m.
TRD-8511304

Wednesday, December 11, 1985, 10 a.m. The Texas Small Business Industrial Development Corporation (TSBIDC) of the Texas Economic Development Commission made an emergency revision to the agenda for a meeting to be held in the Waller Creek Ballroom, Waller Creek Plaza Hotel, 500 IH 35, Austin. The revision concerns action on the selection of paying-tender agent for the TSBIDC/Capital Program. The emergency status is necessary because the original paying-tender agent selected withdrew from the proposal.

Contact: John Kirkley, 410 East Fifth, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 4, 1985, 4:33 p.m.
TRD-8511372

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Wednesday, December 11, 1985, 10:30 a.m. The Board of Commissioners of the Texas Economic Development Commission will meet in the Waller Creek Ballroom, Waller Creek Plaza Hotel, 500 IH 35, Austin. Items on the agenda include action on projects requesting unit resolutions under the TSBIDC program; a status report on the Texas Advertising and Marketing Council; discussion and action on long-range planning workshop for commissioners; and a report on the status of economic development in Texas.

Contact: Alexa Richter, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059, ext. 630.

Filed: December 3, 1985, 4:04 p.m.
TRD-8511296

Wednesday, December 11, 1985, 1 p.m. The Personnel Committee of the Texas Economic Development Commission will meet in the Waller Creek Ballroom, Waller Creek Plaza Hotel, 500 IH 35, Austin. According to the agenda, the committee will consider the presentation of policies and procedures, State and Federal, under which the commission operates regarding personnel; and discussion on these policies and procedures.

Contact: Alexa Richter, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059, ext. 630.

Filed: December 3, 1985, 4:04 p.m.
TRD-8511298

Friday, December 13, 1985, 10 a.m. The TSBIDC of the Texas Economic Development Commission will meet in Room 318, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation will consider the proposed issuance of its revenue bonds (the bonds) in an amount not to exceed \$1,200,000 to finance the cost of the construction of a manufacturing facility containing approximately 12,200 square feet to be used as a

facility for the manufacturing of aerospace parts and other machine parts together with the acquisition of equipment and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned by A & A Precision Machines and Manufacturing, Inc. The project will be located at the southwest corner of FM 1041 and Highway 256, Hall County, Texas 79245. All interested persons are invited to attend and express any comments they have regarding the proposed issuance of the bond and the project to be financed.

Contact: John H. Kirkley, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985, 4:50 p.m.
TRD-8511309

Friday, December 13, 1985, 10 a.m. The TSBIDC of the Texas Economic Development Commission will meet in Room 318, Anson Jones Building, 410 East Fifth, Austin. According to the agenda, the corporation will consider the proposed issuance of its revenue bonds (the bonds) in an amount not to exceed \$500,000 to finance the cost of the construction of ten new motel suites, utility room and laundry room and the rehabilitation and renovation of forty existing motel rooms, lobby, restaurant and motel facade, together with equipment and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned and operated by Sands Motel. The project will be located on an approximately 2.25 acre site at 901 West Seventh Street in Texarkana, Texas 75501. All interested persons are invited to attend and express any comments they have regarding the proposed issuance of the bonds and the project to be financed thereby.

Contact: John H. Kirkley, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985, 4:50 p.m.
TRD-8511308

Friday, December 13, 1985, 10 a.m. The TSIDC of the Texas Economic Development Commission will meet in Room 318, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation will consider the proposed issuance of its revenue bonds (the bonds) in an amount not to exceed \$680,000 to finance the cost of the acquisition of approximately 40,000 square feet of land and the construction thereon of a two-story office/warehouse building containing approximately 10,400 square feet to be used as a facility for the creation of turn key computer systems, together with equipment and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned by ProfitMaster Computer Systems, Inc. The project will be located approximately 80 feet northwest of

the intersection of Bratton Lane and Jarrett Way in Round Rock, Texas 78681. All interested persons are invited to attend and express any comments regarding the proposed issuance of the bond and the project to be financed thereby.

Contact: John H. Kirkley, 410 East Fifth Street, Room 318, Austin, Texas 78701, (512) 472-5059.

