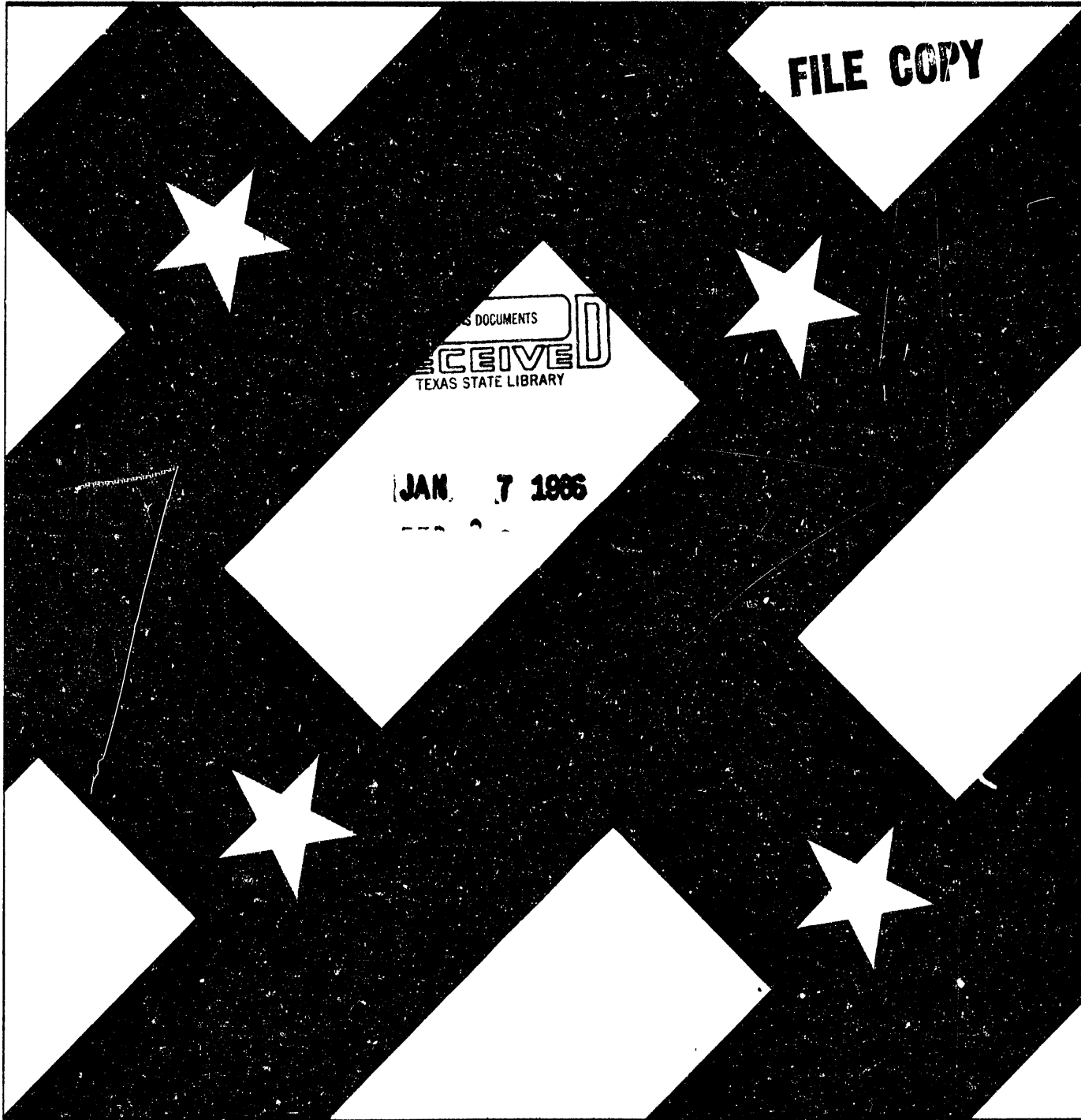


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# Texas Register

Volume 10, Number 95, December 24, 1985

Pages 4923-4960



## Highlights

The **Office of the Secretary of State** adopts an emergency section concerning election laws.

Effective date - December 16 .....page 4928

The **State Board of Insurance** adopts an emergency amendment concerning health

maintenance organizations.

Effective date - December 24.....page 4929

The **Railroad Commission of Texas** adopts an emergency amendment concerning regulations.

Earliest possible date of adoption - January 9.....page 4928

**Office of  
the Secretary  
of State**

## Texas Register

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

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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).

## Texas Register Publications

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# 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 December 13

### Lower Concho River Water and Soil Conservation Authority

For terms to expire February 1, 1991:

Benjamin Orland Sims  
Route 1  
Paint Rock, Texas 76866

Mr. Sims is being reappointed.

T. E. Wells  
P.O. Box 116  
Paint Rock, 76866

Mr. Wells is replacing Scott L. Hartgrove of Paint Rock, who is deceased.

Emmett H. Brosig, Jr.  
Route 1  
Paint Rock, Texas 76866

Mr. Brosig is being reappointed.

### Fire Fighters' Relief and Retirement Fund

For a term to expire September 1, 1991:

Bobby Joe Looney  
220 Juniper  
Mansfield, Texas 76063

Mr. Looney is being reappointed.

### Commission on Fire Protection Personnel Standards and Education

For a term to expire June 1, 1991:

Mike B. Perez, Jr.  
1818 Rosario Street  
Laredo, Texas 78040

Mr. Perez is being reappointed.

### Texas Advisory Commission on Intergovernmental Relations

For a term to expire September 1, 1991:

Thomas Vickers  
5926 Winding Ridge  
San Antonio, Texas 78239

Judge Vickers is being reappointed.

## School Land Board

For a term to expire August 29, 1987:

Lola L. Bonner  
2000 South Church Street  
Rockport, Texas 78382

Ms. Bonner is being reappointed.

## Texas Music Commission

For a term to expire February 1, 1987:

Jarrell McCracken  
4826 Hillcrest  
Waco, Texas 76710

Mr. McCracken is being appointed pursuant to Senate Bill 140, 69th Legislature, 1985.

## Texas State Board of Examiners of Professional Counselors

For a term to expire February 1, 1991:

Robert L. Smith, Ph.D.  
Woodglen Addition  
Route 1  
Commerce, Texas 75428

Dr. Smith is replacing Dr. Julian Biggers, Jr. of Lubbock, whose term expired.

## Board of Regents West Texas State University

For a term to expire August 31, 1991:

Margo E. Fields  
4403 Alicia  
Amarillo, Texas 79109

Ms. Fields is replacing Stanley K. Davis of Amarillo, whose term expired.

Burk Whittenburg  
7600 Coulter Road  
Amarillo, Texas 79106

Mr. Whittenburg is replacing Lee T. (Betty) Bivins of Amarillo, whose term expired.

Dee S. Osborne  
3860 Olympia Drive  
Houston, Texas 77019

Ms. Osborne is replacing Francis Edward Barrett of Hereford, whose term expired.

Issued in Austin, Texas, on December 13, 1985.

TRD-8511900 Mark White  
Governor of Texas

## Appointments Made December 16

### State Board of Vocational Nurse Examiners

For a term to expire September 6, 1991:

Glenn Kenley  
324 Highland Drive  
Sulphur Springs, Texas 75482

Mr. Kenley is replacing Ben M. McKibbens of Harlingen, whose term expired.

## Texas State Board of Examiners of Psychologists

For a term to expire October 31, 1991:

Joe D. Robbins  
1009 Olde Towne Drive  
Irving, Texas 75601

Mr. Robbins is being reappointed.

## Texas 1986 Sesquicentennial Commission

For a term to continue at the pleasure of this Governor:

Chris V. Semos  
1939 West Colorado Boulevard  
Dallas, Texas 75208

Mr. Semos is replacing Calvin Guest of Bryan, who resigned.

## State Board of Veterinary Medical Examiners

For a term to expire August 26, 1991:

Mike Levi  
Route 1, Box 19  
Spicewood, Texas 78669

Mr. Levi is replacing Jay Pumphrey of Fort Worth, whose term expired.

Issued in Austin, Texas, on December 16, 1985.

TRD-8511900 Mark White  
Governor of Texas

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# Emergency

## Rules

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

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

### TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 81. Elections Miscellaneous

#### ★ 1 TAC §81.10

The Elections Division of the Office of the Secretary of State of Texas adopts on an emergency basis §81.10.

Emergency action is necessary because the section makes provisions regarding which election laws are to be followed in elections held on January 18, 1986. Senate Bill 616, 69th Legislature, 1985, incorporated an election code recodification making various substantive changes in the current election laws. Senate Bill 616 takes effect on January 1, 1986. As various procedures and activities precedent to the holding of the January 18, 1986, election—e.g., ordering the election, filing of candidates applications, and the conduct of absentee voting—commence or take place prior to January 1, 1986, the effective date of the recodification, there have arisen questions as to whether the old or new election laws will apply to such procedures and activities.

If the provisions of the new election laws were to apply to such elections, certain election-related acts or procedures would be required or authorized to commence or take place as early as 45 days before the election, i.e. on December 4, 1985. It is imperative that §81.10 be adopted on an emergency basis in order to be in effect by such date to preserve the rights of voters and candidates, and in order to avoid the imminent peril to the public welfare which would result from confusion in the application of the law.

The section adopted as §81.10 makes provisions for instances where state law does not provide whether the old or new election laws are to be followed for the January 18, 1986, election.

The section is promulgated pursuant to the duty of the Secretary of State, under the Texas Election Code, Texas Civil Statutes, Article 1.03, to obtain and maintain uniformity in the application, operation, and interpretation of the election laws.

§81.10. *Transitional Provisions for January 18, 1986, Election.* The application of the new Texas Election Code, 69th Leg-

islature, 1985, chapter 211, page 1100 *et seq.*, to procedures concerning the January 18, 1986, uniform election will be limited in order to prevent an unreasonable administrative burden or the impairment of any right or expectation of any right provided under the old Texas Election Code, Texas Civil Statutes, in connection with the election. Accordingly, the election calendar for the January 18, 1986, uniform election is adopted by reference. The calendar is published by, and is available from the Elections Division, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711. Absentee voting procedures contained in the new Election Code, Chapters 87, 88, 101, 102, and 103, shall apply to the January 18, 1986, election. The old Code shall govern all other absentee voting procedures for the January 18, 1986, election.

Issued in Austin, Texas, on December 16, 1985.

TRD-8511885 Myra A. McDaniel  
Secretary of State

Effective date: December 16, 1985  
Expiration date: April 15, 1986  
For further information, please call  
(512) 475-2015.

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### TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 3. Oil and Gas Division Conservation Rules and Regulations

#### ★ 16 TAC §3.1

The Railroad Commission of Texas is renewing the effectiveness of the emergency adoption of amended §3.1 for a 60-day period effective December 24, 1985. The text of the amended §3.1 was originally published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3241).

Issued in Austin, Texas, on December 10, 1985.

TRD-8511933 Walter Earl Lillie  
Special Counsel  
Railroad Commission  
of Texas

Effective date: December 24, 1985  
Expiration date: February 22, 1986  
For further information, please call  
(512) 463-7149.

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#### ★ 16 TAC §§3.5, 3.11, 3.13-3.15 3.26, 3.27, 3.45, 3.55, 3.76

The Railroad Commission of Texas is renewing the effectiveness of the emergency adoption of amended §§3.5, 3.11, 3.13-3.15, 3.26, 3.27, 3.45, 3.55, and 3.76 for a 60-day period effective January 9, 1986. The text of the amended §§3.5, 3.11, 3.13-3.15, 3.26, 3.27, 3.45, 3.55, and 3.76 was originally published in the September 17, 1985, issue of the *Texas Register* (10 TexReg 3534).

Issued in Austin, Texas, on December 18, 1985.

TRD-8511935 Walter Earl Lillie  
Special Counsel  
Railroad Commission  
of Texas

Effective date: January 9, 1986  
Expiration date: March 10, 1986  
For further information, please call  
(512) 463-7149

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#### ★ 16 TAC §3.6, §3.16, §3.41

The Railroad Commission of Texas is renewing the effectiveness of the emergency adoption of amended §§3.6, 3.16, and 3.41, for a 60-day period effective December 30, 1985. The text of the amended §§3.6, 3.16, and 3.41 was originally published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3242).

Issued in Austin, Texas, on December 18, 1985.

TRD-8511932 Walter Earl Lillie  
Special Counsel  
Railroad Commission  
of Texas

Effective date: December 30, 1985  
Expiration date: February 28, 1986  
For further information, please call  
(512) 463-7149

**Part IV. Texas Department of Labor and Standards  
Chapter 61. Labor/Licensing and Enforcement**

**Subchapter A. Professional Boxing Rules Division**

**★ 16 TAC §§61.1, 61.5, 61.6**

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §§61.1, 61.5, and 61.6 for a 60-day period effective December 30, 1985. The text of the amended §§61.1, 61.5, and 61.6 was originally published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3403).

Issued in Austin, Texas, on December 18, 1985

TRD-8511891

Booker T. Morris III  
General Counsel  
Texas Department of  
Labor and Standards

Effective date: December 30, 1985  
Expiration date: February 28, 1986  
For further information, please call  
(512) 475-0155

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**Chapter 69. Manufactured Housing Division**

**Fee Structure**

**★ 16 TAC §§69.29, 69.38**

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §§69.29, and 69.38 for a 60-day period effective December 30, 1985. The text of the amended §§69.29, and 69.38 was originally published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3404).

Issued in Austin, Texas, on December 16, 1985.

TRD-8511887

Booker T. Morris III  
General Counsel  
Texas Department of  
Labor and Standards

Effective date: December 30, 1985  
Expiration date: February 28, 1986  
For further information, please call  
(512) 475-0155.

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**General Requirements**

**★ 16 TAC §§69.123, 69.125, 69.126**

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §§69.123, 69.125, 69.126 for a 60-day period effective December 30, 1985. The text of the amended §§69.123, 69.125, 69.126 was originally published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3404).

Issued in Austin, Texas, on December 16, 1985.

TRD-8511890

Booker T. Morris III  
General Counsel  
Texas Department of  
Labor and Standards

Effective date: December 30, 1985  
Expiration date: February 28, 1986  
For further information, please call  
(512) 475-0155.

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**Chapter 75. Air Conditioning Contractor License Law**

**★ 16 TAC §§75.1, 75.3-75.5, 75.8, 75.9**

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §§75.1, 75.3-75.5, 75.8, and 75.9 for a 60-day period effective December 28, 1985. The text of the amended §§75.1, 75.3-75.5, 75.8, and 75.9 was originally published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3405).

Issued in Austin, Texas, on December 16, 1985.

TRD-8511889

Booker T. Morris III  
General Counsel  
Texas Department of  
Labor and Standards

Effective date: December 28, 1985  
Expiration date: February 26, 1986  
For further information, please call  
(512) 475-0155.

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**Chapter 77. Health Spa Act/  
Labor, Licensing, and Enforcement**

**Procedures**

**★ 16 TAC §§77.1, 77.5, 77.9, 77.13, 77.17, 77.21**

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §§77.1, 77.5, 77.9, 77.13, 77.17, and 77.21 for a 60-day period effective December 30, 1985. The text of the amended §§77.1, 77.5, 77.9, 77.13, 77.17, and 77.21 was originally published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3407).

Issued in Austin, Texas, on December 16, 1985.

TRD-8511888

Booker T. Morris III  
General Counsel  
Texas Department of  
Labor and Standards

Effective date: December 30, 1985  
Expiration date: February 28, 1986  
For further information, please call  
(512) 475-0155.

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**Chapter 79. Vehicle Storage Facility Act/Labor, Licensing, and Enforcement**

**★ 16 TAC §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, 79.41**

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, and 79.41 for a 60-day period effective December 28, 1985. The text of the amended §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, and 79.41 was originally published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3408).

Issued in Austin, Texas, on December 16, 1985

TRD-8511886

Booker T. Morris III  
General Counsel  
Texas Department of  
Labor and Standards

Effective date: December 28, 1985  
Expiration date: February 26, 1986  
For further information, please call  
(512) 475-0155.

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**TITLE 28. INSURANCE**

**Part I. State Board of Insurance**

**Chapter 11. Health Maintenance Organizations  
Subchapter C. Application for a Certificate of Authority**

**★ 28 TAC §11.204**

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §11.204 for a 60-day period effective December 24, 1985. The text of the amended §11.204 was originally published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3287).

Issued in Austin, Texas, on December 18, 1985.

TRD-8511921

James Norman  
State Board of  
Insurance

Effective date: December 24, 1985  
Expiration date: February 22, 1986  
For further information, please call  
(512) 483-6327

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**Subchapter D. Regulatory Requirements of an HMO Subsequent to Issuance of a Certificate of Authority**

**★ 28 TAC §11.301, §11.302**

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §11.301 and §11.302 for a 60-day period effective December 24, 1985. The text of the amended §11.301 and §11.302 was originally published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3288)

Issued in Austin, Texas, on December 18, 1985.

TRD-8511928 James Norman  
State Board of Insurance

Effective date: December 24, 1985  
Expiration date: February 22, 1986  
For further information, please call (512) 463-6327.

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**Subchapter F. Evidence of Coverage**

**★ 28 TAC §11.506**

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §11.506 for a 60-day period effective December 24, 1985. The text of the amended §11.506 was originally published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3288).

Issued in Austin, Texas, on December 18, 1985.

