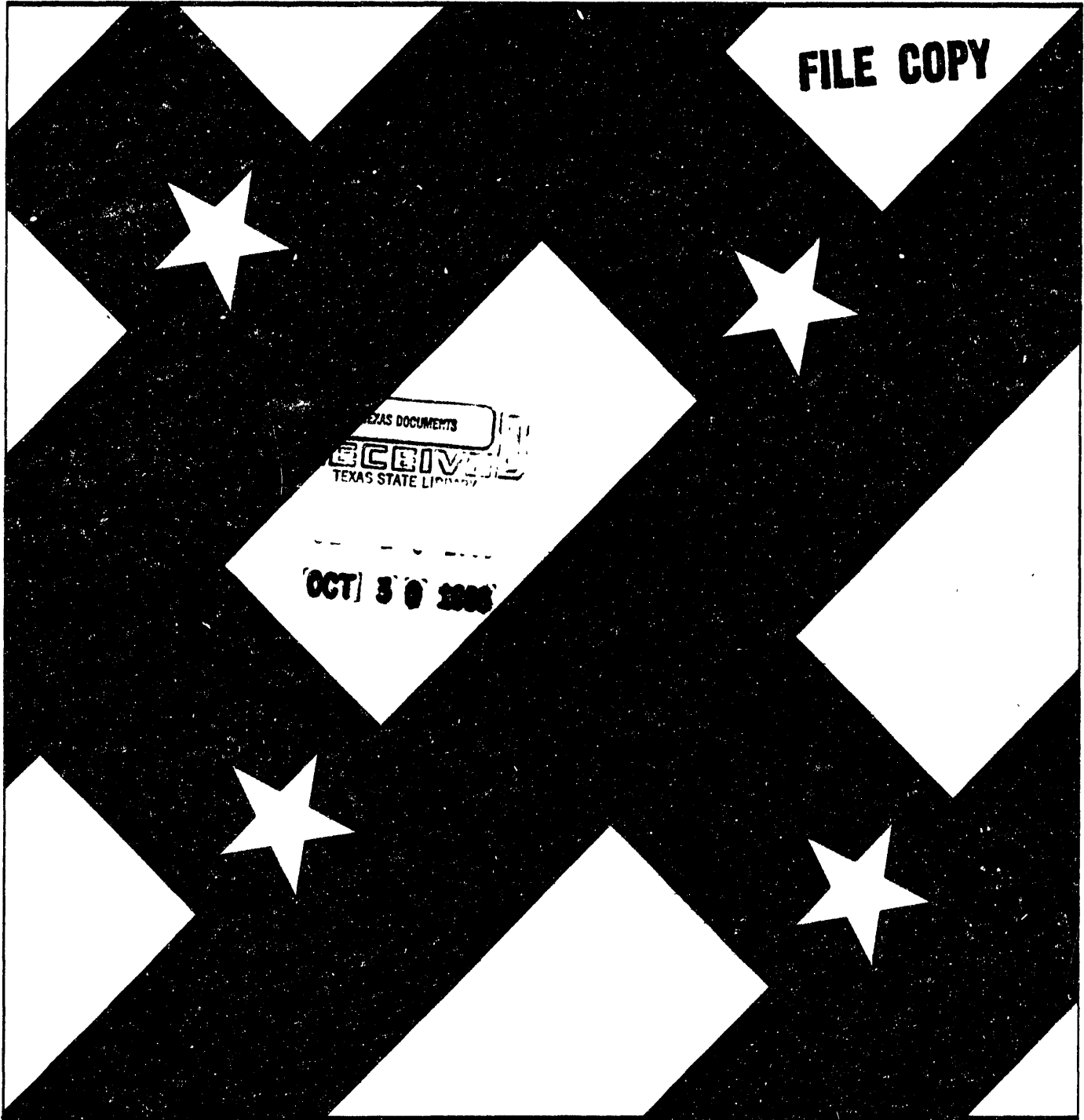


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Texas Register

Volume 11, Number 79, October 21, 1986

Pages 4321-4390



Highlights

The Office of the Secretary of State adopts an emergency section concerning the Election Division and the voting systems security directive. Effective date - October 14 **page 4327**

The Texas State Board of Public Accountancy proposes a new section concerning the processing of applications for examination,

issuance of CPA certificates, licenses, and renewal of licenses for individuals with criminal backgrounds. Earliest possible date of adoption - November 21 **page 4331**

The Texas Department of Health proposes new sections with minimum licensing standards for nursing homes. Proposed date of adoption - December 13 **page 4332**

**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 1986 with the exception of June 24, September 2, December 2, and December 30 by the Office of the Secretary of State

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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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: "11 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 11 TexReg 3."

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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Table of Contents

The Governor

Appointment Made October 8

4326— 151st Judicial District Court

Appointment Made October 10

4326— Upper Guadalupe River Authority

Appointments Made October 13

4326— Upper Guadalupe River Authority

Emergency Rules

Office of the Secretary of State

4327— Elections

Texas Board of Private Investigators and Private Security Agencies

Proposed Rules

Automated Information and Telecommunications Council

4328— Acquisition of Automated Information Systems

Public Utility Commission of Texas

4328-- Substantive Rules

Texas Board of Private Investigators and Private Security Agencies

4330— Rules of Procedure

Texas State Board of Public Accountancy

4331— Criminal Background Investigations

Texas Department of Health

4332— Long-Term Care

Adopted Rules

State Board of Barber Examiners

4372— Practice and Procedure

Texas Air Control Board

4372— Control of Air Pollution by Permits for New Construction or Modification

Comptroller of Public Accounts

4373— Tax Administration

Texas Department of Human Services

4374— CCAD

State Board of Insurance

4378— Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

Open Meetings

4380— Texas Aeronautics Commission

4380— Texas Alcoholic Commission

4380— Coordinating Board, Texas College and University System

4381— Texas State Board of Dental Examiners

4381— Texas Education Agency

4381— Texas Employment Commission

4381— Commission on Fire Protection Personnel Standards and Education

4381— Texas Department of Human Services

4381— State Board of Insurance

4381— Texas Department of Labor and Standards

4382— Legislative Audit Committee

4382— Texas State Board of Medical Examiners

4382— Texas Department of Mental Health and Mental Retardation

4382— Texas State Board of Public Accountancy

4382— Public Utility Commission of Texas

4382— Texas Rehabilitation Commission

4382— Texas Savings and Loan Department

4383— State Securities Board

4383— Texas Turnpike Authority

4383— University Interscholastic League

4383— Texas Water Commission

4383— Regional Agencies

In Addition

Texas Air Control Board

4385— Applications for Construction Permits

Committee of 100 for the Merit Selection of Judges

4385— Announcement of Meeting

Texas Department of Community Affairs

4385— Request for Proposals

Texas Department of Health

4386— Licensing Actions for Radioactive Materials

4387— Revocation of Certificate of Registration

4387— Revocation of Radioactive Material Licenses

State Board of Insurance

4388— Company Licensing

Texas Department of Mental Health and Mental Retardation

4388— Consultant Contract Amendment

Public Utility Commission of Texas

4388— Public Notice

Office of the Secretary of State

4390— Texas Register

Texas Water Commission

4390— Applications for Waste Disposal Permits

TAC Titles Affected

TAC Titles Affected—October

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

TITLE 1. ADMINISTRATION

Part III. Office of the Attorney General	
1 TAC §55.102	4151
Part IV. Office of the Secretary of State	
1 TAC §81.54	4327
Part X. Automated Information and Telecommunications Council	
1 TAC §201.1	4301, 4328
1 TAC §206.1	4301

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture	
4 TAC §15.11	4278

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission	
7 TAC §3.91	4270
7 TAC §3.93	4270
Part II. Banking Department of Texas	
7 TAC §§10.2-10.6	4276
Part VII. State Securities Board	
7 TAC §111.4	4151

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas	
16 TAC §3.5	4214
16 TAC §3.8	4193, 4234
16 TAC §3.34	4270
16 TAC §5.4	4140
16 TAC §§5.145-5.148	4140
16 TAC §§5.145-5.149	4140
16 TAC §5.423, §5.424	4141
16 TAC §5.620	4152
16 TAC §7.2-7.14	4196
16 TAC §§7.21-7.30, 7.32-7.39, 7.41, 7.42, 7.61-7.68	4198
16 TAC §7.31	4204
16 TAC §7.35	4205, 4213
Part II. Public Utility Commission of Texas	
16 TAC §23.25	4328
16 TAC §23.41	4301
16 TAC §23.43	4302
16 TAC §23.45	4302
16 TAC §23.46	4300
16 TAC §23.47	4303
Part IV. Texas Department of Labor and Standards	
16 TAC §70.38, §70.39	4138, 4142
16 TAC §70.52	4138, 4143
16 TAC §70.102	4139, 4143
Part VI. Texas Motor Vehicle Commission	
16 TAC §§107.1-107.9	4152

TITLE 19. EDUCATION

Part II. Texas Education Agency	
19 TAC §77.491	4240

TITLE 22. EXAMINING BOARDS

Part I. State Board of Barber Examiners	
22 TAC §51.1	4372
Part III. Texas Board of Chiropractic Examiners	
22 TAC §75.1	4240
22 TAC §77.2	4240

Part XII. Board of Vocational Nurse Examiners	
22 TAC §231.1	4241
22 TAC §231.103	4241

Part XVI. Texas State Board of Physical Therapy Examiners	
22 TAC §339.3, §339.4	4298

Part XX. Texas Board of Private Investigators and Private Security Agencies	
22 TAC §423.37	4327, 4330

Part XXII. Texas State Board of Public Accountancy	
22 TAC §513.2	4239, 4295
22 TAC §525.1	4331

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health	
25 TAC §1.81	4153
25 TAC §1.91	4154
25 TAC §37.38, §37.39	4150
25 TAC §137.1	4244
25 TAC §§137.1-137.11	4244
25 TAC §§145.11-145.24	4333
25 TAC §§145.11-145.25	4333
25 TAC §§145.141-145.145	4155
25 TAC §145.146	4155
25 TAC §§145.271-145.285	4356
25 TAC §§205.1-205.10	4156
25 TAC §§205.1-205.13	4155
25 TAC §§217.21-217.25	4156
25 TAC §217.61, §217.64	4156
25 TAC §217.81	4156
25 TAC §295.8	4159
25 TAC §§337.3, 337.14, 337.18	4143

TITLE 28. INSURANCE

Part I. State Board of Insurance	
28 TAC §7.71	4272
28 TAC §§27.306, 27.311, 27.313, 27.316-27.318	4161

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office	
31 TAC §2.2	4298
31 TAC §9.7	4297
Part III. Texas Air Control Board	
31 TAC §101.24	4162
31 TAC §§116.4-116.7	4372
Part IV. School Land Board	
31 TAC §153.15	4270, 4273
Part IX. Texas Water Commission	
31 TAC §291.41	4273
31 TAC §305.64	4297
31 TAC §§311.1-311.5	4164
31 TAC §§311.11-311.15	4165
31 TAC §311.21, §311.22	4166
31 TAC §§311.31-311.36	4166
31 TAC §§311.41-311.44	4167
31 TAC §305.1	4205
Part XVII. State Soil and Water Conservation Board	
31 TAC §§517.1-517.12	4247
31 TAC §§519.1-519.11	4248

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts	
34 TAC §1.42	4233, 4234
34 TAC §3.299	4373

Part III. Teacher Retirement System of Texas	
34 TAC §25.81	4215
34 TAC §25.172	4215
34 TAC §29.11	4216

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety	
37 TAC §15.23	4207
37 TAC §23.78	4248
37 TAC §23.91	4207
37 TAC §23.92	4208
37 TAC §31.7	4235

Part VII. Texas Commission on Law Enforcement Officer Standards and Education	
37 TAC §§211.85, 211.96, 211.98	4216
37 TAC §211.101	4236

Part VIII. Commission on Fire Protection Personnel and Standards and Education	
37 TAC §233.31	4144
37 TAC §§233.82-233.64	4145
37 TAC §§233.108-233.110	4147
37 TAC §233.142	4148

Part IX. Texas Commission on Jail Standards	
37 TAC §253.1	4248
37 TAC §275.1	4248

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services	
40 TAC §§10.3401-10.3413	4304
40 TAC §15.3226	4210
40 TAC §29.606	4211
40 TAC §48.9401, §48.9410	4376
40 TAC §48.9501, §48.9510	4376
40 TAC §§54.101-54.103	4304
40 TAC §§54.201-54.208	4304
40 TAC §§54.301-54.311	4304
40 TAC §§54.401-54.404	4304
40 TAC §69.198	4376

Part IX. Texas Department on Aging	
40 TAC §§251.1-251.7	4236
40 TAC §252.1	4237
40 TAC §253.1	4236
40 TAC §255.1	4297
40 TAC §255.11, §255.12	4298
40 TAC §255.31, §255.32	4298
40 TAC §255.35	4274
40 TAC §259.6	4274
40 TAC §261.3, §261.6	4275
40 TAC §265.1	4148
40 TAC §§285.1-285.6	4277

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.

Appointment Made October 8

151st Judicial District Court

To be judge, until the next general election and until her successor shall be elected and duly qualified:

Alice Oliver Trevathan
The Republic Building
Second Floor
1018 Preston at Fannin
Houston, Texas 77002

Ms. Trevathan is replacing Anthony J. P. Farris of Houston, Harris County, who is deceased.

Issued in Austin, Texas, on October 8, 1986.

TRD-8609757 Mark White
Governor of Texas

★ ★ ★

Appointment Made October 10

Upper Guadalupe River Authority

For a term to expire February 1, 1991:

Richard G. Eastland
Route 2, Box 257
Hunt, Texas 78024

Mr. Eastland is replacing Frank Harrison of Hunt, Kerr County, whose term expired.

Issued in Austin, Texas, on October 10, 1986.

TRD-8609757 Mark White
Governor of Texas

★ ★ ★



Appointments Made October 13

Upper Guadalupe River Authority

For terms to expire February 1, 1991:

R. H. Holekamp, D.D.S.
1001 Morningside Drive
Kerrville, Texas 78028

Dr. Holekamp is being reappointed.

H. Ritman "Rit" Jones
3231 Cedar Wood Drive
Kerrville, Texas 78028

Mr. Jones is replacing Harry Schwethelm of Kerrville, Kerr County, whose term expired.

Issued in Austin, Texas, on October 13, 1986.

TRD-8609757 Mark White
Governor of Texas

★ ★ ★

Emergency

Rules

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

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

TITLE 1.

ADMINISTRATION

Part IV. Office of the

Secretary of State

Chapter 81. Elections

Voting Systems

★ 1 TAC §81.54

The Elections Division of the Office of the Secretary of State adopts on an emergency basis new §81.54, concerning the voting systems security directive. In connection with this emergency adoption, this section will be proposed for permanent adoption.

This emergency adoption is made to put the section into effect pending the regular adoption of §81.54 and to ensure compliance with the procedures prescribed by the Office of the Secretary of State for maintaining the security of automatic ballot tabulation devices.

Section 81.54 is adopted on an emergency basis pursuant to the Election Code, §31.003, which provides the secretary of state with authority to prepare detailed and comprehensive written directives and instructions based on the Election Code and election laws; pursuant to the Election Code, §31.005, which authorizes the secretary of state to take appropriate action to protect the voting rights of citizens of this state; pursuant to the Election Code, §122.001, which authorizes the secretary of state to prescribe additional standards for voting systems consistent with the Election Code, Title 8; pursuant to the Election Code, §127.123, which authorizes the secretary of state to prescribe procedures for the security from tampering and unauthorized use of programs for bal-

lot tabulating equipment installed at central counting stations; and pursuant to the Election Code, §127.151, which authorizes the secretary of state to prescribe procedures for processing election results in electronic voting systems that do not entail the counting of ballots at central counting stations.

§81.54. Voting Systems Security Directive.

The Voting Systems Security Directive, published by the Elections Division of the Office of the Secretary of State, October 14, 1986, is hereby adopted by reference and said publication is made a part of this section for all purposes. The publication is available from the Elections Division, Office of the Secretary of State, P.O. Box 12060, Austin, Texas 78711.

Issued in Austin, Texas, on October 14, 1986.

TRD-8609772

Myra A. McDaniel
Secretary of State

Effective date: October 14, 1986

Expiration date: February 11, 1987

For further information, please call
(512) 463-5701.

★ ★ ★

TITLE 22. EXAMINING BOARDS

Part XX. Texas Board of

Private Investigators and

Private Security Agencies

Chapter 423. Rules of Procedure and Seal

Hearings, Grievances, and Appeal Procedures

★ 22 TAC §423.37

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Board of Private Investigators and Private Security Agencies, 313 East Anderson Lane, Suite 200, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Board of Private Investigators and Private Security Agencies adopts the repeal on an emergency basis of §423.37, concerning reporters and transcript. The section provides for the use of a stenographic reporter.

The board has determined that peril to the welfare of citizens exists because of the lengthy process involved in disciplinary and administrative hearings. The change will enable the agency to either more quickly or expeditiously finalize hearings and will conform with the Administrative Procedures Act.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to repeal the rule.

§423.37. Reporters and Transcript.

Issued in Austin, Texas, on October 13, 1986.

TRD-8609767

Clema D. Sanders
Executive Director
Texas Board of Private
Investigators and
Private Security
Agencies

Effective date: October 14, 1986

Expiration date: February 11, 1987

For further information, please call
(512) 463-5545.

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 1.

ADMINISTRATION

Part X. Automated

Information and Telecommunications Council

Chapter 201. Acquisition of Automated Information Systems

★ 1 TAC §201.1

The Automated Information and Telecommunications Council proposes an amendment to §201.1, concerning the acquisition of information systems. The amendment provides that justification does not have to be filed for proposed procurement actions financed solely with gift or grant funds specifically designated for such purpose by the grantor when the grantor is not an agency of the State of Texas.

Robert B. Jordan, 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.

Mr. Jordan also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that proposed procurement actions financed solely with gift or grant funds specifically designated for such purpose by the grantor, when the grantor is not an agency of the State of Texas, will no longer require council review. 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 Robert B. Jordan, Executive Director, Automated Information and Telecommunications Council, P.O. Box 13564, Austin, Texas 78711-3564

The amendment is proposed under Texas Civil Statutes, Article 4413 (32h), which provide the council with the authority to adopt rules governing the acquisition of automated information systems.

§201.1. *Automated Information and Telecommunications Council Guidelines.*

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

(e) Criteria for proposed actions.

(1) (No change.)

(2) Justification for proposed actions meeting one or more of these criteria must be filed with the [advisory] council whether requisite purchasing procedures are to be conducted by the State Purchasing and General Services Commission or by the governmental body itself in accordance with the provisions of §3.02 of the State Purchasing and General Services Act, Texas Civil Statutes, Article 601b, or under authority delegated to the governmental body under the Act, §3.06. Justification does not have to be filed with the council for proposed actions financed solely with gift or grant funds specifically designated for such purpose by the grantor when the grantor is not an agency of the State of Texas.

(3) (No change.)

(f) (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 October 14, 1986.

TRD-8609744

Robert B. Jordan
Executive Director
Automated Information and
Telecommunications
Council

Earliest possible date of adoption:

November 21, 1986

For further information, please call
(512) 463-5530

★ ★ ★

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility

Commission of Texas

Chapter 23. Substantive Rules Rates

★ 16 TAC §23.25

The Public Utility Commission of Texas proposes new §23.25, concerning the deregulation of companies providing long distance telecommunications service but which also do not offer local exchange service and are subject to the rate-making jurisdiction of the commission.

Phillip Diehl, telephone division director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for local government or small businesses as a result of enforcing or administering the section. The effect on state government will be an estimated additional cost of \$100,000 in 1987; \$300,000 in 1988; \$100,000 in 1989; and \$100,000 in 1990.

Mr. Diehl also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be lower rates for the interLATA long distance service and a wider range of telecommunication services. The anticipated economic cost to individuals who are required to comply with the section as proposed is unknown.

Specific comments that the commission would particularly like to have addressed may be found under the "In Addition" section of this issue of the *Texas Register*. Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act.

§23.25. *Long Distance Rates.*

(a) Application of this section. This section only applies to companies which offer long distance telecommunications service as that term is defined by §23.61 of this title (relating to Telephone Utilities), which do not offer local exchange service, and are subject to the rate-making jurisdiction of the commission for any service or market. A regulated interexchange carrier (hereinafter called the DIXC) may apply for deregulation of one or more service submarkets in one or more geographic submarkets after the effective date of this section.

(b) Definitions The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

Commission—The Public Utility Commission of Texas, or its duly designated hearing examiner or administrative law judge.

Equal-access capability—Customers choice of carriers that can be accessed by dialing 1 + .

Geographic submarkets—The local exchange for interLATA WATS/MTS and Least Cost Routing MTS service and state-wide for private line and WATS 800 service.

Independent capacity—Facilities for the switching, transmission, or reception of messages or data owned or operated by persons other than the DIXC which are capable of transmitting voice grade data out of the local exchange.

Interexchange carrier—Any carrier which is supplying long distance telecommunications service as that term is defined by §23.61 of this title (relating to Telephone Utilities), and which does not offer local exchange service.

Least-cost routing MTS—A service offered by a local exchange carrier which allows a customer an option of having his long distance traffic carried by different interexchange carriers based on the charge for the specific call and which utilizes the local exchange company's switch.

New service—Any method of switching, transmission, or reception of messages or data which relies upon equipment or technology not offered on a tariffed basis prior to the effective date of this section. New services shall not mean any repricing, repackaging, or simple substitution of tariff offering approved by the commission prior to the effective date of this section.

Service submarket—Includes as separate submarkets: all intraLATA services; interLATA private line; interLATA WATS 800; interLATA WATS/MTS; and Least-cost routing MTS service.

(c) Conditions of deregulation of interLATA WATS/MTS service. In order to be deregulated in an exchange for the interLATA WATS/MTS service, the DIXC shall be required to prove for each exchange for which deregulation is sought that:

(1) at least 90% of the access lines have equal-access capability;

(2) at least three other interexchange carriers are available on a 1 + basis;

(3) the independent capacity of all other interexchange carriers is sufficient to switch, transmit, and receive at least 50% of the total market's current average daily peak volume; and

(4) the DIXC's share of revenues derived from WATS/MTS service is less than 55% of the total amount of revenues from that service.

(d) Anticipatory alert. If any local exchange company has an exchange which meets the following criteria, it shall file a report with the commission listing the name of the exchange, and the names of all interexchange carriers subscribing to originating access service in that exchange. The criteria are:

(1) at least 80% of the access lines within the exchange have had equal-access capability for six months:

(2) at least 90% of the access lines within the exchange have equal-access capability at the time of the report; and

(3) at least three interexchange carriers other than the DIXC have subscribed to originating access service in the exchange for the six months preceding the report.

(e) Deregulation procedure for a WATS/MTS market. The following procedures shall be followed for determination of deregulation of each exchange for a WATS/MTS market.

(1) The DIXC shall file a petition, specifying which exchange or exchanges are sought to be deregulated. The petition shall be accompanied with testimony and exhibits to prove that each such exchange meets the threshold requirements of at least 90% of its access lines converted to equal-access capability, and that three or more other interexchange carriers serve the exchange.

(2) Notice of the petition shall be made in accordance with the Public Utility Regulatory Act §43(a). Affected persons may intervene, conduct discovery, submit evidence, and have an opportunity for cross-examination.

(3) The commission shall hold a hearing to determine whether or not the exchange or exchanges sought to be deregulated meet the threshold tests. If the DIXC does not prove that an exchange meets the threshold tests, the docket shall be terminated as to such exchange.

(4) If an exchange is proven to meet the threshold tests, the commission shall order each interexchange carrier and local exchange carrier serving the exchange to file a report. The reports shall be due within 90 days after the determination that the threshold tests have been met.

(A) Each interexchange carrier shall be required to report the following for six previous months specified by the commission:

(i) its gross revenues from the exchange for MTS, MTS-like, WATS, and WATS-like interLATA traffic. The gross revenues may be adjusted for uncollectibles and billing adjustments. If adjusted, the report shall specify in detail the nature of each adjustment, the methodology used to calculate each adjustment, the exact amount of each adjustment for each month, and the justification for such adjustment. The methodology used to calculate each adjustment shall not be deemed to be proprietary;

(ii) its WATS-like originating minutes of use from the exchange; and

(iii) specific information on the nature and capacity of each of its facilities for switching, transmitting, or receiving messages or data located within the exchange, or which serve the exchange.

(B) The local exchange carriers shall report all the originating minutes-of-use for each interexchange carrier serving the exchange for a previous six month period specified by the commission.

(C) In addition to the reports required of the interexchange carriers, the DIXC shall also report any WATS 800 (inbound WATS) originating minutes-of-use for the exchange for the six month period specified by the commission.

(D) In specifying a six month period, the commission shall use a period during which at least 80% of the access lines within the exchange had equal-access capability for the entire six months.

(E) Except for the report filed by the DIXC, the reports of both the interexchange carriers and local exchange carriers shall be deemed to be proprietary information pursuant to the Open Records Act, Article 6252-17(a), §3 and §4, unless determined otherwise by an opinion of the attorney general of Texas.

(F) Failure to file the reports required by this section shall subject the violator to subpoenas, civil penalties, criminal penalties and contempt of court as provided by the Public Utility Regulatory Act of Texas.

(5) The commission and commission staff shall review the reports. If the commission determines that interexchange carriers with more than 3.0% of the total originating minutes of use from the exchange did not file a revenue and capacity report, as required by this section, then the commission shall utilize the minute of use reports in determining market share.

(6) The commission staff shall take the data supplied by the reports, and prepare a summary of the results of the revenue and minutes-of-use data. The revenues and the minutes-of-use of the DIXC shall be shown separately, and the revenues and minutes-of-use of the other interexchange carriers shall be totaled and reported on an aggregate basis.

(7) If both the revenue and minute-of-use reports demonstrate that the DIXC has more than 55% of such revenues and minutes with regard to any exchange sought to be deregulated, the docket shall be terminated as to such exchange. If both the revenue and minute-of-use reports demonstrate that the DIXC has less than 55% of such revenues and minutes with regard to any exchange sought to be deregulated, the docket shall proceed based on the report prepared by the commission staff pursuant to paragraph (6) of this subsection, and the individual carrier revenue numbers shall remain proprietary. If one report indicates that the DIXC has less than 55% of either revenues or minutes, and the other report indicates that the DIXC has more than 55%, then the individual revenue and minute reports of the other interexchange carriers shall be released to the DIXC pursuant to protective order.

(8) If an exchange has passed the preliminary test provided in paragraphs (1)-(7) of this subsection, the DIXC shall file testimony and exhibits containing its complete case to prove that the independent capacity of all other interexchange carriers is sufficient to switch, transmit, and receive at

least 50% of the current average daily peak volume in the exchange over the six months specified by the commission, and that the DIXC's share of revenues derived from the MTS/WATS service is less than 55% of the total amount of revenues from the service in the exchange sought to be deregulated.

(9) The commission shall hold hearings on capacity and market share. The DIXC shall have the burden of proof. If the revenue figures indicate that the DIXC has more than 55% of the market, but the minutes-of-use figures indicate that the DIXC has less than 55%, the DIXC shall be required to prove that the revenue data submitted by the competing interexchange carriers is unreliable, and the minutes-of-use reports of the local exchange carriers and other interexchange carriers is reliable. The commission shall utilize the minutes of use data if the DIXC proves that the revenue data is unreliable. If the DIXC proves all the conditions of deregulation have been met, the commission shall order the exchange to be deregulated effective the first day of the next quarter of the DIXC's fiscal year following the commission's final action in the docket. No market may be deregulated prior to June 1, 1987.

(f) Regulated rates determined. The DIXC shall file a petition for a change in rates within six months of the date of the first final order which authorizes deregulation of a submarket. The test year in such filing shall end the day before effective date of the deregulation. The commission shall establish a statewide revenue requirement, and shall establish rates based on cost of service in the same manner as is provided for regulated utilities. Except as otherwise provided by these rules, the DIXC shall charge the rates established by the final order of such proceeding in all regulated areas of the state. The rates established by such proceedings shall be in effect for three years following the final order of the commission. The DIXC shall waive any constitutional or statutory right to file changes in rates as a condition precedent to deregulation. Beginning the fourth year after the final order in the rate case, the DIXC may annually change its rates by the same percentage as the most recent annual change in the electronic components portion of the Producer's Price Index published by the United States Department of Commerce.

(g) Rate reciprocity. If the DIXC establishes a MTS rate within a deregulated exchange which is different from its tariffed rates, then it shall charge the deregulated rate to all traffic originating or terminating in that exchange. Rate reciprocity shall not apply to WATS service.

(h) New services. The following paragraphs shall apply if the DIXC wants to establish a new service after any submarket has been deregulated.

(1) The DIXC shall offer any new service on a statewide basis. The DIXC shall file an application with the commission set-

ting forth the nature of the new service and proposing cost-based rates based on statewide average costs. The filing shall have sufficient evidence to determine whether or not the service constitutes a new service, and to determine the cost basis of the service.

(2) The commission shall determine within 60 days whether the filing constitutes a new service. The DIXC shall not be allowed to reprice, repackage, or provide a simple substitute for any tariff offering approved by this commission prior to the effective date of this section. If the commission determines that the DIXC has filed a new service, or does not act on the petition within 60 days, then the DIXC may offer such service in any geographic submarket previously deregulated by the commission at any price set by the DIXC. The commission shall thereafter proceed to establish the tariff for the service as if the DIXC were a regulated utility, and that tariff shall apply to the remaining regulated markets.

(i) Reports. All interexchange carriers and local exchange carriers shall file reports containing market share information semi-annually. The staff of the commission shall determine the form and content of the reports. If an exchange is deregulated, the reports shall require information regarding the originating MTS/WATS revenues of each interexchange carrier serving that exchange. Information submitted on such reports shall be deemed to be proprietary information pursuant to the Texas Open Records Act, Article 6252-17(a), §3 and §4, unless determined otherwise by an opinion of the attorney general of Texas.

(j) Review. The commission shall initiate a proceeding to assess the pace at which deregulation has occurred. If a submarket has been deregulated prior to December 1, 1988, the proceeding shall be initiated within two years of the effective date of the deregulation, and shall focus on the effects of deregulation on both deregulated and regulated markets. If no submarkets have been deregulated by December 1, 1989, the commission shall initiate a proceeding to assess the rules regarding deregulation to determine if they are appropriate. At the conclusion of either proceeding, the commission may revise these rules in a manner that it sees as appropriate, necessary, or convenient.