Filed: December 3, 1985, 4:51 p.m.
TRD-8511305

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Texas Education Agency

Thursday, December 5, 1985, 1:30 p.m. The Committee of the Whole of the Texas Education Agency made an emergency addition to the agenda for a meeting held in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. The addition concerned a review of textbook proclamation 62. The emergency status was necessary to enable the board to make changes or clarifications in the proclamation in time for publishers to respond.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: December 4, 1985, 1:51 p.m.
TRD-8511356

Saturday, December 7, 1985, 8:30 a.m. The Texas Education Agency made an emergency addition to the agenda for a meeting held in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. The addition concerned a review of textbook proclamation 62. The emergency status was necessary to enable the board to make changes or clarifications in the proclamation in time for publishers to respond.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: December 4, 1985, 1:51 p.m.
TRD-8511354

Tuesday, December 17, 1985, 8 a.m. The Advisory Committee for Budgeting, Accounting, and Auditing of the Texas Education Agency will meet in Room 1-100, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will discuss change 19 to bulletin 679, *Financial Accounting Manual*; accounting transactions for advanced bond refunding; and computer ready tape from school districts for annual financial statements.

Contact: Edward E. Randall, Room 2-100, 1701 North Congress, Austin, Texas 78701, (512) 463-9095.

Filed: December 4, 1985, 1:51 p.m.
TRD-8511357

Wednesday, December 18, 1985, 10 a.m. The Advisory Committee for Accountable Costs of the Texas Education Agency will meet in Room 3-108, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will consider a review of the State Board of Education charge to committee; and discuss the committee work plan.

Contact: Tom Krueck, 1701 North Congress, Austin, Texas 78701, (512) 463-9704.

Filed: December 4, 1985, 1:51 p.m.
TRD-8511355

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State Finance Commission

Friday, December 13, 1985, 9:30 a.m. The Banking Section of the State Finance Commission will meet at the State Banking Department, 2601 North Lamar, Austin. According to the agenda, the section will consider the adoption of foreign agency rules; review of departmental operations relating to the education program, personnel report, report to the Finance Commission.

Contact: Jorge A. Gutierrez, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: December 4, 1985, 2:50 p.m.
TRD-8511364

Friday, December 13, 1985, 10 a.m. The Consumer Credit Section of the Finance Commission will meet at the State Banking Department, 2601 North Lamar, Austin. According to the agenda, the section will review departmental operations relating to the personnel report, and report to the Finance Commission.

Contact: Jorge A. Gutierrez, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: December 4, 1985, 2:51 p.m.
TRD-8511365

Friday, December 13, 1985, 10:30 a.m. The State Finance Commission will meet at the State Banking Department, 2601 North Lamar, Austin. According to the agenda, the commission will consider reports from the Consumer Credit Department, Savings and Loan Department, and Banking Department relating to the departmental operations, educational programs, and legislative update. The commission also will meet in executive session to discuss personnel reports, litigations reports including the report on liability of public officials.

Contact: Jorge A. Gutierrez, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: December 4, 1985, 2:50 p.m.
TRD-8511363

Texas Housing Agency

Thursday, December 12, 1985, 3 p.m. The Board of Directors of the Texas Housing Agency will meet in the Austin Aero meeting room, 1901 East 51st Street, Austin. According to the agenda, the board will consider and possibly act upon adopting resolutions authorizing the issuance, sale, and delivery of bonds covering Folsom V Development and Colorado Club Development.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: December 4, 1985, 4:34 p.m.
TRD-8511373

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Texas Commission on Human Rights

Saturday, December 14, 1985, 9 a.m. The Texas Commission on Human Rights will meet in the Sergeants Committee Room 215, State Capitol, Austin. Items on the agenda summary include welcoming of guests; approval of minutes; administrative reports; approval of deferral status for the Wichita Falls Human Relations Commission; approval of cooperative agreement with the Wichita Falls Human Relations Commission; subcommittee reports; canvass of organizations concerning Texas Commission on Human Rights; and unfinished business.

Contact: William M. Hale, P.O. Box 11374, Austin, Texas 78711.

Filed: December 4, 1985, 4:38 p.m.
TRD-8511374

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State Board of Insurance

Friday, December 13, 1985, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider a reinsurance agreement whereby Union Welfare and Burial Association, Austin will be reinsured by American Underwriters Life Insurance Company, Waco.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: December 5, 1985, 9:39 a.m.
TRD-8511393

Monday, December 16, 1985, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider whether disciplinary action should be taken against Larry Clinton Hambrick of

Dallas who holds a Group II, health, life and accident insurance agent's license issued by the State Board of Insurance.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: December 5, 1985, 9:39 a.m.
TRD-8511394

Monday, December 16, 1985, 1:30 p.m. The Long Term Care Advisory Group of the State Board of Insurance will meet in Room 304T, Texas Employment Commission, 12th and Trinity Street, Austin. Items on the agenda include plan background; plan implementation suggestions by the advisory group members; the advisory group organization; sub-groups working meetings and reports; and scheduling of future advisory group activity.

Contact: Roy Ray, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6425.