TRD-8511923 James Norman  
State Board of Insurance

Effective date: December 24, 1985  
Expiration date: February 22, 1986  
For further information, please call (512) 463-6327

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**Subchapter I. Financial Requirements**

**★ 28 TAC §11.801**

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §11.801 for a 60-day period effective December 24, 1985. The

text of the amended §11.801 was originally published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3288).

Issued in Austin, Texas, on December 18, 1985.

TRD-8511925 James Norman  
State Board of Insurance

Effective date: December 24, 1985  
Expiration date: February 22, 1986  
For further information, please call (512) 463-6327

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**TITLE 34. PUBLIC FINANCE**

**Part III. Teacher Retirement System of Texas**

**Chapter 40. Texas Public School Retirees Group Insurance Program**

**★ 34 TAC §40.1, §40.2**

The Teacher Retirement System of Texas adopts on an emergency basis new §40.1 and §40.2, governing competitive bidding which is required in contracting for health benefits under the Texas Public School Retired Employees Group Insurance Program. The Teacher Retirement System of Texas determines that there is an imminent peril to the public health, safety, or welfare unless these sections are adopted on an emergency basis. Emergency adoption is necessary because the Teacher Retirement System of Texas is statutorily required to adopt rules to govern competitive bidding for the program's contracts, and because the bid process must begin immediately to implement coverage under the program on the date required by law

The sections are adopted under the Insurance Code, Texas Civil Statutes, Article 3.50-4, which provide the Teacher Retirement System of Texas with the authority to adopt rules to govern competitive bidding in contracting for insurance under the Texas Public School Retired Employees Group Insurance Program.

**§40.1. Eligible Bidders.**

(a) The Texas Public School Retirees Group Insurance Program (program) will include three separate contracts:

- (1) a health insurance plan;
- (2) a utilization review service; and
- (3) a mail order prescription drug service.

(b) To be eligible to bid on the health insurance plan, a carrier must have annual group health insurance premiums in excess of \$500 million.

(c) To be eligible to bid on the utilization review service, a company must either:

- (1) satisfy the eligibility requirement set forth in subsection (b) of this section; or
- (2) currently be servicing at least as many persons as will be covered under this program.

(d) To be eligible to bid on the mail order prescription drug service, a company must currently be servicing at least as many persons as will be covered under this program.

**§40.2. Bid Procedure.**

(a) All bids for contracts under the program must be submitted and all applicable questions answered on the bid specification forms adopted and provided by the Teacher Retirement System of Texas (TRS).

(b) All bids must be submitted in duplicate in sealed envelopes to the Director of Group Insurance Program, Teacher Retirement System of Texas, 1001 Trinity Street, Austin, Texas 78701.

(c) All bids must be received no later than the date and time set by TRS on the bid specification forms. Any bids received after this time will be rejected.

(d) The bid opening will take place at a date and time set by TRS in the office of the director of Group Insurance Program in the Teacher Retirement System of Texas building at 1001 Trinity Street.

Issued in Austin, Texas, on December 16, 1985.

TRD-8511912 Bruce Hineman  
Executive Secretary  
Teacher Retirement System of Texas

Effective date: December 17, 1985  
Expiration date: April 16, 1986  
For further information, please call (512) 397-6478

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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 22. EXAMINING BOARDS

### Part XVI. Texas State Board of Physical Therapy Examiners

#### Chapter 321. Definitions

##### ★ 22 TAC §321.1

The Texas State Board of Physical Therapy Examiners proposes the repeal of §§321.1, 323.1, 323.2, 325.1-325.6, 327.1, 329.1, 331.1, 333.1, 333.2, 335.1, 337.1, and 337.2, concerning definitions, types of examination, investigation procedure, organization of the board, per diem calculated, physical therapist license, endorsement licensure, second temporary license, temporary license for endorsement applicants, licensed physical therapist/licensed physical therapist assistant, license and renewal certificate, and consumer information sign. To submit improved language defined by the board that will more accurately clarify the intent of the Texas Physical Therapy Practice Act, these sections are repealed.

Lois M Smith, executive director, has determined that for the first five-year period the proposed repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Ms. Smith also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of the repeal. There is no anticipated economic cost to individuals as a result of the repeal.

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

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

§321.1. *Definitions.*

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511865 Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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#### Chapter 323. Powers and Duties of the Board

##### ★ 22 TAC §323.1, §323.2

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

§323.1. *Types of Examination.*  
§323.2. *Investigation Procedure.*

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 13, 1985.

TRD-8511868 Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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#### Chapter 325. Organization of the Board

##### ★ 22 TAC §§325.1-325.6

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

§325.1. *Elections.*  
§325.2. *Quorum.*  
§325.3. *Meetings.*  
§325.4. *Rules of Order.*  
§325.5. *Chairman.*  
§325.6. *Chairman Authority.*

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 13, 1985.

TRD-8511866 Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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#### Chapter 327. Compensation and Bond

##### ★ 22 TAC §327.1

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

§327.1. *Per Diem Calculated.*

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 13, 1985.

TRD-8511869

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

★ ★ ★



### Chapter 329. Physical Therapist License

#### ★22 TAC §329.1

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

#### §329.1. *Physical Therapist License.*

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 13, 1985.

TRD-8511867

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

★ ★ ★

### Chapter 331. Endorsement Licensure

#### ★22 TAC §331.1

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

#### §331.1. *Endorsement Licensure.*

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 13, 1985.

TRD-8511873

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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### Chapter 333. Temporary License

#### ★22 TAC §333.1, §333.2

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

#### §333.1. *Second Temporary License.*

#### §333.2. *Temporary License for Endorsement Applicants.*

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 13, 1985.

TRD-8511870

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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### Chapter 335. Professional Title

#### ★22 TAC §335.1

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

#### §335.1. *Licensed Physical Therapist/ Licensed Physical Therapist Assistant.*

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 13, 1985.

TRD-8511871

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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### Chapter 337. Display of License

#### ★22 TAC §337.1, §337.2

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

#### §337.1. *License and Renewal Certificate.*

#### §337.2. *Consumer Information Sign.*

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 13, 1985.

TRD-8511872

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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### Chapter 321. Definitions

#### ★22 TAC §321.1

The Texas State Board of Physical Therapy Examiners proposes new §321.1, concerning definitions. The board has defined terms used in the Act to clarify the intent of the Physical Therapy Practice Act.

Lois M. Smith, executive director, has determined that for the first five-year period the proposed section 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 section.

Ms. Smith also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are re-

quired to comply with the proposed section.

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

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

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

**Evidence satisfactory to the board—**Should all official school records be destroyed, sworn affidavits satisfactory to the board must be received from three persons having personal knowledge of the applicant's physical therapy education. The affidavits will not be used when official school records are available.

**Hearing—**An adjudicative proceeding concerning the issuance, denial, suspension, reprimand, revocation of license, after which the legal rights of an applicant or licensee are to be determined by the board.

**On-site supervision—**The physical therapist or physical therapist assistant is on the premises and readily available to respond.

**Physical therapist assistant—**The supervision of the physical therapist assistant shall include the following.

(A) A physical therapist must be responsible for and participate in the patient's care.

(B) A physical therapist must be on call and readily available.

(C) A current written treatment plan will be formulated by the physical therapist for each patient under his care. Plans shall be revised following periodic reevaluations by the physical therapist, not to exceed 30 days.

(D) The physical therapist may assign responsibilities as defined in the Accreditation Handbook, The American Physical Therapy Association—January 1979. Refer to standard VI, criterion B, subsection 2, pages 8-10. The physical therapist assistant may not:

(i) specify and/or perform definitive (decisive, conclusive, final) evaluative and assessment procedures;

(ii) alter treatment programs or goals;

(iii) recommend wheelchairs, orthoses, prostheses, other assistive, or alterations to architectural barriers to persons other than a physical therapist;

(iv) file documents for permanent record until approved by a physical therapist; or sign progress notes which include assessments used to design or modify patient care.

(E) The physical therapist assistant will respond to acute changes in the patient's physiological state.

**Physical therapy aide—**All rules governing the direction of the physical therapist assistant are further modified for the physical therapy aide.

(A) A physical therapy aide will be under the supervision of a physical therapist or physical therapist assistant.

(B) The physical therapy aide may participate in nontreatment activities within the scope of their on-job-training.

(C) The physical therapy aide may participate in patient care treatment activities within the scope of on-job-training in the immediate area of the physical therapist or the physical therapist assistant.

(D) The physical therapy aide may not:

(i) perform the initial treatment instruction, including exercise instruction to a patient; or

(ii) enter or sign treatment related documents in the permanent record.

**Supervision—**The person or persons responsible for the practice of the physical therapist, physical therapist assistant, or physical therapy aide.

**Treatment—**Employs for therapeutic effects, exercises, rehabilitative procedures, massage, manipulations, and such physical agents including, but not limited to mechanical devices, heat, cold, air, light, water, electricity, and sound.

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 13, 1985.

TRD-8511874

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

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1848.

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## Chapter 323. Powers and Duties of the Board

### ★ 22 TAC §323.1, §323.2

The Texas State Board of Physical Therapy Examiners proposes new §323.1 and §323.2, concerning types of examination and investigation procedure. The new sections offer additional details to the public regarding the examination and investigation procedures utilized by the board, as advised by the board, state Attorney General's Office.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

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

**§323.1 Types of Examination.** It is the duty of the board to pass on the qualifications of applicants and to conduct examinations that measure those qualifications. The examination shall be prepared by the Professional Examination Service. At the discretion of the board, oral and practical examinations may be given. Applicants will be given a 14-day notice of the date and place of examination.

### §323.2 Investigation Procedure.

(a) Complaints must be made to the Investigation Committee or to the executive director.

(b) The complaint will be forwarded to the chairman of the Investigation Committee. This committee is composed of two members appointed by the board chairman with approval of the board.

(c) If the Investigation Committee determines that a violation of the Act has not occurred, the complainant will be so notified and the case closed.

(d) If the Investigation Committee determines a violation of the Act has occurred, it will:

(1) seek legal recourse as provided for in the Act, §18; or

(2) notify the person being complained about of the complaint, specifying the sections of the Act which are alleged to have been violated, and schedule an informal conference with him.

(e) If the complaint is not resolved through the informal conference, the Investigation Committee will present it to the board.

(f) The board will conduct a formal hearing as provided for in the Act, §20. Members of the Investigation Committee shall not participate or vote at the 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 December 13, 1985.

TRD-8511875 Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
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For further information, please call  
(512) 835-1848.

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## Chapter 325. Organization of the Board

### ★ 22 TAC §§325.1-325.6

The Texas State Board of Physical Therapy Examiners proposes new §§325.1-325.6, concerning elections, quorum, meetings, rules of order, chairman, and chairman authority. The board officers, meeting times, and rules of order are clarified by these new sections.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

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

**§325.1. Elections.** Elections of officers shall be held the first board meeting in odd numbered calendar years. Officers will assume duties 60 days after elected. Vacancies of offices shall be filled by election at the next board meeting.

**§325.2. Quorum.** A quorum shall be 2/3 of current board membership.

**§325.3. Meetings.** The board shall meet at least semi-annually.

**§325.4. Rules of Order.** Board meetings shall be conducted in accordance with Roberts Rules of Order, newly revised.

**§325.5. Chairman.** The chairman shall be the executive officer and preside at all meetings of the board. He shall appoint committees as the board may authorize. He shall perform all duties usually pertaining to the office and permitted by this Act.

**§325.6. Chairman Authority.** In absence of the chairman, the vice-chairman will fulfill the duties of chairman.

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 13, 1985.

TRD-8511876 Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

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For further information, please call  
(512) 835-1848.

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## Chapter 327. Compensation

### ★ 22 TAC §327.1

The Texas State Board of Physical Therapy Examiners proposes new §327.1, concerning per diem calculated. This new section indicates how per diem shall be calculated.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

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

**§327.1. Per Diem Calculated.** Per diem shall be on a daily basis or any portion thereof portal to portal.

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 13, 1985.

TRD-8511877 Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

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January 24, 1986  
For further information, please call  
(512) 835-1848.

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## Chapter 329. Physical Therapist License

### ★ 22 TAC §329.1

The Texas State Board of Physical Therapy Examiners proposes new §329.1, concerning physical therapist license. Procedural directions are specified by the board in this new section, concerning license applications, examinations, and license issuance.

Lois M. Smith, executive director, has determined that for the first five-year period the proposed section 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 section.

Ms. Smith also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

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

### §329.1 Physical Therapist License.

#### (a) Applications.

(1) The board will receive applications from persons seeking licensure under the Act. Applications received shall be examined by the executive director for conformity with rules and regulations governing application for licensure as established by the board. Applications shall include:

- (A) official transcripts from colleges and/or universities;
- (B) physical therapy certificate or diploma; and



(C) recent photographs (passport type).

(2) The application must be notarized.

(3) Applicants will be charged an issuance fee and temporary license fee prior to the examination. If the applicant passes the examination, the permanent license will be included with the scores. If the applicant fails the examination, another examination fee is required for a second examination. If the applicant passes the examination after the second time, the permanent license will be included with the scores.

(b) Foreign trained. The foreign trained applicant's transcripts will be evaluated by the admissions office of the University of Texas in Austin and by a board-approved credentialing agency. The admissions officer will equate the transcript to the University of Texas standards. If the standards meet the equivalence of 60 semester hours of non-professional training according to the University of Texas and the credentialing agency equates the physical therapy education to that of a board-approved curriculum of physical therapy, the applicant will be considered for a temporary license.

(c) Rejections. Should the board reject an application, the examination fee will be refunded and reasons for failure to qualify will be stated. The applicant may file any further information to support the claim for reconsideration. If the applicant is still dissatisfied with the decision, a hearing may be requested as specified in the Act, §20.

(d) Examinations. The board will administer three annual examinations on the Saturdays closest to the PES scheduled uniform national testing dates. Use of dictionaries, translators, or any other supportive information will not be permitted.

(e) Exam results evaluation. All examinations are prepared by the Professional Examination Service. Any score 1.0 deviation below the nationwide mean or higher on each part will be considered passing. The applicant will be sent a letter stating his scores on each part of the examination. His status (pass or fail) will be indicated. If an applicant fails one or more parts, he will be required to repeat each part failed. This must be done at the next scheduled examination. Upon receipt of notification of failure, the applicant is ineligible to practice until a new temporary license has been issued.

(f) Lost license. A duplicate license will be issued in the event of loss or destruction of the original license. The licensee shall pay the appropriate fee.

(g) Name change. A licensee requesting a name change must submit proof of name change, his original license, and an issuance fee.

(h) Licensure upgrading. Persons who qualify under the Act, §8 and §9, or are licensed under the grandfather clause, and wish to be licensed by examination may

submit a written request and examination fee.

(i) Examination guidelines.

(1) Upon notification of the exam schedule, a candidate who will not be able to attend must submit his reason in writing for approval. A candidate who is scheduled to take the exam and is unable or fails to appear may be excused for:

(A) illness, with a written statement from a physician;

(B) circumstances caused by acts of God, evidence acceptable to the board;

(C) accident, evidence acceptable to the board; or

(D) other conditions as accepted by the board.

(2) If a candidate holds a temporary license awaiting Texas examination and takes the PES examination in another state, he will then be considered under the Act, §10. If the scores are not available to the Texas board 30 days prior to the next Texas exam, his temporary license shall be revoked the next working day following the Texas examination. If scores are available and any part(s) have been failed, he must, on the scheduled date repeat those parts failed. The board will consider this his second examination.

(3) If a candidate provides medical testimony that he is unable to document by hand the written examination, the examination being administered at that time may be read by a proctor and oral answers recorded.

(4) If an examinee has failed the physical therapy examination and wishes to take the physical therapist assistant exam, he may apply under the Act, §9.

(5) If the examinee fails the examination in Texas and takes the PES examination in another state, he may apply under the Act, §10.

(6) A certificate of proficiency or a statement of official transcript that the curriculum has been complete as required in the Act, §8 or §9, signed by the director of the program and the registrar of the school, is required for taking the examination.

(j) Additional courses of study. Additional study is required for reexamination after the second or subsequent failure.

(1) Additional study acceptable to the Education Committee of the board may be institutional, continuing education, or individually tutored. The content must be submitted to the Education Committee for approval prior to enrollment.

(2) Satisfactory evidence of having completed the required courses is:

(A) an institution's official transcript;

(B) a certificate of continuing education credits;

(C) a certificate of course completion; or

(D) a notarized statement from the tutor of the course of study.

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 13, 1985.

TRD-8511878

Lois M. Smith  
Executive Director  
Texas State Board of  
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Examiners

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

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## Chapter 331. Endorsement License

### ★22 TAC §331.1, §331.2

The Texas State Board of Physical Therapy Examiners proposes new §331.1 and §331.2, concerning interstate reporting service and license by endorsement. These new sections specify how persons licensed in other states must meet Texas exam standards to become licensed in Texas.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

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

§331.1. *Interstate Reporting Service.* Professional Examination Service scores must be reported through the Interstate Reporting Service. If the scores are 1.0 standard deviations below the nationwide mean or higher on all parts, the individual will be licensed by endorsement. If the applicant fails to meet the standards in one or more parts, he will repeat the parts failed. He then will be licensed according to this Act, §8, or §9, and §11.



**§331.2. License by Endorsement.** Persons licensed in another state whose PES exam scores meet Texas standards must apply for licensure by endorsement.