(k) Reregulation. If the reports filed with the commission pursuant to subsection (i) of this section indicate that the MTS/WATS market share of an interexchange carrier in an unregulated exchange has risen above 65% of the market, the commission shall initiate a proceeding to determine if the carrier should be deemed to be a dominant interexchange carrier. The determination of market share shall be based on gross revenues from interLATA MTS/WATS service originating from that exchange, averaged over a six month period specified by the commission. The gross revenues may be adjusted for uncollectables and billing adjustments. If adjusted, the carriers shall specify

in detail the nature of each adjustment, the methodology used to calculate each adjustment, the exact amount of each adjustment for each month, and the justification for such adjustment. The interexchange carrier would be required to show cause as to why it should not be considered to be dominant, and would have the burden of proof to show it did not have sufficient market power within that exchange to control prices in a manner adverse to the public interest for such service in that exchange. In evaluating market power, the commission shall consider market share, capacity of other carriers, and the number of competitors within the exchange. If the carrier failed to prove it lacked market power, the carrier would be deemed to be a dominant carrier, and regulated accordingly.

(l) Abandonment. Every interexchange carrier shall report to the commission at least three months prior to the abandonment of any submarket. The largest interexchange carrier in the state shall be required to be the carrier of last resort in all submarkets in the state.

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 October 15, 1986.

TRD-8609779

Rhonda Colbert Ryan
Secretary
Public Utility Commission
of Texas

Earliest possible date of adoption:
November 21, 1986
For further information, please call
(512) 458-0100.

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TITLE 22. EXAMINING BOARDS

Part XX. Texas Board of Private Investigators and Private Security Agencies

Chapter 423. Rules of Procedure and Seal

Hearings, Grievances, and Appeal Procedures

★ 22 TAC §423.37

(Editor's note: The Texas Board of Private Investigators and Private Security Agencies proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the repeal is published in the Emergency Rules section of this issue.)

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of §423.37, concerning reporters and transcript. The section provides for the use of a stenographic reporter.

Clema D. Sanders, 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 enforcing or administering the repeal.

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

Comments on the proposal may be submitted to Clema D. Sanders, Executive Director, P.O. Box 13509, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

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

Issued in Austin, Texas, on October 13, 1986

TRD-8609789

Clema D. Sanders
Executive Director
Texas Board of Private
Investigators and
Private Security
Agencies

Proposed date of adoption: December 9, 1986
For further information, please call
(512) 463-5545.

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Part XXII. Texas State Board of Public Accountancy

Chapter 525. Criminal Background Investigations

★ 22 TAC §525.1

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Board of Public Accountancy proposes the repeal of §525.1, concerning the processing of applications for examination, issuance of CPA certificates, licenses, and renewal of licenses for individuals with criminal backgrounds. The section contains the procedures for processing such application issuance and renewals.

Bob E. Bradley, 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 enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be adoption of a new section that will track the provisions of state law relating to the processing of individuals with felony criminal backgrounds by an examining board. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules concerning the examination, certification, and licensing of certified public accountants.

§525.1. *Applications for the Uniform CPA Examination, Issuance of the CPA Certificate, a License, or Renewal of a License for Individuals with Criminal Backgrounds.*

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 October 14, 1986.

TRD-8609782

Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption:

November 21, 1986
For further information, please call
(512) 450-7066.

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The Texas State Board of Public Accountancy proposes new §525.1, concerning the processing of applications for examination, issuance of CPA certificates, licenses, and renewal of licenses for individuals with criminal backgrounds. The section contains the procedures for processing such application issuance and renewals.

Bob E. Bradley, 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.

Mr. Bradley also has determined that for each year of the first five years the sec-

tion is in effect the public benefit anticipated as a result of enforcing the section will be a system to track the provisions of state law relating to the processing of individuals with felony criminal backgrounds by an examining board. 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 William A. Sansing, Suite 340, 1033 La Posada, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules concerning the examination, certification, and licensing of certified public accountants.

§525.1. *Applications for the Uniform CPA Examination, Issuance of the CPA Certificate, a License, or Renewal of a License for Individuals with Criminal Backgrounds.*

(a) The board shall not examine a CPA candidate, issue the CPA certificate, issue an initial license, or renew a license, and shall revoke a current license if the board finds that the applicant or licensee has been convicted of a felony offense which results in incarceration or upon revocation of applicant's or licensee's felony probation, parole, or mandatory supervision. This section is to be effective for individuals applying for the examination, initial license, or license renewal as of September 1, 1981, and thereafter.

(b) The board may not examine a CPA candidate, issue the CPA certificate, issue an initial license, or renew a license if the board finds that the individual applying has been convicted of a felony or misdemeanor offense which directly relates to the practice of public accountancy. In determining whether the felony or misdemeanor conviction directly relates to such duties and responsibilities, the board shall consider:

(1) the nature and seriousness of a crime;

(2) the relationship of the crime to the board's statutory responsibility to ensure that persons professing to practice public accountancy maintain high standards of competence and integrity in light of the reliance of the public, and the business community in particular, on the reports and other services provided by accountants;

(3) the extent to which a license to practice public accountancy might offer an opportunity to engage in further criminal activity of the same type as that in which the individual was previously involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a certified public accountant or public accountant.

(c) In addition to the factors stated in subsection (b) of this section, the board shall consider the following evidence in determin-

ing the present fitness of a candidate who has been convicted of a crime:

- (1) the extent and nature of the individual's past criminal activity;
- (2) the age of the individual at the time of the commission of the crime;
- (3) the amount of time which has elapsed since the individual's last criminal activity;
- (4) the conduct and work activity of the individual prior to and following the criminal activity;
- (5) evidence of the individual's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of the individual's present fitness, including letters of recommendation from prosecution, law enforcement, and correction officers who prosecuted, arrested, or had custodial responsibility for the individual, the sheriff, and chief of police in the area where the individual resides, and any other persons in contact with the individual; it shall be the responsibility of the individual to the extent possible to secure and provide to the board the recommendation of the prosecution, law enforcement, and correctional authorities as required under this section; the individual shall also furnish proof to the board that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

(d) Because an accountant is often placed in a position of trust with respect to client funds, and the public in general, and the business community in particular, rely on the reports and other services of accountants, the Texas State Board of Public Accountancy considers that the following crimes directly relate to the practice of public accountancy:

- (1) any felony or misdemeanor of which fraud or deceit is an essential element;
- (2) any felony or misdemeanor conviction which results in the suspension or revocation of the right to practice before any state or federal agency for a cause which in the opinion of the board warrants its action; and
- (3) any crime involving moral turpitude.

(e) The following procedures shall apply in the processing of an application to sit for the uniform CPA examination.

- (1) The candidate will be asked to respond, under penalty of perjury, to the question if he or she has ever been convicted of a felony or misdemeanor.
- (2) The board may submit identifying information to the Texas Department of Public Safety and or other appropriate agencies on board letterhead requesting conviction records on all initial examination candidates and on those reexamination candi-

dates about whom the executive director finds evidence to warrant a record search.

(3) The board will review the conviction records of candidates and will approve or disapprove applications as the evidence warrants. If the requested information is not provided by the Texas Department of Public Safety and or other appropriate agencies at least 30 days prior to the examination, a candidate may be permitted to sit for the uniform CPA examination, with his or her grades subject to being voided. A candidate may have his or her grades subject to being voided. A candidate may have his or her grades voided or may be denied the opportunity to sit for the uniform CPA examination on the basis of a prior conviction pursuant to a hearing as provided for in the Public Accountancy Act of 1979, §22, as amended, (Texas Civil Statutes, Article 41a-1).

(f) The following procedure shall apply in the processing of an application for issuance of the CPA certificate.

(1) The individual will be asked to respond, under penalty of perjury, to the question if he or she has ever been convicted of a felony or misdemeanor.

(2) The board may submit identifying information to the Texas Department of Public Safety and or other appropriate agencies on board letterhead requesting conviction records on individuals requesting issuance of the CPA certificate.

(3) The board will review the individual applications and the conviction records of applicants and will approve or disapprove applications as the evidence warrants. No CPA certificate or initial license may be issued to an individual whose application for a CPA certificate has been denied. The board may disqualify a person from receiving a CPA certificate or initial license on the basis of a prior conviction pursuant to a hearing as provided for in the Public Accountancy Act of 1979, §22, as amended (Texas Civil Statutes, Article 41a-1).

(g) The following procedure shall apply when renewing a license annually.

(1) Each licensee will be asked to respond, under penalty of perjury, to the question if he or she has ever been convicted of a felony or misdemeanor of which the board has not previously been informed. If the licensee responds in the negative and pays the required license fee, a renewal license will be issued in accordance with established procedures. If the licensee responds affirmatively and pays the required license fee, the board may submit identifying information on board letterhead to the Texas Department of Public Safety and other appropriate agencies requesting conviction records on the individual.

(2) The board will review the conviction records and either approve or deny the application for a renewal license as the evidence warrants. The board will refund any renewal fee submitted if the application is denied. The board may suspend or revoke or refuse to renew an annual license on the

basis of a prior conviction pursuant to a hearing as provided for in the Public Accountancy Act of 1979, §22, as amended (Texas Civil Statutes, Article 41a-1).

(h) In the event the board suspends or revokes a valid license or denies a person a license or certificate or the opportunity to sit for the uniform CPA examination or voids the grades of a candidate because of a person's prior conviction of a crime and the relationship of the crime to the license and certificate pursuant to a hearing as provided for in the Public Accountancy Act of 1979, §22, as amended (Texas Civil Statutes, Article 41a-1), the board shall notify the person in writing:

(1) of the reasons for the suspension, revocation, denial, or disqualification;

(2) that the person, after exhausting administrative appeals, may file an action in district court in Travis County for review of the evidence presented to the board and its decision in accordance with the Public Accountancy Act of 1979, §2, as amended (Texas Civil Statutes, Article 41a-1);

(3) that a person must begin the judicial review within 30 days after the board's decision is final and appealable; and

(4) that the earliest date a person may appeal is when a motion for rehearing is denied, or when the time for filing a motion for rehearing is denied, or when the time for filing a motion for rehearing has expired and no motion has been filed.

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 October 14, 1986.

TRD-8609783

Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption:

November 21, 1986

For further information, please call
(512) 450-7086.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 145. Long-Term Care

The Texas Department of Health proposes the repeal of existing §§145.11-145.24, new §§145.11-145.25, and new §§145.271-145.285, concerning minimum licensing standards for nursing homes and planning and construction for nursing homes.

New §§145.11-145.25 are major revisions of the existing minimum licensing standards for nursing homes and cover purpose and application, definitions, administrative management, resident rights, physician ser-

...vices, dental services and other professional services, nursing services, social services, activities, medical records, pharmacy services, dietary services, physical plant and environmental services, and safety operations.

New §§145.271-145.285 consist of the following: introduction and application, location and site, general considerations, architectural space planning and utilization, exit provisions, smoke compartmentation, fire protection systems, hazardous areas, structural, mechanical, electrical, miscellaneous details, elevators, plans and specifications, and construction and initial survey of completed construction.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed repeals and new sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the repeals and new sections. There will be no effect on state government in the years 1987-1988. For the remaining three years, 1989-1991, there will be an estimated additional cost of \$1.8 million per year. The cost of compliance for small facilities will be \$83 per bed per year and for large facilities it will be \$41 per bed per year for the first two years the repeals and new sections are in effect. There will be no effect on local government or small businesses.

Mr. Seale also has determined that for each year of the first five years the repeals and new sections are in effect the public benefit anticipated as a result of enforcing the repeals and new sections will be improved care of residents in nursing facilities. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals and new sections.

Comments on the proposal may be submitted to Howard C. Allen, Chief, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, for 30 days after publication in the *Texas Register*. In addition, three public hearings will be held as follows: Wednesday, November 12, 1986, 9:30 a.m., Arlington Community Center, 2800 South Center, Arlington; Thursday, November 13, 1986, 9:30 a.m., Texas Department of Health Auditorium, 1100 West 49th Street, Austin; and Friday, November 21, 1986, 9:30 a.m., Houston Light and Energy Information Center (between Bissonnet and Bellaire), 6700 West Loop, Houston.

Subchapter B. Minimum Licensing Standards for Nursing Homes

★ 25 TAC §§145.11-145.24

The repeals are proposed under Texas Civil Statutes, Article 4442c, §7, which provide the Texas Board of Health with the authority to adopt rules covering minimum licensing standards and construction standards for long-term care facilities.

- §145.11. Purpose.
- §145.12. Definitions.
- §145.13. General Requirements.
- §145.14. Planning, Construction, Procedures, and Approvals.
- §145.15. Physical Plant.
- §145.16. Personnel.
- §145.17. Admission Policy.
- §145.18. Emergency Medical Care.
- §145.19. Reports and Records.
- §145.20. Routine Medications.
- §145.21. Dietary.
- §145.22. Housekeeping and Maintenance Services.
- §145.23. Humane Treatment.
- §145.24. Effective Date.

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

Issued in Austin, Texas, on October 14, 1986.

TRD-8809774 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption: December 13, 1986
For further information, please call
(512) 458-7236.

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★ 25 TAC §§145.11-145.25

The new sections are proposed under Texas Civil Statutes, Article 4442c, §7, which provide the Texas Board of Health with the authority to adopt rules covering minimum licensing standards and construction standards for long term care facilities.

§145.11. Purpose and Application. The purpose of these sections is to promote the public health, safety, and welfare and provide for the development, establishment, and enforcement of standards; for the care of individuals in facilities of the character defined and covered herein; and for the establishment, construction, maintenance, and operation of such facilities which in the light of advancing knowledge will promote safe and adequate care of individuals of these facilities. Residents shall not be admitted or retained if their needs cannot be met. Facilities to which these standards apply are those which provide organized and structured nursing care and service, and are subject to license under Texas Civil Statutes, Article 4442c. They are known by various names, including nursing home, nursing facility, or facility.

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

Accredited record technician (ART)—A person holding an Associate Degree in Medical Record Science (a two-year college/university curriculum or American Medical Record Association (AMRA) approved correspondence course entitled "Independent Study Program in Medical Record Technology") and has successfully passed the national accreditation examination given by the AMRA to become an ART.

Activities consultant—One who meets all qualifications and requirements of an activities director.

Activities director—A qualified employee of the facility designated by the administrator as responsible for the activities program. See §145.19(c)(1) of this title (relating to Activities) for qualifications.

Advisory physician—A responsible physician to be called in emergency illness or accident situations and who is responsible for the overall guidance of medical services in the facility.

Comprehensive history report—A report completed and signed by the attending physician which contains information concerning the history of a resident's present and past illnesses, personal and family history, a systematic review of the skin, head, eyes, ears, nose, throat, neck, respiratory, cardiovascular, gastrointestinal, genitourinary, gynecological, neuro-muscular, and psychological systems.

Controlled substance—A drug, substance, or immediate precursor as defined in the Texas Controlled Substance Act, Texas Civil Statutes, Article 4476-15, §1.02(5), or as amended, and/or the Federal Controlled Substance Act of 1970, Public Law 91-513.

Dangerous drugs—Any drug as defined in the Texas Dangerous Drug Act, Texas Civil Statutes, Article 4476-14, §2.

Dietetic service supervisor—

(A) a person who is a qualified dietitian;

(B) a qualified dietary technician with an Associate of Arts Degree;

(C) a certified dietary manager;

(D) a graduate of a 90-hour course in food service supervision approved by the state or by the American Dietary Managers Association; or

(E) a person who has training and experience in food service supervision and management in a military service equivalent in content to the programs in subparagraph (A)-(D) of this definition and has had their training credentials evaluated and approved by the chief, Nutritional Services, of the licensing agency.

Dietitian—

(A) A registered dietitian is a dietitian who is currently registered by the Commission on Dietetic Registration.

(B) A licensed dietitian is a dietitian who is currently licensed by the Texas State Board of Examiners of Dietitians and who has 15 hours of dietetic continuing education annually.

(C) A qualified dietitian is a dietitian who is eligible for registration by the American Dietetic Association under its requirements, or who has a Baccalaureate Degree with major studies in food and nutrition, dietetics, or food service management; has one year of supervisory experience in the dietetic service of a health care facility; and participates annually in continuing dietetic education. These persons must have credentials evaluated and approved by the Chief, Nutritional Services of the Licensing Agency, and 15 hours of dietetic continuing education annually.

Drug (also referred to as medication)—

(A) Any substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(B) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(C) Any substance (other than food) intended to affect the structure or any function of the body of man; and

(D) Any substance intended for use as a component of any substance specified in subparagraphs (A)-(C) of this definition. It does not include devices or their components, parts, or accessories.

Facility—A building consisting of one or more floors or one or more units, or may be a distinct part of a licensed hospital and is licensed as a nursing facility by the Texas Department of Health.

Legend drug or prescription drug—Includes all dangerous drugs and controlled drugs and requires a written order, and in cases of emergency, a telephonic order by a practitioner before dispensing by a pharmacist for a particular patient, or shall be delivered to a particular resident by a practitioner in the course of the practitioner's practice.

Licensed vocational nurse—A nurse who is a graduate of a state-approved school of vocational nursing and who is currently licensed as a vocational nurse by the Texas State Board of Vocational Nurse Examiners.

Licensing agency—The Texas Department of Health.

Life Safety Code (also referred to as the Code)—The Code for Safety to Life from Fire in Buildings and Structures, Standard 101, of the National Fire Protection Association (NFPA), as required under Texas Civil Statutes, Article 4442c, §4A. Life Safety Code, NFPA 101, is a registered trademark of the National Fire Protection Association, Inc., Quincy, MA 02269.

Medication aide—A person who holds a current permit issued under the Medication Aide Training Program rules and acts under the authority of a person who holds a current license under state law which authorizes the licensee to administer medication.

Non-nursing personnel—All persons who are not responsible for direct personal

services to residents. Such personnel would include administrative, dietary, medical records, activity, housekeeping and laundry, and maintenance.

Nursing care—Care given to four or more persons unrelated to the proprietor providing minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners which is in addition to the basic provision of food, shelter, and laundry.

Nursing home—A facility which provides organized and structured nursing care and service, and is subject to licensure under Texas Civil Statutes, Article 4442c. Also referred to as nursing facility or facility.

Nursing home administrator—A person licensed by and in good standing with the Texas Board of Licensure for Nursing Home Administrators.

Nursing personnel—All persons responsible for giving direct personal and nursing services to residents. Such personnel includes registered nurses, licensed vocational nurses, therapists, nurses aides, attendants, and orderlies.

Over-all plan of care—The coordinated interdisciplinary plan of care which is developed for each resident, within 30 days of admission. The plan consists of medical, nursing, social services, nutrition, rehabilitative services, and activities.

Pharmacist—A person licensed by the Texas State Board of Pharmacy to practice pharmacy.

Physical or physical examination report—A report completed and signed by the attending physician which contains information about a resident in general and information concerning a resident's skin, eyes, ears, nose, throat, mouth, neck, chest, heart, abdomen, genitalia, lymphatic, blood vessels, locomotor, extremities, nervous system, rectum, and vagina, and a diagnosis of the resident. This report can be in the form of a checklist as long as all areas are addressed and reflect the diagnosis(es). See also the definition of comprehensive history report in this section.

Physician—A practitioner licensed by the Texas State Board of Medical Examiners.

Poison—Any substance that federal or state regulations require the manufacturer to label as a poison and is to be used externally by the consumer from the original manufacturer's container. Drugs to be taken internally which contain the manufacturer's poison label, but are dispensed by a pharmacist only by or on the prescription order of a physician, are not considered a poison, unless regulations specifically require poison labeling by the pharmacist.

Registered nurse—A nurse registered/ reregistered by the Board of Nurse Examiners for the State of Texas.

Registered record administrator (RRA)—A person who is holding a Bachelor's Degree in Medical Record Science and has successfully passed the national registration examination to become an RRA.

Resident—Anyone accepted for care in the facility.

Social Services Consultant—A person who has a Masters Degree in Social Work, or a Bachelors Degree in Social Work and one year's experience in a health care setting. Either degree must be from a college or university accredited by the Council on Social Work Education.

Social services director—A person who provides social services and has a Master's Degree in Social Work, or a Bachelor's Degree in Social Work from a college or university accredited by the Council of Social Work Education and at least one year of social work experience in a health care setting; A person not qualified under this definition but who receives regularly scheduled consultation from someone so qualified. Either degree stated in subparagraph (A) of this definition must be from a college or university accredited by the Council on Social Work Education.

§145.13. Administrative Management.

(a) General requirements.

(1) Application for license.

(A) An applicant for a state license to operate a nursing facility shall be a licensed nursing home administrator. The state license to operate the facility will be issued in the name of the qualified administrator.

(B) Each applicant for a state license to operate a nursing facility shall make application on a form or in a manner as determined by the licensing agency. The application shall be completed in all detail. The applicant shall be of good moral character, be financially responsible, and have the physical and mental capability to conduct the operations of the facility pursuant to rules adopted by the Texas Board of Health. The application is to be completed by the administrator, signed in the presence of a notary public, and returned to the licensing agency with the following prerequisites.

(i) New facilities.

(1) The application shall include:

(-a-) a fee required by Texas Civil Statutes, Article 4442c. This fee should be submitted in the form of a check or money order payable to the Texas Department of Health;

(-b-) a copy of the full-time administrator's current license as issued by the Texas Board of Licensure for Nursing Home Administrators;

(-c-) approval from the health authority having jurisdiction over the facility, for issuing the license;

(-d-) approval from the fire marshal having jurisdiction over the facility, for issuing the license;

(-e-) documents whereby legal ownership may be verified (i.e., lease agreement, warranty deed, etc.). If the facility is corporately owned, it will be necessary to provide a copy of the certificate of incor-

poration, articles of incorporation, and by-laws to do business in the State of Texas. If owned by partnership, it will be necessary to provide a copy of the partnership agreement;

(-f) approval from the Architectural Section of the licensing agency, based upon a final inspection.

(II) Upon receipt of the prescribed application, the licensing agency will be in a position to evaluate the request. A license may be granted only if the facility is found to be in compliance with applicable laws and standards. Compliance will be ascertained by on-site inspections by appropriate inspection teams, including architectural evaluations. Until the license is granted, a maximum of three residents may be admitted.

(ii) Change of ownership. The application shall include the items stated in clause (i)(1)(a)-(e) of this subparagraph. Upon receipt of the prescribed application, the licensing agency will be in a position to evaluate the request. A license may be granted only if the facility is found to be in compliance with applicable laws and standards. Compliance will be ascertained by on-site inspections by appropriate inspection teams, including architectural evaluations.

(iii) Increase in bed capacity.

(1) The application shall include:

(-a) the items stated in clause (i)(1)(b)-(d) of this subparagraph;

(-b) a fee as required by Texas Civil Statutes, Article 4442C. The fee is to be submitted in the form of a check or money order payable to the Texas Department of Health; and

(-c) approval from the Architectural Section of the licensing agency based upon drawing(s) reviewed prior to conversion or construction and a final inspection.

(II) The prerequisites of subclause (I) of this clause must be met before occupancy approval is granted by the licensing agency.

(III) Upon receipt of the prescribed application the licensing agency will be in a position to evaluate the request. A license may be granted only if the facility is found to be in compliance with applicable laws and standards. Compliance will be ascertained by on-site inspections by appropriate inspection teams, including architectural evaluations.

(iv) Change of administrator. The application shall include:

(I) a fee as required by Texas Civil Statutes, Article 4442C. The fee is to be submitted in the form of a check or money order payable to the Texas Department of Health; and

(II) a copy of the full-time administrator's current license as issued by the Texas Board of Licensure for Nursing Home Administrators.

(C) The facility shall have written policies for the control of communicable diseases in employees, provision of a safe and sanitary environment for residents and personnel, and reporting and reviewing accidents/incidents involving residents and personnel. Employees must receive periodic health examinations to ensure the absence of communicable disease.

(D) The submission of false information by any applicant for an original or renewed state license shall constitute grounds for denial or revocation of state license to operate.

(E) The use of subterfuge or other evasive means such as filing for license through a second party when an individual is disqualified for licensing shall constitute grounds for the refusal or revocation of a state license to operate a facility providing nursing care.

(F) Habitual drunkenness, addiction to narcotics, disorderly conduct, or the violation of any law involving moral turpitude on the part of the owner, administrator, or employees engaged in the operations and functions of a facility providing nursing care may constitute grounds for withholding or revoking a state license to operate.

(G) Substantiated evidence of the owner, administrator, or any staff member willfully inflicting injury, physical suffering, or mental anguish on any resident in a facility; or failure of management, who is knowledgeable of a substantiated case of physical/mental abuse or neglect, to take corrective action; or failure of management, who has knowledge of a possible case of abuse or neglect, to report it in accordance with Texas Civil Statutes, Article 4442c, §16, shall constitute grounds for revocation and/or suspension of license.

(2) General requirements for a licensed facility.

(A) The facility shall admit and retain only residents whose needs can be met through services from the facility staff, in cooperation with community resources or other providers under contract.

(B) Persons having mental and/or physical diseases or conditions endangering other residents may be admitted or retained if adequate rooms and care are provided to protect the other residents.

(C) Each license shall specify the maximum allowable number of residents to be cared for at any one time. No greater number of residents shall be kept than is authorized by the license.

(D) The license shall be conspicuously posted in the area where residents are admitted.

(E) Copies of these regulations should be available to the personnel of the facility. They should be instructed in the requirements of the law and the regulations pertaining to their respective duties.

(F) The term "hospital" may not be used as part of the name of a nursing facility unless it has been classified and duly

licensed as a hospital by the appropriate state agency.

(G) Upon request, the facility management shall make available to the licensing agency representatives copies of relevant facility documents or records which in the opinion of the licensing agency representatives contain evidence of conditions that threaten the health and safety of residents. Documents or records which may be copied and made available are residents' medical records, including nursing notes, pharmacy records, medication records, and physicians' orders. The facility may charge the licensing agency at a rate not to exceed the rate charged by the department for copies. Collection shall be by billing the licensing agency. The procedure of copying will be the responsibility of the administrator or designee. If copying requires the records be removed from the facility, a representative of the facility will be expected to accompany the records and assure their order and preservation. It will be the responsibility of the licensing agency to maintain the confidentiality of all records or documents photocopied for their use. The licensing agency will protect the copies for privacy and confidentiality in accordance with recognized standards of medical records practice, applicable state laws, and licensing agency policy. In accordance with Texas Civil Statutes, Article 4442c, the facilities and their officers and employees and the residents' attending physicians shall not be held civilly liable for surrendering physicians' orders, pharmacy records, state-office notes and memorandums, residents files, and other confidential or private material under this provision.

(H) In the event any facility licensed under Texas Civil Statutes, Article 4442c, ceases operation, temporarily or permanently, voluntarily or involuntarily, notice shall be provided to the residents and residents' relatives or responsible parties of closure. If the closure is voluntary, notice to residents' relatives or responsible parties shall be in writing, giving at least seven days notice for relocation after receipt of notice. In voluntary closure actions, notices shall be provided as required within seven days of ownership's final decision to close. Written notice is waived for involuntary closure; however, the facility remains responsible for verbal notice immediately to residents, relatives, or responsible parties.

(I) Each licensed facility shall conspicuously and prominently post certain information in one area of the facility that is readily and customarily available to the public. The posting shall be in a manner that each item of information is directly visible at a single time. The location of posting shall be in a main lobby or living room or main corridor leading from the main lobby or living room, or for a facility of less than 30 beds, the posting may be in the area where public notices are usually posted, as long as that location otherwise qualifies. In the case of a licensed section that is part of a larger

building or complex, the posting shall be in the licensed section or public way leading thereto. Any exceptions shall be as approved by the licensing agency. The following items shall be posted:

(i) the facility license;
(ii) a complaint sign provided by the licensing agency giving the toll-free telephone number and noting that the number is available for both registering complaints and obtaining information concerning the facility;

(iii) a notice in a form prescribed by the licensing agency that inspection reports and related reports are available at the facility for public inspection;

(iv) a concise summary in non-technical language prepared by the licensing agency of the most recent inspection report;

(v) a notice in a form prescribed by the licensing agency stating that:

(I) a person has a cause of action against a facility, or the owner or employee of the facility, that suspends or terminates the employment of the person or otherwise disciplines or discriminates against the person, for not reporting the abuse or neglect of a facility resident to the person's supervisors, to the Texas Department of Health, or to a law enforcement agency, in accordance with Texas Civil Statutes, Article 4442c, §16;

(II) a person making a bad faith, malicious, or reckless report of abuse or neglect is subject to a criminal penalty, in accordance with Texas Civil Statutes, Article 4442c, §16; and

(III) the facility has available for public inspection of Texas Civil Statutes, Article 4442c, §16, pertaining to abuse and neglect.

(J) The inspection reports and related reports that will be available at the facility for public inspection, as noted in subparagraph (I)(iii) of this paragraph, shall include licensing inspection reports, deficiency sheets, and plan of correction (Health Care Financing Administration (HCFA) Form 2567) of Medicare and Medicaid participating facilities, and summaries provided by the licensing agency of inspections and complaint investigations provided in accordance with §145.84(a)(2) of this title (relating to Determinations and Actions Pursuant to Inspections, Surveys, and Visits). This material shall cover the most current 12 months. The material available for public inspection shall be available at the on-premises business office or administrator's office during normal facility office hours.

(K) Texas Civil Statutes, Article 4442c, §16, referred to in subparagraph (I)(v)(III) of this paragraph, shall be available for public reference at the on-premises business office or administrator's office during normal facility office hours.

(L) Summaries, inspection reports, and related reports prepared by the licensing agency will be available to the public

through the established licensing agency's public disclosure procedures.

(M) Every accident, whether or not resulting in injury and every adverse incident, including allegations of mistreatment of residents by staff of the nursing facilities shall be described in a separate incident report, and reported by the facility in accordance with Texas Civil Statutes, Article 4442c, and §145.15(i) of this title (relating to Physician Services). One copy of the completed report shall be filed with the director of nurses, and the original shall be filed in the administrator's office and retained for the period of time indicated in §145.20(g) of this title (relating to Medical Records).

(i) Incident reports shall contain such information as name of resident, witnesses (if witnesses were present), date, time, and extent of problem, circumstances under which it occurred, action taken, and final disposition that indicates the condition has stabilized and/or is resolved. The nursing staff is then to document, in the nurses notes, on each shift, the condition of the resident for at least 24 hours or until the condition stabilizes. The final disposition on the administrative report is to provide the date and time of the entry, vital signs, description of present condition, and results of any action taken.

(ii) The incident report shall be completed under the direction of the nurses or attendant in charge of the shift of duty at the time the accident or incident occurred.