Filed: December 4, 1985, 4:44 p.m.
TRD-8511375

Wednesday, December 18, 1985, 2 p.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider a filing by U.S. Security Fire & Casualty Company for approval of a hospital professional liability program with defense costs included within the limits of liability rather than in addition to limits of liability.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: December 4, 1985, 8:58 a.m.
TRD-8511325

Thursday, December 19, 1985, 1 p.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider decisions on motions filed by United Transportation Union, *et al*, and Texas Medical Association on board Docket—1456, appeal of Commercial State Insurance Company from commissioner's Order 85-0677 regarding certain policy forms filed by the Commercial State Insurance Company.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: December 3, 1985, 1:34 p.m.
TRD-8511270

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Texas Board of Irrigators

Tuesday, December 17, 1985, 9:15 a.m. The Texas Board of Irrigators will meet in Room 1028-A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will discuss the licensed irrigator examination results of Michael J. Hutcheson, who took the examination on October 22, 1985; and the chairman will report on the status of various matters of interest to the board. The board also will meet in executive session to review and rewrite the licensed irrigator examination.

Contact: Joyce Watson, Room 647, Stephen F. Austin Building, Austin, Texas 78701, (512) 463-7992.

Filed: December 5, 1985, 9:21 a.m.
TRD-8511397

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Texas Department of Mental Health and Mental Retardation

Committees of the Board of the Texas Department of Mental Health and Mental Retardation (MHMR) will meet in rescheduled session at the Austin State Hospital CANTEEN, 4110 Guadalupe, Austin. Days, times, committees, and agendas follow.

Thursday, December 12, 1985, 1 p.m. The Business Committee will consider a report on the task force to study service delivery in the Texas Department of MHMR local service areas 30 and 60; the transfer of funds; and the quarterly budget additions and revisions.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711-2668 (512)465-4588.

Filed: December 4, 1985, 3:37 p.m.
TRD-8511368

Thursday, December 12, 1985, 1:15 p.m. The Executive Committee will consider the resolution of appreciation to Alberto C. Serrano, M.D.; the resolution of appreciation to J. Adan Trevino, R.P.H.; the Leander Rehabilitation Center, Senate Bill 1350; a report regarding the Texas Department of MHMR six-year strategic plan; consideration of approval of Texas Department of MHMR six-year strategic plan; the board policy on facility reviews; roadway easement at the Denton State School; the department rule governing independent contractors; recommendations on procedure for citizen's comments; adoption of amendments to rules governing public responsibility committees; the adoption of new rules governing disclosure of client-identifying information; the emergency rules on client abuse in private psychiatric hospitals; proposed rule governing the Texas Department of MHMR rulemaking; and board policy on rulemaking.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711-2668 (512)465-4588.

Filed: December 4, 1985, 3:37 p.m.
TRD-8511369

Friday, December 13, 1985, 9 a.m. The Board of the Texas Department of MHMR will consider the approval of minutes of November 15, 1985; citizen's comments; the commissioner's calendar; recommendations for board consideration including the Executive Committee and Business Committee; and the status of pending or contemplated litigation.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711-2668 (512)465-4588.

Filed: December 4, 1985, 3:38 p.m.
TRD-8511370

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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.

Friday, December 13, 1985, 1:30 p.m. A third prehearing conference in Dockets 6477 and 6525—inquiry of the Public Utility Commission of Texas concerning the fixed fuel factor of Gulf States Utilities Company and application of Gulf States Utilities Company for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 4, 1985, 2:05 p.m.
TRD-8511334

Friday, December 13, 1985, 1:30 p.m. A prehearing conference in Docket 6611—petition of Southwestern Electric Power Company for recovery of unrecovered fuel expense with interest thereon and the setting of revised fixed fuel factors.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 3, 1985, 3:01 p.m.
TRD-8511276

Monday, December 16, 1985, 1:30 p.m. A prehearing conference in Docket 6059—application of AT&T Communications of the Southwest, Inc., for a rate increase

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 3, 1985, 3:09 p.m.
TRD-8511277

Monday, January 6, 1986, 10 a.m. A hearing on the merits in Docket 6252—

application of city of Castroville to amend certificated area service boundaries.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 4, 1985, 2:04 p.m.
TRD-8511335

Tuesday, January 7, 1986, 10 a.m. A prehearing conference in Docket 6599—petition of Lower Colorado River Authority for review of an ordinance of the Village of Lakeway in Travis County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 3, 1985, 3:08 p.m.
TRD-8511275

Thursday, January 23, 1986, 9 a.m. A hearing on the merits in Docket 6467—application of J&R Water Supply, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 4, 1985, 2:04 p.m.
TRD-8511336

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Railroad Commission of Texas

Wednesday, December 11, 1985, 9 a.m. The Railroad Commission of Texas will meet in a rescheduled meeting, in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

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) 463-7149.