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 13, 1985.

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

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## Chapter 333. Temporary License

### ★22 TAC §§333.1-333.3

The Texas State Board of Physical Therapy Examiners proposes new §§333.1-333.3, concerning second temporary license, temporary license for endorsement applicants, and previous examination takes. The new sections reflect the board's adopted procedures relating to the statutory issuance of temporary licenses.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

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

**§333.1. Second Temporary License.** The examination is not complete until scores have been reported to the candidate. In the event of failure of a part or parts on the first examination, a candidate may be issued, at

the discretion of the board, a second temporary license, if the candidate has not more than a combined total of nine raw points score deficit on the part or parts of the examination failed. A candidate who fails any part of the examination for the second time or fails below minimum standards as set out under this section (Rule VIIA), will not be issued a second temporary license. The candidate will be notified of failure by certified mail, return receipt requested.

**§333.2. Temporary License for Endorsement Applicants.** When an applicant meets the qualifications in the Act, §10, a temporary license may be issued for a period of two months until scores are received from the Interstate Reporting Service.

**§333.3. Previous Examination Takes.** All previous takes of the PES examination, regardless of location, are counted toward the total number of takes for Texas licensure.

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 13, 1985.

TRD-8511880      Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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## Chapter 335. Professional Title

### ★22 TAC §335.1

The Texas State Board of Physical Therapy Examiners proposes new §335.1, concerning licensed physical therapist/licensed physical therapist assistant. The board's accepted initials that can be used by licensed Texas professionals, are noted in this new section.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Ander-

son Lane, Building C, Suite 260, Austin, Texas 78752.

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

**§335.1. Licensed Physical Therapist/Licensed Physical Therapist Assistant.** The licensed physical therapist may use the title physical therapist with the initials P.T. The licensed physical therapist assistant may use the title physical therapist assistant with the initials P.T.A.

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 13, 1985.

TRD-8511881      Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 835-1846.

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## Chapter 337. Display of License

### ★22 TAC §337.1, §337.2

The Texas State Board of Physical Therapy Examiners proposes new §337.1 and §337.2, concerning license and renewal certificate, and consumer information sign. These new sections further clarify the license display requirement of the Act.

Lois M. Smith, 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. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. 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 Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

The sections are proposed under Texas Civil Statutes, Article 4512e, §3(e), which

provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§337.1. *License and Renewal Certificate.* Displayed reproduction of the original license and/or the annual renewal certificate is unauthorized. The original license and renewal certificate must be displayed in the principal place of practice. The wallet sized certificate of license renewal may be presented for identification. Reproduction of the original license and/or renewal certificate is authorized for institutional file purpose only.

§337.2. *Consumer Information Sign.* The consumer information sign shall read: Complaints regarding noncompliance with the Texas Physical Therapy Practice Act can be directed to Texas State Board of Physical Therapist Examiners, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752. The minimum size of the sign shall be five inches by seven inches.

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 13, 1985.

TRD-8511882

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

Earliest possible date of adoption:

January 24, 1986

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

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 39. Primary Health Care Services Program

##### ★ 25 TAC §§39.1-39.22

The Texas Department of Health proposes new §§39.1-39.22, concerning Primary Health Care Services Program. The new sections cover the administration and implementation of the Texas Primary Health Care Services Act, House Bill 1844, 69th Legislature.

Stephen Seal, chief account III, has determined that for the first five-year period the proposed sections will be in effect 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 rule will be in effect is an estimated additional cost of \$2,500,000 for 1986 and \$5,500,000 each year in 1987-1990. There will be no fiscal implications for small businesses as a result of enforcing or administering the sections.

Mr. Seale also has determined that for each year of the first five years the section are in effect the public benefit anticipated as a result of enforcing the section will be a reduction of morbidity and mortality by improving access and availability of primary health care services. 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 John Dombroski, Director Regional and Local Health Services, Association of Community and Rural Health, 1100 W. 49th Street, Austin, Texas 78756, 458-7770. Comments will be received for 30 days from the date of publication of this proposal in the *Texas Register*. In addition, there will be a public hearing held at the Texas Department of Health Auditorium, 1100 West 49th Street, Austin, Texas, on Wednesday, January 15, 1986, beginning at 9 a.m.

The new sections are proposed under Texas Civil Statutes, Article 4438d, which provides the Texas Board of Health with the authority to adopt rules to establish and administer a Primary Health Care Services Program.

##### §39.1. *Introduction.*

(a) The purpose of these sections is to establish a system of primary health care services for eligible individuals as prescribed by House Bill 1844, 69th Legislature, 1985, and the findings of the Indigent Health Care (I.H.C.) Task Force appointed by the governor and lieutenant governor. The Legislative and I.H.C. Task Force directions include specifications for:

- (1) a system of priorities relating to the type of individuals eligible for services;
- (2) provision of primary health care services by existing providers;
- (3) evaluation and planning based on careful monitoring of service delivery, costs, patient needs, and diagnoses; and
- (4) coordination of primary health care services with other Indigent Health Care Legislation programs.

(b) The Primary Health Care Service program seeks to fund local Projects that utilize early prevention and early intervention of health problems. This program will utilize and integrate a plurality of existing primary health care services and providers into a structured service delivery system. Access to appropriate levels of health care can reduce health expenditures, mortality, morbidity, and improve individual productivity, health status, and economic growth.

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

Act—The Texas Primary Health Care Services Act, Texas Civil Statutes, Article 4438d (House Bill 1844, 69th Legislature, 1985).

Applicant—A person applying to receive primary care services from the department. When referring to an applicant, the total household is taken into consideration. Application for primary health care services will be based on the total household.

Board—The Texas Board of Health.  
Commissioner—The Commissioner of Health.

Council of governments—Regional councils which are voluntary associations of local governments formed under the Regional Planning Act of 1965, Texas Civil Statutes, Article 1011M, §3(a).

Department—The Texas Department of Health.

Eligible individual—An eligible recipient of primary health care services under the Act.

Eligibility date—The actual date the individual submits a completed application.

Facility—Includes, but may not be limited to, hospitals, ambulatory surgical centers, public health clinics, birthing centers, outpatient clinics, and community health centers.

Household—A person living alone, or two or more persons living together, one or more of whom are legally responsible for the support of the applicant (other person(s)).

Legally responsible person—A parent or another person who is legally responsible for one's own self or a minor. (Note: step-parents, grandparents, adult siblings, or aunts and uncles are not legally responsible for minor relatives, unless so designated by a court.)

Medical transportation—Transportation services that are required to obtain appropriate and timely primary health care services for eligible individuals.

Minor—A person who has not reached his/her 18th birthday and who has not had the disabilities of minority removed in court or who is not or never has been married or recognized as an adult by the State of Texas.

Other benefit—A benefit, other than a benefit provided under the Act, to which an individual is entitled for payment of the costs of primary health care services, including:

(A) benefits available under an insurance policy, group health plan, or prepaid medical care plan; Title XVIII or Title XIX of the Social Security Act; the Veterans Administration; the Civilian Health and Medical Program of the Uniformed Services; and workers compensation or any other compulsory employers insurance program;

(B) a public program created by federal or state law, or by an ordinance or rule of a municipality or political subdivision of the state, except those benefits created by the establishment of a city or county hospital, a joint city-county hospital, a county hospital authority, a hospital district, or by the facilities of a publicly supported medical school; or

(C) benefits resulting from a cause of action for medical, facility, or medical transportation expenses, or a settlement or judgement based on the cause of action, if the expenses are related to the need for services provided by the Act.

**Person**—An individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

**Primary Health Care Advisory Committee**—An advisory committee appointed by the Board of Health for the purpose of planning and reviewing the development of a comprehensive system of primary care.

**Primary Health Care Services**—

- (A) diagnosis and treatment;
- (B) emergency services;
- (C) family planning services;
- (D) preventive health services, including immunizations;
- (E) health education;
- (F) laboratory, x-ray, nuclear medicine, or other appropriate diagnostic services;
- (G) nutrition services;
- (H) health screening;
- (I) home health care;
- (J) dental care;
- (K) transportation;
- (L) prescription drugs and devices and durable supplies;
- (M) environmental health services;
- (N) podiatry services; and
- (O) social services.

**Program**—The primary health care services program created by the Act.

**Program contractor**—A person who through a grant or a contract with the department, delivers primary health care services.

**Provider**—Licensed, certified, or registered individuals and/or health care facility that provides primary health care services.

**Region**—Public Health Region of the Texas Department of Health.

**Request for proposal (RFP)**—An application and instructions submitted to the department for a plan and budget to provide comprehensive primary health care services.

**Support**—The contribution of money or services necessary for a person's maintenance, including food, clothing, shelter, transportation, and health care.

### §39.3. General Program Requirements.

- (a) As authorized by the Act, the

Board, in these sections, has established a primary health care services program in the department to provide for the delivery of primary health care services to eligible individuals.

(b) Initial service priorities shall focus on the funding of, provision of, and access to the six priority primary services listed below in paragraphs (1)-(6) of this section:

- (1) diagnosis and treatment;
- (2) emergency services;
- (3) family planning services;
- (4) preventive health services, including immunizations;
- (5) health education; and
- (6) laboratory, x-ray, nuclear medicine, or other appropriate diagnostic services.

(c) The department shall provide for the delivery of primary health care services to those areas which demonstrate unmet need due to the inaccessibility and unavailability of primary health care services. Unmet need may be determined, but is not limited to:

- (1) geography;
- (2) demography;
- (3) socio-economic;
- (4) culture;
- (5) health problems, conditions, or risks;
- (6) resources.

(d) The department may deliver services directly to eligible individuals if the board determines that existing private or public providers or other resources in the service area are unavailable, inaccessible, or unable to provide those services. In making determination that providers or resources are unavailable or unable to provide services, the department shall:

- (1) determine the proposed need for services in the service area;
- (2) notify existing private and public providers and other resources in the service area of its determination of the need for the services and the services the department proposes to deliver directly to eligible individuals;
- (3) provide the existing private and public providers and other resources in the service area 30 days to comment on the department's initial determination;
- (4) provide the existing private and public providers and other resources in the service area 30 days to apply and 60 days to secure approval as providers under the program; and
- (5) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to deliver directly under the Act to the extent that those services may be delivered by existing private or public providers or other resources in the service area that meet the criteria for approval.

(e) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to deliver directly under the Act to the extent that those services may be delivered by existing private or public providers or other resources in the service area that meet the criteria for approval.

(f) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to deliver directly under the Act to the extent that those services may be delivered by existing private or public providers or other resources in the service area that meet the criteria for approval.

(g) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to deliver directly under the Act to the extent that those services may be delivered by existing private or public providers or other resources in the service area that meet the criteria for approval.

### §39.4. Contracts and Written Agreements.

- (a) In order to conserve funds and effectively administer the program, the de-

partment shall contract on a request for proposal basis for primary health care services.

(b) The department shall publish public notice on the request for proposals in the *Texas Register* at least 30 days prior to date the application is due. Local published notices or direct contact by the department with potential contractors may also be utilized.

(c) The department will forward the application packet within 10 working days of receiving a request and criteria for the evaluation and refunding will be developed by the same.

(d) Public Health Regional Staff and Councils of Government will review and comment on proposals.

(e) Primary Health Care Advisory Committee and designated central office staff of the department will review and recommend on proposals.

(f) Applicants submitting proposals will be selected and approved by the department at the state level to enter into contracts with the department.

(g) A program contractor with the department must agree to provide at least the six priority primary care services, either directly or through agreements or subcontracts with other providers. (See the list described in §39.3(b) of this title (relating to General Program Requirements)).

(h) In areas where potential program contractors are not available or are willing to provide program services, the department may provide program services directly or through approved providers.

(i) An applicant will not be denied approval as a program contractor on the basis that the applicant operates for profit or receives federal funds, if those funds are inadequate to meet the needs of all eligible patients seeking services.

(j) The department may waive the preceding requirements in order to expedite selection of providers so that primary health care services may be provided to individuals in need. This may be done on the advice of the Advisory Committee and shall have the approval of the board or commissioner.

### §39.5. Selection of Program Contractors.

(a) The Act authorizes the board to select program contractors to participate in the program.

(b) All program contractors must agree to abide by the rules and to accept program fees as payment for services rendered to eligible individuals.

(c) A program contractor who contracts with the department must provide all necessary services either directly, through agreements or subcontracts with other providers.

(d) Any program contractor may withdraw from program participation by notifying the department in writing at least 30 days in advance of the contract expiration date.

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

(f) A due process hearing is available to any program contractor for the resolution of conflict between the department and the program contractor in accordance with §39.18 of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

#### §39.6. Matching Share.

(a) Although not required by law, all potential program contractors should identify in their proposals the types of matching they could provide in support of these state funds should they be selected as a program contractor. Types of matching are as follows:

- (1) project cost;
- (2) cost sharing and matching;
- (3) cash contributions; or
- (4) in-kind contributions.

(b) The types and amount of matching will not be considered in the selection process. Information is provided for inclusion in the planning and reporting process.

#### §39.7. Eligibility.

(a) Eligibility procedures are as outlined in the department publication entitled, *Eligibility Determination Handbook*; which the department adopts by reference. Copies are available for public review at the Community and Rural Health, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756, during normal business hours.

(b) Individuals covered under the Act are those who are ineligible or do not have access to private insurance, Medicaid benefits, or benefits under the Act.

(c) Nothing in this section shall preclude a system of integrated eligibility with the Texas Department of Human Services.

(d) In order for a household to be eligible for primary health care services, the household must:

(1) be in financial need as defined by these sections; and

(2) be resident(s) of Texas as defined by §39.9(i) of this title (relating to Maintaining Eligibility).

(e) Applications are available to anyone seeking assistance from the program. Application forms may be obtained from program contractors. The completed application form is reviewed by the program contractors. To be considered by the program, the application must be on department forms.

(1) Any documentation requested on the application must be attached to the form or it will be returned as incomplete.

(2) Information required on the application includes, but is not limited to:

(A) applicant's name; present address; date of birth; place of birth; Social Security number, if applicable; and whether the applicant is currently eligible for Medicaid or other similar benefits;

(B) the name(s) of applicant's dependent(s); present address(es); age(s); whether resident(s) of the state; and Social Security number(s), if applicable;

(C) health insurance policies providing coverage for the applicant; applicant's responsible party; and dependent(s);

(D) income of head of household and spouse;

(E) other benefits available to the family or applicant.

(f) In order to conform to federal and state laws, a minor seeking treatment for communicable diseases or family planning services will be deemed by the department to be emancipated for the purposes of this Act and only the financial resources of the minor will be considered.

#### §39.8. Determination of Eligibility.

(a) The final determination of eligibility is made by the program contractor using the information provided in the application. The program contractor may request verification from any source to establish eligibility. The program contractor at a minimum will require that documentation of income, residency, and dependency be submitted.

(b) The applicant's case is considered to be active when all criteria for eligibility have been established. Coverage continues for 12 months, as long as the eligibility criteria are met.

(c) Eligibility coverage may be provided for a period less than 12 months in the following circumstances:

(1) an application is pending with another agency for similar benefits and applicant is in need of services; or

(2) applicant has indicated eligibility status may change and possibly render applicant ineligible.

(d) The program contractor will respond to the applicant in writing within 10 working days after the application is received in completed form. Eligibility status may be determined on the day the application has been submitted.

(e) At the time eligibility is established, an eligibility beginning and ending date will be determined and entered into the applicant record. The eligibility date will be the date the applicant submitted a completed application to the program contractor.

#### §39.9. Maintaining Eligibility.

(a) To maintain eligibility for program benefits, the applicant must continue to reside in the state, be in financial need as defined by the program, and inform the program contractor in writing within 10 days of changes in the following:

(1) permanent home address;

(2) insurance coverage;

(3) employment;

(4) other income; or

(5) change in household composition.

(b) The applicant is considered to have filed an application from the time the department or program contractor has received a completed application form. Applications will be classified as follows:

(1) denied, if eligibility requirements are not met;

(2) incomplete, if sufficient information is not provided;

(3) denied, if eligibility determination appointments are not kept;

(4) denied, if fraudulent information has been provided;

(5) approved, if all criteria are met.

(c) Financial need is established on the basis of household income, as follows.

(1) The household income used to determine eligibility is the gross annual income of the head of household and spouse. Gross annual income includes earned wages, pensions or retirement benefits, child support payments received, alimony, unemployment compensation, workers compensation, income from rental properties, or any monies received on a regular basis for household support purposes.

(2) If the applicant is less than 24 years of age and is determined to be in school, the applicant is considered to be the legal responsibility of the parent, guardian, or conservator.

(3) If an applicant is 18 years of age or less, is not in school, and/or has been gainfully employed or is living independently, eligibility will be determined by the applicant's individual situation.

(d) Income guidelines are based on percentages of the current Federal Poverty Income Guidelines and may be adjusted by the program contractor with the consent of the commissioner to meet budgetary limitations. For purposes of determining eligibility for the program, 150% or below of the Federal Poverty Income Guidelines will be followed.

(e) All income of the head of household and/or spouse must be verified in at least one of the following ways:

(1) copy of the most recent paycheck;

(2) copy of the most recent paycheck stub/monthly employee earnings statement;

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

(4) pension/allotment award letters;

(5) domestic relations printout;

(6) letter of support;

(7) unemployment benefits statement or letter from Texas Employment Commission; or

(8) other documents or proof of income determined valid by the department.