(N) There shall be a dated, signed list, made in duplicate, of all major personal items and valuables (excluding clothing) within 48 hours after the admission of each resident. Corrections made to this list after admission are the responsibility of the resident, his guardian, or agency responsible for his care. The original list and all submitted corrections are kept on file in the nursing facility and a copy of these lists should be given to the resident, his guardian, or the agency responsible for his care. Upon discharge of the resident, the disposition of personal effects must be documented by a dated receipt bearing the signature of the resident, his guardian, or agency representative responsible for his care.

(3) Operating policies and procedures.

(A) The facility shall have an administrative policy and procedure manual that outlines the general operating policies and procedures of the facility. The manual must include policies and procedures related to admission and admission agreements, resident care services, refunds, transfers and discharges, receiving and responding to complaints and recommendations, and protection of residents' personal property and civil rights.

(B) The facility's written resident care services policies shall outline the nursing care, related medical services, and other services provided.

(i) These policies shall include plans for promoting self-care and independence and also include the following areas:

(I) admission, transfer, and discharge;

(II) physician services;
(III) dental services;
(IV) dietary services;
(V) nursing services;
(VI) pharmacy services;
(VII) social services;
(VIII) activities;
(IX) ancillary diagnostic and therapeutic services (such as laboratory, radiology, physical therapy);

(X) clinical records;
(XI) emergency medical/health care;

(XII) disaster plan; and
(XIII) hospital transfer agreement(s).

(ii) These resident care service policies shall be developed by professional personnel that may include the licensed nursing home administrator, physician(s), licensed or registered nurses, registered pharmacist(s), qualified social worker(s), qualified dietitian(s), and qualified medical records professional(s). These personnel must review and sign these policies at least annually and update them as necessary.

(C) The facility shall have written personnel policies and procedures that are explained to employees when first employed and always available to them. These policies and procedures may include job assignment, working hours, overtime, payment, payroll deductions, paydays, insurance, fringe benefits, time off, educational programs, vacation, resignations and terminations, breaks, probation, leaves of absence, dress, and conduct.

(D) The facility shall ensure that personnel records are current and contain sufficient information to support placement in the assigned position (including a resume of training and experience).

(E) The nursing facility shall make available their records of financial charges for the care of residents, upon request of the licensing agency and the Texas Department of Human Services.

(F) If the resident, his sponsor, and/or guardian entrusts the handling of petty cash (for incidental purposes such as soft drinks, magazines, tobacco, etc.) to the nursing facility, simple financial records of receipts and expenditures of such petty cash must be maintained in an orderly and accountable fashion. These funds shall not be deposited in the general operating bank account of the facility.

(G) The facility shall have a written transfer agreement with one or more hospitals to ensure continuity of care.

(i) The written transfer agreement shall:

(I) provide for prompt diagnostic and other medical services;

(II) ensure accountability for residents' personal effects at the time of transfer;

(III) specify the steps needed to transfer a resident promptly, safely, and efficiently; and

(IV) provide for the supplying, at the time of transfer, of a summary of the administrative, social, medical, nursing, and other information pertinent to the well being of the resident to the receiving facility. The information may be a summary of the resident's medical record or a copy of appropriate reports from the medical record.

(ii) The facility is considered to have met this standard if the licensing agency determines that the facility tried to enter into an agreement but could not, and if it is in the public interest not to enforce this standard. The facility's efforts to obtain an agreement must be fully documented in writing.

(H) If a facility does not employ a person qualified to provide a specific service, it shall have arrangements with outside resources. An outside resource shall be a qualified person, agency, or staff of a corporate entity, including temporary personnel agencies, that will provide the service directly to residents or act as a consultant to the facility.

(i) If the facility enters into an agreement with any outside resource, the facility shall state in the agreement the responsibilities, functions, objectives, and terms of the agreement, including financial arrangements and charges.

(ii) The administrator or his representative and the qualified professional shall sign the agreement. If the facility is owned by a corporation, a copy of the agreement signed by the representative of the corporate entity and the qualified professional fulfills this requirement.

(iii) The facility shall ensure that outside resources meet the same qualifications that would apply if the services were provided by facility employees.

(iv) The outside resource, if acting as a consultant, shall prepare written, signed, and dated reports to apprise the administrator of progress, plans for implementation, evaluation of performance, and recommendations. The administrator must retain the reports for two years. Deviations from physician's orders must be reported immediately to the director of nursing, who notifies the attending physician and the administrator. The nurse must also document the deviation in a separate incident report.

(b) Governing body.

(1) Legal responsibility. There shall be a governing body which assumes full legal responsibility for the overall conduct of the facility. The person(s) legally responsible for the conduct of the facility shall carry out or have carried out the functions herein pertaining to the governing body.

(2) Disclosure of ownership. The ownership of the facility shall be fully dis-

closed to the state licensing agency. In the case of corporate ownership, the corporation shall:

(A) secure, employ, or arrange for an administrator qualified under the rules of the Texas Board of Licensure for Nursing Home Administrators;

(B) provide a copy of the articles of incorporation, bylaws, and charter to do business in Texas to the licensing agency;

(C) provide to the licensing agency the name and address of the individual or agent authorized to receive service in Texas; and

(D) provide to the licensing agency a list of all individuals exercising management or control of the corporation.

(3) Compliance with laws and standards. The governing body shall be responsible for compliance with the applicable laws and licensing standards of the licensing agency.

(4) Policies and procedures. The governing body shall have written operational policies and procedures that are formally adopted, dated, updated periodically, and available to all its members, facility staff, residents, family or legal guardian of the residents, and the public.

(5) Full-time administrator.

(A) Unless the owner is the full-time administrator, the governing body shall appoint a full-time licensed administrator. The governing body shall delegate in writing to the administrator full authority for the internal operation of the facility in accordance with established policy. The state license for operation of the facility must be issued in the name of the full-time licensed administrator. The administrator shall be accountable to the governing body for overall management of the facility.

(B) The administrator shall have no physical or mental disabilities or personality disturbances which interfere with carrying out his or her responsibilities.

(C) The administrator's responsibilities for procurement and direction of competent personnel shall be clearly defined.

(D) An individual competent and authorized to act in the absence of the administrator shall be designated in writing.

(E) The administrator may be a member of the governing body.

(F) The facility must notify the licensing agency immediately if the facility does not have an administrator.

(c) Staff development. Each facility shall implement and maintain programs of orientation, training, and continuing in-service education of all employees who have any contact with the residents. The programs shall meet the requirements described in this section. However, these specified programs of orientation, training, and continuing in-service education do not apply to licensed facilities or sections thereof participating in the ICF-MR V and VI categories under Public Law 93-641, Title XIX of the Social Security Act.

(1) General description of orientation, training, and continuing in-service education programs. The following orientation, training, and continuing in-service education programs shall be provided by the facility for its employees.

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the same as required for new employees, or shall receive part or all orientation or training as necessary to have such required competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from a standard training inventory list prepared by and supplied only in sample form by the licensing agency. The facility shall make all necessary copies. The form shall not be modified in any way. The standard training inventory list, hereinafter referred to as the training inventory list, will be the document used to accomplish the following:

(i) to serve as an inventory for determining if more training is needed for present employees, and if so, in what areas;

(ii) to determine the level of training success for each employee; and

(iii) to point out employees who fail to adequately complete training and who must receive all or part of the orientation or training again as necessary to gain required competency and knowledge.

(B) The orientation section of the training inventory list will be the same for all employees. Each job-specific area will be covered by the training inventory list. The inventory list will be administered by the facility training coordinator or by the appropriate and competent person named to carry out or assist in carrying out the training program. The administrator of the inventory list must be closely familiar with the actual training each individual taking the training inventory list has undergone.

(C) New employees shall receive orientation and job-specific training of the content and scope as specified herein and as approved by the licensing agency. This training must be verified by administration of the training inventory list upon completion of training.

(D) Both new and present employees must receive continuing in-service education of content and scope, as it relates to the job category involved and as approved by the training coordinator.

(2) Employees involved.

(A) Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II-VI (job-specific training) of the basic training outline of the licensing agency for these training programs, but will be included

in training required for all employees found in Section I, orientation, and in continuing education.

(B) Orientation is required for all employees, except the administrator. The employee categories requiring job-specific training and continuing in-service education to their respective jobs are nursing, dietary, janitor/housekeeper, activity-social service, and medical records.

(i) For the purpose of this subsection, a medication aide is considered a nurse aide and must receive the same training as the nurse aides in orientation, job-specific training, and continuing in-service education. The continuing in-service education requirement for nurse aides in this subsection may not be used for renewal as a medication aide.

(ii) Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administrators-in-training under the auspices of that board are not included. Consultants and sub-contract personnel who are not employees of the facility are not included.

(iii) A person who is employed as a food service supervisor and enrolls in an approved food service supervisors course within 90 calendar days after the date of employment is not required to receive the dietary job-specific training.

(iv) Activity directors who meet the requirements for activity directors under the intermediate care facility standards for participation of the Texas Department of Human Services are excluded from the job-specific training.

(v) A person who is employed as the activity director and enrolls in an activity directors course that is approved by the Texas Department of Human Services is exempt from the activities director training, provided the 80-hour activity director course is begun within 90 calendar days after the date of employment.

(C) The administrator shall be responsible for determining that employees who come from outside placement resources have been adequately trained to perform the job which they will occupy in the facility. Outside placement resources would include contract personnel, registry personnel, agency pools, and temporary help placement agencies. Orientation programs for such individuals may be conducted at the discretion of each facility. Facility administrators shall request outside placement resources to provide documented evidence that their personnel have successfully completed the required training.

(3) Facility training coordinator.

(A) The administrator of the nursing facility shall designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing in-service education. The training coordinator shall engage the services of appropriate and competent persons to carry out

or assist in carrying out the programs. The coordinator, based on his own instruction, or by recommendation of the instructors or trainers involved, shall determine the status of all employees, new and present, with respect to training programs, training needs, and competencies. The coordinator will be held responsible for checking or causing to be checked the credentials of persons being trained.

(B) A training coordinator may serve more than one facility as long as the training program requirements are met. As the training coordinator will be responsible for the training of all employee categories, that person shall be a professionally or vocationally licensed person in health care or shall hold a Bachelors Degree from an accredited college or university. Ideally, the training coordinator will have had training or experience in adult education and in the general areas of health care.

(C) To assure that the overall quality of service provided by the facility is not lessened, the facility administrator and director of nurses are not to serve as the training coordinator.

(4) Methods acceptable.

(A) It is the intent of the licensing agency to accept various methods by which a facility may accomplish its training and in-service education programs as long as the employees receive the training and education necessary to achieve the competencies and proficiencies outlined in the training inventory list within the required total time frames. Programs may be conducted in the facility, in a school or college, or elsewhere. Instructors may be consultants, qualified facility employees, including the training coordinator, persons from outside the facility, or representatives of schools or other organizations, as engaged or approved by the training coordinator. Facility employees with other duties may be used in training programs, as long as their other required duties are not adversely affected.

(B) A facility consultant may teach the continuing in-service education required to this program and count that as part of the time spent in consultation. The time a consultant may use teaching in orientation (Section I) or job-specific training (Sections II-VI) may not be counted as time spent in consultation.

(C) Any generally recognized training technique may be used, including, when appropriate, demonstration and learning-by-doing while actually on the job. In teaching technical and nursing care of the elderly and other residents of the facilities, consideration shall be given in all such subjects to the psychological and social needs of the residents.

(D) If the facility chooses to purchase training from a college, school, or other institution to meet these requirements, the course must be approved. For a college, school, or other institution to acquire approval, it must submit a letter of intent or training outline it will use to the licensing

agency for approval. If the college, school, or other institution uses the material suggested by the licensing agency, it may submit a letter of intent to the licensing agency. In either case, it is the facility's responsibility to determine that the college, school, or other institution has a current approval from the licensing agency. The licensing agency will maintain a current list of approved training institutions. Health care facilities shall have open access to that list.

(5) Examinations. The training coordinator is to assure himself/herself that the employee being trained is in fact receiving the knowledge and attaining the skills in accordance with the intent of the program. The licensing agency will provide samples of the required standardized training inventory list. The training coordinator may develop examinations or other tests of skills or knowledge; but such tests may not be used in lieu of the required standardized training inventory list.

(6) Records.

(A) Each facility shall keep appropriate records on each employee who must be involved in training and education programs. The records shall show the status and progress of each employee with reference to his/her required training and shall denote completion and show the date of completion of the appropriate training. An employee is not eligible to receive a record of completion of job-specific training until the required course work is completed and the training coordinator is satisfied appropriate skill levels are attained. Thus, the awarding of a completion record may take as long as 120 calendar days for an employee.

(B) Copies of all records and training inventory lists will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and training inventory lists need only be maintained by the training institution. Training inventory lists and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educational institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his/her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request, the facility shall provide that employee with a copy of his/her training inventory list and/or other documentation showing his/her status with respect to required training; such records shall be shared with another facility on request of the employee. All records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the train-

ing coordinator by the administrator and a resume or curriculum vitae of the coordinator.

(7) Programs teaching outline.

(A) New employee training.

(i) New employee orientation and job-specific training shall meet the requirements specified in §145.131 of this title (relating to Basic Teaching Outline). The training for an employee shall include information not less than that specified for the category or sub-category applicable to the employee in the basic teaching outlines included as a part of these sections.

(ii) If a facility has a policy prohibiting a skill to be performed, that facility may exclude the training for that skill. Similarly, if a facility has no residents requiring a certain skill, that facility may exclude the training for that skill. In both cases, documentation to this effect shall be made on the individual's training inventory list.

(iii) Each facility shall submit a letter of intent which shall include an outline of the subject matter (if different from the one suggested by the licensing agency), the date of implementation of the training, and the name and curriculum vitae of the designated training coordinator. The substituted teaching outline is subject to approval by the licensing agency. A copy of the licensing agency's basic teaching outline and suggested plan for implementing the training program will be furnished to each facility; additional copies may be reproduced by the facility. The minimum subject requirements of training for each category are shown in the licensing agency's basic teaching outline, and it is expected that each individual subject in each category will receive an appropriate amount of time. Appropriate learning-by-doing, when supervised by the training coordinator or the person designated by the training coordinator, may count toward job-specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing in-service education. Continuing in-service education subjects shall relate to the job category involved and be as approved by the training coordinator.

(8) Schedule of training and continuing in-service education.

(A) New employee training. Full orientation shall be provided within 10 working days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed within 120 calendar days following the 10-working day orientation.

(B) Continuing in-service education.

(i) Each new and present employee shall secure or receive the numbers of hours of continuing in-service education per year as appropriate to his/her specific job, but not less than the following:

(I) licensed nursing personnel and nurse aides—two hours per quarter;

(II) food service supervisors, cooks and helpers, dietary aides—two hours per quarter;

(III) housekeepers, janitors, laundry workers—one hour per quarter;

(IV) activity staff—one hour per quarter;

(V) social services staff—one hour per quarter; and

(VI) medical record clerk—one hour per quarter.

(ii) When related to the employee's respective job, attendance at outside meetings or seminars may be used to satisfy the continuing in-service education requirement for a maximum of four quarters. The facility shall keep records of the total number of hours of in-service education for all employees in the facility as well as records of attendance of each individual employee.

(C) Present employees. Documentation that present employees meet the same requirements for new employees shall be recorded on the same training inventory list and other report forms as used for new employees.

(9) Employees already trained or partly trained when employed.

(A) New employees.

(i) Any new employee who has already met all the training requirements or has had similar training or six months previous employment in a health care facility, and presents verification of previous experience, need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator. In either instance, the training inventory list will be used as the record for documenting credit.

(ii) Any new employee that has had at least six months previous experience in a health care facility may demonstrate competency to the training coordinator. The required training inventory list will be administered by the facility training coordinator or by the appropriate and competent person to determine if more training is needed, and if so, in what areas. The employee's previous service dates are to be verified by the former employer, and this documentation included in the employee's training record.

(B) Job interruption. Job interruption for any reason, including leave of absence, will cause a suspension of the minimum training time. The training time restarts immediately upon the renewal of active employment.

(C) Part-time employees.

(i) Part-time employees shall be included in orientation and their respective job-specific training and continuing in-service education.

(ii) Additional time may be allowed for the completion of both the orientation and job-specific training for part-time employees. The number of hours worked will determine the time allowed for completion of training. Orientation must be completed within 80 hours worked and job-specific within 960 hours worked.

(10) Employees changing positions within the facility. An employee changing position within a facility will be considered as a new employee with respect to the new position, and will be subject to being provided with any additional training that would be required for the category or sub-category of the new position within the total minimum training time for that job category or sub-category.

(11) Monitoring and assistance by the licensing agency. Each facility shall maintain not less than a 30-day advance schedule of training classes. This shall not apply for classes being taught by a college, school, or other institution, where the advance scheduling becomes the responsibility of that institution. The licensing agency may monitor any training or education session. The licensing agency will offer assistance in organizing and maintaining training programs, or in orienting training coordinators, to the extent licensing agency staff and funds permit.

(12) Change of ownership.

(A) When a facility undergoes a change in ownership, the administrator shall submit a letter to the licensing agency to report the status of the training program. If the training programs remain unchanged, the letter shall so state. Changes of training coordinator or the method by which the facility accomplishes its training should be reported in writing.

(B) The change of ownership letter must be submitted within 30 days of the change. Pending approval from the licensing agency, the facility should begin the training program so as to have it fully operational within 60 days following the change of ownership.

(d) Volunteer program.

(1) The facility will promote and support a volunteer program designed to assist in meeting the social and emotional needs of the residents.

(2) A volunteer council may be utilized to involve the community in the volunteer program.

§145.14. Resident Rights. The governing body of the facility establishes written policies regarding the rights and responsibilities of residents and, through the administrator, is responsible for development of, and adherence to, procedures implementing such policies. These policies and procedures are made available to residents, to any guardians, next of kin, sponsoring agency(ies), or representative payees selected pursuant to the Social Security Act, §205(j), and 20 Code of Federal Regulations Part 404, Subpart Q, and to the public. The staff of the facility

is trained and involved in the implementation of these policies and procedures. These resident rights policies and procedures ensure that, at least, each resident admitted to the facility:

(1) is fully informed, as evidenced by the resident's written acknowledgement, prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing conduct and responsibilities;

(2) is fully informed, prior to or at the time of admission and during stay, of services available in the facility, and of related charges, including any charges for services not covered under the Social Security Act, Titles XVIII or XIX, or not covered by the facility's basic per diem rate;

(3) is fully informed, by a physician, of his/her health condition, unless medically contraindicated (as documented by a physician in his medical record), and is afforded the opportunity to participate in the planning of his/her treatment and to refuse to participate in experimental research;

(4) is transferred or discharged only for medical reasons, or for his/her welfare or that of other residents, or for nonpayment of his/her stay (except as prohibited by the Social Security Act, Titles XVIII or XIX), and is given reasonable advance notice to ensure orderly transfer or discharge, and that such actions are documented in his medical record;

(5) is encouraged and assisted, throughout his/her period of stay, to exercise his rights as a resident and as a citizen, and therefore may voice grievances and recommend changes in policies and services to facility staff and/or to outside representatives of his/her choice, free from restraint, interference, coercion, discrimination, or reprisal;

(6) may manage his/her personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his/her behalf should the facility accept his/her written delegation of this responsibility to the facility for any period of time in conformance with state law;

(7) is free from mental and physical abuse, and free from chemical and, except in emergencies, physical restraints, except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the resident from injury to himself/herself or to others;

(8) is assured confidential treatment of his/her personal and medical records, and may approve or refuse their release to any individual outside the facility, except in case of his/her transfer to another health care facility, or as required by law or third-party payment contract;

(9) is treated with consideration, respect, and full recognition of his/her dignity and individuality, including privacy in treatment and in care for his/her personal needs;

(10) is not required to perform services for the facility that are not included for therapeutic purposes in his/her plan of care;

(11) may associate and communicate privately with persons of his/her choice, and send and receive his personal mail unopened, unless medically contraindicated (as documented by his/her physician in the medical record);

(12) may meet with and participate in activities of social, religious, and community groups at his/her discretion, unless medically contraindicated by his/her physician in his/her medical record;

(13) may retain and use his/her personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents, and unless medically contraindicated (as documented by his/her physician in the medical record); and

(14) if married, is assured privacy for visits by his/her spouse; if both are residents in the facility, they are permitted to share a room, unless medically contraindicated (as documented by the attending physician in the medical record).

§145.15. *Physician Services.*

(a) Residents will be admitted only upon the order of a physician.

(b) Upon admission, the person or agency responsible for the placement of the resident in a nursing facility shall see that arrangements are made for medical care of the resident.

(c) Each nursing facility shall require as a condition of admission that all residents have a comprehensive physical examination by a physician licensed to practice medicine in Texas within 14 days prior to admission and that the facility be furnished a written report of such examination. This comprehensive physical examination report, including diagnosis, orders, and any other information that may be needed for the care of the residents, shall also be provided. However, if the referring physician is not the physician to be the treating physician, it will be necessary for the resident to be seen by the treating or attending physician within 48 hours after admission and a comprehensive physical report be written by the physician of such evaluation and attached to the resident's record. A recent hospital discharge summary or a recent hospital history and physical examination record which contains all the required information may be utilized, provided the treating or attending physician acknowledges the documents, in writing, by cosigning the report.

(d) Each resident shall be examined at least annually by his or her family physician, and a comprehensive history and physical report shall be placed in the chart indicating the physician has done so and giving the physician's diagnosis. Every resident should then be seen by the resident's attending physician at least quarterly or more often as necessary, and a written report of this visit should be

attached to the resident's record in the facility.

(e) Physicians must review and sign their program of care.

(1) Physician's orders must bear the usual signature of the physician responsible for the orders, as well as the effective date.

(2) Changes cannot be made either on a handwritten or computerized physician's order sheet after the orders have been signed by the physician, unless space allows for additional orders below the physician's signature, including space for the physician to sign again.

(3) In the event a change of orders is necessary, they will need to be treated as new orders. Should the change be by telephone, the telephone order shall be mailed to the physician for signature within 72 hours and returned to the clinical chart within seven days. Telephone orders will be kept in the resident's medical record on a separate sheet of paper until they have been consolidated with the current orders.

(f) In the event of an acute illness or accident requiring medical and/or nursing care beyond the capabilities of a facility providing nursing care, the resident shall be transferred to a hospital where needed services and facilities are available; provided, however, until said transfer is made, the personnel shall have authority to carry out emergency procedures as prescribed by a licensed physician. In case of an emergency illness which does not necessitate transfer of a resident from the facility, the nurse in charge shall keep a necessary record of medications and vital signs in order to keep the attending physician fully informed relative to the health status of the individual resident.

(g) Each resident shall have the privilege of being served by a local physician selected by the resident or the resident's guardian.

(h) Every facility shall have an advisory physician to serve as a consultant and to provide emergency service.

(i) In case of a serious accident, acute illness, or death, the next of kin or person responsible for the placement of the resident in the facility shall be notified immediately by the person in charge at the time the accident, illness, or death occurs.

(j) The name of any resident of a facility with a communicable disease shall be reported immediately to the city health officer, county health officer, or health unit director having jurisdiction, and such person shall not be kept in the facility; however, such person may be permitted to remain in the facility with the approval of the city health officer, county health officer, or health unit director having jurisdiction if it is found that adequate isolation facilities are provided or the seriousness or expected duration of the disease is such as to cause no danger to the other residents.

§145.16. *Dental Services and Other Professional Services.*

(a) Dental services.

(1) At the time of admission, a facility nurse shall obtain and record in the clinical record information relating to the dental history and needs of the resident. Such information shall include, but not necessarily be limited to, whether the resident has a family dentist, the last time the resident received professional dental care, current known dental problems, dental appliances, needed help with oral hygiene, and other pertinent information or observations appropriate for a nurse to make. This information, together with the history and physical reports completed by a physician, will be of value to dentists, physicians, and nursing staff in the care and treatment of the resident.

(2) The facility shall engage an advisory dentist to participate in the staff development program for nursing and other appropriate personnel at least annually. The dentist shall recommend oral hygiene policies and practices for the care of the resident. Professional judgment by the facility management and the advisory dentist will dictate the amount of time and the length of each visit to the facility.

(3) The facility shall maintain a list of local dentists for residents who do not have a private dentist.

(b) Other professional services.

(1) The facility shall maintain a list of podiatrists in the area as assistance to the resident in arranging for podiatric care.

(2) The facility shall maintain a list of optometrists in the area as assistance to the resident in arranging for optometric services.

§145.17. Nursing Services.

(a) Staffing.

(1) The facility shall provide 24-hour nursing services, seven days a week, adequate in quality and amount to meet the needs of the residents who are admitted to and remain in the facility.

(2) The nursing service is directed by a registered professional nurse or a licensed vocational nurse who is employed full-time in the facility and is responsible for the total nursing service. The director of nurses may be relieved on her days off by a licensed vocational nurse. The director of nurses serves only one facility in this capacity.

(A) The director of nursing shall work during the day, including the morning shift, and shall devote a minimum of 40 hours each week to the nursing service of the facility. The director of nurses may be the charge nurse on the 7 a.m.-3 p.m. shift in a facility with less than 60 beds. If the director of nursing has administrative responsibility for the facility, she must have a nurse assistant so that there is the equivalent of a full-time director of nursing service.

(B) A director of nurses responsible for multiple distinct part facilities may not be counted in the nurse-to-resident ratio as she is not restricted to one distinct part.

(3) The charge nurse on the 3 p.m.-11 p.m. and the 11 p.m.-7 a.m. shifts shall be at least a licensed vocational nurse. The charge nurse must be relieved on days off by at least a licensed vocational nurse.

(4) The licensed nurse ratio for each 24-hour period shall be a minimum of one such nurse to 30 residents. Special consideration shall be given on the deployment and utilization of nursing staff in situations involving multiple nursing stations and type of building housing the facility.

(5) It shall be the duty of the licensee/administrator to see that in addition to the aforementioned ratios for licensed personnel, the nursing staff, including nurse aides and orderlies, will be sufficient to provide 24-hour nursing service and shall be increased whenever necessary to assure that each resident receives treatments, medication, and diet as prescribed; receives proper care to prevent decubiti and is kept comfortable, clean, and well-groomed; is protected from accident and injury by adoption of indicated safety measures; and is treated with kindness and respect. Nursing time devoted to other than resident care shall not be included in computing the nursing requirements. It should be recognized that the primary duties of nurse aides and orderlies consist of direct resident care and services, as distinguished from housekeeping, laundry, and dietary functions.

(6) Personnel not acceptable on nursing staff would include:

(A) persons who are mentally, physically, or emotionally unable to perform assigned duties;

(B) persons whose behavior or health appears to endanger the health, safety, and well-being of residents; and

(C) persons unable to read and write English.

(7) There shall be sufficient nonattendant personnel on duty in the facility to maintain order, safety, and cleanliness of the facility and premises, to prepare and serve meals, to keep an adequate supply of clean linens, to assist and supervise the residents in the use of the recreational facilities, and to meet the other operational needs of the facility. All such persons shall be physically and mentally able to perform the duties assigned.

(8) A graduate vocational nurse who has a temporary work permit must work under the direction of a licensed vocational nurse or a registered nurse who is physically present in the facility.

(9) A graduate nurse with a work permit must work under the direction of a registered nurse who is physically present in the facility.

(10) If the facility employs a licensed vocational nurse to supervise and direct nursing services, the facility must have an agreement with a registered nurse (RN) who must provide the vocational nurse at least four hours of consultation per week in the facility.

(A) The RN consultant will not assume director of nursing duties, but will act as a consultant to help solve problems involving resident care, conduct in-service training, and maintain proper medical records.

(B) It is not required that a facility hire a replacement for the RN consultant to satisfy the four hours per week requirement during an annual vacation. It is common practice to earn one week of vacation at the end of six months employment or two weeks at the end of one year. Absenteeism for vacation which exceeds this time frame must be covered by another RN.

(C) A facility is not required to hire a replacement for the RN consultant during a personal illness, provided there is evidence of satisfactory past performance, and provided the illness does not create an absenteeism which exceeds 30 days.

(D) When it is anticipated that the RN consultant will be absent for the maximum of 30 days due to illness, the survey agency must be notified.

(E) RN time spent in continuing education workshops may not be counted as hours of consultation for the facility.

(11) If the facility uses licensed temporary nursing personnel, they must have the same qualifications that permanent facility employees do. Temporary personnel may not serve as the director of nurses. If temporary personnel are used for afternoon or night shifts, a full-time licensed nurse of the facility must be on call and immediately available by telephone.

(12) The private duty nurse or sitter must perform within the scope of the written resident care policies and procedures and administrative policies of the facility in which he/she is caring for a resident.

(b) Nursing care service.

(1) The director of nursing services participates in the development and implementation of resident care policies.

(2) The director of nursing services assures that orientation, training, and continuing in-service education for all nursing personnel are provided consonant with the requirements of staff development in §145.13 (c) of this title (relating to Administrative Management).

(3) The director of nursing services assures that an intradisciplinary overall plan of care is established for each resident and that the plan is reviewed and modified as necessary, but at least every 90 days.

(A) The overall care plan must be written in ink or typewritten. Additions and/or alterations, and the required review and revisions must also be permanently recorded.

(B) The overall care plan must be kept at the nurse's station, readily accessible to all staff providing care.

(4) Charting must be under the direction of the licensed nurse on each shift. Any entries in a resident's records regarding observation, assessment, and intervention re-

garding the resident's condition or treatment shall be made by a licensed nurse.

(5) Daily rounds to observe all residents will be made by the charge nurse on each shift.

(6) Nursing personnel must be aware of nutritional needs of residents and assure that dietary needs are met.

(7) Nurses will only perform nursing practices that they have been taught, are qualified to perform, deemed competent by the director of nurses, and are considered acceptable nursing practices.

(8) Under ordinary circumstances, venipunctures and insertion of nasogastric tubes will be accomplished by a registered nurse.

(9) If the LVN has been taught to do venipunctures and/or insertion of nasogastric tubes, then that specific LVN may perform those procedures. The facility must have documentation that the LVN (by name) has been taught the procedures and by whom, and is competent to perform those procedures.

(10) In cases of venipunctures, blood specimens for laboratory tests may be drawn and intravenous fluids may be started by any licensed nurse, but the LVN may not give any medications intravenously.

(11) Nursing service staff will observe, recognize, record, and report to the physician sudden and/or severe changes in resident clinical signs and symptoms and/or conditions.