Filed: December 3 1985, 4:38 p.m.
TRD-8511302

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: December 3 1985, 4:37 p.m.
TRD-8511300

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

Filed: December 3 1985, 4:41 p.m.
TRD-8511316

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: December 3 1985, 4:40 p.m.
TRD-8511311

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 78711-2967, (512) 463-6710.

Filed: December 3 1985, 4:37 p.m.
TRD-8511315

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) 463-6976.

Filed: December 3, 1985, 4:40 p.m.
TRD-8511313

The Office of Special Counsel director's report relating to pending litigation, state and federal legislation and other budget, administrative and personnel matters.

Contact: Walter Earl Lilie, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

Filed: December 3, 1985, 4:41 p.m.
TRD-8511317

Various matters falling within the Oil and Gas regulatory jurisdiction.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: December 3, 1985, 4:39 p.m.
TRD-8511311

The Oil and Gas Division will consider the application of All American Pipeline Company for a pipeline permit across various counties in Texas.

Contact: Susan Cory, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-6922

Filed: December 3, 1985, 4:39 p.m.
TRD-8511312

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) 463-6931.

Filed: December 3, 1985, 10:17 a.m.
TRD-8511299

The Surface Mining and Reclamation Division will consider the acceptance of an incremental bond for the operations of Amistad Fuel Company under Permit 7; the acceptance of an incremental bond for the

operations of Northwestern Resources Company under Permit 15; and consider and act upon the division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel Hill, 1701 North Congress, Austin, Texas 78701, (512) 463-7149.

Filed: December 3, 1985, 4:38 p.m.
TRD-8511301

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-7122.

Filed: December 3, 1985, 4:39 p.m.
TRD-8511303

Friday, December 13, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium east, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the division will consider Rule 31, Case 99,519—application of Barnhart Company for an exception to statewide Rule 37 for its Berry Frost *et al* unit 1 lease, well 1, in the Frost (Smackover) Field, Cass County (protested).

Contact: Elizabeth Wilson Davis, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6929.

Filed: December 3, 1985, 4:41 p.m.
TRD-8511318

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Texas Senate

Monday, December 16, 1985, 10 a.m. The Committee on Health and Human Resources of the Texas Senate will meet in the Senate Chamber, State Capitol, Austin. According to the agenda, the committee will conduct a working session as part of the committee's interim study on the auditing techniques and standards used and required by the TDHS for contract vendors. The committee will receive background information from TDHS and other witnesses to review auditing procedures.

Contact: Linda Christofilis, P.O. Box 12068, Austin, Texas 78711, (512) 463-0360.

Filed: December 4, 1985, 9:02 a.m.
TRD-8511329

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Secretary of State

Thursday, December 12, 1985, 9:15 a.m. The State Board of Canvassers of the Secretary of State will meet in Room 127, Capitol Building, Austin. According to the agenda, the board will canvass the special runoff election held on December 7, 1985, in State Representative, district 4, in accor-

dance with Texas Civil Statutes, Articles 8.38 and 4.12, subdivision 3.

Contact: Elections Division, 915 Sam Houston Building, Austin, Texas 78711, (512) 463-5650.

Filed: December 3, 1985, 3:32 p.m.
TRD-8511293

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Structural Pest Control Board

Thursday, December 19, 1985, 8 a.m. The Structural Pest Control Board will meet in Suite 250, Building, C, 1300 East Anderson Lane, Austin. Items on the agenda summary include approval of minutes of October 17 and 18 board meeting; executive director's report; discussion on Administrative procedures Act and uniform hearing procedures; Don Farmer and Phil Farmer doing business as International Exterminator; Donnie R. Blue doing business as Four Seasons Pest Control; discussion of complaint investigation policy; discussion of insurance requirements; and miscellaneous.

Contact: David A. Ivie, 1300 East Anderson Lane, Building C, Suite 250, Austin, Texas 78752, (512) 835-4066.

Filed: December 5, 1985, 9:22 a.m.
TRD-8511395

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Regional Agencies

Meetings Filed December 3

The Callahan County Appraisal District, Board of Directors, will meet on the first floor, Courthouse, Baird, on December 10, 1985, at 7:30 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 1055, Baird, Texas 79504.

The Lavaca County Central Appraisal District, Board of Directors, met at 113 North Main, Hallettsville, on December 9, 1985, at 4 p.m. Information may be obtained from J. P. Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Lampasas County Appraisal District, met in emergency session at 403 East Second Street, Lampasas, on December 5, 1985, at 1:30 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76650.