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

(g) Persons who are eligible for a portion of benefits from other third party sources may be eligible for supplemental benefits through the Primary Health Care Services Program. Such supplemental benefits are extended only as a source of payment of last resort, when benefits from other sources have been exhausted, or are inadequate to fully cover the costs of medically necessary services.

(h) To be eligible for services under this Act, a person must not be receiving primary health care benefits which are reimbursable through health insurance, including Medicaid

(1) Verification of uninsurability from the carrier or the employer must be provided to the program.

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

(i) An applicant must be a bona fide resident of Texas. A bona fide resident means a person who is physically present within the geographic boundaries of the state, and who:

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

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

(3) does not claim residency in any other state or county;

(4) is under 18 years of age and his/her parent(s), managing conservator, or guardian is a bona fide resident;

(5) is a person residing in Texas and his/her legally dependent spouse is a bona fide resident; or

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

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

(1) valid driver's license;

(2) current voter registration;

(3) motor vehicle registration;

(4) rent or utility receipts for one month prior to the month of application;

(5) school records;

(6) Medicaid cards or other similar benefit cards;

(7) property tax receipts; or

(8) other documents or proof of birth if considered valid by the department.

(k) Verification of an applicant's identity shall be in the form of a copy of any one of the following:

(1) valid driver's license;

(2) current voter registration;

(3) current utility bill with name and address noted;

(4) school records;

(5) other similar benefit card;

(6) other documents or proof of birth if considered valid by the department.

(l) Verification of dependency must be provided in any one of the following ways:

(1) birth certificate;

(2) baptismal certificate;

(3) school records; or

(4) other documents or proof of dependency determined valid by the department.

(m) Supplemental information may be required to establish eligibility if there is incomplete, inadequate, or conflicting information provided by the applicant.

(n) The final determination of eligibility is made by the department or program contractor using the information provided in the application.

(o) The department or program contractor will notify the applicant in writing of his/her eligibility status within 10 working days after the completed application has been received. Any questions regarding coverage may be addressed to Texas Department of Health, Community and Rural Health, 1100 West 49th Street, Austin, Texas 78756.

(p) An applicant is considered to be eligible for participation in the program when all aspects of eligibility have been met.

(q) When eligibility is established, an eligibility beginning and ending date will be determined and recorded. The eligibility date assigned will be the date the applicant submitted a completed application to the department or program contractor. The ending date will be 12 months from the beginning date, unless cases are granted eligibility for a shorter duration due to special circumstances. At the end of the 12 month period an applicant will need to be recertified if they choose to remain in the program.

(r) The denial of any application to the program will be in writing and will include the reason(s) for such denial. The person applying for services has the right to an administrative review and a due process hearing as set out in §39.18 of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(s) An applicant has the right to re-apply for program coverage at any time when there is a change of situation or condition.

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

(1) continue to reside in the state;

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

(3) notify the department or program contractor within 10 days of changes in permanent home address, insurance cov-

erage, employment, income, or change in household composition.

#### §39.10. Co-Payment for Primary Health Care Services.

(a) It is the intent of this program that all eligible individuals receiving services shall participate in the payment for primary health care services as rendered and according to the following income guidelines.

(1) Household incomes 100% and below of federal poverty guidelines. Eligible individuals whose annual gross household income is below 100% of the federal poverty income guidelines may be charged a nominal fee for services rendered in accordance with their income.

(2) Household incomes 101-150% and above of federal poverty guidelines. Eligible individuals whose annual gross household income is between 101% and 150% of the federal poverty income guidelines will be charged a co-payment on a sliding fee basis in accordance with their income.

(b) A patient may not be denied service because of inability to pay.

(c) Fees collected by program contractors shall be retained by those program contractors and be accounted for and expended only for primary health care services.

(d) Individuals whose household incomes exceed 150% of the federal poverty income guidelines will not be eligible for primary health care services in this program.

#### §39.11. Services Provided.

(a) Services provided are to be delivered through a network of program contractors, directly by the department, or by a combination of the department and providers. Applicants should receive services as close to their home community as possible, except in those situations where program contractors or policies require treatment at specific facilities.

(b) Services may be limited as to frequency, duration, and cost for budgetary and administrative reasons. The following is a list of services the program may provide:

(1) diagnosis and treatment;

(2) emergency services;

(3) family planning services;

(4) preventive health services, including immunizations and health education;

(5) health education;

(6) laboratory, x-ray, nuclear medicine, or other appropriate diagnostic services;

(7) nutrition services;

(8) health screening;

(9) home health care;

(10) dental care;

(11) transportation;

(12) prescription drugs and devices and durable supplies;

(13) environmental health services;

(14) podiatry services; and

(15) social services.

(c) Services will be provided on a one-time basis to person(s) requiring immediate medical care, based on the following criteria.

(1) Person(s) will undergo eligibility determination.

(2) Should person(s) be determined ineligible for services, a referral will be made for other appropriate health services.

(3) Providers will be reimbursed for services provided on a one-time basis.

#### §39.12. Funds.

(a) The board may seek, receive, and expend any funds received through an appropriation, grant, donation, or reimbursement from any public or private source to administer the Act, except as provided by other law.

(b) The board may charge fees for the services delivered directly by the department or through approved providers in accordance with Texas Civil Statutes, Article 4414c.

(c) Notification of services rendered on a one-time basis must be received by the program contractor within five working days of delivery of emergency care.

(d) The program contractor will require the following specific information:

- (1) the nature of the emergency;
- (2) diagnosis;
- (3) services performed;
- (4) name and address of facility;
- (5) name and address of provider;

and

(6) name, current address, and date of birth of patient/applicant.

(e) Eligibility must be established before any payment for services can be made. A program contractor must receive a completed application no later than 30 days after the date of service was initiated. Failure to comply with this deadline will forfeit the provider's and patient's right to any claim for payment.

(f) The department or program contractor may charge fees for services delivered by the department or through the contracting agencies in accordance with Texas Civil Statutes, Article 4414c.

#### §39.13. Coordination of Benefits and Recovery of Costs.

(a) An applicant is not eligible to receive services delivered under this Act when the applicant or a person with a legal obligation to support the applicant is eligible for some other benefit that would pay for all or part of the services, unless those services are denied.

(b) An applicant who applies for or receives services delivered under this Act shall inform the department or program contractor at the time of application or at the time the applicant receives services of any other benefit to which the applicant or a person who has a legal obligation to support the applicant may be entitled.

(c) A person who has a legal obligation to support an applicant who has received

services that are covered by some other benefit shall reimburse the department to the extent of the services provided when the other benefit is received.

(d) The commissioner may waive enforcement as prescribed in these sections in certain individually considered cases in which enforcement of this section will deny services to a class of otherwise eligible individuals because of conflicting federal, state, or local laws or regulations.

(e) The department may recover the cost of services delivered under this Act from a person who does not reimburse the department as required or from any third party who has a legal obligation to pay other benefits and to whom notice of the department's interest has been given.

(f) At the request of the commissioner, the attorney general may bring suit in the appropriate court of Travis County on behalf of the department. The court may award attorney's fees, court costs, and interest accruing from the date the department is reimbursed in a judgement in favor of the department.

#### §39.14. Denial/Modification/Suspension/Termination of Services.

(a) The department may, for cause, deny, modify, suspend, or terminate services to an eligible person after written notice to the applicant or recipient and an opportunity for a fair hearing have been given.

(b) Any person requesting or receiving program benefits may be notified in writing that such benefits will be denied, modified, suspended, or terminated if:

- (1) the application information is erroneous or falsified;
- (2) the person is no longer a resident of Texas;
- (3) the required information is not provided when requested;
- (4) obligated reimbursement to the program is not provided;
- (5) program funds are reduced or curtailed.

(c) The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §§12-20, do not apply to the granting, denial, modification, suspension, or termination of services delivered under this Act. The department shall conduct hearings in accordance with minimum due process requirements.

(d) The notice and hearing procedures do not apply if the department restricts program services to conform to budgetary limitations that require the board to establish service priorities relating to the types of services provided.

#### §39.15. Payment for Services.

(a) Reimbursement for services rendered through the Primary Health Care Services Program will be contingent upon a valid signed contract between the program contractor and the department.

(b) An applicant or individual legally responsible will not be billed for services or be required to make a pre-treatment payment or deposit.

(c) The department will reimburse the program contractor for services rendered in accordance with the written agreement which exists between the program contractor and the department. The department will only be obligated to pay those funds as specified in the written agreement.

(d) All payments made on behalf of an applicant will be for claims received within 90 days of the date of service.

(e) Request for payment will either be paid, denied, or rejected, generally within 60 days of receipt by the department.

(f) The department will require documentation of the delivery of services by the program contractor, as follows.

(1) Requests for payment will be denied if they are incomplete, submitted on an improper form, contain inaccurate information, or are not submitted within 90 days of the date of service.

(2) Requests for payment which have been rejected but filed within the 90-day period, if resubmitted for payment, must be corrected. A copy of the department's rejection notice must accompany the original request for payment.

(3) Corrections must be made on the request for payment form if at all possible.

(4) If a new request is prepared, the original request must accompany the new request for payment form.

(5) Payment may be made if the corrections are accomplished and the request for payment is resubmitted to the department within 30 days from the notice of denial or within the initial 90-day filing deadline, whichever is later.

(6) Additional services will not be considered for payment on a resubmitted request for payment form.

(g) A program contractor shall be given the opportunity for a due process hearing if the request(s) is/are denied or rejected, in accordance with §39.18 of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(h) Overpayments made on behalf of applicants to program contractors must be reimbursed to the department by lump sum payment or, at the department's discretion, out of the current requests due to be paid to the program contractor. The opportunity for a due process hearing is available to program contractors, as provided in §39.18 of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(i) The department may suspend or cancel payment for services if false or fraudulent request for payments are submitted by a program contractor.

(j) Any program contractor failing to provide services according to medically acceptable standards is subject to review, fraud referral, and/or administrative sanc-



tions. If such action is taken, program contractor may request a due process hearing from the department.

**§39.16. Development and Evaluation of Program.**

(a) The Act specifies a 12-member statewide advisory committee may be appointed by the board.

(b) The committee shall advise the department with respect to the policies of the program, as follows.

(1) It shall suggest alternatives to the ongoing program and its method of administration.

(2) It shall review and advise upon the method and requirements for obtaining contractor providers, i.e., the request for proposals.

(c) The board may also appoint any necessary areawide advisory committees to advise and assist the department in planning and administering the program.

**§39.17. Program Review.**

(a) Program review activities will be accomplished through monitoring systems developed to ensure the delivery of appropriate services.

(b) For economies of scale, and with the consent of the commissioner, the program may contract for concurrent or retrospective reviews.

(c) The department will establish a program review to evaluate the delivery of services at all levels, i.e., central office, regional and local health departments, and direct service providers. The program review component will allow for technical assistance to the program contractors. It will also review consumer satisfaction.

(d) The department shall maintain a continuing review of the services it provides directly to the applicants who participate in the program.

(e) At least annually, the department shall review and determine the continued need for the services it provides directly in each service area in accordance with the methods and procedures used to make the initial determination prescribed by the Act.

(f) If, after a review, the board determines that a private or public provider or other resource that meets the criteria for approval as a provider is available to provide services, has applied for approval as a provider, the department shall, immediately after approving the provider, eliminate, reduce, or modify the scope and type of services the department delivers directly to the extent the private or public provider or other resource is available and able to provide the service.

(g) The department shall annually prepare a report for submission to the governor and the legislature relating to the status of the program. The report shall be available to the general public and must include:

(1) the unduplicated number of patients receiving care under the program;

(2) the total cost of the program, including a delineation of the total administrative cost of the program and the total cost for each service authorized under the program;

(3) the average cost per recipient of services;

(4) the number of recipients of services who received services in each public health region; and

(5) any other information that may be required by the board.

(h) The department will cooperate with federal, state, and local public agencies, and with private agencies and individuals interested in health care of indigents. The department will make every effort to establish cooperative agreements with other state agencies to define respective responsibilities so as to avoid duplication of services.

**§39.18. Appeals, Confidentiality, Gifts, and Nondiscrimination.**

(a) Any person aggrieved by a program decision to deny, modify, suspend, or terminate benefits or participation rights may appeal the decision as prescribed in this section.

(b) Within 10 working days after receiving notice of denial, modification, suspension, or termination of benefits, an aggrieved applicant desiring an administrative review shall notify the department by certified mail of his/her request for such review. Additional information bearing on the decision may be submitted at this time. Failure to request an administrative review within the 10-day period is deemed to be a waiver of such review.

(c) Upon receipt of the request, a department administrative review team will affirm or reverse the decision and notify the aggrieved applicant in writing, giving the reason(s) for their determination.

(d) Within 10 days after receiving written notice of the administrative review team's determination, the aggrieved applicant may request a due process hearing from the department in accordance with the provisions of §39.5 of this title (relating to Selection of Program Contractors). A request for a hearing shall be sent to the department by certified mail. Failure to request the hearing within the 10-day period is deemed to be a waiver of the due process hearing.

(e) The date, time, and place of each due process hearing will be determined by the department.

(f) The hearing will not be conducted under the contested case provisions of the Administrative Procedure and Texas Register Act, but will include the following:

(1) timely written notice to the person aggrieved of the basis for the decision and disclosure of the evidence on which the decision is made;

(2) an opportunity for the person aggrieved to appear before a hearing officer to relate his/her position;

(3) an opportunity for the person aggrieved to be represented by counsel or another representative;

(4) an opportunity for the person aggrieved or representative(s) to be heard in person, to call witnesses, and to present documentary evidence;

(5) an opportunity for the person aggrieved to cross-examine witnesses;

(6) a written recommendation by the hearing officer, to the commissioner setting forth the reasons for the recommendation and the evidence upon which the decision is based;

(7) a final written decision will be made by the commissioner.

**§39.19. Confidentiality.** All medical records and other information maintained by the department which is confidential by law shall not be disclosed to the public.

**§39.20. Gifts.** The department may receive gifts and donations on behalf of the program, which are deposited in the State Treasury and reappropriated to the program.

**§39.21. Nondiscrimination.** The Texas Department of Health operates in compliance with the Civil Rights Act of 1964, Public Law 88-352, Title VI, and 45 Code of Federal Regulations, so that no person will be excluded from participation, Part 80, or otherwise subjected to discrimination on the grounds of race, color, national origin, or handicapping conditions.

**§39.22. Federal Poverty Income Guidelines.** The department adopts by reference the Federal Poverty Income Guidelines set out in these sections. A copy of the guidelines is indexed and filed at the Association of Community and Rural Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours.

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

Issued in Austin, Texas, on December 17, 1985.

TRD-8511915

Robert A. MacLean,  
Deputy Commissioner  
Professional Services

Earliest possible date of adoption:

March 15, 1986

For further information, please call  
(512) 458-7236.



**Part VIII. Interagency  
Council on Early  
Childhood Intervention  
Chapter 621. Early Childhood  
Intervention Program  
Funding of the Early Childhood  
Intervention Program**

**★ 25 TAC §621.32, §621.33**

The Interagency Council on Early Childhood Intervention (ECI) proposes new §621.32, concerning applications by providers for additional funds, and new §621.33, concerning waiver of program standards. New §621.32 describes the criteria and procedures by which providers may apply for lapsed funds. New §621.33 describes the criteria and procedures the ECI Council will follow in granting waivers to program standards.

Mary Elder, administrator, Early Childhood Intervention Program, 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. Elder 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 to have a more effective utilization of public funds and the opportunity for increased service funding in areas of greater need, and to provide improved programming which is responsible to local considerations. 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 Mary Elder, Administrator, Early Childhood Intervention Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for a period of 30 days after these proposed new rules are published in the *Texas Register*

The new sections are proposed under Texas Civil Statutes, Human Resources Code, §73.003, which provide the Interagency Council on Early Childhood Intervention with the authority to adopt rules regarding services provided to children with developmental delays.

**§621.32. Application by Providers for Lapsed Funds.**

(a) Generally. The provider may apply to the council for additional funds to expand services when funds are available in accordance with the criteria and procedures described in this section.

(b) Availability of additional funds. After the review of the first quarterly program reports, potential sources of money not utilized will be identified and a request to return unused money will be made. When

money is returned, a letter will be sent to all early childhood intervention (ECI) funded programs to notify them that additional funds is available and to outline the process for requesting its use. In this letter the priorities for award will be listed.

(c) Direct service increases.

(1) An interested provider should complete a written request for additional funds which will include a narrative statement of need and documents describing the specific use of requested funds, proposed budget revision form showing the increase in each category requested (including the increase in program match where required), and a detailed justification for the request. This request should be sent to the ECI administrator with a carbon copy to the program monitor assigned to the program.

(2) The ECI program monitor and the ECI fiscal monitor will review the request within 10 working days and make recommendations for action.

(3) The ECI administrator will review the fiscal and program recommendations and prepare a recommendation for the next scheduled council meeting.

(4) The council will review all requests and assign a priority number for funding. All approved requests will be awarded in the order of their numbered priority as money is returned.

(A) Program ranking. As new requests are received, the newly approved programs will be ranked with originally approved requests.

(B) Notification of priority. Programs recommended for approval but not funded will be notified that they have been assigned a priority number and will be funded in that order. As new money is returned, contracts can be amended.

(C) Amendments to contracts. Any amendments to contracts will be processed following all approved additions.