(12) Direct care personnel must meet the needs of the resident, including good grooming and seeing that they are dressed appropriately.

(13) Levine tube feedings will be given in accordance with physician's orders by a registered or licensed nurse only using established feeding procedures.

(14) Syringe feedings will be given in accordance with physician's orders and established feeding procedures. They may be given by an aide, provided the aide has had in-service from the licensed nurse and has done a return demonstration.

(15) Catheters will be inserted/irrigated in accordance with physician's orders by registered/licensed nurses using established procedures. Intake and output records will be kept as indicated by the physician. Catheters will be positioned at all times to allow for gravity.

(16) Rehabilitative nursing services must be provided and maintained; i.e., good body alignment, proper positioning, exercising of bedfast residents, the use of protective devices; and proper skin care. Annual in-service training in rehabilitative nursing procedures must be given to all direct care staff.

(17) Emergency medical care will be obtained when required.

(18) Restraints are used in accordance with physician's orders and established procedures.

(A) Restrained residents must be released for 10 minutes and repositioned every two hours.

(B) In case of emergency, the charge nurse may restrain a resident, then must immediately obtain a telephone order from the physician.

(C) Monitoring restraint procedures include observation of the resident every hour.

(D) Annual in-service must be given to all direct care staff on the use of restraints.

(E) Locked restraints are not allowed.

(19) Fecal impactions must be removed by licensed persons.

(20) Direct care staff must wash their hands between caring for residents.

(21) Weekly skin assessments of all residents are required and documentation of findings will be recorded in the medical record.

(22) When suctioning is necessary for a resident, it must be done by licensed nurses or physicians.

(23) The routine reduction and/or debridement of nails are nursing procedures and should be performed by facility nursing staff, unless contraindicated by systemic disease processes. Unless a skin problem involving the hands exists in a resident with a systemic disease (i.e., diabetes), it is not required to obtain an order for a professional manicure.

§145.18. Social Services.

(a) General requirements. The facility must develop policies which provide for identifying the social and emotional needs of each resident. Social services shall be provided directly or residents shall be referred to a recognized social service agency. The facility will develop procedures which describe the way the facility will meet the needs of each individual.

(b) Social services needs identification. The facility will gather information in order to assist the resident to adjust to the social and emotional aspects of his/her illness, treatment, and stay in the facility.

(1) Social history. The facility must begin a resident's social history at admission and complete it within 30 days after admission. A checklist may be used. The facility must include in the social history at least information about the following areas:

(A) background:

- (i) age, sex, and marital status;
- (ii) birthplace/family history, including family of origin and current family structure;

- (iii) religion;
- (iv) cultural and ethnic background;

- (v) work history;
- (vi) education;
- (vii) special training or skills;
- (viii) habits; and
- (ix) language commonly used;

(B) social:

- (i) hobbies and leisure time activities;

- (ii) living situation before admission;

- (iii) relationship with family and friends;

- (iv) involvement with organizations and individuals within the community; and

- (v) factors and feelings about placement in the nursing facility;

(C) psychological:

- (i) emotional and mental status before admission;

- (ii) behavior problems;
- (iii) special coping mechanisms;

- (iv) personal view of old age;

and

- (v) orientation to time, person, place;

(D) physical functioning:

- (i) communication: type and effectiveness, verbal, non-verbal;

- (ii) self-help skills;

- (iii) sight and hearing;

- (iv) mobility; and

- (v) prosthetic devices and adjustments.

(2) Identification of problems and needs. Need/problem identification must be completed within 30 days of admission. Social/emotional/environmental needs considered in the assessment must include:

- (A) adjustment to the facility;

- (B) staff/resident interaction;

- (C) relocation adjustment assistance;

- (D) individual/family illness reactions;

- (E) cognitive disorders (disorientation);

- (F) medical services and equipment;

- (G) goal-directed therapy and equipment;

- (H) family relationships;

- (I) behavior problems;

- (J) legal assistance;

- (K) financial needs;

- (L) special items, materials;

- (M) interpersonal relationships;

- (N) death and dying counseling;

and

- (O) mood/thought disturbance.

(3) Discharge planning. The facility must develop a discharge plan within seven days of admission for each resident for continuing care after discharge. The person responsible for providing social services must be a participant in the development of the discharge plan.

(A) Facility policies and procedures will specify how the discharge planning will be conducted.

- (i) Local resources available to assist in the development and implementation of discharge plans will be identified.

- (ii) The person responsible for providing social services will ensure that discharged residents have access to required services.

(iii) Each resident's discharge plan will be re-evaluated and modified as necessary, at least each 90 days, as the resident's overall plan of care is reviewed.

(B) The discharge plan must address social needs of the resident, describe available social support resources (friends, family), and must be developed with the active involvement of the resident, the family, and other persons necessary to assure the plan is effective.

(c) Social service staffing and care planning.

(1) In facilities that choose to provide directly:

(A) the social service director must meet the definition of such a person as stated in §145.12 of this title (relating to Definitions), including receiving social service consultation, if necessary;

(B) social services offered by the facility will be provided under a clearly defined care plan.

(2) In facilities that choose to refer:

(A) the facility will designate the administrator to arrange for social service referrals;

(B) when residents are referred, a care plan will be developed which will describe the purpose of the referral and will identify the resource who will provide the services.

(3) The care plan will be integrated into the overall plan of care by the person responsible for social services. Every 90 days, or more frequently as necessary, the social needs of the resident will be reviewed, and a plan developed, or the existing plan updated, to assure services are provided.

§145.19. Activities.

(a) General requirements.

(1) The facility must provide an ongoing activities program designed to stimulate and promote the physical, social, emotional, and intellectual well-being of each resident.

(2) The facility must develop written policies and implement procedures for meeting the activity needs of the residents. The facility must ensure that the policies and procedures identify how the activities program is managed and implemented, and identify sufficient recreational areas, equipment, and materials used in supporting the program. The facility's policies must address the development of an activities plan for each resident which is used in the overall plan of care for the resident.

(3) The nursing facility administrator must designate a qualified employee of the facility to function as the activities director who is responsible for the activities program.

(b) Activities needs identification. The facility will gather information in order to determine how to meet the needs and interests of each resident, to encourage self care, assist in the resumption of normal activities,

and assure maintenance of an optimal level of psychosocial functioning.

(1) Activities interest list. The interest list is to be started upon admission of the resident and completed within 30 days. Past and current activities interests must be documented and the information updated as interests change. A checklist may be used.

(2) Identification of activities needs. Information will be gathered through the activities interest list, the social history, the social needs identification, and the assessment of functional level. The process should consider needs for one-to-one relationships, social group interaction, reality orientation, intellectual stimulation, recreation, self-expression, and activities related to daily living and the needs of special resident populations, such as the bedfast, room-bound, and/or under age 18 residents must be clearly addressed. Needs identification should indicate the degree to which the resident can participate in the care planning process.

(c) Activities director requirements. There will be an employee designated, in writing, as activity director. The activity director will meet the qualifications stated in this subsection. Consultation, if required, must be provided at least four hours every two months for facilities with an average daily occupancy of 60 or fewer residents. For facilities with an average daily occupancy of over 60 residents, consultation must be provided at least eight hours every two months.

(1) Qualifications.

(A) The person designated as activities director must meet one of the following criteria:

(i) a therapeutic recreation specialist who:

(I) has completed a four-year course in an accredited college or university with a major study in or related to therapeutic recreation; and

(II) is registered as a therapeutic recreation specialist under the requirements set by the National Therapeutic Recreation Society;

(ii) an occupational therapist who:

(I) is certified as an occupational therapist by the American Occupational Therapy Association; and

(II) is a graduate of an occupational therapist educational program accredited jointly by the American Occupational Therapy Association and the Committee on Allied Health Education and Accreditation of the American Medical Association;

(iii) an occupational therapy assistant who:

(I) is certified as an occupational therapy assistant by the American Occupational Therapy Association; and

(II) is a graduate of an occupational therapy assistant program accredited by the American Occupational Therapy Association;

(iv) a person who has a Master's Degree in social work, social or beha-

vioral sciences, therapeutic recreation training or rehabilitation education, or education;

(v) a person who has a Bachelor's Degree in social work, social or behavioral sciences, therapeutic recreation training or rehabilitation education, or education;

(vi) a person who has completed 60 or more college credits toward a degree in social work or a degree in social or behavioral sciences and has completed the state-approved activities director course;

(vii) a person who:

(I) has a high school diploma or equivalency certificate;

(II) has completed a state-approved activities director course; and

(III) has two years of full-time experience in a patient activities program in a health care setting.

(B) Persons qualifying under subparagraph (A)(vi) or (vii) of this paragraph, but who lack the state-approved course or the experience requirements, may serve as an activities director, with consultation from a qualified activities consultant until the full requirements are met for no longer than one year from the date of employment.

(C) A person is exempt from completion of the state-approved course if:

(i) the person was employed full-time as an activities director continuously since January 1, 1976; or

(ii) the person has successfully completed a 36-clock hour activities director's course before November 1, 1978, which was sponsored by an accredited educational institution or professional group or association.

(2) Continuing education. Activities directors must successfully complete eight hours of approved continuing education or equivalent continuing education units each year, in addition to the four hours required for basic orientation and training.

(d) Resident activities plan.

(1) The facility will develop an activities plan for each resident within 30 days of admission, within the activities level approved by the attending physician, which encourages the return to normal activities and self-care. The plan will include long term goals, short term objectives, and approaches.

(2) The plan will be integrated into the overall plan of care by the activities director. Every 90 days, or more frequently as necessary, the activities needs of the resident will be reviewed and the plan updated to assure services are provided.

(3) The resident shall participate in the development, the reviews, and the updates of the plan to the fullest extent possible, and the participation must be documented in the plan.

§145.20. Medical Records.

(a) Each nursing facility shall be required to secure at the time of admission of a resident the following identifying information as required under Texas Civil Statutes, Article 4477, Rule 50a:

- (1) name of resident (first, middle, and last);
 - (2) usual residence (where resident lived before admission to nursing facility):
 - (A) state;
 - (B) county;
 - (C) city or town (if outside city limits, give precinct number);
 - (D) street address (if rural, give location);
 - (3) sex;
 - (4) color or race;
 - (5) marital status: married, never married, widowed, divorced;
 - (6) date of birth;
 - (7) usual occupation (give kind of work done during most of working life, even if retired);
 - (8) kind of business or industry;
 - (9) birthplace (state or foreign country);
 - (10) father's name;
 - (11) mother's maiden name;
 - (12) whether patient was ever in United States Armed Forces:
 - (A) yes, no, unknown;
 - (B) if yes, give war or dates of service;
 - (13) name or organization in which service was rendered;
 - (14) serial number of discharge papers or adjusted service certificate;
 - (15) name and post office address of next of kin or of next friend;
 - (16) Social Security number.
- (b) The nursing facility shall maintain an admission log of all residents admitted to the facility. This log should contain at least the following information on each resident:
- (1) name of resident (first, middle, and last);
 - (2) sex;
 - (3) date of birth;
 - (4) date of admission;
 - (5) date of discharge/death;
 - (6) disposition.
- (c) The nursing facility shall maintain a separate clinical record for each resident admitted with all entries kept current, dated, and signed. The record shall include:
- (1) identification information as outlined in subsection (b) of this section;
 - (2) medication and treatment record, including all medication, treatments, and special procedures performed for the safety and well-being of the resident;
 - (3) nurses' notes containing documentation of activities of daily living and medications administered by nursing staff;
 - (4) physician progress notes made after each visit or consultation, physician orders signed within 72 hours after documentation or receipt, and history and physicals;
 - (5) any laboratory and x-ray reports; and
 - (6) the overall plan of care, developed 30 days after admission, updated as necessary or at least quarterly.
- (d) The nursing facility must protect medical/clinical records against loss, dam-

age, destruction, and unauthorized use.

(e) The facility must safeguard the confidentiality of medical record information from unauthorized access. The facility must allow access and/or release confidential medical information under court order or by written authorization of the resident or his/her legal guardian, unless the physician documents in the medical record that access to the information would be harmful to the physical, mental, and emotional health of the resident.

(f) Exceptions to subsection (e) of this section are:

(1) the facility must make clinical records available for review and copying as stated in §145.13(a)(2)(G) of this title (relating to Administrative Management); and

(2) the facility must make clinical records available to those parties as stated in the Texas Medical Practice Act, Article 4495b, §5.08(h).

(g) The facility must retain the records:

(1) for five years after medical services end; or

(2) in the case of a minor, three years after he comes of age under state law.

(h) Nonwritten natural death act directives issued by terminally ill adult residents must be made in the presence of the attending physician and two witnesses and recorded and made a part of the resident's medical record. At least two witnesses to the resident's declaration to withhold or withdraw life-sustaining procedures are required to sign the entry in the resident's medical record. Additionally, the attending physician and witnesses must comply with all other requirements of Texas Civil Statutes, Article 4590h.

(i) A discharge summary is to be developed at the time of the resident's discharge. This report should contain at least the following information:

- (1) resident's name;
- (2) attending physician's name;
- (3) admission date;
- (4) discharge date;
- (5) admission diagnosis(es);
- (6) final diagnosis(es);
- (7) condition on discharge;
- (8) prognosis;
- (9) disposition of resident;
- (10) attending physician's dated signature.

(j) During the voluntary/involuntary closure of facilities or change of ownership or change of administrative authority, the new management must be able to present documented proof of the medical information required for the continuity of care of all residents. This documentation may be in the form of copies of the resident's medical record or the original medical record.

(k) The nursing facility must designate an employee to be responsible for the medical records. This person is to:

- (1) be a registered record administrator (RRA) or an accredited record technician (ART); or

(2) have experience, training, and demonstrated supervisory competency appropriate to the scope and complexity of services performed, and receive consultation from a medical record consultant who is an RRA or ART.

(l) If the designated medical record supervisor is not an RRA or ART, consultation from such a qualified person must be received at least every 180 days for at least two hours each visit, and a written report must be obtained from the consultant summarizing the visit.

§145.21. Pharmacy Services.

(a) Procedures concerning drugs and medications.

(1) A resident in a nursing facility shall not be administered any medication except on written or verbal orders of a physician.

(2) Bulk dangerous and/or controlled drugs shall not be maintained in the nursing facility, except for dangerous drugs as outlined in subsection (f) of this section.

(3) The label of each resident's individual drug container shall be completed in accordance with all federal and state statutes. There shall be affixed to the immediate container in which said drug is delivered a label which clearly indicates the resident's full name; the prescribing physician's name; prescription number; name and strength of the drug; amount dispensed; date dispensed; an expiration date; directions for use; and the name, address, and telephone number of the pharmacy issuing the drug.

(A) An exception to the aforementioned labeling requirement would be drugs delivered to a particular resident by a practitioner which shall be labeled in accordance with the Texas Dangerous Drug Act, Article 4476-14, §3(a)(2), including the directions for use, the name and address of such practitioner, the name of the resident, and name and strength of the drug.

(B) The dispensing pharmacy will place the small multiple dose drug container into another container upon which the pharmacy's regular label, properly completed, is affixed. In addition, multiple dose containers of drugs which are too small for a regular prescription label to be affixed will have a strip label attached which contains the name of the resident and the prescription number. Should the two containers become separated, then the small drug container will still have resident identification.

(4) The medications of each resident are kept and stored in their originally received containers. Transferring between containers is a dispensing function and should be done in accordance with the Texas Drug Laws, and regulations set forth by the State Board of Medical Examiners and State Board of Pharmacy.

(5) The director of nurses or the charge licensed nurse shall call the issuing pharmacist and/or consultant pharmacist and report any errors suspected or found in medicine labeling.

(6) Separately locked, permanently affixed compartments within the medicine storage area shall be provided for storage of Schedule II drugs of the Controlled Substances Act, Texas Civil Statutes, Article 4476-15, and for other controlled or dangerous drugs as deemed necessary by the facility.

(7) Medications requiring refrigeration must be stored in the medication storage area refrigerator, used only for medicine storage, supplemental feedings, and substances specifically ordered by the resident's physician that require refrigeration. The medications shall be kept in a separate, permanently affixed, locked medication storage compartment in a refrigerator at or near the nursing station, if the refrigerator is located outside the locked medication storage area.

(8) Medications "For External Use Only" are kept in the locked medication storage area in compartments or cabinets and are kept separate from internal medications.

(9) Poisons are stored in a locked compartment or cabinet and are kept separate from all internal and external medications.

(10) Medications which have been discontinued by order of the physician and/or medications of deceased residents and/or medications which have passed their expiration date shall be kept under separate lock and key, and are kept separate from those medications currently in use. Medications shall be disposed of in accordance with regulations governing the destruction of dangerous and controlled substances as set forth by the State Board of Pharmacy.

(11) Medications are released to residents only on the written or verbal authorization of the attending physician. All medications released to residents or responsible parties shall be properly labeled and inventoried. The inventory shall include the date, name, strength, and amount of each medication, the signature of the person releasing the medication, and the signature of the person accepting the medication. Furloughed residents' medications shall be inventoried upon return to the facility using the same inventory criteria for released medications.

(b) Order procedure.

(1) All medications must be ordered in writing by the resident's physician. Verbal orders may be taken from a physician only by a licensed nurse, pharmacist, or another physician. This order is immediately reduced to writing, signed by the person

receiving the order, and shall be mailed to the physician for signature within 72 hours and returned to the clinical chart within seven days.

(2) Medication shall be re-ordered by calling the issuing pharmacy at least 72 hours prior to the administration of the last available dose. The re-ordered medication shall be in the facility prior to the time the resident has taken the last available dose.

(3) A written record shall be maintained for each medication ordered/re-ordered from the pharmacy and its delivery to the nursing facility. The record shall include, but is not limited to, the date of order/re-order, the date received from the pharmacy, the name and strength of the medication ordered/re-ordered, and the initials of the authorized nursing staff person receiving the delivery of the medication.

(4) The consultant pharmacist shall review the drug regimen of each resident at least monthly, and submit written reports of any irregularities to the director of nurses or health service supervisor and administrator. Separate and individual records for each resident shall be maintained to indicate irregularities, date of drug regimen review, and signature of facility pharmacist completing the drug regimen review. The monthly drug regimen review shall not limit or restrict physicians from prescribing any drug regimen in the treatment of their nursing facility residents.

(5) If a specific amount of medication or the time for discontinuance is not specified, the stop order procedure as detailed in this section will apply.

(c) Administration of medication.

(1) Medications are administered only by physicians, licensed nursing personnel, or by medication aides. All medications shall be administered in accordance with the physician's orders. It shall be the duty of the person responsible for administering the medication to ascertain that the medication is in fact taken by the resident. Persons administering medications shall observe infection control techniques, and shall cleanse their hands between residents if there is hand contact with the resident.

(2) The medication preparation area must have readily available items necessary for the proper administration of all medications.

(3) The person who prepares the medication dose shall administer the dose and properly record the medication admin-

istered in the appropriate medical record, except under a unit-of-use package distribution system in which the person removing the individual resident's medication doses from the system shall administer the medications and then immediately record all medications administered to the individual resident in the appropriate medical record. Medications shall not be charted prior to administration or before the fact.

(4) Medications prescribed and labeled for one resident are not administered to any other resident.

(5) Self-administration of medications by residents is not permitted except for emergency drugs on special order of the resident's physician, or in a predischarge type program under the supervision of a licensed nurse.

(6) Medication errors and adverse drug reactions are immediately reported to the resident's physician. An entry of the incident is made in the resident's medical record and an incident report is completed and

filed in the administrative files. The consultant pharmacist shall be notified of drug reactions no later than the next visit to the facility after the occurrence of the drug reaction. Medication errors include, but are not limited to, administering the wrong medication, administering at the wrong time, administering the wrong dosage strength, administering by the wrong route, and/or administering to the wrong patient.

(d) Drugs covered by the Controlled Substances Act.

(1) A separate record must be maintained for each drug covered by Schedules II, III, and IV of the Controlled Substances Act, Texas Civil Statutes, Article 4476-15.

(2) The record for each drug must contain the prescription number, name and strength of drug, date received by facility, date and time administered, name of resident, dose, physician's name, signature of person administering dose, and original amount dispensed, with the balance verifiable by drug inventory at every shift change.

(3) Schedule V drugs shall be exempt from the requirements in paragraph (1) and (2) of this subsection.

(e) Stop order policy. All medication orders which do not specifically indicate the number of doses or length of time to be administered are automatically stopped after a given time period as indicated in the following stop order policy table.

Stop Order Policy

Drug Type	Stop Order
Analgesic, non-narcotic and narcotic -----	2 weeks
Antianemia Drugs -----	1 month
Antibacterials -----	2 weeks
Antibiotics -----	5 days
Anticoagulants -----	1 month
Antiemetics -----	3 days
Antihistamines -----	1 month
Antineoplastics -----	1 week
Barbiturates -----	1 month
Cardiovascular -----	1 month
Cold Preparations -----	2 weeks
Cough Preparations -----	2 weeks
Dermatologicals -----	1 week
Diuretics -----	1 month
Hormones -----	1 month
Hypnotics and Sedatives -----	1 month
Laxatives -----	1 month
Psychotherapeutic Agents -----	1 month
Spasmolytics -----	2 weeks
Vitamins -----	1 month

(f) Emergency drug and equipment tray.

(1) The advisory physician may keep his stock of inventoried emergency dangerous drugs, along with the required equipment for proper administration of the drug, in the locked medication storage area in a sealed container with his name on it. He may order a dose from this stock supply for his patient to be administered by the licensed nurse on duty. The advisory physician may authorize, in writing, other physicians to use from the stock supply, or to order the licensed nurse on duty to administer a dose to their resident.

(2) A supply of oxygen shall be readily available in the facility for resident use in case of an emergency. The oxygen delivery system shall have a capacity of at least 300 liters capable of delivering at least 10 liters of oxygen per minute, and shall include equipment and hardware necessary for the administration of oxygen. A quarterly inspection of the system shall be made by a nursing staff member to assure that all components are maintained in proper working order. Written, dated documentation of the inspection shall be attached to the oxygen tank, and checked by the consultant pharmacist.

(3) An emergency equipment and sterile supply tray shall be readily available in the facility. Such equipment and sterile supplies shall be in addition to any required for proper administration of the emergency drug. The tray shall contain items and amounts appropriate to the facility as determined by the advisory physician, the consultant pharmacist, and the director of nurses.

(g) Freedom of choice—physician and pharmacy services.

(1) Each resident of the nursing facility, his legal guardian, or a responsible party shall have the right to choose and change the physician or pharmacy of such resident at any time, and the nursing facility shall not interfere with or limit such right, except when such choice of physician or pharmacy creates a noncompliance situation for the facility regarding federal, state, or local laws and regulations. Such changes shall be recorded on the admission record and all other appropriate forms maintained by the nursing facility. The procedures outlined in the Texas Department of Human Services' ICF/SNF standards, 40 TAC §16.3201 (relating to General Requirements) shall be followed.

(2) The residents' freedom of choice of pharmacy services will not be considered abridged when the facility's policies require the following:

(A) a written agreement that the residents' pharmacy services be provided by a pharmacy on a 24-hour basis for emergency medications; or

(B) a written agreement that the residents' medications be delivered to the facility on a timely and reasonable basis.

(h) Pharmaceutical services.

(1) A nursing facility which maintains an on-premise licensed pharmacy shall employ a registered pharmacist, in good standing, to practice the profession of pharmacy. The pharmacy and pharmacist shall operate in complete accordance and compliance with laws and regulations promulgated by regulatory agencies having responsibilities for dangerous and controlled drugs.

(2) A nursing facility which does not maintain an on-premise licensed pharmacy shall obtain drugs and medications from community pharmacies and/or dispensing physicians.

(3) The nondispensing services of a pharmacist shall be contracted for the purpose of ascertaining the status of pharmaceutical services with the facility. The responsibilities, functions, objectives, the terms of agreement and/or other fees paid the consultant pharmacist, and number of hours per month the pharmacist shall devote to pharmaceutical services in the facility shall be delineated in writing and signed by an authorized representative of the facility and the pharmacist.

(A) The number of hours per month the pharmacist devotes to pharmaceutical services for the ordering, storage, administration, disposal, recordkeeping (documentation) of drugs and medications, and drug regimen review shall be based upon the total number of residents in the facility, but shall not be less than:

(i) 49 residents or less—four hours;

(ii) 50 residents or over—five hours, plus one hour for each increment of 10 residents.

(B) The nursing facility administrator shall be responsible for the pharmacist requirements being met from the standpoint of time spent in the facility and quality of services rendered.

(4) For each nondispensing visit to the facility for the purpose of ascertaining the status of pharmaceutical services, the consultant pharmacist shall furnish a written report to the facility administrator of the resultant problems found in the obtaining, storing, administering, disposal, and record-keeping of drugs and medications.

(5) The consultant pharmacist, along with the facility administrator, director of nurses, or health service supervisor, and advisory physician shall develop and maintain up-to-date written pharmaceutical service policies and procedures appropriate for the facility. Appropriate documentation shall assure that policies and procedures are reviewed at least annually.

§145.22. Dietary Services.

(a) Dietetic service supervisor.

(1) A person shall be designated by the administrator as a dietetic service supervisor who is responsible for the total food service of the facility. If this person is not a dietitian, regularly scheduled consultation from a dietitian shall be obtained to help

assure that the dietary service meets requirements.

(2) The dietetic service supervisor must participate in regular conferences with the administrator, and have conferences with the director of nursing service and the activity director in the development of residents' overall care plans according to identified nutritional problems and nutrition care plans.

(b) The dietitian requirements.

(1) At a minimum, the facility must ensure that the dietitian provide the following consultant hours per month:

(A) for 60 residents or less—eight hours;

(B) for each additional 15 residents or fraction thereof—one hour.

(2) A consultant dietitian's visits must be long enough to allow:

(A) continuing liaison with medical and nursing staff which may include accepting changes of diet orders from attending physicians;

(B) identification of the resident's nutritional needs and resident counseling;

(C) guidance to the food and nutrition service supervisor and staff;

(D) approval of all menus;

(E) participation in the development or revision of dietetic policies and procedures;

(F) planning and conducting in-service education programs;

(G) identification of resident nutritional needs and development of a plan to meet their needs and to update as required.

(3) Documentation requirements for consultant dietitian include the following.

(A) The facility must maintain documentation reflecting consultation with a dietitian and make it available for review by licensing agency representatives. The documentation must include at least the following:

(i) name of consultant dietitian;

(ii) dates and hours of consultant's visits;

(iii) evaluation of food service; and

(iv) review of fluids for nutritional and hydrational purposes and special diets according to physician's orders and identification of nutritional needs of the residents.

(B) The facility must ensure that the documentation of the consultation is signed and dated at each visit.

(c) Food service staff. There shall be a sufficient number of food service employees to meet the dietary needs of the residents.

(d) Food service.

(1) At least three meals or their equivalent shall be served daily, at regular times, with not more than a 14-hour span between substantial evening meals and breakfast. Between meals or bedtime snacks of nourishing quality should be offered. If the four or five meal a day plan is in effect, meals and snacks must provide adequate nutritional value.

(2) Menus shall be planned one week in advance, and food sufficient to meet the nutritional needs of patients shall be prepared as planned for each meal. The current week's menu shall be in one or more accessible places in the dietary department for use by employees responsible for purchasing, preparing, and serving foods.

(3) Menus shall provide a sufficient variety of foods served in adequate amounts at each meal. Menus shall be different for days of each week and shall be adjusted for seasonal changes. Substitutions shall be noted on menus for the date and meal when substitutions are made.

(4) A list of the diet orders for residents will be updated as necessary or at least every week and kept in the dietary department for at least 30 days.

(5) Supplies of staple foods for a minimum period of one week and of perishable foods for a minimum period of two days shall be maintained on the premises.

(6) Food preference of residents shall be considered when not in conflict with physician's orders. Food must be ground or chopped to meet individual needs. If a resident refuses 50% of foods served, substitutions of comparable nutritional content shall be offered and, if rejected, documented in the clinical record.

(7) Food intake of the residents shall be recorded in the clinical records.

(A) The percentage of meals eaten will be recorded as follows:

- (i) (w) = well—100%;
- (ii) (g) = good—75%-99%;
- (iii) (f) = fair—51%-74%;
- (iv) (p) = poor—50% or less.

(B) In-between meals, bedtime snacks and supplementary feedings, either as a part of the overall care plan or as ordered by a physician including caloric restricted diets, must be documented as accepted or rejected.

(8) Effective equipment shall be available and procedures established to maintain food at proper temperature prior to and during serving.

(9) Therapeutic diets shall be prepared and served as prescribed by a resident's attending physician.

(A) A current diet manual recommended by the licensing agency shall be readily available for food service personnel.

(B) Persons responsible for the therapeutic diets shall have sufficient knowledge of good food variations to make appropriate substitutions when necessary.

(e) Maintenance of sanitary conditions.

(1) Sanitary conditions shall be maintained in the storage, preparation, and distribution of food.

(2) Effective procedures for cleaning all equipment and work areas shall be followed consistently.

(3) Dishwashing procedures and techniques shall be well developed and include pre-soaking silverware. Procedures

shall be carried out in compliance with state law and local health codes.

(4) Waste which is not disposed of by mechanical means shall be kept in leak proof non-absorbent containers with close fitting covers and shall be disposed of in a manner that will prevent transmission of disease, a nuisance, a breeding place for flies, or a feeding place for rodents. Containers shall be cleaned inside and out each time emptied.

(5) Dry or staple food items shall be stored off the floor in a ventilated room not exposed to contamination by sewage, sewer gases, waste water backflow, contamination by condensation, leakage, drainage, excessive humidity, rodents, or vermin.

(6) Handwashing facilities, including hot and cold water, soap dispensers, and paper towel dispensers or air dryers, shall be provided in the food preparation area.

§145.23. *Physical Plant and Environment.*

(a) Construction and change in level of care.

(1) Subchapter Q of this chapter (relating to Planning and Construction for Nursing Homes) is a companion part of this subchapter and must be referenced for new construction, conversions of existing unlicensed buildings, remodeling, additions, and bed additions.

(A) New construction is defined as any construction work which began on or after the effective date of these sections. Life Safety Code new health care occupancies is applicable.

(B) An existing nursing home is defined as one which was operating with a license as a nursing facility or custodial care facility on the effective date of these sections and has not subsequently become unlicensed. Life Safety Code existing health care occupancies is applicable.

(C) An existing unlicensed building is defined as any building (or portion thereof) which was not licensed as a nursing facility or a custodial care facility on or after the effective date of these sections, including those which may have carried a license but have become vacant, or those on which the licensee has willfully allowed the license to expire. Life Safety Code new health care occupancies is applicable.