The Panhandle Ground Water Conservation District 3, Board of Directors, will meet at 300 South Omohundro, White Deer, on December 11, 1985, at 7:30 p.m. Information may be obtained from Richard S. Bowers, P.O. Box 637, White Deer, Texas 79097, (806) 883-2501.

TRD-8511258

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Meetings Filed December 4

The Ark-Tex Council of Governments, Board of Directors, will meet at the Community Center, Naples, on December 12, 1985, at 7 p.m. Information may be obtained from Vivienne Arvin, Community Center, Naples, Texas, (214) 832-8636.

The Austin-Travis County Mental Health and Mental Retardation Center, Finance and Control Committee, met in emergency session at 1430 Collier Street, Austin, on December 5, 1985, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Blanco County Appraisal District, Board of Directors, met at the Courthouse Annex, Johnson City, on December 9, 1985, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas, (512) 868-4624.

The Brazos Valley Development Council, Board of Directors, will meet in Room 106, Brazos Center, 3232 Briarcrest, Bryan, on December 12, 1985, at 1:30 p.m. Information may be obtained from R. J. Holmgreen, 3232 Briarcrest, Bryan, Texas

The Cass County Appraisal District, Board of Directors, will meet at 208 West Houston Street, Linden, on December 10, 1985, at 9 a.m. Information may be obtained from Janelle Clements, P.O. Box 167, Linden, Texas 75563, (214) 756-7545.

The Golden Crescent Service Delivery Area, Private Industry Council, will meet in the Americana Room, Interfirst Bank, 1908 North Laurent, Victoria, on December 11, 1985, at 6:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Jasper County Appraisal District, Board of Directors, will meet at Kirbyville ISD Administration Building, 206 East Main Street, Kirbyville, on December 12, 1985, at 6:30 p.m. Information may be obtained from David W. Luther, Jasper County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Kendall County Appraisal District, Board of Directors, met in emergency session at 207 East San Antonio Street, Boerne, on December 5, 1985, at 7 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Lee County Appraisal District, Board of Review, will meet at 218 East Richmond Street, Giddings, on December 12, 1985, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond, Giddings, Texas 78942, (409) 542-9618.

The North Texas Municipal Water District, Board of Directors, will meet at 505 East Brown Street, Wylie, on December 19, 1985, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas, (214) 442-5405, ext. 200.

The Panhandle Regional Planning Commission, Board of Directors, will meet on the first floor, Conference Room, Southwest Savings Building, 415 West Eighth Street, Amarillo, on December 12, 1985, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (805) 372-3381.

The Wheeler County Appraisal District, Board of Directors, met at the Courthouse Square, Wheeler, on December 9, 1985, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096.

TRD-8511328
8511331

Meetings Filed December 5

The Deep East Texas Council of Governments, Board of Directors, will meet at the First United Methodist Church, 329 North Bowie, Jasper, on December 19, 1985, at 1:30 p.m. Information may be obtained from Betty Snowden, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.

The Region XX Education Service Center, Board of Directors, will meet at 1314 Hines Avenue, San Antonio, on December 18, 1985, at 3 p.m. Information may be ob-

tained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 271-7611.

The Central Appraisal District of Erath County, Board of Directors, will meet in the boardroom, 1390 Harbin Drive, Stephenville, on December 12, 1985, at 10 a.m. Information may be obtained from James Bachus, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Gillespie County Appraisal District, Board of Review, will meet in Room 101-A, Courthouse, Fredericksburg, on December 16, 1985, at 9 a.m. Information may be obtained from Raymond H. Roarick, P.O. Box 429, Fredericksburg, Texas 78624.

The Gonzales County Appraisal District, Board of Directors, will meet at 928 St. Paul Street, Gonzales, on December 12, 1985, at 5 p.m. Information may be obtained from Sherian Cleveland, P.O. Box 867, Gonzales, Texas 78629.

The Amarillo Mental Health and Mental Retardation Center, Executive Committee of the Board of Trustees, and the Board of Trustees, will meet in the boardroom, 1901 Medi-Park, Amarillo, on December 12, 1985, at noon and 1 p.m., respectively. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235

The Permian Basin Regional Planning Commission, Board of Directors, will meet at 2514 Pliska Drive, Midland, on December 11, 1985, at 1:30 p.m. Information may be obtained from Pam K. Weatherby, 2514 Pliska Drive, Midland, Texas, (915) 563-1061.

The Central Appraisal District of Rockwall County, Board of Directors, will meet in the small courtroom, Courthouse, Rockwall, on December 12, 1985, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

TRD-8511392

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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.