(5) A provider may request additional funds for direct services for children or their families who are unserved (waiting lists) or underserved. Allowable costs covered under indirect cost rates can be considered as direct services. Priorities will be assigned according to the following:

(A) documentation of the need for additional resources;

(B) recommendations from program monitors;

(C) consideration of geographic areas in greatest need;

(D) consideration of the number of children in need with the least amount of resources.

(d) Technical assistance related increases. A provider may request additional funds for specific technical assistance activities which are listed as a high priority on the program's technical assistance plan and cannot be covered within their existing budget. The procedures are as follows.

(1) When a technical assistance plan is developed or revised, any requests

for additional money for travel, materials, or consultants must be made within one week of technical assistance plan completion. These requests should only be made when it is documented that the program does not have the resources to cover this expense under its current budget.

(2) All requests for additional funds with a justification and budget summary form will be submitted by the program monitor to the ECI administrator. All requests below \$500 may be approved by the ECI administrator and will be reported to the council. All requests recommended for approval by the ECI administrator, for over \$500, will be forwarded to the council for approval.

(3) The program will be required to notify the ECI administrator immediately if a decision to cancel the planned expenditure is made or if money is available within the current budget. Additionally, those programs approved for technical assistance will be monitored for identification of available funds when quarterly reports are submitted.

**§621.33. Waiver of Program Standards.**

(a) When, under an unusual circumstance, a service provider wishes to request approval of a waiver from adherence to an ECI policy, he/she must submit to his/her assigned program monitor a written request which includes the following:

(1) the policy proposed for waiver;

(2) the time line proposed for waiver;

(3) the justification for the waiver request, including the need, the situation, and the benefit to the program or the individuals or families served;

(4) the projected fiscal or program implications; and

(5) the plan for achieving compliance.

(b) The appropriate monitor will review the request and forward a recommendation within 10 working days to the ECI administrator for assignment to the waiver review committee.

(c) The waiver review committee will schedule a meeting within 10 working days to consider a pending request.

(d) The waiver review committee will consist of the ECI program administrator, the Texas Department of Mental Health and Mental Retardation ECI coordinator, the Texas Education Agency ECI coordinator, and the ECI council chairperson. The recommendation of the waiver committee will be presented at the next scheduled council meeting for full council review. All decisions will be made by majority vote with the council chairperson voting in case of a tie.

(e) The program requesting the waiver will be informed of the date of the waiver committee and council meetings and invited to attend. Attendance is not expected or required.

(f) The program requesting the waiver will be notified by mail within five



working days of the council's decision, including the effective date of the decision.

(g) All waivers will be approved for a period not to exceed one fiscal year and will be renewed only if approved following a resubmission of the request.

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

Issued in Austin, Texas, on December 18, 1986.

TRD-8511918 Patricia Bizzell  
Chairperson  
Interagency Council on  
Early Childhood  
Intervention

Proposed date of adoption:

January 28, 1986

For further information, please call  
(512) 465-2671.

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## TITLE 28. INSURANCE

### Part I. State Board of Insurance

#### Chapter 9. Texas Title Insurance Act

##### Subchapter A. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas

###### ★28 TAC §9.1

The State Board of Insurance (board) proposes an amendment to §9.1 (059.09.07.001), concerning adoption by reference of the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* (manual). The proposed amendment to the manual will modify a currently existing promulgated procedural rule, while the other proposed amendments will add new sections for making application with the board of title agents and escrow officers licenses.

Each of the proposed amendments were originally submitted as individual agenda items at the annual title insurance hearing held on November 19, 1985, and reference will be made to the agenda item number assigned to the proposal at the hearing. The proposed amendment submitted as Agenda Item 85-15 will amend Procedural Rule P-18 to add the requirement that a commitment must be issued if the proposed insured so requests, providing that the company shall not be required to issue a commitment on an order it is unwilling to insure. Agenda Item 85-10 seeks to create Licensing Rule L-1 as revised requirements for obtaining a title insurance agents license. Agenda Item 85-11 seeks to create Licensing Rule L-2 as revised requirements for obtaining a title insurance escrow officers license.

James Mark Gentle, assistant director of title insurance, has determined that for the first five-year period the proposed amendment will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment. The cost of compliance with the amendment for small businesses will be a probable increase in postage and printing expensed for delivery of commitments to those title agencies which are small businesses and which have previously refused to issue commitments upon request of the proposed insureds. There will be no difference between the cost of compliance for small businesses and the cost of compliance for large businesses affected by the amendment on the basis of cost per hour of labor. By virtue of the combination of revised instructions and a new application form for title insurance agents and title insurance escrow officers, a substantial reduction of paperwork will be achieved while at the same time retaining the requirements under the Insurance Code, Articles 9.35, 9.36, 9.41, and 9.43.

Mr. Gentle also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed, according to the parties asserting the amendments, will be the following. Item 85-15 will protect consumers by prohibiting title insurance companies or agents from refusing to issue a commitment for title insurance on transactions involving risks which the company would in the ordinary course of business be willing to insure. Item 85-10 will provide the public with a streamlined procedure for applying for a title agent's license, and Item 85-11 will provide the public with a streamlined procedure for making application with the board for an escrow officer's license. The anticipated economic cost to individuals who are required to comply with the proposed amendment will be no economic cost to the individual consumers of title insurance services and products, but a probably increase in postage and printing expenses for delivery of commitments to individuals engaged in the business of title insurance as an agency who have previously refused to issue commitments upon the request of the proposed insureds.

Comments on the proposal may be submitted to James Mark Gentle, Assistant Director of Title Insurance, 1110 San Jacinto, Austin, Texas 78701-1998.

The amendment is proposed under the Texas Title Insurance Act, Article 9.07, which gives the State Board of Insurance the power and duty to fix and promulgate the premium rates to be charged by title insurance companies and title insurance agents for policies of title insurance or other promulgated or approved forms, and under the Texas Title Insurance Act,

Article 9.21, which gives the State Board of Insurance power to promulgate and enforce rules, prescribe underwriting standards and practices, and promulgate and enforce all other rules which at the discretion of the board are deemed necessary to accomplish the purposes of the Texas Title Insurance Act.

§9.1. *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas.* The State Board of Insurance adopts by reference the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* as amended effective March 1, 1986 [March 1, 1985]. This document is published by and is available from Hart Graphics, P.O. Box 968, Austin, Texas 78767, and is available from and on file at the State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998 [78786].

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 16, 1985.

TRD-8511864 James W. Norman  
State Board of  
Insurance

Earliest possible date of adoption:

January 24, 1986

For further information, please call  
(512) 463-6525.

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## Chapter 11. Health Maintenance Organizations

### Subchapter C. Application for a Certificate of Authority

#### ★28 TAC §11.204

The State Board of Insurance proposes an amendment to §11.204 (059.51.03.004), concerning contents, in its Health Maintenance Organizations chapter. This amendment is necessary to regulate single health care service plan health maintenance organizations (HMOs), under House Bill 1584, passed by the 69th Legislature, 1985. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs. The board adopted this amendment on an emergency basis to be effective August 26, 1985, and extended it for an additional 60 days from the original expiration date. This amendment is a part of a series of amendments to the HMO rules, which are necessary for the appropriate and feasible regulation of single health care service plan HMOs. The amendment adds a new subparagraph (D) to §11.204(21), which requires a single health care service plan HMO to submit as part of its application for a certificate of authority a reinsurance agree-

ment covering excess of loss, stop-loss, or catastrophes, and a conversion policy to be offered by an insurer to an HMO enrollee if he or she leaves the HMO or leaves the service area, or if the HMO becomes insolvent. However, the amendment requires these contracts only if they are available. Information received thus far indicates that the contracts in question are not presently available to a single health care service plan HMO.

A. W. Pogue, deputy commissioner, life insurance, has determined that for the first five-year period the proposed amendment 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 amendment.

Mr. Pogue also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be the availability of regulations in compliance with current law. There is no anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to A. W. Pogue, Deputy Commissioner, Life Insurance, State Board of Insurance, 1100 San Jacinto, Austin, Texas 78701-1998.

This amendment is proposed under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable regulations as are necessary and proper to carry out the provisions of the Act.

**§11.204. Contents.** Contents of the application must include the following items in the order listed.

(1)-(20) (No change.)

(21) Insurance and other protection against insolvency:

(A)-(C) No change.

(D) With respect to a single health care service plan HMO the following applies.

(i) A reinsurance agreement as described in subparagraph (A) of this paragraph must be secured if it is available or becomes available.

(ii) A conversion policy as described in subparagraph (B) of this paragraph must be secured if it is available or becomes available.

(22)-(23) No change.

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

Issued in Austin, Texas, on December 17, 1985.

TRD-8511919

James W. Norman  
State Board of  
Insurance

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 463-8327.

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### Subchapter D. Regulatory Requirements of an HMO Subsequent to Issuance of a Certificate of Authority

#### ★28 TAC §11.301, §11.302

The State Board of Insurance proposes amendments to §11.301 and §11.302 (059.51.001 and .002), concerning filing requirements and service area expansion requests, in its Health Maintenance Organizations chapter. The amendments are necessary to regulate single health care service plan health maintenance organizations (HMOs), under House Bill 1584, passed by the 69th Legislature. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs. The board adopted these amendments on an emergency basis to be effective August 26, 1985, and extended them for an additional 60 days from the original expiration date. These are part of a series of amendments to the HMO rules which are necessary for the appropriate and feasible regulation of single health care service plan HMOs. The amendment to §11.301(1)(D) requires a stop-loss reinsurance agreement to be submitted for the commissioner's approval if it is available. This type of agreement does not appear to be presently available to single health care service plan HMOs. Section 11.301(2)(M) is amended to include the words "single health care service" as well as regular "health care services." The amendments to §11.301(6) and §11.302(a)(3) and (4) substitute the words "and/or" for "and" when the rules refer to "physicians and other providers" who provide services to the HMO. The "and/or" wording is necessary because of the limited services of a single health care service plan HMO. The amendment to §11.302(a)(2) deletes inappropriate requirements regarding a map of a new service area, and replaces them with a reference to an appropriate rule regarding new service areas.

A. W. Pogue, deputy commissioner, life insurance, has determined that for the first five-year period the proposed amendments 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 amendments.

Mr. Pogue also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be the availability

of regulations in compliance with current law. There is no anticipated economic cost to individuals who are required to comply with the proposed amendments.

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

These amendments are proposed under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable regulations as are necessary and proper to carry out the provisions of the Act.

**§11.301. Filing Requirements.** Subsequent to the issuance of a certificate of authority, each health maintenance organization (HMO) is required to file certain information with the commissioner, either for approval prior to effectuation or for information only. A request to modify the approved application for a certificate of authority which requires the commissioner's approval is not considered complete until all necessary supporting documentation has been received. See §11.204 of this title (relating to Contents) for more detailed instructions regarding required contents. Any changes necessitated by federal law or regulations must also be filed for approval or for information as indicated in this rule.

(1) An HMO shall file with the commissioner a written request to modify the following previously approved operations or documents and receive the commissioner's approval prior to effectuating such modifications:

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

(D) the stop-loss or reinsurance agreements if changing the carrier or description of coverage. (This requirement is only necessary if the agreements are obtainable.);

(E)-(F) (No change.)

(2) Material filed under this paragraph is not to be considered approved but may be subject to official review. Within 30 days of the effective date, an HMO must file with the commissioner, for information only, additions, deletions, and modifications to the following previously approved operations and documents:

(A)-(L) (No change.)

(M) the making of a loan or loans or amendments thereto to a medical group or to corporations under the control of the HMO for the purpose of acquiring or constructing medical facilities or hospitals or in the furtherance of a program providing health care services, of a single health care service, to enrollees.

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

(6) Subsequent to the issuance of a certificate of authority, on or before March 1 of each calendar year, each HMO must file with the HMO coordinator two

copies of an updated list of physicians and/or [and] other providers.

**§11.302. Service Area Expansion Requests.**

(a) For contiguous service area expansion requests, the HMO must provide the commissioner with the following information to support the requests:

(1) (No change.)

(2) a map of the new service as required by §11.204(15) of this title (relating to Contents) [showing locations of primary care physicians, hospitals, and emergency care facilities];

(3) any contracts or agreements with physicians and/or [and] other providers in the new area;

(4) a list of all physicians and/or [and] other providers who have agreed to provide services in the new area.

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

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

Issued in Austin, Texas, on December 17, 1985.

TRD-8511922 James W. Norman  
State Board of  
Insurance

Earliest possible date of adoption:

January 24, 1986

For further information, please call  
(512) 463-6327.

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**Subchapter F. Evidence of Coverage**

**★ 28 TAC §11.506**

The State Board of Insurance proposes an amendment to §11.506 (059.51.06.006), concerning mandatory provisions group and nongroup agreement and group certificate, in its Health Maintenance Organizations chapter. This amendment is necessary to regulate single health care service plan health maintenance organizations (HMOs), under House Bill 1584, passed by the 69th Legislature. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs. The board adopted this amendment on an emergency basis to be effective August 26, 1985, and extended them for an additional 60 days from the original expiration date. The amendment is part of a series of amendments to the HMO rules that are necessary for the appropriate and feasible regulation of single health care service plan HMOs. The amendment to §11.506(7) requires that in certain cases, where a single health care service plan HMO enrollee's eligibility for membership is terminated, the enrollee must be offered a nongroup agreement if he or she is eligible and remains in the service area. Full service HMOs, by contrast,

are required to have group certificates providing that upon termination of eligibility for membership, each enrollee may convert to a nongroup agreement issued by the HMO or, in the case of the HMO's insolvency or if the enrollee moves out of the service area, to a contract or policy issued by an insurer or group hospital service corporation. The agency's information is that conversion insurance policies and group hospital service corporation contracts are not presently available to single health care service plan HMOs. Section 11.506(3), (13), and (16)(B) is amended to provide for a single health care service as well as regular health care services. The amendment to §11.506 (11) recognizes that emergency treatment may not be applicable to the types of services provided by all single health care service plan HMOs.

A. W. Pogue, deputy commissioner, life insurance, has determined that for the first five-year period the proposed amendment 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 amendment.

Mr. Pogue also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be the availability of regulations in compliance with current law. There is no anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposed amendment may be submitted to A. W. Pogue, Deputy Commissioner, Life Insurance, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1938.

This amendment is proposed under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate such reasonable regulations as are necessary and proper to carry out the provisions of the Act.

**§11.506. Mandatory Provisions Group and Nongroup Agreement and Group Certificate.** Each group and nongroup agreement and group certificate must contain the following provisions.

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

(3) Benefits—a description of all health care services under the health care plan or single health care service under a single health care service plan available to enrollees, including any copayments or deductibles;

(4)-(6) (No change.)

(7) Conversion privilege—group and nongroup agreements and group certificates for an HMO providing basic health care services must contain a conversion privilege which provides that, upon termination of eligibility for membership, each enrollee has the right to convert within 31 days

to a nongroup agreement issued by the HMO or by an insurer or group hospital service corporation, without presenting evidence of insurability. A single health care service plan is required to offer a nongroup agreement to eligible enrollees remaining in the service area without presenting evidence of insurability. No conversion privilege is required when the entire group withdraws from the HMO or for any individual member who was terminated for cause or for nonpayment of copayments or other charges.

(8)-(10) (No change.)

(11) Emergency services—a description of how to obtain services in an emergency situation including:

(A) (No change.)

(B) what to do in case of an emergency occurring outside or inside the service area;

(C) what to do in case of a life-threatening emergency (life-threatening emergency treatment may not be applicable to some single health care service plan HMOs); and

(D) (No change.)

(12) (No change.)

(13) Exclusions and limitations—a provision setting forth any exclusions or limitations on health care services, or a single health care service, including any exclusion or limitation of services for pre-existing conditions.

(14)-(15) (No change.)

(16) Schedule of charge.

(A) (No change.)

(B) Pursuant to the Insurance Code, Article 20A.09(a)(3)(B)(iv), a provision disclosing the total amount of payment for health care services or a single health care service which the enrollee is obligated to pay if covered by a nongroup agreement, and an indication in the certificate of whether the plan is contributory or noncontributory if coverage is through a group. This requirement may be satisfied by inclusion of this information on the nongroup application for membership of group subscriber enrollment form.

(17)-(19) (No change.)

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

Issued in Austin, Texas, on December 17, 1985.

TRD-8511924 James W. Norman  
State Board of  
Insurance

Earliest possible date of adoption:

January 24, 1986

For further information, please call  
(512) 463-6327

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## Subchapter I. Financial Requirements

### ★28 TAC §11.801

The State Board of Insurance proposes an amendment to §11.801 (059.51.09.001), concerning capitalization in its Health Maintenance Organization chapter. This amendment is necessary to regulate single health care service plan health maintenance organization (HMOs), under House Bill 1584, 69th Legislature, 1985. House Bill 1584 amended the Texas Health Maintenance Organization Act to recognize and provide for the regulation of single health care service plan HMOs. The board adopted this amendment on an emergency basis to be effective August 26, 1985, and extended them for an additional 90 days from the original expiration date. This amendment is part of a series of amendments to the HMO rules that are necessary for the appropriate and feasible regulation of single health care service plan HMOs. Section 11.801 deals with the capitalization requirements for HMOs. The amendment deletes references to a \$200,000 surplus requirement for HMOs. This change is to recognize that single health care service plan HMOs have smaller surplus requirements than basic health care service plan HMOs. The amendment also will require that presently existing single health care service plan HMOs applying for a certificate of authority as provided in House Bill 1584, §10, need only have assets in excess of uncovered liabilities to meet the minimum surplus requirements specified in the Texas Health Maintenance Organization Act, §13. This change recognizes that operational HMOs of whatever type need only have assets in excess of uncovered liabilities (in distinction to all liabilities).