(2) No construction work, including the addition or removal of walls, doors, and windows, shall be started prior to having plans approved by the licensing agency (Architectural Section) as called for in Subchapter Q of this chapter (relating to Planning and Construction For Nursing Homes).

(3) Routine maintenance, repairs, equipment replacement, upkeep, painting, trim, etc., are not normally considered as remodeling.

(A) Exception #1. Life safety features and equipment that have been installed in existing buildings and is now in excess of that required by the Life Safety Code must continue to be maintained or completely re-

moved with the approval of the licensing agency.

(B) Exception #2. Alterations or new installations of building services equipment, such as mechanical and electrical systems, generators, fire alarm and detection systems, etc., shall be accomplished as nearly as possible in conformance with the requirements for new construction as required by the Life Safety Code.

(4) When an existing licensed facility plans building additions or remodeling which includes adding additional resident beds, then the entire facility shall be included in the planning for any needed upgrading to generally meet applicable standards at that time for new construction where practical.

(5) An existing facility licensed and operating at a certain level of resident care and proposing to change the level of care to a higher level shall meet all additional requirements, if any, for the new level of care proposed as required by applicable standards.

(b) Applicable codes and standards. Facilities shall meet the requirements of the Standard 101 of the Life Safety Code, as defined in §145.12 of this title (relating to Definitions), and any other standard numbers of the National Fire Protection Association (NFPA) listed in this section, except as may be otherwise approved or required by the licensing agency. In addition, the current editions of the following codes shall generally govern their subject areas for existing construction:

- (1) Uniform Building Code;
- (2) Uniform Plumbing Code;
- (3) Uniform Mechanical Code;
- (4) National Electrical Code;
- (5) Heating, Ventilating, and Air Conditioning Guide (ASHRAE);

(6) IES Lighting Handbook of the Illuminating Engineering Society of North America;

(7) ANSI Standard A117.1 of the American National Standards Institute.

(c) Building structure.

(1) Every building and portion thereof shall be constructed to sustain all dead and live loads in accordance with accepted engineering practices and standards.

(2) Each building shall be classified as to building construction type for fire resistance rating purposes in accordance with NFPA Standard 220 and the Life Safety Code.

(3) Building insulation materials, unless sealed on all sides and edges in an approved manner with noncombustible material, shall have a flame spread rating of 25 or less and smoke developed rating of 450 or less when tested in accordance with NFPA 255 and NFPA 258.

(d) General requirements.

(1) The facility shall be designed, constructed, maintained, and equipped for the comfort, safety, privacy, and well-being of the residents. The facility shall provide furnishings and decorations which promote a homelike atmosphere.

(2) The building and equipment shall be maintained in good repair, operational, sanitary, and free of hazards.

(3) No occupancies or activities undesirable to the health, safety, or well-being of patients shall be located in the facility.

(4) There shall be at least one telephone (other than a pay phone) in the facility available to resident use and for use in making calls to summon help in case of emergency.

(5) In operations where there is a chance of cross-contamination, there shall be provided a separation of clean and soiled operations, so as to lessen the chance of cross-contamination by facility employees, residents, and others. Such separation shall be in relation to traffic flow, air currents, air exhaust, water flow, vapors, and other conditions.

(6) Floors of the facility shall be level, smooth, and free of any irregularities which might influence safety.

(7) Walls and ceilings not specifically described elsewhere shall be smooth, easily cleanable, maintained attractively, and in good repair.

(8) Walls and floors shall be kept free of cracks. The joint between the walls and floors is to be maintained so as to be free of spaces which might harbor insects, rodents, or vermin.

(9) An electric water cooler shall be accessible to residents. New drinking fountains shall be installed to meet ANSI standards for use by the handicapped. Fountains existing at the time of the publication of these sections do not have to be altered.

(10) The use of common drinking cups or glasses, common towels or washcloths, and common bath soap or hand soap is prohibited.

(11) Draperies, curtains (including cubicle curtains), and other similar furnishings and decorations shall be flame resistant in accordance with NFPA 701. Documentation shall be on file in the facility.

(e) Site and grounds.

(1) Site grades shall provide for positive surface water drainage so that there will be no ponding or standing water at or near the building.

(2) Outdoor activity, recreational, and sitting spaces shall be provided for residents as space permits.

(3) Each facility shall have parking space to satisfy the needs of residents, employees, staff, and visitors. Provisions shall be made for handicapped parking and access into the building.

(4) Barriers shall be provided for resident safety from traffic or other site hazards by the use of appropriate methods, such as fences, hedges, retaining walls, railings, or other landscaping. Electrified or barbed wire fences are not permitted. Such barriers shall not inhibit the free emergency egress to a safe distance away from the building.

(5) Auxiliary buildings on the site within 20 feet of the licensed structure shall

meet the same code requirements for safety as the licensed structure as determined by the licensing agency.

(6) Auxiliary buildings on the site, 20 feet or more away from the licensed structure, which are occupied by the residents shall meet requirements of the appropriate occupancy section of the Code as determined by the licensing agency. Such buildings occupied by staff shall meet the exit egress requirements of the Code.

(7) All outside areas, grounds, adjacent buildings, etc., on the site shall be maintained in good condition and kept free of rubbish, garbage, untended growth, etc., that may constitute a fire or health hazard.

(8) Exterior lighting shall be provided in parking and other outside use areas.

(f) Fire service and access.

(1) The facility shall be served by a paid or volunteer fire department. The fire station location shall assure arrival time not to exceed five minutes from the station, unless otherwise approved by the licensing agency.

(2) The facility shall be served by an adequate water supply that is accessible for fire department use as determined by the fire department serving the facility and by the licensing agency.

(3) There shall be at least one approved readily accessible fire hydrant located within 300 feet of the building. The hydrant shall be on a minimum six-inch service line, or else there shall be an approved equivalent to the hydrant system (such as a storage tank). The hydrant, its location, and service line, or equivalent shall be as approved by the local fire department and the licensing agency. Larger facilities may require additional hydrants.

(4) The building shall have suitable all-weather fire lanes for access as required by local fire authorities and the licensing agency. At a minimum, there shall be access to two sides of the building by an all-weather lane at least 10 feet wide. Fire lanes shall have at least 14 feet in clearance width above grade (two feet each side of the 10 foot roadbed) and be kept free of obstructions at all times.

(g) Means of egress.

(1) Corridors and other means of egress shall be kept clear of obstructions and shall not be used for any purpose which would interfere with its use as an exit, such as for storage, vending machines, seating, or similar purposes. A minimum of eight-foot clearance shall be maintained at all times.

(2) Ways of egress and exit signs shall be illuminated at all times.

(3) In addition to the required illumination (normal and emergency), the facility shall keep on hand and readily available to night staff no less than one working flashlight per night shift person. Flashlights should be a type with a flat stable base that will not roll away when placed on a flat surface.

(4) Doors within the means of egress shall not be equipped with a latch or lock

which requires the use of a key or tool to open from the inside of the building. A latch or other fastening device on a door shall be provided with a knob, handle, panic bar, or other simple type of releasing device, the method of operation of which is obvious, even in darkness.

(h) Interior finishes. Interior finishes of walls and ceilings shall have limited flame spread rating as required by the Life Safety Code. An exception would be that the application of new interior finishes of walls, ceilings, or floors in existing facilities shall meet requirements for flame spread rating under the Life Safety Code for new construction.

(i) Fire alarms, detection systems, and sprinkler systems. Fire alarms, detection systems, and sprinkler systems shall be as required by the Life Safety Code, NFPA 72A.

(1) Components shall be compatible and laboratory listed for the use intended.

(2) Wiring and circuitry for alarm systems shall meet the applicable requirements of NFPA Standards including the National Electric Code (NEC) for such systems.

(3) Fire alarm systems shall be installed, maintained, repaired, etc., by an agent having a current certificate of registration with the state fire marshal's office of the Texas State Board of Insurance, in accordance with state law. A fire alarm installation certificate shall be provided as required by the Office of the State Fire Marshal.

(4) The fire alarm system shall be designed so that whenever the general alarm is sounded by activation of any device (manual pull, smoke sensor, sprinkler, kitchen range hood extinguisher, etc.) the following shall occur automatically:

(A) smoke and fire doors which are held open by approved device shall be released to close;

(B) air handlers (air conditioning/heating distribution fans) serving two or more rooms shall shut down immediately;

(C) smoke dampers shall close;

and
(D) the proper zone indicating lights shall show on the fire alarm control panel(s), including auxiliary panels.

(5) Fire alarm bells or horns shall be located throughout the building for audible coverage. Flashing red alarm lights (visual alarms) shall be installed to be visible in corridors and public areas, including dining rooms and living rooms, in a manner that will identify exit routes.

(6) A master control panel shall be visible at the main nurse station which has alarm and trouble conditions by zones, power on lights, and required signal devices for trouble conditions. All control panels must be listed (UL) for the intended use, i.e., manual, automatic, and water flow activation. Alarm and trouble zoning shall be by smoke compartments and by floors in multi-story facilities.

(7) Remote annunciator panels, equipped with alarm by zone, trouble and

power on lights shall be located at auxiliary or secondary nurse stations on each floor and will indicate the alarm condition of adjacent zones and the alarm conditions at all other nurse stations.

(8) Manual pull stations shall be provided at all exits, living rooms, dining rooms, and at or near the nurse stations.

(9) The sprinkler system shall be interconnected with the fire alarm panel as a separate zone for alarm and trouble. Activation of the tamper switch will provide a trouble condition on the fire alarm panel which will not impair the operation of the alarm.

(10) The kitchen range hood extinguisher shall be interconnected with the fire alarm system. This interconnection may be a separate zone on the panel or combined with other initiating devices located in the same zone as the range hood is located.

(11) Partial sprinkler systems (those provided only for hazardous areas) shall be interconnected to the fire alarm system and comply with the Life Safety Code. Each partial system shall have a valve with a supervisory switch to sound a trouble signal, water flow switch to activate the fire alarm, and an end of line test drain.

(j) Subdivision of building spaces—(smoke barriers).

(1) Subdivision of building spaces shall be as required by the Life Safety Code.

(2) Smoke barrier walls in concealed spaces, such as attics, shall have prominent signs on each side that read "WARNING: This is a smoke barrier wall. All penetrations must be properly made and properly sealed to be smoke tight. Notify administrator of any penetrations to be made in this wall."

(3) Provisions shall be made for reasonable access to concealed smoke barrier walls for maintaining smoke dampers and so that walls and dampers can be visually checked periodically for operation conformance by facility staff, servicemen, and inspectors. Access shall provide for visual inspection of both sides of the wall, and of all parts (end to end and top to bottom).

(4) Easily removable access panels or view panels shall be provided in ducts at smoke dampers to visually check for proper operation of the dampers.

(k) Emergency electrical services. Emergency electrical services shall be provided to comply with the provisions of NFPA 70 (National Electrical Code). This includes such items as emergency power provided by generator or batteries for fire alarm systems, emergency egress lighting, nurse call systems, TV cameras and monitors (if used for corridor observation), life support systems, designated wall receptacles, etc.

(1) Emergency systems. Emergency systems shall include:

(A) illumination for means of egress, nurse stations, medication rooms, dining and living rooms, group bathing rooms (those not directly connected to resi-

dent bedrooms), and areas immediately outside of exit doors;

(B) exit signs and exit directional signs required by the Life Safety Code;

(C) alarm systems, including fire alarms activated by manual stations, water flow alarm devices of sprinkler systems, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed. Where hospital type functions are included in the nursing home facility, applicable standards shall apply;

(D) task illumination and selected receptacles at the generator set location;

(E) selected duplex receptacles including receptacles in resident corridors, nurse stations, medication rooms, including biologicals refrigerator, etc.;

(F) nurse calling systems;

(G) elevator cab lighting, control, and communication systems;

(H) equipment necessary for maintaining telephone service; and

(I) paging or speaker systems, if intended for communication during emergency. Radio transceivers, where installed for emergency use, shall be capable of operating for at least one hour upon total failure of both normal and emergency power.

(2) Critical systems (delayed automatic or manual connections to critical systems). The following are required:

(A) heating equipment to provide heating for general resident rooms. This will not be required if:

(i) the outside design temperature is higher than 20°F (-6°C);

(ii) the outside design temperature is lower than 20°F (-6°C) and where selected room(s) is provided for the needs of all confined residents, then only such room(s) need be heated; or

(iii) the facility is served by a dual source of normal power;

(B) elevator service. In instances where interruptions of power would result in elevators stopping between floors, throw-over facilities shall be provided to allow the temporary operation of any elevator for the release of passengers.

(3) Details. The emergency lighting shall be automatically in operation within 10 seconds after the interruption of normal electric power supply. Emergency service to receptacles and equipment may be delayed automatic or manually connected. Receptacles connected to emergency power shall have red face plates. Stored fuel capacity shall be sufficient for not less than 12-hour operation of required generator.

(4) Emergency motor generator.

(A) Emergency generators shall be installed in accordance with NFPA 37 and NFPA 99.

(B) Generators shall be a minimum of three feet from the exterior building finish and a minimum of five feet from the exterior building opening if located on the exterior of the building.

(C) Generators located on the exterior of the building shall be provided with a noncombustible protective cover or be protected as per manufacturer's recommendations.

(D) Motor generators fueled by public utility natural gas shall have the capability to be switched to an alternate fuel source. (Reference NFPA 70, National Electrical Code.)

(5) Wiring. The normal circuit(s) for the emergency system shall be kept entirely independent of all other wiring and shall not enter the same raceways, boxes, or cabinets. (Reference NFPA 70.)

(I) Portable fire extinguishers. Portable fire extinguishers shall be provided and maintained to comply with the provisions of NFPA 10. This includes such items as type of extinguishers (A, B, or C), location and spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent (with any necessary servicing), and hydrostatic testing every five years.

(1) Portable type ABC or BC chemical extinguishers shall not be located in resident corridors. Extinguishers in resident corridors shall be 2-½ gallon pressurized water or other type approved by the licensing agency and spaced so that travel distance is not more than 75 feet.

(2) Extinguishers shall be installed on hangers or brackets supplied or mounted in approved cabinets.

(3) Extinguishers installed under conditions where they are subject to physical damage shall be protected from impact or dislodgement.

(4) Extinguishers having a gross weight not exceeding 40 pounds shall be installed so that the top of the extinguisher is not more than five feet above the floor. Extinguishers having a gross weight greater than 40 pounds shall be installed so that the top of the extinguisher is not more than 3-½ feet above the floor. In no case shall the clearance between the bottom of the extinguisher and the floor be less than four inches.

(5) Portable extinguishers provided in hazardous rooms shall be located as close as possible to the exit door opening and nearest the latch (knob) side.

(m) Elevators, escalators, and moving walks. Elevators shall comply with the provisions of the Life Safety Code and American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1. Elevators are required for buildings having residents' facilities (such as bedrooms, dining or recreation areas) or services (such as diagnostic or therapy) located on other than the main entrance floor. Passenger elevators, escalators, and walks shall be inspected by a qualified agent at least every six months. Freight elevators and dumbwaiters shall be inspected every 12 months.

(n) Rooms and areas.

(1) Resident bedrooms.

(A) Bedrooms shall be arranged and equipped for adequate care, comfort, and privacy of the residents.

(B) Bedrooms shall have at least 100 square feet of usable space per bed for a one-bed room.

(C) Bedrooms shall have at least 80 square feet of usable space per bed for multi-bed rooms. An exception would be bedrooms that have at least 72 square feet per bed for semi-private or ward and are approved by the licensing agency prior to the adoption of these sections may continue to be licensed.

(D) No more than four beds shall be in any one bedroom, unless specifically approved otherwise in writing by the licensing agency. The total number of beds in ward rooms with three or more beds shall not exceed 50% of the total facility capacity in existing facilities, unless approved by the licensing agency.

(E) Each resident bedroom shall have at least one operable outside window which can be readily opened from the inside, without the use of tools, to permit the venting of smoke and to permit any occupant to have access to fresh air in case of emergency. The height of the window sill (opening) shall not exceed 36 inches above the floor. The minimum area of windows in each bedroom should equal at least 8.0% of the room area. Operable window sections may be restricted to six inches for security or safety reasons if approved in writing by the licensing agency. Each window shall be provided with a flame-retardant shade, curtain, or blind.

(F) Each resident room having more than one bed shall have permanently installed privacy curtains and curtain tracks to permit closing each bed with curtains. The design and installation shall allow for the privacy of each resident without obstructing resident access to entry or toilet, nor shall it restrict bed evacuation or obstruct sprinkler flow coverage. Privacy curtains shall be rendered and maintained flame resistant.

(G) All resident bedrooms shall open upon an exit corridor or living area.

(H) The width and length of bedrooms and the arrangement shall assure easy resident circulation, especially in relation to emergency evacuation and to usual wheelchair movement. Bedrooms should not be less than 10 feet in the smallest dimension. There shall be at least 36 inches between beds and should be at least 18 inches between any bed and the adjacent parallel wall (i.e., bed sides should not have to be placed against a wall to meet other spacing requirements). Beds shall not extend into the bedroom door opening, nor shall any other piece of furnishing or equipment be located such as to preclude or inhibit the removal of any bed or ready closing and latching of the bedroom door in an emergency.

(I) Each resident shall have a bed (minimum 36 inches wide) with a headboard of sturdy construction, a comfortable mat-

ress of the proper length with a moisture proof cover, and a comfortable pillow. Each bed shall be provided with suitable bedspreads, blankets, etc., to assure the comfort and warmth of each patient. Bedspreads and blankets shall be individually assigned to residents and shall not be passed from resident to resident without first being laundered. Each non-ambulant person shall be provided an automatic or crank type adjustable bed.

(J) Each resident shall have a comfortable chair, a bedside stand with at least two enclosed storage spaces, and closet or wardrobe space providing security and privacy for clothing and personal belongings. Closet space shall have at least 16 inches of hanging space per bed and have closeable door(s). Each bedroom shall be provided with at least one (noncombustible) wastebasket. Bedrooms with closets having less than 22 inches of hanging space shall have additional enclosed storage space, such as drawers or shelves.

(K) All resident beds shall have provision to accept castors. Beds for bedfast and non-ambulatory residents shall be provided with locking castors.

(L) The bed of each resident with physician's orders for bedrails shall have bedrails affixed to both sides of the bed.

(M) Each bed shall have access to a nurse call device that is part of an electrical nurse call system.

(N) Each bed shall be provided with an appropriate, safe, durable, nonglare permanently bed mounted or wall mounted reading light fixture. The fixture shall be wired in accordance with NFPA 70 (National Electrical Code). Such fixtures should be mounted at least five feet six inches above the floor. The switch shall be within reach of a resident in the bed.

(O) In addition to bedwall reading lamps, each bedroom shall have general lighting.

(P) An individual towel rack shall be installed at each resident's bedside or at each lavatory.

(Q) At least one duplex receptacle shall be provided beside the head of each bed. Other walls shall have duplex receptacles as needed and/or as required by the National Electrical Code.

(R) For emergency separation from fire and smoke, bedroom doors shall be maintained to close completely without dragging or binding, to latch securely, and to fit reasonably tight in the frame. The gap between the floor and the bottom of the closed door shall not exceed $\frac{1}{4}$ inch.

(S) When an isolation room is provided or required, such as in skilled nursing facilities, it shall have a special (nonrecirculating) air system and a complete bathroom.

(T) Vacant bedrooms may not be used for other purposes, such as offices, storage, or hazardous activities, unless spe-

cifically approved by the licensing agency in writing.

(U) Bedrooms shall be identified with a raised or recessed unique number placed on or near the door. Refer to subsection (o)(3) of this section regarding ANSI standards.

(V) Residents must be permitted and encouraged to have personal possessions in their rooms that do not interfere with their care, treatment, or well-being, or that of other residents.

(2) Nursing units.

(A) Sufficient space and number of units shall be provided for proper and efficient service to residents. There shall be provision for necessary records, etc. A licensed nurse must be assigned to this area on any shift that requires a licensed nurse. If resident bedrooms are more than 150 feet walking distance by indoor corridor passages from that area, an auxiliary station, assigned to the designated nurses station, must be established and manned by nursing personnel. If the corridor is observable by direct line of sight from inside the nurses station or from within 24 inches of the counter or wall of the nurses station, an auxiliary station is not necessary. The licensing agency may allow a 10% deviation from the 150 feet requirement. An auxiliary station is regarded as a nurses station for purposes of corridor observation. Auxiliary stations shall be equipped with a voice communication system connected to the nurses station to which it is assigned.

(B) Each nursing unit must be equipped to register residents' calls through a communication system from resident areas including bed, toilet, and bathing facilities. The call cord does not have to be accessible in all parts of the room, but must be accessible to the resident. The system must be connected to on and off switches operable at each bed, toilet unit, and bathing area. Each call entered into the system shall activate a corridor dome light above the bedroom/bathroom/toilet corridor door that opens onto a corridor, a visual signal at the nurses station which indicates the room from which the call was placed, and an audible signal of sufficient amplitude to be clearly heard by nursing staff. The amplitude or pitch of the audible signal shall not be such that it is irritating to residents or visitors. The system shall be designed such that calls entered into the system may be cancelled only at the calling station. Intercom type systems shall be installed only after approved by the licensing agency.

(C) There shall be sufficient, lockable, enclosed medicine storage spaces, or medicine room, or medication cart. The medication storage area shall be furnished with a refrigerator. There shall be sufficient space available for medication preparation area equipped with a sink having hot and cold water. When not in use, the medication cart must be secured in a locked medication storage room designated only for the storage

of medications. Only authorized personnel shall have access to the medication storage area and the medication cart. Medication storage and preparation areas shall be adequately ventilated and temperature controlled.

(D) A clean utility room shall be provided and shall contain a work counter, storage facilities, and a handwashing sink with high neck faucet and lever controls. It shall be part of a system for storage and distribution of clean and sterile supply materials.

(E) A soiled utility room shall be provided and contain a flushing fixture, a sink to submerge bed pans with high neck faucet and lever controls, work counter, waste receptacle, and linen receptacle. It shall be part of a system for collection and cleaning or disposal of soiled utensils or materials.

(F) Soiled linen rooms shall be provided as needed and required commensurate with the type of laundry system used. These rooms shall have adequate forced exhaust ducted to the exterior. Air shall be exhausted continually whenever there are soiled linens in the room.

(G) Clean linen storage rooms shall be provided and conveniently located to resident bedroom areas.

(H) Corridor handrails shall be provided on each side of resident use corridors on all walls 18 inches or greater. These rails are to support 250 pounds of downward force and be mounted 33 to 36 inches from the floor.

(3) Residents' bathing and toilet facilities.

(A) Bedrooms not provided with their own (or shared) direct access toilets and baths shall have general use baths and toilets conveniently located for each sex.

(B) Bathtubs or showers shall be provided at a minimum rate of one for each 20 beds which are not otherwise served by bathing facilities directly accessible from resident bedrooms.

(C) In toilet facilities designed for multi-resident use, water closets shall be separated in such a manner that it can be used independently and afford privacy. Water closet seats shall be of the open front type and toilet paper in a suitable dispenser shall be provided within reach of each toilet.

(D) Water closets and lavatories shall be provided at a minimum rate of one for each eight beds which are not otherwise served by these fixtures directly accessible from resident bedrooms. A lavatory shall be provided in or adjacent to each area having a water closet.

(E) Lavatories shall be equipped with a mixer faucet, hot and cold water, and a mirror.

(F) There shall be a sufficient number of toilet rooms and bathing areas designed to accommodate residents in wheelchairs, including space in or around fixtures, the proper installation of grab bars, mirrors, and accessory heights and locations.

(G) Grab bars and lavatories shall be securely anchored to withstand at least

250 pounds of sustained and repeated downward and outward pressure. Grab bars shall be provided at all resident water closets and bathing fixtures.

(H) Floors, walls, and ceilings shall be non-absorbent, cleanable surfaces. Floors and tub or shower standing surfaces shall be slip resistant. Shower heads shall not be installed above bathtubs.

(I) Doors to bathing and toilet facilities shall be wide enough for safe and easy passage of wheelchair residents. Doors shall open outward unless the bathing or toilet facility has multiple doors. Folding or sliding doors shall not be used.

(J) Resident baths or toilets having privacy locks will require that keys for opening the doors are kept readily available to the staff.

(K) Provision shall be made for sanitary hand drying at lavatories. There shall be either paper or roll towel dispensers, separate towel racks, or mechanical dryers.

(L) Bathrooms and toilet rooms shall have effective forced air exhaust to the exterior.

(M) Bathing areas shall be provided with safe, effective draft-free heating for resident comfort.

(N) Bathtubs, showers, and lavatories shall be kept clean and in proper working order. They shall not be used for laundering or for storage of soiled materials or for the cleaning of mops, brooms, etc.

(O) Nurse call devices must be provided at resident use baths and toilets and be within easy reach of residents from those units.

(P) Electrical outlets in wet areas shall be provided with ground fault interruptors.

(4) Resident living areas.

(A) Resident living areas such as living rooms, dayrooms, lounges, recreation rooms, and sunrooms shall be provided to meet the needs of the residents' comfort. Combined living and dining areas should be not less than 19 square feet per bed, but must not be less than 10 square feet per bed.

(B) No single room less than 100 square feet shall be included as part of the acceptable total area required.

(C) At least one living area shall have an outside window.

(D) Living areas shall be provided with comfortable furniture of substantial construction and be appropriately decorated to provide a pleasant and comfortable environment for residents and visitors. Furnishings and decorations shall not obstruct exits or ways of egress.

(E) There shall be a clock with bold face or large numerals installed in the living or dining area of each facility.

(5) Dining areas.

(A) Dining space shall be provided to adequately serve the needs of the residents and provide an efficient, sanitary, and pleasant environment for dining.

(B) The major dining area shall have at least one outside window.

(C) Facilities having continuing deficiencies in the service of meals directly attributable to inadequately sized dining areas will be required to submit a special plan of correction specifying how meal planning or service will be changed, or provide other means to correct the deficiency. This corrective plan will be prepared by a registered or licensed dietician. Reference Subchapter Q of this chapter (relating to Planning and Construction for Nursing Homes) for dining and living area requirements related to proposed bed increases.

(6) Kitchens.

(A) Nursing facility kitchens will be evaluated on the basis of their performance in the sanitary and efficient preparation and serving of meals. Consideration shall be given to planning for the type of meals served, the overall building design, the food service equipment, arrangement, and the work flow involved in the preparation and delivery of food. Evaluation shall be based on the number of meals served. Continuing problems directly attributable to an inadequately sized kitchen area will require submission of a special plan of correction specifying how the kitchen area will be changed. This corrective plan will be approved by a registered or licensed dietician. Reference §§229.161-229.171 of this title (relating to Food Service Sanitation).

(B) Kitchen temperature, at peak load, shall not exceed a temperature of 85°F measured over the room at the five foot level. Sufficient heating shall be provided to maintain an average temperature of not less than 70°F in winter (with exhausts operating) at the five-foot level.

(C) The kitchen shall have operational equipment for preparing and serving meals and for refrigerating and freezing of perishable foods, as well as equipment in, and/or adjacent to, the kitchen or dining area for producing ice.

(D) The kitchen shall have facilities for washing and sanitizing dishes and cooking utensils. Such facilities shall be adequate for the number of meals served and the method of serving (permanent or disposable dishware, etc.). The kitchen shall contain a multi-compartment sink large enough to immerse pots and pans. In all facilities, a mechanical dishwasher is required for sanitizing dishes. Separation of soiled and clean dish areas shall be maintained, including air flow and traffic flow.

(E) The kitchen must have an adequate supply of hot and cold water. Hot water for sanitizing purposes shall be 180°F or the manufacturer's suggested temperature for chemical sanitizers, as specified for the system in use. For mechanical dishwashers, the temperature measurement is at the manifold. Hot water for general kitchen use shall be 140°F.

(F) A kitchen must have at least one hand washing lavatory in the food prep-

aration area. The dish washing area shall have ready access to a hand washing lavatory or hand sanitizing device. Hand washing lavatories shall be provided with hot and cold running water, a sanitary soap dispenser, and paper towel dispenser (or hot air dryer).

(G) Non-absorbent smooth finishes or surfaces shall be used on kitchen floors, walls, and ceilings. Such surfaces shall be capable of being routinely sanitized to maintain a healthful environment.

(H) A janitor's closet with service sink shall be easily and readily accessible to the kitchen.

(I) Kitchen exhaust hood at cooking equipment and its attached automatic chemical extinguisher shall comply with NFPA Standard 96.

(7) Food storage areas.

(A) Food storage areas shall provide for storage of a seven-day minimum supply of nonperishable (staple) foods and a two-day supply of perishable foods at all times.

(B) Shelves and pallets shall be moveable wire, metal, or sealed lumber, and walls must be finished with a non-absorbent finish to provide a cleanable surface.

(C) Dry food storage shall have a venting system to provide for reliable positive air circulation.

(D) The maximum room temperature for food storage shall not exceed 85°F at all times. The measurement shall be taken at the five-foot level.

(E) No foods shall be stored on the floor. Dunnage carts or pallets may be used to elevate foods not stored on shelving.

(F) Sealed containers shall be provided for storing dry foods after the package seal has been broken.

(G) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(8) Auxiliary serving kitchens (those not contiguous to food preparation/serving area).

(A) Where service areas other than the kitchen are used to dispense foods, these shall be designated as food service areas and shall have equipment for maintaining required food temperatures while serving.

(B) Separate food service areas shall have hand washing facilities as a part of the food service area.

(C) Finishes of all surfaces except ceilings shall be the same as those required for dietary kitchens.

(9) Administrative and public areas.

(A) Facilities shall have adequate administrative area(s) for normal business transactions, records, and private interviews.

(B) Adequate storage space for office equipment and supplies shall be provided.

(C) Facilities shall have appropriate entrance(s), lobby/reception/waiting type space, and public toilet facilities. Public toilets must have handwashing facilities with

a sanitary soap dispenser and paper towels, air hand dryer, or other sanitary hand drying provisions.

(10) Laundry.

(A) Laundry facilities must be located in areas separate from resident units. The laundry shall be designed, constructed, and equipped, and appropriate procedures shall be utilized to assure that laundry is handled, cleaned, and stored in a sanitary manner.

(B) Laundry for general linen and clothing shall be arranged so as to separate soiled and clean operations as they relate to traffic, handling, and air currents. Suitable exhaust and ventilation shall be provided to prevent air flow from soiled to clean areas. A handwashing lavatory or soak sink in the soiled linen area with a highneck faucet, lever controls, hot and cold running water, sanitary soap dispenser, and sanitary hand-drying provisions shall be provided. A janitor's sink shall be provided in or nearby the laundry room.