Texas Air Control Board Contested Case Hearing 196

Pursuant to the authority provided in the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.15-3.17, and 31 TAC §§103.11(3), 103.31, and 103.41 of the procedural rules of Texas Air Control Board (TACB), an examiner for the TACB will conduct a contested case hearing to consider whether a special permit should be issued to Houston Crushed Concrete (hereinafter referred to as the company) to construct a concrete crushing plant. This plant is to be located at 7020 Old Katy Road in Houston, Texas 77024.

Said company is directed to appear at the time and place shown as follows and demonstrate by a preponderance of evidence that the proposed facility will have emissions of less than 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant, and that the emissions from the proposed facility will not cause or contribute to a condition of air pollution. The company must also demonstrate that the proposed facility will operate in compliance with all rules of the TACB and will utilize the best available control technology, and the proposed facility will comply with any applicable federal regulations.

The record of this hearing will be used by the TACB in determining whether to issue a special permit for construction of the concrete crushing plant.

Information regarding the application for the special permit and copies of the board's rules are available for public inspection at the central office of this agency located at 6330 Highway 290 East, Austin, Texas 78723; the regional office of the TACB, 5555 West Loop, Suite 300, Bellaire, Texas 77401; and Houston Public Library, 500 McKinney Street, Houston, Texas 77002.

The examiner has set the hearing to begin at 7 p.m., January 14, 1986, at the Houston Public Library, 500 McKinney Street, Houston, Texas 77002. Prospective parties to the hearing will be the TACB staff and the company. Any other person desiring to be made a party to the hearing must specifically apply in writing for party status to Examiner Bill Ehret, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at the previous address by 5 p.m., December 12, 1985. Previous correspondence with the TACB is not effect for this purpose. A final determination regarding party status will be made at the prehearing conference on the date set out as follows. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to

give testimony at the hearing but who does not desire to be a party may call the Legal Division of the TACB at (512) 451-5711, ext. 358, to determine the names and addresses of all admitted parties. The parties may then be contacted about the possibility of presenting testimony.

Pursuant to 31 TAC §103.46 of the procedural rules of the TACB, the examiner has scheduled a prehearing conference on December 18, 1985, at 6:30 p.m. at the Houston Public Library, 500 McKinney Street, Houston, Texas 77002. All persons wishing to be admitted as parties must attend the conference. Proposed written disputed issues for consideration at the hearing on the merits and written requests for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference a specific date prior to the hearing on the merits will be established for the exchange of witness lists, short summaries of their prospective testimony, and copies of written and documentary evidence pursuant to 31 TAC §103.46(2). Prehearing orders setting out discovery periods and other requirements may also be issued following this conference.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin, Texas at (512) 451-5711, ext. 358, a day or two prior to the hearing date to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on November 27, 1985

TRD-8511260

Bill Stewart
Executive Director
Texas Air Control Board

Filed: December 3, 1985

For further information, please call (512) 451-5711, ext. 364.

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State Banking Board Public Hearings

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Thursday, January 23, 1986, at 2601 North Lamar Boulevard, Austin, on the charter application for Texas Commerce Bank—San Antonio, Loop 410, San Antonio.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on November 26, 1985.

TRD-8511281 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: December 3, 1985
For further information, please call (512) 475-4451.

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Hearing Cancellation

As no opposition has been noted in the application for domicile change by MBank Houston Southwest, Houston, the hearing previously scheduled for December 9, 1985, has been canceled. This application will be scheduled for board action on December 12, 1985.

Issued in Austin, Texas, on December 2, 1985.

TRD-8511271 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: December 3, 1985
For further information, please call (512) 475-4451.

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Banking Department of Texas Application to Acquire Control of a State Bank

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 December 2, 1985, the banking commissioner received an application to acquire control of Union Central Corporation, Granger by Donald R. Grobowsky of Temple.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on December 2, 1985.

TRD-8511273 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: December 3, 1985
For further information, please call (512) 475-4451.

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Texas Economic Development Commission Private Activity Bond Allocation Report

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated

in the Federal Deficit Reduction Act of 1984. This cap is equal to \$150 per capita or approximately \$2.3 billion for the State of Texas for calendar year 1985.

House Bill 690 states that the procedure for allocating this cap will be on a first-come, first-serve basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The information that follows is a summary report of the allocation activity for the week of November 25-29, 1985.