A. W. Pogue, deputy commissioner, life insurance, has determined that for the first five-year period the proposed amendment 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 amendment.

Mr. Pogue also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be the availability of regulations in compliance with current law. There is no anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposed amendment may be submitted to A. W. Pogue, Deputy Commissioner, Life Insurance, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1998.

This amendment is proposed under the Texas Health Maintenance Organization Act, §22, which authorizes the board, after notice and hearing, to promulgate

such reasonable regulations as are necessary and proper to carry out the provisions of the Act.

### §11.801. Capitalization.

(a) At the end of the initial qualifying examination, an applicant for a certificate of authority to operate an HMO must have assets in excess of all of its liabilities equal to or greater than the required minimum surplus [\$200,000].

(b) (No change.)

(c) After the qualifying examination, the applicant must maintain unencumbered assets [equal to or greater than \$200,000] in excess of all of its liabilities by an amount equal to or greater than the minimum surplus requirement until it receives its certificate of authority, and thereafter, the HMO must meet the minimum [capital and] surplus requirements of the Insurance Code, Article 20A.13 [20A.13(g)], by maintaining acceptable unencumbered assets in excess of its uncovered liabilities equal to or greater than the minimum surplus requirement [\$200,000]. A liability may not be considered a covered liability until the applicant receives its certificate of authority and becomes a certified HMO.

(d) Notwithstanding the previous provision of this section, existing single health care service plan HMOs which are actively conducting business as a single health care service plan HMO and are applying for a certificate of authority in accordance with House Bill 1584, §10, shall be required only to maintain the minimum surplus requirement net of uncovered liabilities and may hold assets allowed existing certified HMOs at the time of the qualifying examination. House Bill 1584, §10, 69th Legislature, 1985, is effective August 26, 1985; it states "not later than 120 days from the effective date of this Act, each existing single health care service plan shall submit an application for a certificate of authority. Each applicant may continue to operate until the commissioner of insurance acts on the application. If an application is denied, the applicant shall be treated as a single health care service plan whose certificate of authority has been revoked."

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 17, 1985.

TRD-8511926

James W. Norman  
State Board of  
Insurance

Earliest possible date of adoption:

January 24, 1986

For further information, please call  
(512) 463-8327.

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IV. School Land Board Chapter 153. Exploration and Development

#### Highway Right-of-Way Leases

### ★31 TAC §§153.61-153.66

The School Land Board proposes new §§153.61-153.66, concerning the procedures for leasing minerals owned by the state under highway rights-of-way. The new sections establish which right-of-way tracts may be leased and what materials must be submitted by individuals applying to lease a right-of-way. In addition, the sections explain how preferential right-of-way leases may be issued to certain individuals and establishes a sealed-bid method for nonpreferentially leasing rights-of-way.

Dan Miller, deputy commissioner for legal services, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications to state government 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 \$3,700 each year in 1986-1990. There will be no effect on local government or small businesses as a result of enforcing or administering the sections.

Mr. Miller 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 to encourage the leasing of state minerals under rights-of-way by streamlining and publicizing the leasing process. In addition, the \$100 fee will offset some of the costs associated with the highway leasing process. The anticipated economic cost to individuals who are required to comply with the proposed sections will be \$100 each year in 1986-1990. The actual cost to individuals will vary depending on the numbers of highway tracts they apply to lease.

Comments on the proposal may be submitted to Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 N. Congress Avenue, Austin, Texas 78701.

The new sections are proposed under 1985 Vernon's Texas Session Law Service, Chapter 327 §3, page 2548, which provide the School Land Board with the authority to adopt rules to carry out the provisions of the highway leasing statute.

### §153.61. Locating a Highway Right-of-Way Tract Subject to Lease.

(a) A highway right-of-way tract may be leased if the state owns the minerals located under the tract and if the right-of-way

tract is not within 2,500 feet of a well which was capable of producing in paying quantities on January 1, 1985.

(b) In its discretion, the School Land Board may establish the size and the boundaries of each right-of-way tract to be leased or to be exempted from leasing. However, each right-of-way tract shall extend across the entire width of each right-of-way, subject to the provisions in §153.64 of this title (relating to Preferentially Leasing to Adjacent Mineral Owners).

(c) The School Land Board may refuse to lease a particular right-of-way tract, either on its own motion or upon the request of the Highway Department.

(d) A right-of-way on Relinquishment Act land will not be leased in accordance with §§153.61-153.66 of this title (relating to Highway Right-of-Way Leases); under the Natural Resources Code, §34.002 (c), such a right-of-way will be leased by sealed bid or public auction in the same manner as the leasing of unsold public school land.

(e) Any lease issued on a right-of-way tract is void if it is determined that a well capable of producing oil and/or gas in paying quantities was located within 2,500 feet of the right-of-way tract on January 1, 1985.

#### §153.62. *Initiating the Leasing Process.*

(a) Upon its own motion, the School Land Board may initiate the leasing of right-of-way tracts by providing notice to adjacent mineral owners, as defined in §153.63(a) of this title (relating to Notifying Adjacent Mineral Owners).

(b) Anyone may apply to lease acreage in a right-of-way tract by submitting an application to the General Land Office. Any applicant must take the following steps:

(1) Submit a written application which includes a map showing the boundaries and dimensions of the right-of-way tract which the applicant proposes to lease.

(2) Determine the adjacent mineral owners, as defined in §153.63(a) of this title (relating to Notifying Adjacent Mineral Owners) by searching the tax assessor-collector records and county clerks records in the county where the proposed tract is located.

(3) Submit the name and addresses of any adjacent mineral owners listed in the county records.

(4) Submit an affidavit stating that there was no well capable of producing within 2,500 feet of the right-of-way tract boundaries as of January 1, 1985.

(5) Submit a \$100 processing fee payable to the commissioner of the General Land Office.

(c) A person who holds a lease or leases on lands adjacent to a right-of-way and who applies to lease an adjoining right-of-way must satisfy the requirements of subsection (b) of this section. In addition,

such an adjacent mineral lessee must submit the following materials:

(1) written waiver of the statutory notice to which the applicant is entitled;

(2) certified copy or a reproduction of a certified copy of his or her recorded lease or leases on the land adjacent to the right-of-way tract. If a lease has not been recorded, an applicant must submit a copy of the lease along with an affidavit which verifies that the submitted copy is a true and correct copy of the lease on the adjacent acreage; and

(3) notarized affidavit of the consideration paid for the lease or leases on the adjacent land.

#### §153.63. *Notifying Adjacent Mineral Owners.*

(a) If land adjoining a right-of-way tract is unleased, then an "adjacent mineral owner" as used in §§153.61-153.66 of this title (relating to Highway Right-of-Way Leases) refers to the holder or holders of the mineral estate in the adjoining land. If land adjoining a right-of-way tract is subject to an existing oil and gas lease, then an "adjacent mineral owner" refers to all working interest holders of the lease on the adjoining acreage. If land adjoining a right-of-way tract has been leased but undivided mineral interests remain unleased, then "adjacent mineral owner" refers to any unleased, undivided mineral interest holder, as well as the working interest holder of the lease.

(b) Each adjacent mineral owner must receive notice of the proposed leasing of the right-of-way tract; however, an adjacent mineral owner may waive this notice by mailing a written waiver to the General Land Office. The General Land Office shall send notice to adjacent mineral owners by registered mail. If an applicant for a lease cannot locate the identity or address of an adjacent mineral owner in the county records, then notice shall be by publication as provided in 1985 Vernon's Texas Session Law Service, Chapter 327, §2, page 2545. Each notice will describe the tract to be leased so that the tract can be located on the ground.

#### §153.64. *Preferentially Leasing to Adjacent Mineral Owners.*

(a) If the adjacent mineral owners, as defined in §153.63(a) of this title (relating to Notifying Adjacent Mineral Owners) on opposite sides of a right-of-way tract differ, then each adjacent mineral owner is entitled to preferentially lease only ½ of the right-of-way: the half which begins at the common boundary between the mineral owner's land and the right-of-way tract and which ends at the center of the right-of-way tract.

(b) If there is only one mineral owner on both sides of a right-of-way, he or she may exercise a preference to lease the entire right-of-way tract at one time.

(c) If the adjacent mineral owners on opposite sides of a right-of-way tract differ and if only ½ of the tract was preferentially leased under subsection (a) of this section, then the unleased half can be preferentially leased by the mineral owner who has preferentially leased the other half.

(d) When the mineral ownership of unleased lands adjoining a right-of-way tract is divided among several cotenants, each cotenant shall have a preferential right to lease an interest in ½ of the right-of-way. Each cotenant may lease an interest in the right-of-way tract in proportion to his interest in the adjoining acreage. However, if any cotenants do not want to lease an interest in the right-of-way, the School Land Board shall equitably apportion the interests in the right-of-way tract among those cotenants who wish to lease an interest.

(e) When the mineral ownership of leased lands adjoining a right-of-way tract is divided among several working interest holders, each working interest holder shall have a preferential right to lease an interest in ½ of the right-of-way. Each working interest holder may lease an interest in the right-of-way in proportion to his interest in the adjoining acreage. However, if any working interest holders do not wish to lease an interest in the right-of-way, the School Land Board shall equitably apportion the interests in the right-of-way tract among those working interest holders who wish to lease an interest. If any undivided mineral interests in the adjoining tract remain unleased, then each undivided, unleased mineral interest holder shall be treated as a working interest holder for the purposes of this subsection.

(f) The terms of a preferential lease depend on whether lands adjacent to the right-of-way are leased. If the adjacent land is unleased then the School Land Board shall set the terms of the lease which is offered to the mineral estate holder. If the adjacent land is leased, then the right-of-way shall be leased upon the same terms as the most favorable lease held on acreage adjoining the right-of-way tract.

#### §153.65. *Leasing by Sealed Bid.*

(a) If an adjacent mineral owner does not exercise his or her preference by tendering the appropriate bonus and statutory sales fee within 120 days of receipt of notice, then the School Land Board may lease the right-of-way tract by sealed bid at any time within 18 months after the preferential right expires.

(b) The School Land Board shall not offer or accept a lease by sealed bid at a price or terms which are less than that offered to the adjoining mineral owner.

#### §153.66. *Issuing the Leases.*

(a) A lease will only be issued after the School Land Board approves the lease and receives the applicable bonus payment and the 1½% sales fee provided by the Na-

tural Resources Code, §32.110, has been received.

(b) In addition to the lease terms established under §153.64(e) of this title (relating to Preferentially Leasing to Adjacent Minerals Owners) or §153.65(b), of this title (relating to Leasing by Sealed Bid), each lease issued on a right-of-way tract shall grant the lessee the authority to pool the tract under the conditions provided in 1985 Vernon's Texas Session Law Service, Chapter 327, §3, pages 2546-2547.

(c) Additionally, each lease issued on a right-of-way tract shall provide for the payment of compensatory royalty as provided in 1985 Vernon's Texas Session Law Service, Chapter 327, §3, page 2547.

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 16, 1985.

TRD-8511883      Garry Mauro  
                         Commissioner  
                         General Land Office

Earliest possible date of adoption:  
January 27, 1986  
For further information, please call  
(512) 475-8740.

★            ★            ★

**Part XV. Texas Low-Level  
Radioactive Waste  
Disposal Authority  
Chapter 449. General  
Provisions  
Subchapter A. Administrative  
★31 TAC §449.2**

The Texas Low-Level Radioactive Waste Disposal Authority proposes an amendment to §449.2, concerning the mailing address of the authority. The amendment reflects the authority's new address.

Mike Branum, chief account, has determined that for the first five-year period the proposed amendment 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 amendment.

Lee H. Mathews, general counsel, has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be a better public knowledge of where the authority may be contacted. There is no anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Lee H. Mathews, General Counsel, Texas Low-Level Radioactive Waste Disposal Authority, 7703 North Lamar,

Suite 300, Austin, Texas 78752, (512) 451-5295.

The amendment is proposed under Texas Civil Statutes, Article 4590f-1, which provides the Texas Low-Level Radioactive Waste Disposal Authority with the authority to adopt and amend rules, standards, and orders necessary to properly carry out the Low-Level Radioactive Waste Disposal Authority Act and to protect the public health and safety and the environment from activities of the authority.

§449.2. *Business Offices and Mailing Address of the Authority.* The authority's offices are located at 7703 North Lamar, Suite 300 [1300-C East Anderson Lane, Suite 175], Austin, Texas 78752. The office address is also the mailing address.

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

Issued in Austin, Texas, on December 17, 1985.

TRD-8511899      Lee H. Mathews  
                         General Counsel  
                         Texas Low-Level  
                         Radioactive Waste  
                         Disposal Authority

Earliest possible date of adoption:  
January 24, 1986  
For further information, please call  
(512) 451-5295.

★            ★            ★



# 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 1. ADMINISTRATION

### Part I. Office of the Governor

#### Chapter 3. Criminal Justice Division

##### Subchapter A. Criminal Justice Administration of the Crime Stoppers Assistance Program

###### ★ 1 TAC §§3.501-3.540

The Criminal Justice Division (CJD) of the Office of the Governor adopts new §3.505, with changes to the proposed text published in the October 29, 1985, issue of the *Texas Register*. Sections 3.501-3.504 and 3.506-3.540 are adopted without changes and will not be republished.

Under provisions of Chapter 583, §2, Acts of the 69th Legislature, 1985, funds have been allocated for the 1986-1987 biennium for use by local crime stoppers programs. The CJD has been designated as the agency responsible for the administration of these funds. The new section reflect CJD administrative policies, requirements, and operating procedures that apply to grants which may be funded under the Crime Stoppers Assistance Program.

The only comment received on this proposal was from the staff of the Criminal Justice Division and concerned authorized officials for local crime stoppers grants. Section 3.505(a)(1) has been changed to allow either the chairman or the president of a local crime stoppers advisory board to act as the authorized official for a grant funded by the CJD.

The new sections are adopted under Texas Civil Statutes, Article 4413(32a), §6(a)(11), which provides the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

###### §3.505. *Organization Structure.*

(a) Board of directors. The board of directors (board) of a local crime stoppers program shall be comprised of at least three civilian members who reside in the local jurisdictions that participate in the program. Law enforcement and criminal justice officials may not serve on the board, but may serve in an advisory capacity.

(1) The chairman or the president of the board shall be designated as the authorized official for any grant awarded by the Criminal Justice Division (CJD) to a local crime stoppers program.

(2) The treasurer or designee of the board shall act as financial officer for any crime stoppers grant awarded by the CJD.

(b) Crime stoppers coordinator. The participating law enforcement agency or agencies shall designate a police officer or other qualified individual as coordinator for any crime stoppers grant awarded by the CJD.

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 17, 1985.

TRD-8511913

Gilbert Pena  
Executive Director  
Criminal Justice  
Division  
Office of the  
Governor

Effective date: January 7, 1986

Proposal publication date: October 29, 1985

For further information, please call  
(512) 483-1919.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter Q. Franchise Tax

###### ★ 34 TAC §3.406

The Comptroller of Public Accounts adopts new §3.406, without changes to the proposed text published in the October 1, 1985, issue of the *Texas Register* (10 TexReg 3798). This new section replaces old §3.406, which is repealed. There are some minor word changes to make the rule conform to the statute. Also, several sections are amended to broaden the examples to cover more situations. Sections are added to cover corporations doing business on federal enclaves, corporations with consigned goods in Texas, corporations delivering goods into Texas, and corporations leas-

ing tangible personal property which is used in Texas.

Twenty-one comments opposing the section were received. Representatives from the following firms, associations, and corporations expressed general opposition to the new section without mentioning any specific part of the new section to which they object: Bass Brothers, Inc.; H. W. Bass & Sons, Inc.; Delmar Ranch, Inc.; D & F Construction, Inc.; D & F Development, Inc.; Gerard Kolodejak, CPA; Lane, Gorman, Trubitt & Company; Lyda, Inc.; Metroplex Walls, Inc.; Mobley Company, Inc.; and Southern Union Company.

The comptroller's response is that the only changes to current policy are an elimination of an exception in the real estate area and an addition for corporations delivering items sold into Texas in their own vehicles. All other changes in the wording of the section have been the comptroller's policy since at least September 5, 1983. Also, since §3.406 concerns the threshold test of whether a foreign corporation is subject to Texas franchise tax, the rule does not affect Texas corporations or foreign corporations with a certificate of authority to transact business in Texas.

Representatives from the following association and corporations expressed their opposition to including solicitation in Texas by independent contractors as a factor which will subject a foreign corporation to Texas franchise tax: Direct Selling Association, Amway Corporation, and House of Lloyd, Inc.

The comptroller's response is that this has been the policy since September 5, 1983, and the comptroller is not going beyond his constitutional limits.

Representatives from the following expressed their opposition, because of the detrimental effect it may have on the ability to attract trade shows in Texas as a factor which will subject a foreign corporation to Texas franchise tax: Clear Lake Area Convention & Visitors Bureau; Dallas Chamber of Commerce; Dallas County Hotel/Motel Association, Inc.; Honorable A. Starke Taylor, Jr.; The Freeman Companies; Texas Association of Convention & Visitor Bureaus; and Texas Association of Taxpayers, Inc.