(C) Floors, walls, and ceilings shall be non-absorbent and easily cleanable.

(D) Soiled linen shall be stored and/or transported in closed or covered containers. Soiled linen storage or holding rooms shall have adequate exhaust ducted to the exterior which shall run continuously when there is soiled linen being held in the area.

(E) Laundry areas shall have adequate air supply and ventilation for staff comfort without having to rely on opening a door.

(F) Room size and type and number of appliances shall be adequate to efficiently process seven day's needs within a regularly scheduled work week.

(G) The laundry, if located in the nursing facility, shall be one-hour fire separated and provided with a vestibule between the resident corridor and the laundry area or shall be entered from the exterior.

(11) Resident use laundry. This service, if provided, shall be limited to not more than one residential type washer and dryer per laundry room. This room shall be classified as a hazardous area as per the Life Safety Code.

(12) Personal grooming area. Appropriate space and equipment shall be provided for the hair care and grooming needs of the residents. This shall not be in a way of egress.

(13) Storage rooms. General and/or specific storage areas shall be provided as needed and required for safe and efficient operation of the facility. Items shall not be stored in inappropriate places such as corridors or rooms which are not equipped for special hazard protection

(14) Janitor closets. In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the facility to maintain a clean and sanitary environment. These shall contain a floor receptor or service sink and storage space for housekeeping equip-

ment and supplies. All such closets shall have forced air exhaust ducted to the outside.

(15) Sterilizing and disposal facilities.

(A) An effective system for sterilization of equipment and supplies shall be provided for reusable items requiring such sterilization.

(B) A policy and procedure for the safe and sanitary destruction of infectious waste shall be provided. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or contract with outside resources, or by a combination of these techniques.

(16) Maintenance/engineering service and equipment areas.

(A) The facility shall provide storage for building equipment, supplies, tools, parts, and yard maintenance equipment.

(B) Volatile liquids and supplies may not be kept within the main building housing residents.

(C) Facility staff shall have access to basic tools (such as a hammer, pliers, screwdrivers, nails, and screws) at all times. The facility shall also have available a substantial stepladder (six or seven foot) for general use at all times.

(17) Oxygen. The facility shall implement procedures that assure the safe and sanitary use and storage of oxygen.

(o) Handicapped provisions.

(1) The facility shall provide and mark at least one parking space for the handicapped.

(2) The facility shall provide wheelchair access into the building by use of ramps and curb breaks. Ramps shall not slope more than 1:12 (one unit of rise to 12 units of run).

(3) Room identification signs or letters shall be installed four feet, six inches to five feet above finished floor and located on the corridor walls adjacent to the latch side of the door jamb. Letters or numbers on signs shall be raised or recessed at least 1/32 inch minimum. Characters shall be at least 5/8 inch in height and no higher than two inches.

(4) Grab bars at toilet and bathing units shall be 1-1/4 inch to 1-1/2 inch in diameter.

(5) Handicapped toilet facilities shall be available and shall be of sufficient size to accommodate wheelchairs.

(6) Water closet seat height in toilet facilities equipped for the handicapped shall be 17 to 19 inches from floor.

(7) Mirrors and dispensers for handicapped facilities shall be no higher than 40 inches above the floor.

(8) Drinking fountains shall meet ANSI standards (i.e., up front spout and controls no more than 36 inches from floor maximum).

(9) Public telephones, if provided, shall meet ANSI standards. Mounting height shall not exceed 48 inches to coin slot.

(p) **Lighting and illumination.** Current recommendations of the Illumination Engineering Society of North America shall be followed to achieve proper illumination characteristics and lighting levels throughout the facility. Minimum illumination shall be 10 foot candles in resident rooms during the day and 20 foot candles in corridors, nurses' stations, dining rooms, lobbies, toilets, bathing facilities, laundries, stairways, and elevators during the day. Illumination requirements for these areas apply to lighting throughout the space and should be measured at approximately 30 inches above the floor anywhere in the room. Minimum illumination for over-bed reading lamps, medication preparation or storage areas, kitchens, and nurse's station desks shall be 50 foot candles during the day. Illumination requirements for these areas apply to the task performed and should be measured on the task.

(q) **Heating, ventilating, and air-conditioning systems (HVAC).**

(1) The heating system shall be capable of maintaining a temperature of not less than 72°F at the resident level in all resident use areas. Auxiliary heating devices permanently installed, such as heat strips in ducts, electric ceiling mounted heating units, and electric baseboards may be used to augment a central heating system as approved by the licensing agency.

(2) The cooling system shall be capable of maintaining a temperature of not greater than 78°F at a five foot level in all resident use areas.

(3) Air flow shall be directed or adjusted so that a resident is not in direct drafts that could be harmful to the health and comfort of the resident.

(4) Unvented heating units and portable heaters are prohibited.

(5) The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas which do not have outside windows and which are used by residents or personnel shall be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage. Air systems shall provide for the induction and mixing of at least 10% outside fresh air into the facility, unless otherwise approved by the licensing agency (i.e., 100% continuous recirculation of interior air in most areas is not acceptable). When certain rooms or areas are dependent on a central air system for proper ventilation, including exhaust, that central air system fan shall run continuously.

(6) Operable outside windows shall be provided with insect screens. Outside doors shall be self-closing to control entry of insects. All exterior doors shall be effectively weather stripped.

(7) Heating and air conditioning systems shall be provided with clean and effective air filters.

(8) Ducts and piping subject to surface condensation shall be insulated to pre-

vent such condensation at least in areas which may affect sanitation or cause building deterioration.

(9) Approved type auxiliary heating (such as ceiling mounted units) shall be required in bathing areas to assure a comfortable temperature for residents when bathing. Such heating should be manually controlled (toggle switch or timer switch).

(10) Heating, ventilating, and air conditioning systems shall comply with the provisions of applicable NFPA standards. Corridors shall not be used for return or supply air, and ducts are to be of a Class A material (noncombustible). Gas fired equipment shall be in rooms of one-hour fire resistive construction and provided with sprinkler protection. Combustion air for gas fired equipment shall be ducted from the exterior.

(11) Air flow shall be designed to prevent cross contamination within any area where applicable, such as laundries and kitchens, as well as the system or facility as a whole.

(12) With relationship to adjacent areas, a positive air pressure shall be provided for clean utility rooms, clean linen rooms, and medication rooms. Conditioned supply air shall be introduced into these rooms.

(13) With relationship to adjacent areas, a negative air pressure shall be provided for soiled utility rooms, soiled laundry rooms, bathrooms, toilets, and other odor producing rooms. Air from these rooms shall not be recirculated, but instead shall be exhausted through ducts to the exterior by effective means.

(14) Facility temperature shall be maintained for the comfort of residents. The comfort of staff, visitors, etc., is secondary.

(r) **Plumbing.**

(1) The Uniform Plumbing Code may be used as a basis for determining the correctness of plumbing installations.

(2) The water supply shall be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure. The water shall be obtained from a water supply system, the location, construction, and operation of which are approved by the Texas Department of Health.

(3) Sewage shall be discharged into a state-approved sewerage system where such a system is available; otherwise, the sewage shall be collected, treated, and disposed of in a manner which is approved by the Texas Department of Health and the Texas Water Commission.

(4) The wastewater drainage and sewerage system shall assure that sanitation is maintained for residents. Wastewater or sewage shall not be discharged on the surface of the ground. In no case shall traps be allowed to lose their seal. Appliances shall have air gaps as required for connections to the sewerage system. Venting shall assure a rapid flow of wastewater in the sewerage system.

(5) The interior cold water supply system and piping shall be so placed or so

insulated as to prevent condensation drip in habitable areas and in storage areas.

(6) Backflow preventers or vacuum breakers shall be installed with any water supply fixture where the outlet or attachments may be submerged.

(7) Resident-use hot water shall be reliably controlled, such as by thermostatic or mixing valves, to not exceed 110°F at each fixture (and not less than 100°F). An upper limit deviation of 5°F is allowed for fluctuation in supply water temperature, temperature variance due to distance between heater and fixture, volume and timing of hot water usage, and other factors.

(8) Hot water for other usages shall be provided at the temperatures required for the appliance or fixture or for the operation involved, such as dishwashing and laundry.

(9) The supply quantity of hot water shall be adequate for normal peak load usage. Facilities which continue to experience a shortage of hot water shall remedy the situation by such means as adding storage tanks, adding or increasing the size of water heaters, or other approved means.

(10) Water heaters shall be equipped with pressure temperature relief valves.

§145.24. *Environmental Services.*

(a) **Housekeeping services.**

(1) The nursing facility shall provide sufficient housekeeping and maintenance personnel, equipment, and supplies to maintain the interior and exterior of the facility in a safe, clean, orderly, and attractive manner. Nursing personnel shall not be assigned housekeeping duties.

(2) Housekeeping personnel shall utilize accepted practices and procedures to keep the facility free from offensive odors, accumulations of dirt, rubbish, dust, and hazards.

(3) Floors shall be maintained in good condition and cleaned regularly. Polishes on floors shall provide a nonslip finish, and throw or scatter rugs and/or any loose floor covering shall not be used except for nonslip entrance mats.

(4) Resident rooms shall be cleaned and put in order at least daily.

(5) Mop heads shall be of the removable type and shall be laundered or replaced at frequent intervals to insure cleanliness.

(6) Deodorizers shall not be used to cover up odors caused by insanitary conditions or poor housekeeping practices. Odor control shall be achieved by prompt cleansing of bedpans, urinals, and commodes, by the prompt and proper care of patients and soiled linens, by good housekeeping procedures, and by approved ventilation.

(7) Storage areas shall be kept safe and free from accumulations of extraneous materials such as refuse, discarded furniture, and newspapers. Combustibles such as cleaning rags and compounds shall be kept in closed metal containers and labeled as to contents.

(8) Attics, mechanical rooms, boiler rooms, and other similar areas shall not be used for storage purposes.

(9) The grounds shall be kept neat and free from refuse and litter. Areas around buildings, sidewalks, gardens, and patios shall be kept clear of dense undergrowth.

(10) All bleaches, detergents, disinfectants, insecticides, and other poisonous substances shall be kept in a safe place accessible only to employees. They shall not be kept in containers previously containing food or medicine. Containers must be labeled.

(b) Pest control.

(1) An effective pest control program shall be in operation in the facility. Pest control services shall be provided by personnel of the nursing care facility or by contract with a licensed pest control company. Care shall be taken to use the least toxic and least flammable effective insecticides and rodenticides. These compounds shall be stored in nonfood preparation and storage areas. Poisons shall be under lock.

(2) The facility shall protect against harborage and entrances for insects, rodents, and vermin.

(3) Garbage and trash shall be stored in containers with tight fitting covers in areas separate from those used for the preparation and storage of food and shall be removed from the premises in conformity with state and local practices. Garbage and trash containers, excluding commercial and city dumpsters, shall be cleaned daily. Garbage storage areas shall be kept clean and in a state of good repair.

(c) Linen.

(1) The nursing care facility shall have available at all times a quantity of linen essential for the proper care and comfort of residents. Linens shall be handled, stored, and processed so as to control the spread of infection.

(2) Linen will be maintained in good repair. Worn or damaged linen will be discarded and replaced.

(3) Linen shall be washed, dried, stored, and transported in a manner which will produce hygienically clean linen. The washing process must have a mechanism for soil removal and bacteria kill.

(4) The linen supply shall be at least three times the usual occupancy, with at least one complete set of linen (one towel, one washrag, one pillow case, and two sheets) clean and available for use at any time.

(5) Clean linen shall be stored in a clean linen closet easily accessible to the personnel.

(6) Clean towels and washcloths shall be provided to each patient as needed. Towels shall not be used by more than one resident between launderings.

(7) Soiled linen and clothing shall be stored in separate, well ventilated areas, and shall not be permitted to accumulate in other areas of the facility. Soiled linen and clothing shall be stored separately in approved

bags or containers. Soiled bags or containers shall not be used to convey clean linens.

(8) Soiled linen shall not be sorted, laundered, rinsed, or stored in bathrooms, residents rooms, corridors, kitchens, or food storage areas. Soiled linen and clothing may be rinsed in a bathroom water closet.

(9) Resident's personal clothing that is not soiled with body wastes may be stored in a closed container in the residents closet. The clothing must be collected and cleaned at least weekly.

(10) Facility staff shall wash their hands both after handling soiled linen and before handling clean linen.

§145.25. Safety Operations.

(a) The facility must have a written plan with procedures to be followed in an internal or external disaster and for the care of casualties.

(1) The facility must maintain the plan and procedures at the nurses station and with department managers within the facility. The facility must ensure that the plan and procedures are reviewed at least annually. Changes in administrator, construction, or emergency phone numbers will require the facility to review and possibly modify the disaster plan. All reviews of disaster plans must be documented.

(2) The facility must include in the disaster plan evacuation routes and procedures to be followed in the event of fire, explosion, or other disaster. The plan must also include procedures for the prompt transfer of casualties, medical records, medications, and notification of appropriate persons.

(3) All employees must be familiar with the disaster plan and must be instructed in the location and use of the facility's alarm systems, fire-fighting equipment, and procedures. The facility must post fire and explosion evacuation routes prominently throughout the facility. The facility must have a fire safety plan within the disaster plan. The fire safety plan must be rehearsed quarterly on each shift. A comprehensive fire drill report form shall be completed for each rehearsal of the fire safety plan

(4) In smaller, simple one story buildings where all exits are obvious, the licensing agency may not require the posting of evacuation routes.

(b) The facility must have a contingency plan to ensure a constant supply of power, heat, and potable water. An emergency electrical system must be adequate to power lights at nursing stations, telephone switchboard, night lights, exit signs and emergency egress lighting, boiler room, and fire alarm system until other arrangements can be made.

(c) Emergency telephone numbers shall be clearly posted on or near each phone. Emergency telephone numbers shall include the local fire department, ambulance, and police. Semipermanent labels on the phones are recommended.

(d) The facility must report all fire incidents, disasters, and major hazardous conditions, such as basic failure of the fire alarm or sprinkler system, to the licensing agency (Architectural Section) as soon as possible by phone. All telephone reports shall be followed by a written report.

(e) Severe weather drills and other emergency drills shall be held as needed and as called for by the facility's policy and procedure manual.

(f) The fire alarm and sprinkler systems shall be inspected and tested at least once every three months by a licensed agent. Each such quarterly inspection and test shall be of the complete system, including smoke dampers, individual sprinkler heads, etc. A standard report form of the inspection shall be completed by the agent and kept on file by the facility. The report shall include the time of day the agent began his inspection and the time the inspection was completed. The facility shall maintain a current contract on file for the service of the inspecting company.

(g) The facility may, at its own discretion, make simple periodic tests of the basic fire alarm system, such as by activating a manual pull station, particularly when conducting required fire drills. At any time the facility staff verifies or suspects some malfunction of the system, the condition shall be immediately investigated and corrected.

(h) Emergency generators shall be maintained in operating condition at all times. They shall be inspected (oil, battery, fuel, level, etc.) and run, under load, for at least 30 minutes each week. A signed or initialed record or log shall be kept on file by the facility. The condition and proper operation of the emergency egress lighting should also be checked at this time.

(i) A functional test shall be conducted on every required battery emergency lighting system at 30-day intervals for a minimum of 30 seconds. An annual test shall be conducted for a 1½ hour duration. Equipment shall be fully operational for the duration of the test. Written records of testing shall be kept by the owner for inspection by the authority having jurisdiction.

(j) Automatic fixed dry chemical extinguishers mounted in kitchen range hoods shall be inspected and serviced by a licensed agent (type A license with the state fire marshal's office) at least once every six months. A written, signed report shall be left on file with the facility. The hood, exhaust ducts, filters, ect., shall be kept clean and free of accumulations of grease.

(k) Portable fire extinguishers shall be inspected monthly by facility staff and annually by a licensed agent. A signed or initialed record or log shall be kept on file by the facility. Portable extinguishers shall be protected from damage and shall be kept on their mounting brackets or in cabinets at all times.

(l) Facilities using gas shall have the gas piping lines from the meter and appli-

ances tested for leaks annually by a qualified person. A written, signed report shall be made of these tests and kept on file. Any unsatisfactory conditions shall be noted and corrected promptly.

(m) Smoking policies shall be formulated and adopted by the facility. The policies shall comply with all applicable codes, regulations, and standards, including local ordinances. It is the responsibility of the facility to inform affected parties (i.e., residents, staff, visitors, etc.) of smoking policies through distribution and/or posting. The facility is responsible for enforcement of smoking policies which shall include at least the following provisions.

(1) Smoking tobacco, matches, lighters, or other smoking paraphernalia are not permitted to be kept or stored in a resident's room or in their possession without supervision.

(2) Smoking by residents on the premises is permitted only when supervised by staff of the facility or visitors. The type of supervision (individual versus group supervision) will be determined by the resident's medical condition. The resident must be within direct view of the smoking supervisor, in reasonably close proximity of the supervisor, and the supervisor must be able to quickly respond in the event of an emergency. Additionally, the supervisor, whether staff or visitor, must be aware of these responsibilities.

(3) Smoking shall be prohibited in any room, ward, or compartment where flammable liquids, combustible gases, or oxygen are used or stored and in any other hazardous locations. Such areas shall be posted with "No Smoking" signs.

(n) No storage is permitted in rooms with gas-fired equipment. Bulk storage of volatile or flammable liquids or materials shall not be allowed anywhere within the building.

(o) Extra precautionary measures, such as a fire watch, shall be taken during any period that basic fire protection equipment, such as fire alarm systems or sprinkler systems, are nonfunctional. All staff and the local fire department shall be made aware of the problem. Extra night staff may be required during such periods.

(p) Carts, wheelchairs, tables, etc., shall not be stored in corridors or other ways of egress.

(q) Smoke doors, fire doors, and doors to hazardous rooms must be kept closed and shall not be propped or wedged open. Only approved alarm activated electromagnetic hold-open devices may be used to hold such doors open, except doors to rooms classified as severe hazard.

(r) Electrical extension cords shall not be used on a permanent or semi-permanent basis as a substitute for approved wiring methods. Approved electrical receptacles shall be provided in quantity and location for the normal use of appliances.

(s) All abandoned utilities such as electrical wiring, ducts, etc., shall be removed from the facility when no longer usable.

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

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TRD-8609775

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Deputy Commissioner
Professional Services
Texas Department of
Health

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For further information, please call
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Subchapter Q. Planning and Construction for Nursing Homes

★ 25 TAC §§145.271-145.285

The new sections are proposed under Texas Civil Statutes, Article 4442-c, §7, which provide the Texas Board of Health with the authority to adopt rules covering minimum licensing standards and construction standards for long term care facilities.

§145.271. Introduction and Application.

(a) This subchapter is written for, and shall apply to, new construction, including conversions, additions, and remodelings. The requirements of the Life Safety Code, Standard 101 of the National Fire Protection Association (NFPA) (hereafter referred to as the Life Safety Code, or the Code), and other applicable NFPA standards referenced therein shall apply unless otherwise noted or modified in this subchapter. (Reference Life Safety Code, "New Health Care Occupancies.")

(1) Life Safety Code, NFPA 101, is a registered trademark of the National Fire Protection Association, Inc., Quincy, MA., 02269.

(2) Life Safety Code, "Existing Health Care Occupancies," is not applicable to this subchapter, which is written for new construction as defined. Thus, any subsequent references to the Code will be to "New Health Care Occupancies."

(3) In addition to the specific occupancy requirements, all general chapters of the Code, such as Chapters 1-7 and Chapter 31, "Operating Features," are applicable as for all building types, with exceptions noted.

(4) Any NFPA standard may become applicable if conditions are in existence at the facility. For example NFPA Standard 37, "Combustion Engines," would be applicable to generators on the premises, at least in part.

(5) In addition, this manual describes minimum requirements for space use and other architectural and environmental aspects deemed necessary to provide a favorable environment for nursing home residents.

(b) Existing nursing homes shall meet, as a minimum, the requirements of "Existing Health Care Occupancies" of the Life Safety Code. See §145.23(a)(1)(B) of this title (relating to Physical Plant and Environment).

(c) Section 145.23 of this title (relating to Physical Plant and Environment) is a companion part of this subchapter. This subchapter must be referenced for new facilities for any items that may be in conflict or exceed Subchapter B of this title (relating to Minimum Licensing Standards for Nursing Homes).

(d) All applicable local, state, or national codes and ordinances shall be met as determined by the authority having jurisdiction for those codes and ordinances and by the licensing agency. Any conflicts shall be made known to the licensing agency for appropriate resolution. When documents submitted for review contain obvious and serious errors or omissions, they may be returned for corrections and resubmittal. When the resubmittals continue to contain serious errors or omissions, they may be subject to referral to the appropriate state licensing board for a determination of the adequacy of qualification of the architect or engineer relative to the project under consideration.

(e) The design of structural systems shall be done by or under the direction of a professional engineer who is currently registered by the Texas State Board of Registration for Professional Engineers. New facility construction and projects of unusual complexity require that plans and specifications be done by or under the direction of an architect currently registered by the Texas State Board of Architectural Examiners. Documents shall bear the legible seal of the architect and of the engineer(s).

(f) When bed additions (over the existing licensed capacity) are proposed for an existing facility, whether construction is involved or not, the dietary, dining, living, and bathing areas must be reevaluated and approved by the licensing agency to assure that these areas will accommodate the increased service needs. Many existing facilities have barely the minimum space for dining and living and cannot absorb a bed increase without expanding the dining area, living area, or the kitchen area or arrangement. The combined living and dining space for facilities licensed under previous standards shall provide at least 10 square feet per bed plus additional living and dining space in accordance with §145.274(5) and (6) of this title (relating to Architectural Space Planning and Utilization) per each new (added) bed. Increases to those buildings built after the effective date of these sections shall meet the space requirements of §145.274 of this title (relating to Architectural Space Planning and Utilization) for the bed increase.

(g) No construction or demolition shall be started prior to submittal of final plans to the licensing agency for review and approval. See §145.275 of this title (relating to

Exit Provisions) for remodeling safety requirements.

(h) No building shall be occupied by residents prior to inspection and approval to occupy by the licensing agency.

(i) Attention is called to the fact that Subchapter B of this title (relating to Minimum Licensing Standards for Nursing Homes) specifies many requirements for procedures, policies, and services which should be studied for proper functional planning for resident services.

(j) Questions pertaining to architectural or code requirements should be directed to the licensing agency: Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756-3188 (Quality Standards Division, Architectural Section).

(k) The words "shall" or "must" are requirements. The word "should" is a recommendation which is expected to be followed unless there is valid reason not to do so.

(l) Nothing in these sections shall be construed as prohibiting a better type of building or construction, more space, services, features, or greater degree of safety than the minimum requirements specified herein.

§145.272. Location and Site.

(a) Site approval is normally given by the local health officer, building department, and fire marshal having jurisdiction. Any conditions considered to be a fire, safety, or health hazard will be grounds for disapproval of the site by the licensing agency. New facilities shall not be built in an area designated as a floodplain of 100 years or less.

(b) Site grades shall provide for positive surface water drainage so that there will be no ponding or standing water on the designated site. This does not apply to local government requirements for engineered controlled run-off holding ponds, etc.

(c) A new building (or addition) shall be set back at least 10 feet from the property lines except as otherwise approved by the licensing agency. This is intended to help prevent situations where an adjacent building (street, etc.) may be built on the common property line blocking window views or restricting exits, etc. It is not intended to preclude a favorable plan or design which eliminates such a possibility if an adjacent building, street, etc., is less than 10 feet from the property line.

(d) Exit doors from the building shall not open directly onto a drive for vehicular traffic, but shall be set back at least six feet from the edge of such drive (measured from the end of the building wall in the case of a recessed door) to prevent accidents due to lack of visual warning.

(e) Walks shall be provided as required from all exits and shall be of non-slip surfaces free of hazards. Walks shall be at least 48 inches wide except as otherwise approved. Ramps should be used in lieu of steps where possible for the handicapped and to facilitate bed or wheelchair removal in an emergency.

(f) Outdoor activity, recreational, and sitting spaces shall be provided and appropriately designed, landscaped, and equipped. Some shaded and/or covered outside areas are needed. Such areas shall be designed to accommodate residents in wheelchairs.

(1) Consideration should be given to sun orientation so as to provide areas for residents to be in the sun or shade (as desired or needed) both in the mornings and afternoons. Also, areas should provide orientation for residents to view the outside world (streets, shops, etc.) as well as other more secluded areas such as interior courtyards.

(2) These developed outdoor use areas need not be elaborate, expensive exercises in landscaping, but should be much more than a small concrete porch with a few chairs. Much can be done simply and inexpensively with thoughtful, careful planning by a competent planner.

(3) The developed usable outside area including features such as walks, patios, benches, lawns, and gardens, should equal at least 30 square feet per bed. Grounds in resident-use areas shall be relatively level (at least in part, with other parts not exceeding a slope of 1:12) except as otherwise approved by the licensing agency.

(g) Each facility shall have parking space to satisfy the minimum needs of residents, employees, staff, and visitors. In the absence of a formal parking study, each facility shall provide for a ratio of at least one parking space for every four beds in the facility. This ratio may be reduced slightly in areas convenient to public parking facilities. Space shall be provided for emergency and delivery vehicles. No parking space shall block or inhibit egress from the outside exit doors. Parking spaces and drives shall be at least 10 feet away from windows in bedrooms, and dining and living areas.

(h) Barriers shall be provided for resident safety from traffic or other site hazards by the use of appropriate methods such as fences, hedges, retaining walls, railings, or other landscaping. Electrified or barbed wire fences are not permitted. Such barriers shall not inhibit the free emergency egress to a safe distance away from the building.

(i) Open or enclosed courts of one-story structures with resident rooms or living areas opening upon them shall not be less than 20 feet in the smallest dimension unless otherwise approved by the licensing agency.

(1) Exceptions would be as follows.

(A) Nonparallel wings forming an acute angle may have a maximum of two such windows each side less than 20 feet but not less than 10 feet.

(B) Windows may be separated by a distance equal to the depth of the court but not less than 10 feet.

(C) For unusual or unique site conditions, courts with resident rooms opening upon them on one side only shall be not less than 10 feet in the smallest dimension, provided that the opposite wing does not contain a hazardous area and the wall has

no openings which could transfer fire conditions to the resident room side.

(2) Any structure two or more stories high may require greater separation in accordance with building code requirements and environmental needs.

(j) Auxiliary buildings on the site within 20 feet of the licensed structure shall meet the same code requirements for safety as the licensed structure as determined by the licensing agency.

(k) Auxiliary buildings on the site, 20 feet or more away from the licensed structure, which are occupied by the residents shall meet requirements of the appropriate occupancy section of the Code as determined by the licensing agency. Such buildings occupied by staff shall meet the exit egress requirements of the Code.

(l) Fire service and access shall be as follows.

(1) The facility shall be served by a paid or volunteer fire department. The fire department must be approved by the licensing agency. The fire station location shall assure arrival time not to exceed five minutes from the station, unless otherwise approved by the licensing agency. The five minutes shall be measured from the time the call is received to the time when the fire truck (and three or more fire fighters) arrives at the facility.

(2) The facility shall be served by an adequate water supply that is satisfactory and accessible for fire department use as determined by the fire department serving the facility and by the licensing agency. 500 GPM flow rate is normally required, and preferably located on a loop line. The licensing agency will consider a water supply having less than 500 GPM, but not less than 250 GPM, with a residual pressure of at least 15 PSI.

(3) There shall be at least one approved readily accessible fire hydrant located within 300 feet of the building. The hydrant shall be on a minimum six-inch service line, or else there shall be an approved equivalent (such as a storage tank). The hydrant, its location, and service line, or equivalent shall be as approved by the local fire department and the licensing agency. Larger facilities may require additional hydrants.

(4) The building shall have suitable all-weather fire lanes for access as required by local fire authorities and the licensing agency. As a minimum, there shall be access to two sides of the building by an all-weather lane at least 10 feet wide. Fire lanes shall have at least 14 feet in clearance width above grade (two feet each side of the 10 foot road-bed) and be kept free of obstructions at all times. All-weather access lanes shall be no less than a properly constructed gravel lane.

§145.273. General Considerations.

(a) Services. Nursing home facilities shall either contain the elements described herein or the provider shall indicate the manner in which the needed services are to be

made available. Each element provided in the facility must comply with the requirements outlined herein. Appropriate modifications or deletions in space requirements may be made when services are shared or purchased.

(b) **Sizes.** The sizes of the various departments will depend upon program requirements and organization of services within the facility. Some functions requiring separate spaces or rooms in these minimum requirements may be combined, provided that the resulting plan will not compromise the best standards of safety and of medical and nursing practices.

(c) **Shared or combined services.** Nursing homes may be operated together with hospitals and may share administration, food service, recreation, janitor service, and physical therapy facilities, but must otherwise have clearly identifiable physical separations such as a separate wing or floor. Nursing homes with different levels of care (under some care programs such as skilled and ICF) will require identifiable physical separations. Combined attendant or nurse stations and medication room areas will require some separating construction features.

(d) **Exterior finishes.** Unless otherwise approved by the licensing agency, the exterior finish material of buildings classified (per NFPA 220) as fire resistive or protected non-combustible shall be Class A. All others shall be Class A or B. Items of trim may be of combustible material subject to approval by the licensing agency. Roofing shall be underwriter laboratories (UL) listed as Class A or B.

(e) **Interior finishes.**

(1) Life Safety Code requirements for new construction shall be applicable.

(2) The interior finish of walls and ceilings throughout shall be Class A, except that individual rooms of not over four persons in capacity may have Class B finish.

(3) Interior floor finish in corridors and exitways shall be Class I, critical radiant flux of 0.45 watts per square centimeter or better.

(4) Documentation of finishes, such as copies of lab test reports, material labels, etc., is required.

(f) **Corridor travel distance.** Corridor travel from the nurse station to the farthest resident room must assure reasonable service to the resident. The normal travel for nursing efficiency is considered to be not over 85 feet and shall not exceed 150 feet.

(g) **Provisions for handicapped.** Facilities shall be available and accessible to the physically handicapped (public and residents), in accordance with the American National Standards Institute, Inc. (ANSI) A117.1, unless otherwise determined by the licensing agency. Reference also the requirements of the State Purchasing and General Services Commission for handicapped or disabled citizens.