Total unallocated principal amount of
private activity bonds authorized to be allocated
as per the Federal Deficit Reduction Act of 1984
through November 29, 1985:

\$1,264,169,510.12

Comprehensive listing of bond issues which have received
a reservation date as per House Bill 690
during the week of November 25-29, 1985:

Issuer	User	Amount
Saginaw Industrial Development Authority	Idaho Timber Corporation	\$2.3 million
Baytown Industrial Development Corporation	Randall's Center/ Baytown, a Texas Joint Venture	\$6 million
Tarrant County Industrial Development Corporation	EC Investments	\$933,000
Richardson Industrial Development Corporation	Owens Country Sausage, Inc.	\$4 million
Bell County Industrial Development Corporation	Delta Centrifugal Corporation	\$1 million
Weslaco Industrial Development Corporation	Rowie Manufacturing Corporation	\$4 million
Harris County Industrial Development Corporation	Stinnes-Texas, Inc.	\$1.5 million
Brazos Harbor Industrial Development Corporation	The Dow Chemical Corporation	\$50 million

Total principal amount of private activity bonds
issued through November 29, 1985;

\$1,013,146,510.63

Comprehensive listing of bonds issued as per House Bill
690 during the week of November 25-29, 1985:

Issuer	User	Amount
North Richland Hills Industrial Development Corporation	M & H Realty	\$2.5 million
Waco Health Facilities Development Corporation	GHG Leasing	\$850,000
City of Dallas Industrial Development Corporation	Cintas Corporation 81	\$2.535 million
Willis Industrial Development Corporation	Willis Plaza Venture	\$850,000
Ei Paso Industrial Development Authority	Rhino VI, a Texas Partnership	\$1.3 million

Issued in Austin, Texas, on December 2, 1985.

TRD-8511319 David V. Brandon
Executive Director
Texas Economic Development
Commission

Filed: December 4, 1985

For further information, please call (512) 472-5059.

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Texas Department of Human Services Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (TDHS), invites all interested parties to submit proposals to provide automation consulting services to this agency.

The purpose of the proposed contract is to provide assessment of the:

- (a) technical feasibility for a large distribution processing system;
- (b) the department's capacity to manage and support the proposed system; and
- (c) management decision process relative to automation issues.

The TDHS will evaluate offers using the following criteria: bidder qualification; previous experience; technical quality of the proposal; cost; and oral interview.

For additional information, contact Murray A. Newman, Assistant Commissioner for Policy Planning and Analysis, Texas Department of Human Services, Mail Code 000-E, P.O. Box 2960, Austin, Texas, (512) 450-3730.

All bids must be received by the TDHS no later than 5 p.m., January 10, 1986.

Final selection will be based upon the results of the TDHS's evaluation of the criteria listed.

Issued in Austin, Texas, on December 4, 1985

TRD-8511320 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: December 4, 1985

For further information, please call (512) 450-3766.

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Texas Savings and Loan Department

Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On November 27, 1985, the savings and loan commissioner received an application for approval of the acquisition

of control of First Savings Association of Kilgore, by Doyle Marshall Wiley of Huntsville.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

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

TRD-8511274 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: December 3, 1985

For further information, please call (512) 475-7991.

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Application to Establish Remote Service Units

Application has been filed with the savings and loan commissioner of Texas by San Antonio Savings Association, San Antonio, for approval to establish and operate remote service unit at St. Mary's University, One Camino Santa Maria, San Antonio.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations for savings and loan associations. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices at 1004 Lavaca, Austin.

Issued in Austin, Texas, on December 2, 1985.

TRD-8511230 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: December 2, 1985

For further information, please call (512) 475-7991.

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Application has been filed with the savings and loan commissioner of Texas by San Antonio Savings Association, San Antonio, for approval to establish and operate remote service unit at North Star Mall, 500 North Star Mall, San Antonio.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations for savings and loan associations.

tions. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices at 1004 Lavaca, Austin.

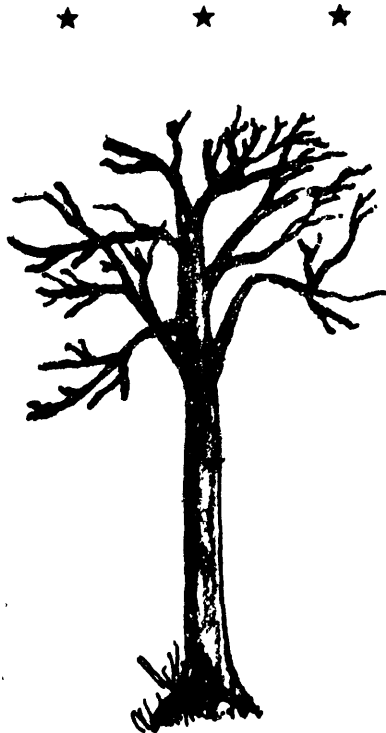
Issued in Austin, Texas, on December 2, 1985.

TRD-8511231

Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: December 2, 1984

For further information, please call (512) 475-7991.