The comptroller's response is that this has been the comptroller's policy since September 5, 1983, and the law does not

contain an exemption for trade show participants. To fail to collect tax from foreign corporations soliciting business at trade shows in Texas would result in unequal treatment. In addition, many other states which host trade shows also tax foreign corporations soliciting business at the shows, and thus the detrimental effect on Texas' ability to attract trade shows should not be great.

The Texas Association of Taxpayers, Inc. also expressed concern that affiliates of multi-jurisdictional corporations would be subject to Texas franchise tax if their only contact with Texas is common directors or officers residing in Texas.

The comptroller's response is that the comptroller would not consider the affiliates to be doing business in Texas and subject to the tax by virtue of having directors or officers residing in Texas unless the director or officer is performing in Texas some business activity of the affiliate or managing or directing the affiliate from Texas.

This new section is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 18, 1985.

TRD-8511931 Bob Bullock  
Comptroller of  
Public Accounts

Effective date: January 9, 1986  
Proposal publication date: October 1, 1985  
For further information, please call  
(512) 463-4606.

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The Comptroller of Public Accounts adopts the repeal of §3.406, without changes to the proposed text published in the October 1, 1985, issue of the *Texas Register* (10 TexReg 3798). This section is repealed and a substantially revised section dealing with the same subject matter is adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 18, 1985.

TRD-8511930 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: January 8, 1986  
Proposal publication date: October 1, 1985  
For further information, please call  
(512) 463-4606.

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### Part III. Teacher Retirement System of Texas Chapter 25. Membership Credit Compensation

#### ★34 TAC §25.25, §25.28

The Board of Trustees of the Teacher Retirement System of Texas adopts amendments to §25.25 and §25.28. Section 25.28 is adopted with changes to the text published in the November 12, 1985, issue of the *Texas Register* (10 TexReg 4358). The changes correct tyographical errors in the proposed version. Section 25.25 is adopted without changes and will not be republished.

The 69th Legislature in Senate Bill 713 changed the member contribution rate from 6.65% to 6.4% and the employer contribution rate from 8.5% to 8.0% for TRS members.

The effect of amended §25.25 is that 6.4% of the compensation received each pay period by the member will be withheld by reporting districts and deposited with the system. The effect of amended §25.28 is that reporting districts must transmit monthly to the system 8.0% of the amount paid as salary for employees covered by TRS and 8.5% of the amount paid as salary for employees covered by the optional retirement program.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Civil Statutes, Title 110B, §35.102, which provide the Board of Trustees of TRS with the authority to make rules regarding membership, administration of the funds, and transaction of business.

#### §25.28. Payroll Report Dates.

(a) (No change.)

(b) Each employer must report each month on forms furnished by the Teacher Retirement System, those employees eligible to participate in the Teacher Retirement System or Optional Retirement Program who receive part or all of their salary from federal funds and/or private grants. Reporting districts must transmit to the retirement system 8.5% of the monies paid as salary for those employees covered by the optional retirement program and 8.0% of the monies paid as salary for those employees covered

by the Teacher Retirement System in addition to the amount transmitted for member contributions. If the maximum percentage legally provided for retirement purposes from the funds is less than 8.5%, or 8%.0, as the case may be, the employer shall transmit the amount provided and indicate by letter the name of the grant and the rate. Information furnished shall include the employee's tax number, name, salary paid from funds, contributions amount, fund source, and any other information designated by the TRS staff. In addition, all colleges and universities shall indicate whether the person is a member of TRS or ORP. When reporting, all independent school districts will use the TEA school district grants code sheet or similar code provided by TRS. If employer retirement costs are not legally available for transmission to the retirement system from federal funds or private grants paid to an employee, the name of the employee and such other information which the retirement system requires should be reported only for the first month of employment each fiscal year. A letter should accompany such report explaining why retirement costs are not available.

(c)-(d) (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 December 16, 1985.

TRD-8511909 Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Effective date: January 7, 1986  
Proposal publication date: November 12, 1985  
For further information, please call  
(512) 397-6478.

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### Developmental Leave

#### ★34 TAC §25.151

The Board of Trustees of the Teacher Retirement System of Texas adopts an amendment to §25.151, with changes to the text published in the November 12, 1985, issue of the *Texas Register* (10 TexReg 4359). The changes correct tyographical errors and reinsert a line which was omitted in the proposed version printed in the Register.

The 69th Legislature in Senate Bill 713 changed the member contribution rate from 6.65% to 6.4% and the employer contribution rate from 8.5% to 8.0%.

The effect of the amendment is to make the percentage required for the deposit necessary to obtain a year's credit for developmental leave equal to the combined sums of the member contribution rate and the employer contribution rate.



No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Civil Statutes, Title 110B, §35.102, which provide the Board of Trustees of TRS with the authority to make rules regarding membership, administration of the funds, and transaction of business.

§25.151. *Developmental Leave, Eligibility, and Cost.*

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

(d) To obtain each school year of credit for developmental leave, the member must, for school years prior to 1979-1980, make a deposit equal to 14.15% of the member's annual compensation rate during the last school year of creditable service which preceded the developmental leave. For the school years 1979-1980 through 1982-1983, the member must make a deposit equal to 15.15% of the member's annual compensation rate during the last school year of creditable service which preceded the developmental leave. For the school years 1983-1984 and 1984-1985 only, the percentage is 13.1% rather than 15.15%. For the school year 1985-1986 and years after, the percentage is 14.4%. Persons making deposits for developmental leave credit must be employed in the public schools of Texas at the time of the deposit. A member must make the deposits from developmental leave credit by the end of the first creditable school year of service after taking developmental leave. A member who does not make deposits by the end of that year loses eligibility for purchasing credit for any preceding developmental leave.

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 16, 1985.

TRD-8511910 Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Effective date: January 7, 1986  
Proposal publication date: November 12, 1985  
For further information, please call  
(512) 397-6478.

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## Chapter 29. Benefits Service Retirement

### ★34 TAC §29.9

The Board of Trustees of the Teacher Retirement System of Texas adopts an amendment to §29.9, without changes to the text published in the November 12, 1985, issue of the *Texas Register* (10 Tex-Reg 4359).

The 69th Legislature in House Bill 743 increased the lump sum survivor benefit from \$1,500 to \$2,500.

The effect of amendment is to increase the lump sum survivor benefit from \$1,500 to \$2,500.

No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Civil Statutes, Title 110B, §35.102, which provide the Board of Trustees of TRS with the authority to make rules regarding membership, administration of the funds, and transaction of business.

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 16, 1985.

TRD-8511908 Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Effective date: January 14, 1986  
Proposal publication date: November 12, 1985  
For further information, please call  
(512) 397-6478.

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## Death Before Service Retirement

### ★34 TAC §29.32

The Board of Trustees of the Teacher Retirement System of Texas adopts an amendment to §29.32, with changes to the text published in the November 12, 1985, issue of the *Texas Register* (10 Tex-Reg 4360). The changes add a word which was omitted in the proposed version printed in the *Register*.

The reference to the amount of survivor benefits in §29.32 is corrected to reflect the \$1,000 increase in the lump sum benefit which was authorized by the 69th Legislature in House Bill 743.

The lump sum survivor benefit is increased from \$1,500 to \$2,500.

The amendments are adopted pursuant to Texas Civil Statutes, Title 110B, §35.102, which provide the Board of Trustees of TRS with the authority to make rules regarding membership, administration of the funds, and transaction of business.

§29.32. *Death Benefit Options.* A member's beneficiary entitled to death benefits under §29.31 of this title (relating to Entitlement) shall receive the largest of the following:

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

(4) Survivor benefits amounting to a \$2,500 lump sum payment plus one of the following monthly payment plans if the beneficiary is eligible:

(A)-(D) (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 December 16, 1985.

TRD-8511907 Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Effective date: January 7, 1986  
Proposal publication date: November 12, 1985  
For further information, please call  
(512) 397-6478.

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## Chapter 31. Employment After Retirement

### ★34 TAC §31.4, §31.5

The Board of Trustees of the Teacher Retirement System of Texas adopts the repeal of §31.4 and §31.5, without changes to the proposal in the November 12, 1985, issue of the *Texas Register* (10 TexReg 4360).

Section 31.4 and §31.5, which dealt with calculation of amount of substitute employment and the effect of exceeding limits on substitute employment, are repealed because they have been made obsolete by the new provisions of Texas Civil Statutes, Title 110B, §34.601, which repeal the special treatment for substituting in a vacant position.

New §34.601 and §34.602 enacted in 1985 by the 69th Legislature, 1985, will now govern loss of benefits upon resumption of service.

No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Civil Statutes, Title 110B, §35.102, which provide the Board of Trustees with the authority to adopt rules for the administration of the funds of the retirement system.

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 16, 1985.

TRD-8511911 Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Effective date: January 7, 1986  
Proposal publication date: November 12, 1985  
For further information, please call  
(512) 397-6478.

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

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

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

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

The State Board of Insurance has permanently adopted amendments to the *Texas Medical Liability Insurance Underwriting Association Manual for Physicians and Other Non-Institutional Health Care Providers*. These amendments provide for professional liability insurance coverage through the Texas Medical Liability Insurance Underwriting Association for registered nurses, certified registered nurse midwives, X-ray therapists, and certified registered nurse anesthetists, pursuant to the board's prior action establishing these classifications as eligible to obtain such coverage from said association. These amendments were adopted on an emergency basis on September 17, 1985, and became effective on September 19, 1985.

The request and petition were filed by the Texas Nurses Association and the Texas Association of Community Health Clinics.

This filing is effective 15 days after notice of the action is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on December 17, 1985.

TRD-8511901 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: January 9, 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, Standard Provisions For Auto-

mobile Policies (June 1, 1981 edition) and Standard Provision For Automobile Policies (October 1, 1974 edition).

Rule 108. Fire departments of the Texas Automobile Manual has been amended to add a new subsection C to section B of this rule. This will provide rating adjustment factors for collision coverage for fire department vehicles exceeding \$115,000 original cost new.

Rule 110. Ambulance services of the Texas Automobile Manual has been amended to add a new subsection 3 to section C of this rule. This will provide rating adjustment factors for collision coverage for ambulance vehicles exceeding \$115,000 original cost new.

Rule 26. Premium discount rules has been amended such that the discount tables in rule 26 show a minimum standard premium entry level of \$5,000 instead of \$1,000 and adjust all succeeding premium levels and discount ratios. Endorsement 26c in the endorsement supplement is amended to reflect the new premium discount levels and discount ratio and the endorsement is redesignated as 25d.

The transportation expenses limits under Part D-Coverage For Damage to your Auto-Personal Auto Policy-Standard Provisions for Automobile Policies (June 1, 1981 edition) page 12, has been amended to read \$20 per day and a maximum of \$600 in lieu of \$15 and \$450 respectively.

The Endorsement Supplement-Texas Automobile Manual has been amended to include a new endorsement to be designated as 574. *Texas Personal Automobile Policy-Amendatory Endorsement (Coverage for Damage to your Auto)*. This endorsement amends the coverages provided under transportation expenses to \$20 per day and a maximum of \$600 in lieu of \$15 and \$450 respectively.

*TX-10-91-Amendatory Endorsement-Physical Damage Supplementary Payments* as it appears in the endorsement supplement of the Texas Automobile Policies (October 1, 1974 edition) has been amended to reflect transportation expense limits of \$20 per day and a maximum of \$600 in lieu of \$15 and \$450 respectively. The endorsement has been redesignated as TX-10-91A.

Subsection 1. of section II of the Texas automobile liability experience rating plan has been amended to delete subsections (a), (b), and (c) and replace said subsections with one paragraph setting out a single revised premium eligibility standard.

Rule 27 of the Texas Automobile Manual has been amended to delete 1., 2., and 3. of section A and replace said subsections with one paragraph setting out a single revised eligibility standard.

These amendments are 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 December 17, 1985.

TRD-8511927 Pat Wagner  
State Board of  
Insurance

Effective date: December 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.

The board has adopted physical damage rating symbols for certain 1984 and 1986 model private passenger automobiles.

The symbols adopted were developed from manufacturers F.O.B. list price data and adjusted in accordance with the prescribed vehicle series rating rule.

The F.O.B. list price/symbol chart from which the appropriate symbols are derived is on page 2 of the symbol and identification section of the Texas Automobile Manual.

If applicable, the appropriate symbol has been raised or lowered based on the experience thresholds set out in the vehicle series rating rule in the symbol and identification section of the Texas Automobile Manual.

The amendment is effective at 12:01 a.m. on the 15th day after notice of this action is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on December 17, 1985.

TRD-8511920 James W. Norman  
State Board of  
Insurance

Effective date: January 7, 1986  
For further information, please call  
(512) 463-6327.

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# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

## State Board of Barber Examiners

**Tuesday, January 7, 1986, 8 a.m.** The board members of the State Board of Barber Examiners will meet in Room C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will consider minutes of previous meeting; interview out-of-state applicants; sign teacher certificates; and letters and reports to the board by the executive director. The board also will meet in executive session.

**Contact:** Jo King McCrorey, 1300 East Anderson Lane, C-275, Austin, Texas 78752, (512) 835-2040.

**Filed:** December 18, 1985, 4:09 p.m.  
TRD-8511972

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## Texas Commission for the Blind

**Friday, January 10, 1986, 10 a.m.** The Board of the Texas Commission for the Blind will meet at the Sheraton Grand Hotel at the Dallas/Fort Worth Airport, Highway 114 and Esters Boulevard, Arlington. Items on the agenda include approval of minutes from October 17, 1985; committee reports including access and policy; discussion and action on adoption of a manual which codifies board policies and operating procedures of the board, proposed rules governing requests to appear before the board, and proposed rules governing the Consumer Advisory Committee to the agency; discussion of agency programs and quarterly statistics; and approval of capital purchases. The board also will meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(g) and §2(e) to discuss personnel and pending legal matters.

**Contact:** Jean Wakefield, Suite 400, 314 West 11th Street, Austin, Texas 78711, (512) 475-6810.

**Filed:** December 18, 1985, 2:33 p.m.  
TRD-8511944

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## Texas Parks and Wildlife Department

**Friday, January 10, 1986, 9 a.m.** The Parks Division of the Texas Parks and Wildlife Department will meet at 4200 Smith School Road, Austin. According to the agenda, the division will receive comments regarding an easement request by the Aransas County Water Control and Improvement District 1 to attach an 18 inch PVC water pipeline to the deck of the Copano Bay Fishing Pier at Port Lavaca, Aransas County.

**Contact:** Loyd K. Booth, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4909.

**Filed:** December 17, 1985, 1:31 p.m.  
TRD-8511896

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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.

**January 3, 1986, 9 a.m.** A fourth prehearing conference in Docket 6477—inquiry of the Public Utility Commission of Texas concerning the fixed fuel factor of Gulf States Utilities Company, and 6525—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 17, 1985, 3:32 p.m.  
TRD-8511903

**Tuesday, January 7, 1986, 10 a.m.** A prehearing conference in Docket 6629—application of Chilton Water Company, Inc., for a rate increase.

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

**Filed:** December 17, 1985, 3:38 p.m.  
TRD-8511906

**Wednesday, January 8, 1986, 10 a.m.** A prehearing conference in Docket 6309—application of General Telephone Company of the Southwest to establish private pay telephone service rates and regulations.

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

**Filed:** December 17, 1985, 3:30 p.m.  
TRD-8511902

**Monday, January 13, 1986, 10 a.m.** A prehearing conference in Docket 6634—application of Southwestern Bell Telephone Company for approval of digital link service tariff.

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

**Filed:** December 18, 1985, 2:30 p.m.  
TRD-8511942

**Monday, January 13, 1986, 1 p.m.** A prehearing conference in Docket 6635—application of Mustang Telephone Company for authority to change rates.

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

**Filed:** December 18, 1985, 2:29 p.m.  
TRD-8511943

**Friday, March 7, 1986, 2 p.m.** A hearing on the merits in Docket 6615—application of Lower Colorado River Authority for authority to increase rates.

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

**Filed:** December 17, 1985, 3:33 p.m.  
TRD-8511904

**Monday, March 10, 1986, 10 a.m.** A hearing on the merits 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 17, 1985, 3:33 p.m.  
TRD-8511905

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### **Railroad Commission of Texas**

**Wednesday, December 18, 1985, 1:30 p.m.** The Oil and Gas Division of the Railroad Commission of Texas met in emergency session in the Conference Room 12th floor, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the division considered Rule 37 Case 100,442—application of Marathon Oil Company for an exception to statewide Rule 37 for its Henry Clay Heirs lease, Well 35, East Texas field, Rusk County. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgent public necessity. This item was noticed for the meeting of December 16, 1985, and was passed.

**Contact:** Dilma M. Scimeca, P.O. Drawer 12967, Austin, Texas 78711 (512) 463-6925.

**Filed:** December 18, 1985, 8:19 a.m.  
TRD-8511917

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### **State Securities Board**

**Friday, January 3, 1986, 10 a.m.** The State Securities Board will meet at 1800 San Jacinto Street, Austin in rescheduled session. According to the agenda summary, the board will determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Steel Investment Company, Inc., Carl D. Holloway, William Davis, and Alan Swann. The meeting was rescheduled from December 19, 1985.