(h) **Handrails.** Handrails shall be provided on each side of all resident use corri-

dors. Handrails for other areas should be provided as needed to facilitate resident movement or egress. Design of handrails shall be in accordance with ANSI 117.1, §4.26. Such handrails may extend into the minimum required corridor width without widening the corridor (i.e., in an eight foot wide corridor, handrails may project up to 3-½ inches on each side). Reference §145.282(8) and (9) of this title (relating to Miscellaneous Details) for handrail details

§145.274. *Architectural Space Planning and Utilization.* See §145.284 of this title (relating to Architectural Space Planning and Utilization) for drawings and specifications required for review and construction purposes.

(I) **Resident bedrooms.** Each resident bedroom shall meet the following requirements.

(A) The maximum room capacity shall be four patients.

(B) No more than 25% of the total licensed beds shall be in bedrooms with more than two beds each.

(C) Minimum bedroom area, excluding toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, shall be 100 square feet in single occupancy rooms and 80 square feet per bed in multibed rooms.

(D) The minimum room dimension shall be 10 feet. The room shall be designed to provide at least 36 inches between beds and 24 inches between any bed and the adjacent (parallel) wall.

(E) Each room shall have at least one operable outside window arranged and located so that it can be easily opened from the inside without the use of tools or keys. The maximum allowable sill height (to opening) shall not exceed 36 inches above the floor. All operative windows shall have insect screens. The minimum area of window(s) in each bedroom shall equal at least 16 square feet or 8.0% of the room area, whichever is larger. The Code does not intend for bedroom windows to be designated as exits; this requirement is for emergency fresh air access for a person trapped in the room and for smoke venting. The minimum opening dimension shall be six inches. For facilities which have need to do so, and receive approval from the licensing agency to do so, stops may be installed to limit the opening to six inches. If the bedroom has a door to the exterior to fulfill this requirement, then a window shall be provided for view and natural light and may be fixed type.

(F) Each room shall have general lighting, bed reading lights, and night lighting. The night light shall be switched just inside the entrance to each resident room with a silent type switch. A durable nonglare (opaque front panel) reading light securely anchored to the wall, integrally wired, shall be provided for each resident bed. The switch shall be within reach of a resident in the bed. Fixtures with flexible arms should be avoided due to maintenance/breakage problems. If used, they shall be designed to prevent the

bulb from coming in contact with bed linens or pillows. Wall lamps directly above the bed should be mounted at least five feet six inches above the floor to clear headboards and allow resident to sit up in bed without hitting his head on the lamp.

(G) Two duplex (or a four-plex) grounding type receptacles shall be provided beside the head of each bed. Other walls shall have duplex receptacles as needed for television, radio, razors, hairdryers, clocks, etc., and/or as required by the National Electrical Code. National Electrical Code is a registered trademark of the National Fire Protection Association, Inc., Quincy, MA., 02269.

(H) Each resident shall have access to a toilet room without entering the general corridor area. One toilet room shall serve no more than two resident rooms. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room which serves two bedrooms if each such resident room contains a lavatory. See paragraph (3)(A) of this section for baths and other toilet facility requirements.

(I) Each resident shall have a bed with a comfortable mattress, a bedside stand with at least two enclosed storage spaces, a dresser, and closet or wardrobe space providing privacy for clothing and personal belongings. Clothes storage space shall provide at least 22 inches of lineal hanging space per closable bed and have closable doors. Chairs (and space) shall be provided for use by residents and/or visitors.

(J) All beds shall have provisions for accepting castors with wheel-locking devices, and all bedfast resident beds shall have castors installed.

(K) Each room shall open onto an exit corridor and shall be arranged for convenient resident access to dining, living, and bathing areas.

(L) Visual privacy (such as cubicle curtains) shall be available for each resident in multibed rooms. Design for privacy shall not restrict resident access to entry, lavatory, or toilet, nor shall it restrict bed evacuation or obstruct sprinkler flow coverage.

(M) At least one noncombustible wastebasket shall be provided in each bedroom.

(N) See the requirements in §145.281 (d)(4) of this title (relating to Electrical) for nurse call systems.

(2) **Nursing service areas.** The service areas listed in this paragraph shall be located in or readily available to each nursing unit. The size and disposition of each service area will depend upon the number and types of beds to be served. Each service area may be arranged and located to serve more than one nursing unit, but at least one such service area shall be provided on each nursing floor. The maximum distance from a resident room door to a nurse station shall be 150 feet.

(A) **Nurse stations.** Nurse stations shall be provided with space for nurses' chart-

ing, doctors' charting, and storage for administrative supplies. Nurses' stations shall be located to provide a direct view of resident corridors.

(i) Nurse stations are considered as having a direct view of resident corridors if a person can see down the corridors from a point within 24 inches of the outside of the nurse station counter or wall. This permits nurse stations which do not project out onto a corridor.

(ii) An area of at least 120 square feet should be provided adjacent to the nurse station for resident seating. This space shall not obstruct normal traffic patterns or egress.

(B) Lounge and toilet room(s) for nursing staff. Lounge and toilet room(s) for nursing staff shall be provided.

(C) Lockers and/or security compartments. Lockers and/or security compartments shall be provided for the safekeeping of personal effects of staff. These shall be located convenient to the duty station of personnel or in a central location.

(D) Clean utility room. The clean utility room shall contain a work counter, sink with high neck faucet with lever controls, and storage facilities. It shall be part of a system for storage and distribution of clean and sterile supply materials. The clean utility room should generally be designed to include storage for bedpans, urinals, catheter kits, nasogastric tubes, and water pitchers.

(E) Soiled utility room. The soiled utility room shall contain a water closet or equivalent flushing rim fixture, a sink large enough to submerge a bedpan with spray hose and high neck faucet with lever controls, work counter, waste receptacle, and linen receptacle. It shall be part of a system for collection and cleaning or disposal of soiled utensils or materials. A separate hand-wash sink shall be provided if the bedpan disinfecting sink cannot normally be used for handwashing. The soiled utility room should generally be designed to provide for washing bedpans, emesis pans, and urinals, to perform urinalysis tests, and collection for disposal of soiled bandages, etc.

(F) Medication room. Provision shall be made for convenient and prompt 24-hour distribution of medication to residents. The medication preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, sink with hot and cold water, and locked storage for biologicals and drugs and shall have a minimum area of 50 square feet. Fifty square feet is the minimum size for the very smallest facilities. The minimum will need to be greater for facilities with over 30 beds, or if a tray cart system is used. The minimum dimension shall be five feet six inches. An appropriate air supply shall be provided to

maintain adequate temperature and ventilation for safe storage of medications. For purposes of storage of unrefrigerated medications, the room temperature shall be maintained between 59° and 86°F.

(G) Clean linen storage room. Provision shall be made for separate closets or room for clean linens. Corridors shall not be used for folding or cart storage. Storage rooms shall be located and distributed in the building for efficient access to bedrooms.

(H) Soiled linen room(s). Soiled linen rooms shall be provided as required in paragraph (12) of this section.

(I) Nourishment station. A nourishment station is usually required in all but the smaller facilities and shall contain a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets. Ice for residents' service and treatment shall be provided only by icemaker-dispenser units. This station may be furnished in clean utility room.

(J) Equipment storage room. An equipment storage room shall be for equipment such as intravenous stands, inhalators, air mattresses, and walkers.

(K) Parking spaces for stretchers and wheelchairs. Parking spaces for stretchers and wheelchairs shall be located out of path of normal traffic.

(3) Residents' bathing and toilet facilities.

(A) Bathtubs or showers shall be provided at the rate of one for each 20 beds which are not otherwise served by bathing facilities within residents' rooms. Ratios should be met per wing and/or per floor. Compliance with overall ratios only may leave some residents without adequate facilities. At least one bathing unit shall be provided in each nursing unit. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an attendant. Each general use bathing room (those not directly serving adjoining bedrooms) shall be provided with at least one water closet (in a stall, room, or area for privacy) and one lavatory. Such bathing room(s) shall be located conveniently to the bedroom area it serves and shall not be more than 75 feet from the farthest bedroom. See requirements in paragraph (1)(H) of this section for resident toilets at bedrooms. Each facility shall provide at least one whirlpool tub unit as one of the required bathing units.

(B) At least 10% of bathrooms and toilet rooms, fixtures, and accessories shall be designed and provided to meet ANSI criteria for the handicapped unless otherwise approved by the licensing agency. (Only horizontal wall mounted grab bars 40 inches in length will be acceptable; seat mounted grab bars will not be allowed.) With proper plan-

ning, arranging bathrooms and toilet rooms to accommodate the handicapped as well as nonhandicapped is usually simple and economical. For example, mirrors can accommodate both by being slightly longer than minimum so that the bottom is no more than 40 inches above the floor with the usual six feet (+) to the top. Some accessories simply need mounting slightly lower than usual.

(C) All rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by patients, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the door shall open outwards so that it can be opened without pushing against a patient who may have collapsed within the room.

(D) Bathing areas shall be provided with safe and effective auxiliary or supplementary heating. Auxiliary heaters shall be ceiling mounted and should be controlled by thermostats and/or timer switches to help prevent overheating due to staff or resident negligence in turning off heater when not in use. Bathing areas shall be free of drafts and shall have adequate exhaust ducted to the outside to minimize excess moisture retention and resulting mold and mildew problems.

(E) Tubs and showers shall be provided with slip proof bottoms.

(F) Lavatories and handwashing facilities shall be securely anchored to withstand an applied downward load of not less than 250 pounds on the front of the fixtures.

(G) Provision shall be made for sanitary hand drying at lavatories. There shall be paper towel dispensers, or separate towel racks, separate toothbrush holders, etc.

(H) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in a standing position and the minimum size shall be 15 inches in width by 30 inches in height, or tilt type.

(I) Rooms with toilets shall be provided with effective forced air exhaust ducted to the exterior to help remove odors. Ducted manifold systems are recommended for some multiple type installations.

(J) Floors, walls, and ceilings shall have nonabsorbent surfaces, be smooth, and easily cleanable.

(4) Sterilizing and disposal facilities.

(A) An effective system for sterilization of equipment and supplies shall be provided.

(B) Space and facilities shall be provided for the sanitary storage of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques.

(5) Patient living areas.

(A) Social-diversional spaces such as living rooms, dayrooms, lounges, sunrooms, etc., shall be provided on a sliding scale as follows:

<u>Number of Beds</u>	<u>Area Per Bed (Minimum)</u>
4 - 15	18 square feet (minimum 144 square feet)
16 - 20	17 square feet
21 - 25	16 square feet
26 - 30	15 square feet
31 - 35	14 square feet
36 - 40	13 square feet
41 - 50	12 square feet
51 - 60	11 square feet
61 and over	10 square feet (Example: 100 beds equals 1,000 square feet.)

(i) Where a required way of exit (or a service way) is through such living (or dining) area, a pathway equal to the corridor width will normally be deducted for calculation purposes and discounted from that area. Such exit pathways must be kept clear of obstructions.

(ii) Each resident living room and dining room shall have at least one outside window. The window area shall be equal to at least 8.0% of the total room floor area. Skylighting may be used to fulfill ½ of the 8.0% minimum area.

(iii) See §145.271(f) of this title (relating to Introduction and Application) for bed capacity increases to existing facilities.

(iv) Open or enclosed seating space shall be provided within view of the main nurse station that will allow furniture or wheelchair parking that does not obstruct the corridor way of egress.

(B) In facilities of 50 beds or greater, it is desirable to provide two or more separate areas (the smallest of which should not be less than 160 square feet) for social-diversional activities, in order to avoid an oversized gymnasium-like atmosphere and to prevent interference of multiple activities, thus allowing more flexibility. Conversely, all of the required minimum area must not be broken up into several very small areas only; at least one of the areas should be at least half of the total minimum required space. For example, if a total of 1,000 square feet is required, the area may be divided into one space of 600 square feet and a second of 400 square feet (or 500, 300, and 200).

(6) Dining space. Dining space shall be adequate for the number of residents served, but no less than 10 square feet per resident bed. See §145.271(f) of this title (re-

lating to Introduction and Application) for bed capacity increases to existing facilities.

(7) Dietary facilities.

(A) Kitchens (main/dietary).

(i) Kitchens will be evaluated on the basis of their performance in the sanitary and efficient preparation and serving of meals to residents. Consideration shall be given to planning for the type of meals served, the overall building design, the food service equipment, arrangement, and the work flow involved in the preparation and delivery of food. Plans shall include a large-scale detailed kitchen layout designed by a registered or licensed dietitian or architect having knowledge in the design of food service operations.

(ii) Kitchens shall be designed so that room temperature, at peak load (sum-mer-time), shall not exceed a temperature of 85°F measured over the room at the five-foot level. The amount of supply air shall take into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(iii) Operational equipment shall be provided as planned and scheduled by the facility consultants for preparing and serving meals and for refrigerating and freezing of perishable foods, as well as equipment in, and/or adjacent to, the kitchen or dining area for producing ice.

(iv) Facilities for washing and sanitizing dishes and cooking utensils shall be provided. Such facilities shall be designed based on the number of meals served and the method of serving (permanent or disposable dishware, etc.). As a minimum, the kitchen shall contain a multicompartiment sink large enough to immerse pots and pans. In all facilities, a mechanical dishwasher is required for washing and sanitizing dishes.

Separation of soiled and clean dish areas shall be maintained, including air flow.

(v) A vegetable preparation sink shall be provided. It shall be separate from the pot sinks.

(vi) A supply of hot and cold water shall be provided. Hot water for sanitizing purposes shall be 180°F or the manufacturer's suggested temperature for chemical sanitizers. For mechanical dishwashers the temperature measurement is at the manifold.

(vii) A kitchen shall be provided with a hand-washing lavatory in the food preparation area with hot and cold water, soap, paper towel dispenser, and waste receptacle. The dish room area shall have ready access to a handwashing lavatory.

(viii) Staff rest room facilities with lavatory shall be directly accessible to kitchen staff without traversing resident use areas. The rest room door shall not open directly into the kitchen (e.g., provide a vestibule) unless otherwise approved by the licensing agency.

(ix) Janitorial facilities shall be provided exclusively for the kitchen and shall be located in the kitchen area.

(x) Nonabsorbent smooth finishes or surfaces shall be used on kitchen floors, walls, and ceilings. Such surfaces shall be capable of being routinely cleaned and sanitized to maintain a healthful environment. Counter and cabinet surfaces, inside and outside, shall also have smooth, cleanable, relatively nonporous finishes.

(xi) Operable windows shall have insect screens provided.

(xii) Doors between kitchen and dining or serving areas shall have ¼-inch fixed wire glass view panel mounted in a steel

frame. Reference §145.278(f) of this title (relating to Hazardous Areas).

(xiii) See §145.278 of this title (relating to Hazardous Areas) for hazardous area requirements.

(xiv) A garbage can or cart washing area with drain and hot water shall be provided.

(xv) Floor drains shall be provided for kitchen and dishwash areas.

(xvi) Vapor removal from cooking equipment shall be designed and installed in accordance with NFPA Standard 96.

(xvii) Grease traps shall be provided as required.

(xviii) See §145.271(f) of this title (relating to Introduction and Application) for bed capacity increases to existing facilities

(B) Food storage areas.

(i) Food storage areas shall provide for storage of a seven-day minimum supply of nonperishable foods at all times.

(ii) Shelves shall be adjustable wire type. Walls and floors must have a non-absorbent finish to provide a cleanable surface. No foods shall be stored on the floor; dollies, racks, or pallets may be used to elevate foods not stored on shelving

(iii) Dry foods storage shall have an effective venting system to provide for positive air circulation.

(iv) The maximum room temperature for food storage shall not exceed 85°F at any time. The measurement shall be taken at the highest food storage level, but not less than five feet from the floor.

(v) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage

(C) Auxiliary serving kitchens (those not contiguous to food preparation/ serving area).

(i) Where service areas other than the kitchen are used to dispense foods, these shall be designated as food service areas and shall have equipment for maintaining required food temperatures while serving.

(ii) Separate food service areas shall have hand-washing facilities as a part of the food service area.

(iii) Finishes of all surfaces, except ceilings, shall be the same as those required for dietary kitchens or comparable areas.

(8) Administrative and public areas.

(A) The following elements shall be provided in the public area.

(i) Entrance. The entrance shall be at grade level, sheltered from the weather and able to accommodate wheelchairs. A drive-under canopy should be provided for the protection of residents or visitors entering or leaving a vehicle. The latter may be a secondary entrance

(ii) Lobby

(1) The lobby shall include:
(a) storage space for wheelchairs (if more than one is kept available);

(b) a reception and/or information area (may be obviously adjacent to lobby);

(c) waiting space(s);

(d) public toilet facilities (may be adjacent to lobby). These should be designed for use by the handicapped and nonhandicapped;

(e) public access telephone(s), at least one, shall be installed to meet ANSI standards; and

(f) drinking fountain(s). These may be provided in a common public area and at least one shall be installed to meet ANSI standards.

(II) A lobby may also be used to satisfy a portion of the minimum area required for resident living room space.

(B) The following shall be provided in the administrative area:

(i) general or individual office(s) for business transactions, medical and financial records, administrative and professional staff, and for private interviews relating to social service, credit, and admissions;

(ii) a multipurpose room for conferences, meetings, and health education purposes including facilities for showing visual aids; and

(iii) storage and work area for office equipment and supplies shall be provided and accessible to the staff using such items.

(9) Physical therapy facilities.

(A) Physical therapy facilities shall be provided if required by the treatment program. The following may be included:

(i) treatment area(s) with space and equipment for thermotherapy, diathermy, ultrasonics, and hydrotherapy; provision for cubicle curtains around each individual treatment area; hand-washing facility(ies) (one lavatory or sink may serve more than one cubicle); and facilities for the collection of soiled linen and other material that may be used in the therapy;

(ii) an exercise area;

(iii) storage for clean linen, supplies, and equipment used in therapy;

(iv) residents' dressing areas, showers, lockers, and toilet rooms if the therapy is such that these would be needed at the area;

(v) service sink located near therapy area; and

(vi) wheelchair and stretcher storage.

(B) The facilities stated in subparagraph (A)(iii)-(vi) of this paragraph may be planned and arranged for shared use by occupational therapy residents and staff if the treatment program reflects this sharing concept.

(10) Occupational therapy. Occupational therapy shall be provided if required by the treatment program. The following may be included:

(A) an activities area which shall include sink or lavatory and facilities for col-

lection of waste products prior to disposal; and

(B) storage for supplies and equipment used in the therapy.

(11) Personal grooming area (barber/beauty shop). A separate room with appropriate equipment shall be provided for hair care and grooming needs of residents in facilities with over 60 beds.

(12) Laundry/linen services.

(A) On-site processing.

(i) Due to the high incidence of fires in laundries, it is highly recommended that the laundry be in a separate building 20 feet or more from the main building. If located within the main building, it shall be separated by minimum one-hour fire construction (to structure above) and sprinklered, and shall be located in a remote area away from resident sleeping areas. Access doors shall be from the exterior or interior non-resident use area such as a service corridor (not required exit) which is separated from resident area

(ii) If linen is to be processed on the site, the following shall be provided:

(I) soiled linen receiving, holding, and sorting room with a rinse sink. This area shall have a floor drain and forced exhaust to the exterior which shall operate at all times there is soiled linen being held in this area;

(II) laundry processing room with equipment which can process seven days needs within a regularly scheduled work week. Hand-washing facilities shall be provided. The washer area shall have a floor drain;

(III) storage for laundry supplies;

(IV) clean linen inspection and mending room or area and a folding area;

(V) clean linen storage, issuing, or holding room or area;

(VI) janitors' closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies; and

(VII) sanitizing (washing) facilities and storage area for carts.

(iii) Soiled and clean operations shall be planned to maintain sanitary flow of functions as well as air flow. If carts containing soiled linens from resident rooms are not taken directly to the laundry area, intermediate holding rooms shall be provided and located convenient to resident bedroom areas.

(iv) Laundry areas shall have adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire wall separation.

(B) Off-site processing. If linen is processed off the site, the following shall be provided on the premises.

(i) soiled linen holding room (provided with adequate forced exhaust ducted to the exterior);

(ii) clean linen receiving, holding, inspection, sorting or folding, and storage room(s); and

(iii) sanitizing facilities and storage area for carts.

(C) Resident use laundry. This service, if provided, shall be limited to not more than one residential type washer and dryer per laundry room. This room shall be classified as a hazardous area as per the Life Safety Code.

(13) General storage.

(A) A general storage room(s) shall be provided as needed to accommodate the facility's needs. It is recommended that such area provide at least two square feet per resident bed. This area would be for such items as extra beds, mattresses, appliances, and other furnishing and supplies.

(B) Storage space with provisions for locking and security control should be provided for residents' personal effects which are not kept in his or her room.

(C) Janitors' closet. In addition to the janitors' closet called for in certain departments, a sufficient number of janitors' closets shall be provided throughout the facility to maintain a clean and sanitary environment. These shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(D) Maintenance/engineering service and equipment areas. Space and facilities for adequate preventive maintenance and repair service must be provided. The following spaces are needed (it is suggested that these be part of a separate laundry building or area).

(A) Storage area for building and equipment maintenance supplies, tools, and parts shall be provided.

(B) A space for storage of yard maintenance equipment and supplies, including flammable liquids bulk storage, shall be provided separate from the resident occupied facility.

(C) A maintenance/repair workshop of at least 120 square feet and equipment to support usual functions is recommended.

(D) A suitable office or desk space for the maintenance person(s) is recommended (this may be located within the above repair shop area) with space for catalogs, files, and records.

(14) Isolation room Under skilled health care programs, an isolation room with a resident toilet and bathing room and provision for staff hand-washing is required. Such area(s) shall be designed to minimize cross contamination. The rooms shall have a negative air pressure and air shall be 100% exhausted to the exterior.

(15) Oxygen The storage and use of oxygen and equipment shall meet applicable NFPA Standards for oxygen, including NFPA Standard 56°F, "Nonflammable Medical Gases."

§145.275. Exit Provisions. Exit provisions, including doors, corridors, stairways, and other exitways, locks and other applicable items shall conform to the requirements of the Life Safety Code and of this manual in

order to assure that residents can be rapidly and easily evacuated from the building at all times, or from one part of the building to a safe area of refuge in another part of the building. (Reference Life Safety Code "Means of Egress.")

(1) Bedroom space arrangement and doors and corridors shall be designed for evacuation of bedfast residents by means of rolling the bed to a safe place in the building or to the outside.

(2) No dead-end corridor should be designed in any new facility or new construction. A dead-end corridor is not to exceed 30 feet under any condition.

(3) Public assembly, living rooms, dining rooms, etc., with a capacity of 50 or more persons or greater than 1,000 square feet shall have two means of exit remote from each other. Outswinging doors with panic hardware shall be provided for these exits.

(4) Exit doors and ways of egress shall be maintained clear and free for use at all times. Furnishings, equipment, carts, etc., shall not be left to block egress at any time.

(5) Steps in interior ways of egress are prohibited. If changes of elevation are necessary within ways of egress, approved ramps (maximum slope of 1:12) shall be used.

(6) Any remodeling, construction, additions, etc., of occupied buildings which involve exitways and exit doors shall be accomplished without compromising the exits or creating a dead-end situation at any time. Acceptable alternate temporary exits may be approved, or resident(s) in the area involved may have to be relocated until construction blocking the exit is completed. Other basic safety features such as fire alarms, sprinkler systems, and emergency power shall also be maintained operational.

(7) Doors in means of egress shall be as follows.

(A) Locking hardware or devices which are capable of preventing or inhibiting immediate egress shall not be used in any room or area that can be occupied.

(B) A latch or other fastening device on an exit door shall be provided with a knob, handle, panic bar, or similar releasing device. The method of operation shall be obvious in the dark, without use of a key, and operable by a well known one-action operation that will easily operate with normal pressure applied to the door or to the device toward the exterior. Locking hardware which prevents unauthorized entry from the outside (only) is permissible. Permanently mounted hold-open devices to expedite emergency egress and prevent accidental lock-out shall be provided for exterior exit doors as well as self closing devices.

(C) No screen or storm door shall swing against the direction of exit travel where main doors are required to swing out.

(D) To aid in control of wandering residents, buzzers or other sounding devices may be used to announce the unautho-

rized use of an exit door. Other methods include approved emergency exit door locks or fencing (with gate) outside of exit doors which enclose a space large enough to allow the space to be an exterior area of egress and refuge away from the building.

(E) Inactive leaves of double doors may have easily accessible and easily operable bolts if the active leaf is 44 inches wide. Center mullions are prohibited.

(F) Resident baths or toilets having privacy locks will require that keys or devices for opening the doors are kept readily available to the staff.

(G) Folding or sliding doors shall not be used in exit corridors or exitways. Sliding glass doors may be used as secondary doors from residents' bedrooms to grade or to a balcony, or as secondary doors in certain other areas where the primary designated exit door requirements are met. Doors to bathroom and other resident-use areas shall be the side-hinged swinging type. Corridor doors to rooms should swing into the room where possible to avoid having the open door obstruct the corridor. Reference the Life Safety Code for door frame type.

(8) Horizontal exits, if provided, shall be according to Life Safety Code.

(9) Areas outside of exterior exit doors (exit discharge) shall be as follows.

(A) Provision shall be made to accommodate and facilitate continuation of emergency egress away from a building for a reasonable distance beyond the outside exit door, especially for movement of nonambulatory resident in wheelchairs and beds. Any condition which may retard or halt free movement and progress outside the exit doors will not be allowed. Ramps shall be used outside the exit doors in lieu of steps whenever possible.

(B) The landing outside of each exit door shall be essentially the same elevation as the interior floor and level for a distance equal to the door width plus at least four feet. Generally, the difference in floor elevation at an exterior door shall not be over 1/2 inch with the outside slope not to exceed 1/4 inch per foot sloping away from the door for drainage on the exterior. In colder climates, the landing outside of all exit doors shall be protected from ice build-up which would prohibit the door from opening and be a slip hazard.

(C) Emergency egress lighting immediately outside of exit doors is required as a part of the building emergency lighting system. Photocell devices may be used to turn lights off during day light hours.

(10) Reference §145.281 of this title (relating to Electrical) for requirements of emergency lighting system.

(11) Reference the Life Safety Code for requirements of interior finishes of ways of egress (flame spread of floor, wall, and ceiling finishes). Reference §145.273(e) of this title (relating to General Considerations) for interior finishes of other areas.

§145.276. Smoke Compartmentation (Sub-division of Building Spaces).

(a) Injuries and deaths from fires are more often caused by smoke inhalation than by burning. Not even the most fire resistive building structure can alone prevent injuries and deaths because of the problem of burning contents. For example, the smoke and fumes from a single burning mattress or chair may cause multiple deaths in a facility. Thus it is of utmost importance that provisions for smoke control be incorporated as required, and be carefully and properly designed, installed, and maintained. Smoke barrier walls must be complete (from outside wall to outside wall and from floor to bottom of deck above), be smoke tight, and have a one-hour fire resistant construction rating.

(b) Smoke barrier walls are often treated casually in design, detail, and construction (especially above the ceiling) and result in unapproved walls. These should be thought of as air-tight with no place for lethal fumes under pressure to penetrate and contaminate the adjoining compartment. The requirement for a one-hour rating is so that the barrier wall will remain in place under fire conditions and is not to be confused with a fire wall, which by definition is two-hour rated. Smoke barrier walls should be planned to be located as nearly as possible, in a continuous straight wall with doors only in corridors. Whenever possible, air systems should be designed to eliminate penetrations (which will require motorized dampers). Access panels must be provided at all damper locations.

(c) It is intended that in an emergency, residents may be moved from the affected area, through the smoke doors in the smoke barrier wall, to another (smoke free) building compartment unless and until total evacuation to the exterior is required.

(1) Smoke compartmentation shall be as described in the Life Safety Code and, in addition, as described in this section.

(A) Although the Code allows smoke compartments to be 150 feet (maximum) in length and width (22,500 square feet maximum), it is recommended that each major bedroom wing be treated as a separate smoke compartment

(B) When possible, smoke barrier walls should be located at the most convenient straight (in-line) cross wall and one having the least number of doors.

(2) An exit sign shall be provided on each side of corridor smoke doors unless otherwise directed by the licensing agency.

(3) The metal frames for the wire glass view panels in smoke doors shall be steel unless otherwise approved by the licensing agency. The bottom of the view panel shall not be higher than 54 inches above the floor. Pairs of opposite swinging smoke doors in corridors shall have push hardware. The door leaves shall align in the closed position.

(4) Smoke barrier walls in concealed spaces, such as attics, shall have prominent

signs on each side that read: "Warning: This is a smoke barrier wall. All penetrations must be properly made and properly sealed to be air-tight. Notify Administrator of any penetrations to be made in this wall." Workmen in the attic, especially those running wiring, often knock large holes in smoke barrier walls and leave it that way, without knowledge or concern for its function.

(5) Provisions shall be made for reasonable access to concealed smoke barrier walls for maintaining smoke dampers and so that walls and dampers can be visually checked periodically for conformance by facility staff, servicemen, and inspectors. Access shall provide for visual inspection of both sides of the wall, and of all parts (end to end and top to bottom). Ceiling access panels shall be prefabricated metal panel or equal and be at least 20 inches by 20 inches with no obstructions above (such as ducts) to hamper entrance. If panels are more than 12 feet from barrier, a walkway may be needed. If the entire wall (horizontally) cannot be inspected by use of a single panel, additional panels shall be provided as needed. Access shall be provided for both sides of the wall.

(6) Air systems should be designed to avoid having ducts which penetrate smoke barrier walls, thus eliminating the need for smoke dampers which are often a problem to maintain in proper and reliable working condition.

§145.277. Fire Protection Systems.

(a) Fire protection systems include detection, alarm, and communication systems, fixed automatic extinguishment systems, and portable extinguishers. Such systems shall meet the requirements of the Life Safety Code-NFPA 101, and of this section. Components shall be compatible and laboratory listed for the use intended.

(b) Fire protection systems shall meet the requirements of all applicable NFPA standards, such as NFPA Standard 72A for alarm systems, etc., as referenced in the Life Safety Code. Wiring and circuitry for alarm systems shall meet the applicable requirements of NFPA standards including the National Electrical Code (NEC) for such systems.

(c) Reference §145.281 of this title (relating to Electrical) for related requirements of emergency electrical systems. Reference §145.280(4) of this title (relating to Mechanical) for sprinkler systems.

(d) Partial sprinkler systems (those provided only for hazardous areas) shall be interconnected with the fire alarm and comply with Life Safety Code. Each partial system shall have a valve with a supervisory switch to sound a trouble signal, water flow switch to activate the fire alarm, and an end-of-line test drain.