Veterans Land Board Consultant Proposal

Pursuant to Texas Civil Statutes, Article 6252-11c, the Veterans Land Board (the Board) invites proposals from interested individuals and companies to serve as administrator of the Veterans Housing Assistance Program (the program), insofar as it pertains to Texas veteran bonds, series 1985. Under the program, the board issues tax-exempt general obligation bonds of the State of Texas to provide funds to purchase mortgage loans originated and serviced by mortgage lending institutions throughout the State of Texas. These mortgage loans are made to eligible Texas veterans in a maximum amount of \$20,000 and must be used to finance the purchase of owner-occupied, residential housing. There will be second notes associated with the board's loan for the balance of the purchase price.

Bids should be based on the duties of the administrator which will include the following.

- (1) soliciting participation in the program by Texas mortgage lenders, real estate professionals, and veterans;
- (2) reviewing the application to participate by each interested lender not currently approved for participation and recommending approval or disapproval to the board. This will include distributing the application guidelines

as well as the participation guidelines to interested applicants upon request;

(3) conducting, at least annually, a review of the performance of all participating lenders recommended for approval by the administrator and recommending to the board whether the approval of a lender should be revoked;

(4) providing advice and documentation as required by the board in order to conduct its bond sales;

(5) reviewing title and loan papers for the board and recommend purchase or rejection of loans by the board;

(6) monitoring participating lending institutions to assure ongoing compliance with program guidelines and contract terms governing the loan origination, and servicing activities of the lenders; and assuring compliance with all provisions of the Veterans Housing Assistance Act, the Natural Resources Code, Chapter 162, and rules of the Veterans Land Board,

(7) consulting with the board as needed on all matters relating to the prevalent practices of the residential mortgage lending industry;

(8) consulting with the appropriate state and federal authorities and undertaking all work necessary to maintain continued approval of the program by VA, FHA, FNMA, FHLMC, etc;

(9) drafting forms, written guidelines, and brochures needed to explain program requirements to the participating lending institutions;

(10) accepting the assignments of all servicing agreements upon request by any participating lending institutions if necessary in order to insure that all loans made by the board shall have a continuing servicer;

(11) making monthly, quarterly, and annual reports to the board sufficient to permit the board to conform with all requirements of the Legislative Budget Board. Reports must be submitted to the board within 10 working days of the end of the reporting period;

(12) storing all loan paperwork associated with each loan made by the board (up to a total of 25,000 account files) for safekeeping during the entire course of the loan;

(13) providing all data processing services needed by the program, including tracking the progress of all loans during processing, maintaining records of all loans which have been closed, and tracking the performance of all lenders;

(14) acting as a clearing house for all paperwork associated with the board's loan;

(15) providing an auditor's report by a certified public accounting firm of the administrator records relating to the program.

In addition, each interested individual or company may submit a second bid that also takes into account proposal by the interested individual or company for enhancements to the program. Such proposed enhancements should be clearly spelled out in the bid proposal. One such area of interest to the board is the implementation of a home improvement loan component to the housing program.

Selection of the administrator will be based upon factors deemed relevant by the board, but the following requirements are of high importance and will be given preference by the board in awarding the bid: principal corporate headquarters located in the State of Texas; demonstrated software and hardware computer capability to track at least 25,000 loans and up to 1,800 mortgage lenders; a commitment to act as administrator throughout the life of the bonds (a minimum 20 years), without the right to resign; a net worth of the applicant or its parent of at least \$50 million; and engaged in mortgage lending opera-

tions continuously in the State of Texas for at least five years, and servicing a mortgage loan portfolio in the United States of at least \$500 million.

Each applicant should submit evidence of its compliance with the foregoing criteria, and should specify the proposed fees it would charge over the life of the program (at least 20 years) for its services as administrator.

Proposals must be submitted on or before 10 a.m. on December 23, 1985, to the Veterans Land Board, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701, Attention: Richard Keahey.

The board has previously engaged the Lomas & Nettleton Company (Lomas) as administrator of the program, insofar as it pertains to previous bond issues, and has a contract with Lomas granting the board a right of renewal. It is anticipated that Lomas will seek to serve as ad-

ministrator of the program with respect to the new bond issue. Unless a material difference is perceived in bids received, the board will continue to engage Lomas as the administrator. The board reserves the right to reject any or all bids.

Any questions regarding the foregoing invitation and possible additional duties of the administrator should be directed in writing to the address specified previously.

Issued in Austin, Texas, on December 2, 1985.

TRD-8511201

Garry Mauro
Chairman
Veterans Land Board

Filed: December 2, 1985

For further information, please call (512) 475-6740.

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