**Contact:** Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

**Filed:** December 18, 1985, 3:28 p.m.  
TRD-8511955

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### **State Committee of Examiners for Speech-Language Pathology and Audiology**

**Friday, January 10, 1986, 9 a.m.** The State Committee of Examiners for Speech-Language Pathology and Audiology will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will consider approval of minutes of last meeting; conduct a formal hearing on

application by Barbara Stave for licensure; consider special senses rules; contracts for newsletter and directory; continuing education approvals; complaint investigation procedures; correspondence sent to committee; subcommittee, financial, and secretary reports; other matters requiring no committee action; and setting next meeting date. The committee also will meet in executive session.

**Contact:** June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7502.

**Filed:** December 17, 1985, 1:33 p.m.  
TRD-8511897

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### **Texas Veterans Commission**

**Friday, January 17, 1986, 10 a.m.** The Texas Veterans Commission will meet in the Travis Room, St. Anthony Hotel, 300 East Travis, San Antonio. According to the agenda summary, the commission will consider reports on activities of the commission and to make decisions relative to general administrative matters pertaining to Texas' veterans programs.

**Contact:** Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

**Filed:** December 19, 1985, 9:25 a.m.  
TRD-8511976

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### **Texas Water Commission**

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress, Austin. Days, times, rooms, and agendas follow.

**Friday, January 10, 1986, 10 a.m.** In Room 215, the commission will consider application 4599 of the Lower Colorado River Authority.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:16 p.m.  
TRD-8511946

**Tuesday, January 14, 1986, 2 p.m.** In Room 118, the commission will consider application by the City of Odem for renewal of water quality Permit 10237-01, San Patricio County, San Antonio-Nueces Coastal Basin.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:17 p.m.  
TRD-8511945

**Wednesday, January 15, 1986, 2 p.m.** In Room 118, the commission will consider amendments to Certificates of Adjudication 14-2548 and 14-2549 of Charles L. Bengé.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:17 p.m.  
TRD-8511947

**Wednesday, January 22, 1986, 10 a.m.** In Room 118, the commission will consider a petition of the executive director for an order directing closure of lagoon no. 1 by the City of Odessa of the South Dixie Water Reclamation Plant under Permit 10238-01.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:17 p.m.  
TRD-8511948

**Tuesday, January 28, 1986, 2 p.m.** In Room 118, the commission will consider the application by the City of Buda for an amendment to Permit 11060-01, Colorado River Basin and application by Structural Metals, Inc., for an amendment to Permit 01712, Guadalupe River Basin, Guadalupe County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:17 p.m.  
TRD-8511949

**Wednesday, January 29, 1986, 10 a.m.** In Room 118, the commission will consider the executive director's preliminary report and petition for a Texas Water Commission order assessing administrative penalties and requiring certain action of Gainesville Foundry, Inc.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:18 p.m.  
TRD-8511950

**Monday, February 3, 1986, 10 a.m.** In Room 215, the commission will consider Application 1390B of Texas Department of Corrections for an amendment to Permit 1301, as amended, Brazoria County, Brazos and Brazos-San Jacinto Coastal River Basins.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:18 p.m.  
TRD-8511954

**Monday, February 3, 1986, 10 a.m.** In Room 215, the commission will consider Application 5017 of Texas Department of Corrections for a permit to maintain an existing dam and 0.5 acre-foot capacity reservoir on Oyster Creek, tributary of Intracoastal Waterway, San Jacinto-Brazos Coastal Basin and to divert water for irrigation purposes in Brazoria County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:18 p.m.  
TRD-8511952

**Monday, February 3, 1986, 10 a.m.** In Room 215, the commission will consider Application 1391C of Texas Department of Corrections for an amendment to Permit 1302, as amended, Brazoria County, Brazos and Brazos-San Jacinto Coastal River Basins.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** December 18, 1985, 2:18 p.m.  
TRD-8511951

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### **Texas Water Development Board**

**Thursday, December 19, 1985, 1:30 p.m.** The Texas Water Development Board made an emergency revision to the agenda for a meeting held in Room 118, Stephen F. Austin Building, Austin. According to the revised agenda, the board considered whether or not to initiate a study of the legal and institutional framework regarding

water entities in Texas in order to enhance implementation of the statewide water plan. The emergency status was necessary in order to timely conduct this study to make it available to the legislature or its committees, the study should begin as soon as possible.

**Contact:** Charles E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

**Filed:** December 18, 1985, 3:08 p.m.  
TRD-8511953

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### **Regional Agencies**

#### **Meetings Filed December 18**

**The Lampasas County Appraisal District,** will meet at 403 East Second, Lampasas, on December 23, 1985, at 1:30 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550.

**The Lubbock Regional Mental Health and Mental Retardation Center, Board of Trus-**

tees, met at 3800 Avenue H, Lubbock, on December 23, 1985, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

**The Nolan County Central Appraisal District, Board of Directors,** will meet in Suite 317A, County Courthouse, Sweetwater, on December 20, 1985, at 6 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

**The Parmer County Appraisal Office, Board of Directors,** will meet at 305 Third Street, Bovina, on January 6, 1985, at 7 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

TRD-8511936

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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.

## Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires 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 13, 1985, the banking commissioner received an application to acquire control of Community State Bank of Onalaska, by Charles N. Wells, Livingston, Texas.

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 13, 1985.

TRD-8511895

William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: December 17, 1985

For further information, please call (512) 475-4451.

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## Request for Proposals

In May 1985, the 69th Legislature enacted into law the Texas Primary Health Care Services Act (House Bill 1844). The passage of this law provides for the delivery of primary health care services to eligible low income individuals. The Texas Department of Health was given the responsibility for implementing this Act. Funding appropriated to the Texas Department of Health totals \$8 million for the biennium fiscal year 1986-1987.

Request for proposal packets will be available January 1, 1986. Completed proposals must be received by the Texas Department of Health, Associateship of Community and Rural Health, 1100 West 49th Street, Austin, Texas 78756, the local council of governments, and the Texas Department of Health regional office at the close of the business day on February 15, 1986, for the first funding cycle, and May 16, 1986, for the second funding cycle. Submission of one copy to the Texas Department of Health central office and one copy each to the local council of governments and the Texas Department of Health regional office will be required.

The initial funding of proposals will be for 15 months. Future funding cycles will be for 12 months. Additionally, funding beyond 1987 will be dependent upon legislative action.

Determination of funding for projects will be based on the proposed requests and may be subject to reduction if budgetary limitations exist. Applicants approved for funding will be notified no later than May 5, 1986. After the awards have been granted, a contract will be drawn up between the Texas Department of Health and the selected providers. Contract content includes, but is not limited to, provider requirements; evaluation/monitoring processes to be performed by the Texas Department of Health, Associateship of Community and Rural Health and/or the Regional Offices and/or the provider(s); provider(s) reporting requirements; payment/reimbursement schedule; compliance with applicable laws and regulations; procedures required for maintenance of financial records and program files; auditing procedures; insurance liability/bonding requirements, if applicable; and termination process.

Potential contractors must ensure that they have the capability, facilities, and all required special resources readily available within the community to meet and to satisfactorily perform the services identified in their proposal. All contractors must provide:

- (1) documentation of ability to perform the work specified;
- (2) documentation of ability to provide acceptable accounting and financial reporting systems including coordination and referral;
- (3) documentation of unmet needs for primary health care service for targeted low income groups;
- (4) a method to review applications of those requesting services to determine eligibility;
- (5) evaluation mechanisms to the measure quality of services provided, appropriateness of care, and outcomes of project interventions;
- (6) documentation that the proposed services will not duplicate services that are already available in the community to the target population;
- (7) a plan demonstrating the contractor's commitment to provide continuation of support beyond the funding period for the long term provision of those services specified in the proposal;
- (8) documentation of the contractor's ability to establish a comprehensive health care system which will ensure both the provision of and access to (at the least) the six initial service priorities to include:
  - (A) diagnosis and treatment;
  - (B) emergency services;
  - (C) family planning services;
  - (D) preventive health services, including immunization;
  - (E) health education; and
  - (F) laboratory, X-ray, nuclear medicine, or other appropriate diagnostic services;

(9) documentation that facilities used to provide services are located in close proximity and are accessible to the targeted population; and

(10) documentation that ensures that confidentiality of client information is protected.

More detailed information may be obtained from the program. The contact person is John Dombroski, Director of Regional and Local Health Services, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7770.

Each application will be evaluated independently. The maximum points that any proposal could receive are 20 points for each of the following:

- (1) definition of the problem;
- (2) proposed plan to meet the unmet needs;
- (3) utilization and integration of a plurality of existing primary health care services and providers into a structured service delivery system;
- (4) cost effectiveness of the proposed system;
- (5) plan of evaluation.

Review of proposals will be completed by staff at the area council of governments, the Texas Department of Health Public Health regional office, the Texas Department of Health, and the State Primary Care Advisory Committee. This committee will forward its final recommendations to the department for final project selection.

A listing of the projects selected for funding may be obtained by sending a request and a stamped self-addressed envelope to Texas Department of Health, Associateship of Community and Rural Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on December 17, 1985.

TRD-8511916      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Filed: December 17, 1985  
For further information, please call (512) 458-7236.

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## Texas Parks and Wildlife Department Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Parks and Wildlife Department is requesting proposals from interested parties to provide assistance to this agency in acquiring land for outdoor recreation purposes and managing the department's varied real estate transactions. The party will provide on-going counsel and advice to the Texas Parks and Wildlife Department in all land acquisition matters, and other real estate transactions such as easement, mineral royalties, and leases.

Selection of a consultant will be based upon the person's qualifications and experience in the areas noted previously. Proposals will be reviewed by, and final selection will be made by the executive director of the Texas Parks and Wildlife Department.

It is the intent of the Texas Parks and Wildlife Department to continue using the services of a consultant who is presently being retained by this agency, unless a better offer is received from a person possessing the necessary qualifications and experience to provide the requested services.

Additional information regarding this request for services may be obtained by contacting Roy Hogan, Assistant Director, Administrative Services, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. To be considered, all proposals for service must be received on or by February 3, 1986.

Issued in Austin, Texas, on December 17, 1985.

TRD-8511914      Charles D. Travis  
Executive Director  
Texas Parks and Wildlife  
Department

Filed: December 17, 1985  
For further information, please call (512) 479-4805.

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## Contractor Proposal Request

In accordance with Texas Civil Statutes, Article 6252.11c, the Texas Parks and Wildlife Department is soliciting proposals from a contractor for the performance of sound sweetening services, musical scoring and recording, graphics development, and all laboratory services through the final print in connection with the completion of the motion-picture **Independence**.

The film currently exists as a 35mm edited work print with a 35mm dual-strip soundtrack (consisting of location dialogue only). The film has also been transferred to ¼" videotape and the soundtrack has been transferred to 24-track audio tape. The video and audio tapes both have synchronous time code. The film is approximately 35 minutes long. The contractor will provide a detailed category-by-category outline of services to be provided, intended subcontractors, and the price in each category. Sound sweetening services shall include dialogue replacement, background murmur track development, sound effects track development, and supervision of final mix-down to a single track of all sound components including the musical soundtrack as well as the transfer by the laboratory to an optical track. Musical soundtrack development shall include composition or collection of music to serve as opening and closing themes as well as the composition or collecting of musical bridges for scene transitions. The recording of these elements will be synchronized with the time-coded videotape. Graphic development shall include credits and graphics typesetting, development of artwork for opening and closing sequences, the development of the montage sequence, and the printing of all optical elements into comfortable negative ready for insertion to master negative. Laboratory services shall include conforming of master negative to work print with inclusion of all optical effects, transfer of mixed soundtrack to optical form, printing of internegative, printing of check print, printing of answer prints, and delivery from laboratory of all master negative material, conformed or not, all soundtrack material, and a minimum of three 16mm pulldown prints and one 35mm print. Services required under this contract shall be completed prior to February 28, 1986.

Proposals must be received at Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, on or before 5 p.m., January 4, 1986. Bidders will submit a written proposal in three copies that conform to expressed guidelines. A video copy of the time-coded work print will be available for bid preparation purposes. The agency reserves the right to reject, in total or part,

any and all proposals. All proposals shall become the property of the Texas Parks and Wildlife Department. Price is not the sole determining factor in award of this contract. All other factors being equal, the agency will award the contract to vendors operating totally within the State of Texas.

All proposals will be evaluated on the ability of the bidder to deliver the highest quality services for the contract amount within the state time limit. Quality will be evaluated on artistic and technical ability of contractor or state subcontractors in each of the indicated categories. This decision will be based on the information contained in the proposal which should list previous work experience of all involved contractors and subcontractors.

For further information, interested parties may contact Jim Presnal, Jr., Audio-Visual Coordinator, Parks Division, Texas Parks and Wildlife Department. Call (512) 4879-4887 for details and to check out a copy of the edited film on ¼" video tape or write to 4200 Smith School Road, Austin, Texas 78744.

Issued in Austin, Texas, on December 18, 1985.

TRD-8511929 Charles D. Travis  
Executive Director  
Texas Parks and Wildlife Department

Filed: December 18, 1985  
For further information, please call (512) 479-4805.



## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of December 9-13, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

## Period of December 9-13, 1985

Equitable Bag Company, Inc., Orange; paper mill; on the east bank of Adams Bayou immediately north of the Missouri Pacific Railroad bridge over Adams Bayou in the City of Orange, Orange County; 00727; renewal

The City of Orange, Orange; wastewater treatment plant; at 402 South 10th Street, between Jackson Street and Polk Avenue and approximately 1800 feet west of FM Road 1006 (Border Street) in Orange County; 10626-01; amendment

Capitol Aggregates, Incorporated, Capitol Cement Division, San Antonio; cement plant; on the west side of Nacogdoches Road between a spur track of the MK&T Railroad and the junction of Bulverde Road and Nacogdoches Road in the City of San Antonio, Bexar County; 01510; renewal

Amoco Oil Company, Texas City; oil refinery; at the intersection of Grant Avenue and FM Road 519 in the City of Texas City, Galveston County; 00450; renewal

Westwood Water Supply Corporation, Jasper; wastewater treatment facility; approximately 4.5 miles north of the intersection of State Highway 63 and FM Road 255 adjacent to Sam Rayburn Reservoir, and 15 miles northwest of the City of Jasper in Jasper County; 11337-01; new permit

Boles Home, Quinlan; wastewater treatment facilities; approximately 2,000 feet southeast of State Highway 34 and FM Road 2101 in Hunts County; 13220-01; new permit

Specialty Sand Company, Deweyville; sand dredging operation; approximately ¼ mile west of State Highway 12 at a point approximately ½ mile northwest of Deweyville, Newton County; 01677; renewal

Kerr-McGee Chemical Corporation, Texarkana; wood preserving plant; 1,000 feet southwest of the intersection of U.S. Highway 59 and Buchanan Road (155 Buchanan Road) in Texarkana, Bowie County; 01495; renewal

Crockett County Water Control and Improvement District No. 1, Ozona; treatment plant; approximately 3,000 feet west of State Highway 163 and approximately 2.5 miles south of Interstate Highway 10 in Crockett County; TX0098345; amendment

Gulf Coast Machine and Supply Company, Beaumont; storage pond at its forging and industrial machine shop; approximately 800 feet east of the intersection of Interstate Highway 10 and Smith Road, and approximately 7 miles southwest of the City of Beaumont, Jefferson County; 01203; renewal

The City of Hedley, Hedley; wastewater treatment facilities; northeast of the City of Hedley, approximately 1.2 miles north and .8 mile east of the intersection of U.S. Highway 287 and State Highway 203 in Donley County; 10709-01; renewal

Trophy Club Municipal Utility District No. 1, Roanoke; wastewater treatment plant; approximately .9 mile north of the intersection of FM Road 114 and Trophy Club Drive and approximately 2.5 miles east of the intersection of U.S. Highway 377 and FM Road 114 in Denton County; 11593-01; amendment



Great Northern, Inc., Heart O'Texas Mortgage Company, and TaylorBanc Mortgage Company, Austin; wastewater treatment plant; approximately 500 feet northwest of the intersection of Gregg Lane and Cameron Road, approximately 1 mile west-southwest of the intersection of Killingsworth Lane and Cameron Road in Travis County; 13227-01; new permit

F. H. Hawkins, Inc., Houston; facility that coats aluminum with decorative and corrosion resistant materials; 5821 Teague Road in the City of Houston, Harris County; 02708; amendment

Union Carbide Corporation, Texas City; plant manufacturing organic chemicals; southeast of the intersection of FM Road 1765 and State Highway 146 in the City of Texas City, Galveston County; 00448; renewal

Owens-Corning Fiberglass Corporation (Waxahachie Plant), Waxahachie; fiberglass manufacturing plant; adjacent to Interstate Highway 34, approximately 4 miles northeast of the City of Waxahachie, Ellis County; 01178; renewal.

James M. Poore, et al, doing business as Big Five Partnership, Brookshire; wastewater treatment facilities; along the south side of FM Road 529 approximately .8 mile east of the intersection of FM Road 529 and FM Road 359 in Waller County; 02816; new permit

Capitol View Joint Venture, Austin; wastewater treatment plant; off of Thornberry Road approximately 3,300 feet southeast of Dalton Road and 4,200 feet northeast of State Highway 71 in Travis County; 12972-01; amendment

Issued in Austin, Texas, on December 16, 1985.

TRD-8511880

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: December 16, 1985

For further information, please call (512) 483-7898.

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