(e) Fire alarm systems shall be installed (maintained, repaired, etc.) by an agent having a current certificate of registration with the state fire marshal's office of the Texas State Board of Insurance, in accordance with

state law. A fire alarm installation certificate shall be provided as required by the Office of the State Fire Marshal.

(f) The fire alarm system shall be designed so that whenever the general alarm is sounded by activation of any device (manual pull, smoke sensor, sprinkler, kitchen range hood extinguisher, etc.) the following shall occur automatically:

(1) smoke and fire doors which are held open by approved devices shall be released to close;

(2) air handlers (air conditioning/heating distribution fans) serving two or more rooms shall shut down immediately;

(3) smoke dampers shall close; and

(4) the proper zone indicating lights shall show on the fire alarm control panel(s), including auxiliary panels.

(g) Fire alarm bells or horns shall be located throughout the building for audible coverage. Flashing red alarm lights (visual alarms) shall be installed to be visible in corridors and public areas including dining rooms and living rooms in a manner that will identify exit routes.

(1) Two or more smaller bells are preferred to one larger bell which may be ear splitting at closer proximities. Bells shall be easily heard in remote areas, with doors closed and above normal noises, such as televisions.

(2) Bells or horns must not be placed so close to telephones and intercoms that the noise will seriously interfere with phone communications (e.g., the phone at nurses station which may be used to call the fire department).

(3) Additional bells usually need to be placed in high noise areas, such as laundries, kitchens, etc. Intermittent march time audible devices are recommended.

(h) A master control panel shall be visible at the main nurse station which has alarm and trouble conditions by zones, power on lights and required signal devices for trouble conditions. All control panels must be listed (UL) for the intended use, i.e., manual, automatic, and water flow activation. Alarm and trouble zoning shall be by smoke compartments and by floors in multistory facilities.

(i) Remote annunciator panels, equipped with alarm by zone, or devices, trouble and power on lights shall be located at auxiliary or secondary nurse stations on each floor, and will indicate the alarm condition of adjacent zones and the alarm conditions at all other nurse stations

(j) Manual pull stations shall be provided at all exits, living rooms, dining rooms, and at or near the nurse stations.

(k) The sprinkler system shall be interconnected with the fire alarm panel as a separate zone for alarm and trouble. Activation of the tamper switch will provide a trouble condition on the fire alarm panel which will not impair the operation of the alarm.

(l) The kitchen range hood extinguisher shall be interconnected with the fire alarm

system. This interconnection may be a separate zone on the panel or combined with other initiating devices located in the same zone as the range hood is located.

(m) Portable fire extinguishers shall be provided throughout the facility as required by NFPA Standard 10 and as determined by the local fire department and the licensing agency.

(1) Portable type ABC or BC chemical extinguishers shall not be located in resident corridors. Extinguishers in resident corridors shall be 2-½ gallon pressurized water or other type approved by the licensing agency and so that travel distance is spaced not more than 75 feet. Some chemical type ABC extinguishers can be harmful if the powder is inhaled or gets in the eyes, and are generally not as effective on Class A fires (burning cloth, paper, wood, etc.). To minimize the possibility of residents being sprayed with such chemicals, especially by another well-meaning resident, chemical type extinguishers would be located where they are accessible mainly to staff who normally are trained to use them properly.

(2) Extinguishers shall be installed on hangers or brackets supplied or mounted in approved cabinets. Recessed cabinets are required for extinguishers located in corridors.

(3) Extinguishers installed under conditions where they are subject to physical damage shall be protected from impact or dislodgement.

(4) Extinguishers having a gross weight not exceeding 40 pounds shall be installed so that the top of the extinguisher is not more than five feet above the floor. Extinguishers having a gross weight greater than 40 pounds shall be installed so that the top of the extinguisher is not more than 3-½ feet above the floor. In no case shall the clearance between the bottom of the extinguisher and the floor be less than four inches.

(5) Portable extinguishers provided in hazardous rooms should be located as close as possible to the exit door opening and nearest the latch (knob) side.

§145.278. Hazardous Areas.

(a) Protection from hazardous areas shall be as required in the Life Safety Code except as required or modified in this section.

(b) The intent of this section is to provide the additional safeguards needed for rooms or areas where the fire hazard potential is greater than other rooms or areas of the building in general.

(c) Any hazardous area shall be safeguarded by a fire barrier of one-hour fire resistance rating or provided with an automatic extinguishing system in accordance with Life Safety Code.

(1) Hazardous areas include, but are not restricted to, the following. Those areas stated in subparagraphs (G)-(I), (L), and (M) of this paragraph shall have both fire-resistant separation and a complete extinguishment system:

(A) boiler and heater rooms;

- (B) laundries;
- (C) kitchens;
- (D) repair shops;
- (E) handicraft shops;
- (F) employee locker rooms;
- (G) soiled linen rooms;
- (H) paint shops;
- (I) trash collection rooms;
- (J) gift shops;
- (K) any closet or storage room over 30 square feet;
- (L) any room with gas-fired equipment;

(M) rooms or spaces, including repair shops, used for the storage of combustible supplies and equipment in quantities deemed hazardous by the authority having jurisdiction; and

(N) laboratories employing quantities of flammable or combustible materials less than that which would be considered severe.

(2) Gas fired central heating units and/or gas fired hot water heaters shall not be located in attic spaces except under the following conditions.

(A) The area around the units shall be constructed to be one-hour fire rated.

(B) The enclosure shall have sprinkler protection.

(C) Combustion air shall be ducted from the exterior in properly sized ducts.

(3) The minimum acceptable door to any hazardous area shall be 1-¾ inches thick and of solid core construction.

(d) Laboratories shall be protected in accordance with NFPA 56C, "Laboratories in Health-Related Institutions."

(e) Cooking equipment shall have exhaust systems designed and installed in accordance with NFPA 96.

(f) Doors to hazardous areas must have closers and be kept closed unless provided with an approved hold-open device such as an alarm activated magnetic hold-open device. To prevent staff from wedging such doors open, all high-use areas should be provided with such approved hold-open devices. These doors shall be single-swing type with positive latching hardware. If view panels are provided, they shall be fixed wire glass in steel frames.

§145.279. Structural.

(a) Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with accepted engineering practices and standards.

(b) Special provisions shall be made in the design of buildings in regions where local experience shows loss of life or extensive damage to buildings resulting from hurricanes, tornadoes, earthquakes, or floods.

(c) It shall be the sponsor's responsibility to employ qualified personnel in the preparation of plan designs and engineering and in the construction of the facility to assure that all structural components are ade-

quate, safe, and meet the applicable construction requirements.

(d) The design of the structural system shall be done by or under the direction of a professional (structural) engineer who is currently registered by the Texas State Board of Registration for Professional Engineers in accordance with state law.

(e) The parts of the plans, details, and specifications covering the structural design shall bear the legible seal of the engineer on the original drawings (from which the prints are made).

(f) If the municipality has a building code, that code shall govern the building requirements for the construction involved. The Life Safety Code is to be used for fire safety requirements. Should discrepancies between the codes arise, they shall be called to the attention of the licensing agency for resolution.

(g) In the absence of such a local building code, a nationally recognized building code shall be used, such as the Standard Building Code of the Southern Building Code Congress International, Inc., or the Uniform Building Code of the International Conference of Building Officials with regard to the construction integrity of the building. The Life Safety Code is to be used for fire safety requirements.

(h) Each building shall be classified as to building construction type for fire resistance rating purposes in accordance with NFPA Standard 220 and the Life Safety Code.

(i) For construction requirements of enclosures of vertical openings between floors, reference the Life Safety Code.

(j) All interior walls, partitions, roof structure, etc., in buildings of fire resistive and noncombustible construction shall be of noncombustible or limited combustible materials.

(k) Building insulation materials, unless sealed on all sides and edges in an approved manner, shall have a flame spread rating of 25 or less and a smoke density rating of 150 or less when tested in accordance with NFPA 255 and NFPA 258. Insulation in open spaces of noncombustible buildings, such as above ceilings or underside of roof, shall not have combustible backing, such as paper. Insulation materials known or evidenced to release severe toxic gases when subject to the high temperatures of a fire should be avoided, even if the rated flame spread is low.

§145.280. Mechanical. The design of the mechanical systems shall be done by or under the direction of a registered professional (mechanical) engineer approved by the Texas State Board of Registration for Professional Engineers to operate in Texas, and the parts of the plans and specifications covering mechanical design shall bear the legible seal of the engineer. Reference "Building Services" of the Life Safety Code for requirements pertaining to utilities, heating ventilating and air-conditioning systems, vertical conveyors,

and chutes. Reference §145.274 of this title (relating to Architectural Space Planning and Utilization) for required plumbing fixtures in specific use areas.

(1) Plumbing.

(A) All plumbing systems shall be designed and installed in accordance with the requirements of the Uniform Plumbing Code or other nationally recognized code except as may be modified herein.

(B) Supply systems shall assure an adequacy of hot and cold water. An average rule-of-thumb design for hot water for resident usage (at 110°F) is to provide 6-½ gallons per hour per resident in addition to kitchen and laundry use.

(C) Water supply shall be from a Texas Department of Health approved system or from a system regulated by an entity responsible for water quality in that jurisdiction as approved by the licensing agency.

(D) The sewage system shall connect to a Texas Department of Health approved system or to a system regulated by an entity responsible for water quality in that jurisdiction as approved by the licensing agency.

(E) The minimum ratio of fixtures to residents shall be as required in §145.274 (3) of this title (relating to Architectural Space Planning and Utilization).

(F) For design calculation purposes, resident-use hot water shall not exceed 110°F at the fixture, for purposes of conforming to licensure requirements, an operating system providing water from 100°F to 115°F will be acceptable. Supplying water at 100°F greatly increases the volume of hot water consumption. This requires sizable hot water storage tanks, oversize heaters, or a reliable mixing valve arrangement when water heaters are set to operate above 100°F. Separate heaters should be provided for kitchen hot water use. Hot water for laundry and kitchen use shall be normally 140°F except that dish sanitizing, if done by hot water, shall be 180°F.

(G) Some water closets raised to provide a seat height 17 inches-19 inches from the floor is required for handicapped standards.

(H) Showers for wheelchair residents shall not have curbs. Tub and shower bottoms shall have slip resistant surface. Shower and tub enclosures, other than curtains, shall be of tempered glass, plastic, and other safe materials.

(I) Drinking fountains shall not extend into exit corridors.

(J) Fixture controls easily operable by residents shall be provided (such as lever type).

(K) Plumbing fixtures for residents shall be vitreous china or porcelain finished cast iron or steel unless otherwise approved by the licensing agency. Bathing units constructed of Class B fire rated fiberglass are acceptable for use.

(L) Under skilled health care programs, an isolation room with toilet and

bathing facility will be required. The isolation area shall have special air flow requirements to control airborne infectious organisms. See §145.274(16) of this title (relating to Architectural Space Planning and Utilization).

(M) Hand-washing sinks for staff use are required in many areas throughout the facility. Reference §145.274 of this title (relating to Architectural Space Planning and Utilization). Lavatories are required to be provided adjacent to water closets in each area.

(N) The soiled utility room shall be provided with a flushing device such as a water closet with bedpan lugs, a spray hose with a siphon breaker or similar device, such as a high neck faucet with lever controls and a deep sink that is large enough to submerge a bedpan. A sterilizer for sanitizing may be used in place of a deep sink.

(O) Siphon breakers (or back-flow preventers) are required for any hose or pipe connection at a plumbing fixture that could be submerged causing backflow cross-contamination. All potable water supply lines shall have back-flow prevention devices in accordance with water distribution regulations of the Texas Department of Health.

(P) Clean-outs for waste piping lines shall be provided and located so that there is the least physical and sanitary hazard to residents. Where possible, clean-outs shall open to the exterior or areas which would not spread contamination during clean-out procedures.

(2) Heating, ventilating, and air-conditioning systems.

(A) Heating, ventilating, and air-conditioning systems shall be designed and installed in accordance with the Heating, Ventilating, and Air-Conditioning Guide of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), except as may be modified herein.

(B) Heating, ventilating, and air-conditioning systems shall meet the requirements of the Life Safety Code, including NFPA Standard 90A. The plans shall have a statement verifying that the systems are designed to conform to NFPA 90A. Reference §145.276 of this title (relating to Smoke Compartmentation (Subdivision of Building Spaces)) for conditions related to smoke compartmentation.

(C) Systems using liquified petroleum gas fuel shall meet the requirements of the Railroad Commission of Texas and NFPA 54, "National Fuel Gas Code."

(D) The heating system shall be designed, installed, and functioning to be able to maintain a temperature of at least 75°F for all areas occupied by patients. For all other occupied areas, the indoor design temperature shall be at least 72°F. The cooling system shall be designed, installed, and functioning to be able to maintain a temperature of not more than 78°F. Occupied areas generating high heat, such as kitchens, shall be provided with a sufficient cool air sup-

ply to maintain a temperature not exceeding 85°F at the five-foot level (with doors kept closed as required by the code for hazardous areas). Supply air volume must be approximately equal to the air volume exhausted to the exterior for such areas.

(E) Air systems shall provide for mixing at least 10% outside air for the supply distribution. Blowers for central heating and cooling systems shall be designed so that they may run continuously.

(F) Floor furnaces, unvented space heaters, and portable heating units are not to be used. Heating devices or appliances must not be a burn hazard (to touch) to residents.

(G) A combustion fresh air inlet shall be provided to all gas or fossil fuel operated equipment in steel ducts or passages from outside the building in accordance with NFPA 54. Such rooms shall also be vented to the exterior to exhaust heated ambient air in the room. Combustion air will require one vent within 12 inches of the floor and one vent within 12 inches of the ceiling.

(H) The location and design of air diffusers, registers, return air grilles, etc., shall be such that residents are not in harmful or excessive drafts in their normal usage of the room.

(I) In areas requiring control of sanitation, the air flow shall be from the clean area to the dirty area. Air supply to food preparation areas shall not be from air which has circulated resident bedrooms, baths, etc.

(J) Air from unsanitary areas such as janitor's closets, soiled linen, soiled utility, and soiled area of laundry rooms, etc., shall not be returned and recirculated to other areas.

(K) Air from isolation rooms shall be 100% exhausted to the exterior and not returned and recirculated. See §145.274(16) of this title (relating to Architectural Space Planning and Utilization).

(L) Intakes for fresh outside air shall be located sufficiently distant from exhaust outlets or other areas or conditions which may contaminate or otherwise pollute the incoming fresh air. Fresh air inlets shall be appropriately screened to prevent entry of debris, rodents, animals, etc. Provision shall be made for access to such screens for periodic inspection and cleaning to eliminate clogging or air stoppage. (See paragraph (3)(c)(ii) of this section.)

(M) Systems shall be designed as much as possible to avoid having ducts passing through fire walls or smoke barrier walls. All openings or duct penetrations in such walls shall be provided with approved automatic dampers. Smoke dampers at smoke partitions shall close automatically upon activation of the fire alarm system to prevent the flow of air or smoke in either direction.

(N) Clear view panels shall be provided in the duct to check for proper operation of each smoke damper on a routine basis. View panels may also serve as access

for maintenance or a separate access panel shall be provided. Access panels shall be provided (in ceiling or side wall) and location of dampers shall be identified on wall or ceiling of occupied area below

(O) Fusible links are not approved for smoke dampers.

(P) Air supply systems shall automatically and immediately shut down upon activation of the fire alarm system. (Exception: approved engineered smoke removal systems.)

(Q) Ducts shall be of metal or other approved noncombustible material. Cooling ducts shall be insulated against condensation drip.

(3) Ventilating and exhaust.

(A) Reference paragraph (2) of this section for general ventilating systems.

(B) Provisions for natural ventilation using windows or louvers shall be incorporated into the building design where possible and practical. Such windows or louvers shall have insect screens.

(C) Details for the ventilation system are set out in this subparagraph. All air-supply and air-exhaust systems shall be mechanically operated. The ventilation rates shown in the table in clause (xii) of this subparagraph shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates

(i) Outdoor air intakes shall be located as far as practical (but normally not less than 10 feet) from exhaust outlets or ventilating systems, combustion equipment stacks, medical vacuum systems, plumbing vent

stacks, or from areas which may collect vehicular exhaust and other noxious fumes.

(ii) The ventilation systems shall be designed and balanced to provide the pressure relationship as shown in the table in clause (xii) of this subparagraph. A final engineered system air balance report will be required for the completed system to be furnished and certified by the installer.

(iii) The bottoms of ventilation openings shall be not less than three inches above the floor of any room

(iv) Doors protecting corridors or ways of egress shall not have air transfer grilles or louvers. Corridors shall not be used to supply air to or exhaust air from any room except that air from corridors may be used as make-up air to ventilate small toilet rooms, janitor's closets, and small electrical or telephone closets opening directly on corridors, provided that such ventilation can be accomplished by door undercuts not exceeding $\frac{3}{4}$ inches.

(v) All exhausts shall be continuously ducted to the exterior. Exhausting air into attics or other spaces is not permitted. Duct material shall be steel.

(vi) All central ventilation or air-conditioning systems shall be equipped with filters of sufficient efficiency to minimize dust and lint accumulations throughout the system and building including supply and return plenums and ductwork. Filters with efficiency rating of 80% or greater (based on ASHRAE Standard 52-76 "Average Atmospheric Dust Spot Test") are recommended. Filters for individual room units shall be as recommended by the equipment manufac-

turer. Filters shall be easily accessible for routine changing or cleaning.

(vii) Static pressures of systems shall be within limits recommended by ASHRAE and the equipment manufacturer (upstream and downstream).

(viii) In geographic locations or interior room areas where extreme humidity levels are likely to occur for extended periods of time, apparatus for controlling humidity levels (preferably between 40-60%) are recommended to be installed as a part of central systems and with automatic humidistat controls.

(ix) Exhaust hoods, ducts, automatic extinguishers, etc., for kitchen cooking equipment shall be as called for in the Life Safety Code referencing NFPA Standard 96. Listed fire extinguishing systems for the range hood shall be in compliance with NFPA 16, "Standard for the Installation of Foam-Water Spray Systems," or NFPA 17, "Standards for Dry Chemical Extinguishing Systems."

(x) Forced air exhaust shall be provided in laundries, kitchens, and dishwashing areas to remove excess heat and moisture and to maintain air flow in the direction of clean to soiled areas.

(xi) Medical isolation rooms, if provided, shall have special air-flow systems to exhaust 100% of the air to the exterior to prevent the spread of infectious air borne organisms. See §145.274(16) of this title (relating to Architectural Space Planning and Utilization).

(xii) Ventilation requirements for skilled nursing areas shall be according to the following table:

Table 1

VENTILATION REQUIREMENTS FOR NURSING AREAS

Area Designation	Air Movement In Relation To Adjacent Areas	Minimum Total Air Changes Per Hour	All Air Exhausted To Outside	Design Temperature
Patient Room	--	2	--	70/75
Examination and Treatment Room	--	4	No	70/75
Physical Therapy	in	4	No	70/75
Occupational Therapy	--	4	No	70/75
Soiled Work or Holding Room	in	6	Yes	--
Clean Work or Holding Room	out	4	No	--
Toilet Rooms	in	10	Yes	--
Bath & Shower Rooms	--	10	No	70/75
Janitors' Closets	in	10	Yes	--

(4) Sprinkler systems.

(A) Sprinkler systems shall be provided as required by NFPA 101, NFPA Standard 13, and by this manual.

(B) The design and installation of sprinkler systems must meet any applicable state laws pertaining to such systems and one of the following criteria:

(i) the sprinkler system plans and installation must be approved by the State Board of Insurance; or

(ii) the sprinkler system must be designed by a qualified registered professional engineer approved by the Texas State Board of Registration for Professional Engineers to operate in Texas. The engineer shall supervise the installation and provide written approval of the completed installation.

(C) The approved sprinkler plans shall be submitted to the licensing agency along with final construction plans for general appraisal, review, and record.

(D) Particular attention should be paid to adequate, safe, and reasonable freeze protection for all piping. The design of such freeze protection should minimize the need for dependence on staff action or intervention to provide protection.

§145.281. *Electrical.*

(a) The design of the electrical systems shall be done by or under the direction of a registered professional electrical engineer

approved by the Texas State Board of Registration for Professional Engineers to operate in Texas, and the parts of the plans and specifications covering electrical design shall bear the legible seal of the engineer. Reference Chapter 7, "Building Service Equipment," of the Life Safety Code for requirements pertaining to utilities, heating ventilating and air-conditioning systems, vertical conveyors, and chutes.

(b) Reference §145.277 of this title (relating to Fire Protection Systems) for Fire Protection Systems.

(c) Electrical systems shall meet the requirements of the National Electrical Code (as referenced in the Life Safety Code).

(d) Reference §145.274 of this title (relating to Architectural Space Planning and Utilization) for specific requirements for lighting and outlets at resident bedrooms.

(1) Emergency electrical service.

(A) General. To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(B) Sources. The source of this emergency electrical service shall be as follows:

(i) an emergency generating set when the normal service is supplied by one substation transmission line;

(ii) an emergency generating set or a central station transmission line when

the normal electric supply is generated on the premises; or

(iii) from two separate substations or separate and independent utility companies.

(C) Emergency electrical connections. Emergency electrical service shall be provided to the distribution systems as required by the Life Safety Code and NFPA 99, "Essential Electrical Systems for Nursing Homes and Residential Custodial Care Facilities."

(i) Emergency systems shall include the following:

(I) illumination for means of egress, nurse stations, medication rooms, dining and living rooms, group bathing rooms (those not directly connected to patient bedrooms), and areas immediately outside of exit doors;

(II) exit signs and exit directional signs required by the Life Safety Code;

(III) alarm systems including fire alarms activated by manual stations, water flow alarm devices of sprinkler systems, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed. Where hospital type functions are included in the nursing home facility, applicable standards shall apply;

(IV) task illumination and selected receptacles at the generator set location;

(V) selected duplex receptacles including patient corridors, nurse stations, medication rooms including biologicals refrigerator, etc.;

(VI) nurse calling systems;

(VII) elevator cab lighting, control and communication systems;

(VIII) equipment necessary for maintaining telephone service; and

(IX) paging or speaker systems if intended for communication during emergency. Radio transceivers where installed for emergency use shall be capable of operating for at least one hour upon total failure of both normal and emergency power.

(ii) Critical systems (delayed automatic or manual connections to critical systems) shall include the following:

(I) heating equipment to provide heating for general patient rooms. This will not be required if:

(-a-) the outside design temperature is higher than 20°F (-6°C); or

(-b-) the outside design temperature is lower than 20°F (-6°C) and where selected room(s) is provided for the needs of all confined patients, then only such room(s) need to be heated; or

(-c-) the facility is served by a dual source of normal power.

(II) In instances where interruptions of power would result in elevators stopping between floors, throw-over facilities shall be provided to allow the temporary operation of any elevator for the release of passengers.

(D) Details. The emergency lighting shall be automatically in operation within 10 seconds after the interruption of normal electric power supply. Emergency service to receptacles and equipment may be delayed automatic or manually connected. Receptacles connected to emergency power shall have red face plates. Stored fuel capacity shall be sufficient for not less than 12-hour operation of required generator.

(E) Emergency motor generator.

(i) Emergency generators shall be installed in accordance with NFPA 37 and NFPA 99.

(ii) Generators shall be a minimum of three feet from the exterior building finish and a minimum of five feet from a building opening if located on the exterior of the building.

(iii) Generators located on the exterior of the building shall be provided with a noncombustible protective cover or be protected as per manufacturer's recommendations.

(iv) Motor generators fueled by public utility natural gas shall have the capability to be switched to an alternate fuel source. (Reference NFPA 70, National Electrical Code.)

(F) Wiring. The normal circuit(s) for the emergency system shall be kept entirely independent of all other wiring and shall not enter the same raceways, boxes, or cabinets. (Reference NFPA 70.)

(2) General lighting.

(A) All spaces occupied by people, machinery, equipment, approaches to buildings, and parking lots shall have lighting.

(B) The quality, intensity, and type of lighting shall be adequate and appropriate to the space and all functions within the space.

(C) Recommended minimum lighting levels can be found in the *Illuminating Engineering Society (I.E.S.) Lighting Handbook*, latest edition.

(D) Nursing unit corridors shall have general illumination with provisions for reduction of light levels at night.

(E) Exposed incandescent light bulbs (or other high heat generating lamps) in closets or other such spaces shall be provided with basket wire guards or other suitable shield to prevent contact of combustible materials with the hot bulb and to help prevent breakage.

(F) Exposed incandescent or fluorescent bulbs will not be permitted in food service or other areas where glass fragments from breakage may get into food, medications, linens, utensils, etc. All fluorescent bulbs will be protected with a shield or catcher to prevent bulb drop-out. Light fixtures in all areas should have some type of enclosure, such as lens, diffuser, grate, or hood (as in cylinder or rack lights). Exceptions may be made by the licensing agency in certain areas, such as some mechanical rooms or special conditions.

(3) Receptacles (convenience outlets).

(A) Reference §145.274(1)(G) of this title (relating to Architectural Space Planning and Utilization) for receptacles at bedrooms.

(B) Duplex receptacles for general use shall be installed in corridors spaced not more than 50 feet apart and within 25 feet of ends of corridors.

(C) Receptacles shall be provided for essential needs such as medication refrigerators and life support systems or equipment. At least one outlet in each resident corridor should be provided with emergency electrical service. All receptacles on emergency circuits shall be clearly, distinctly, and permanently identified, such as using a red face plate and a small label that says "emergency."

(D) Receptacles in the remainder of the building shall be sufficient to serve the present and future needs of the residents and equipment.

(E) Location of receptacles (horizontally and vertically) should be carefully planned and coordinated with the expected designed use of furnishings and equipment to maximize their accessibility and to minimize conditions such as beds or chests being jammed against plugs used in the outlets.

(F) Exterior receptacles shall be approved waterproof type.

(G) Ground fault interruption protection shall be provided at appropriate locations such as at whirlpools and other wet

areas as defined in the National Electrical Code.

(4) Nurse call systems.

(A) A nurse call system consists of power units, annunciator control units, corridor dome stations, emergency call stations, bedside call stations, and activating devices. The units shall be compatible and laboratory listed for the system and use intended.

(B) Each resident bedroom shall be served by at least one calling station, and each bed shall be provided with a call switch. Two call switches serving adjacent beds may be served by one calling station. Each call entered into the system shall activate a corridor dome light above the bedroom/bathroom/toilet corridor door, a visual signal at the nurses station which indicates the room from which the call was placed, and a continuous or intermittent continuous audible signal of sufficient amplitude to be clearly heard by nursing staff. The amplitude or pitch of the audible signal shall not be such that it is irritating to residents or visitors. The system shall be designed such that calls entered into the system may be canceled only at the calling station. Intercom type systems shall be installed only after approved by the department.

(C) Nurse calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

(D) A nurse call emergency switch (es) shall be provided for resident's use at each resident's toilet, bath, and shower. Such switches shall be usable by residents using the fixtures and by a collapsed resident lying on the floor.

§145.282. Miscellaneous Details.

(a) Safety-related details. A high degree of safety for the occupants is needed to minimize accidents which are more apt to occur with the elderly and/or infirm residents in a nursing home. Consideration must be given to the fact that many will have impaired vision, hearing, spatial perception, and ambulation.

(1) Hazards such as sharp corners and edges and unexpected steps must be avoided.

(2) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce corridor width.

(3) Windows shall be designed to prevent accidental falls through or out of such windows.

(4) Doors which normally stay open or are frequently used shall not swing out into the corridor unless otherwise needed or required. Alcoves may be provided for doors which must swing outward toward a corridor or way of egress.

(5) The proper use of safety glass shall be adhered to in applicable locations and conditions.

(6) Thresholds and expansion joint covers shall be made essentially flush with the floor surface to facilitate use of wheelchairs and carts. See §145.280(1)(H) of this title (relating to Mechanical) for shower curbs, surfaces, doors, etc.

(7) Grab bars shall be provided at all residents' toilets, showers, tubs, and sitz baths. The bars shall be 1¼-1½ inches in diameter and shall have ½-inch clearance to walls. Bars shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds. (Reference ANSI A117.1, Standards for Handicapped.)

(8) Handrails shall be provided on both sides of corridors used by residents. A clear distance of 1-½ inches shall be provided between the handrail and the wall. Handrails shall be securely mounted to withstand downward forces of 250 pounds. Handrails may be omitted on wall segments less than 18 inches. Handrails shall be mounted 33 inches-36 inches above the floor.

(9) Ends of handrails and grab bars shall be constructed to prevent snagging the clothes of residents (e.g., return ends to wall).

(10) Ceiling fan blades shall be at least seven feet above the floor and be located so as not to interfere with the operation of any ceiling mounted smoke detectors.

(b) General details.

(1) Concrete floors, whether finished by sealant, paint, etc., or not, shall not be used as the finished floor unless specifically approved in writing by the licensing agency. Exception: mechanical equipment rooms, maintenance and repairs, etc.

(2) Sound separation shall be provided in corridor walls and resident room party walls. Minimum STC 30 per ASTM E-90.

(3) Illumination and a safe platform in the attic shall be provided at all attic access panels.

(4) Attic access shall be provided for building maintenance. Access panels shall be prime coated steel flush panels where required to maintain fire rating of ceiling-roof/ceiling-floor assemblies:

§145.283. Elevators. All buildings having residents' facilities (such as bedrooms, dining rooms, or recreation areas) or patient services (such as diagnostic or therapy) located on other than the main entrance floor shall have at least one electric or electrohydraulic elevator. (Reference: American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1.

(1) Number of elevators.

(A) At least one hospital-type elevator shall be installed where 1-60 resident beds are located on any floor other than the main entrance floor.

(B) At least two (one of which shall be hospital-type) elevators shall be in-

stalled where 61-200 resident beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing resident beds. Elevator service may be reduced for those floors which provide only partial inpatient services.

(C) At least three (one of which shall be hospital-type) elevators shall be installed where 201-350 resident beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing resident beds. Elevator service may be reduced for those floors which provide only partial inpatient services.

(D) For facilities with more than 350 resident beds, the number of elevators shall be determined from a study of the facility plan and the estimated vertical transportation requirements.

(2) Cars and platforms. Cars of hospital-type elevators shall have inside dimensions that will accommodate a resident bed and attendants and shall be at least five feet wide by seven feet six inches deep. The car door shall have a clear opening of not less than three feet eight inches.

(3) Leveling. Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of ½ inch.

(4) Operation. Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(5) Handicapped provisions. Elevator controls, alarm buttons, and telephones, etc., shall be accessible to and usable by the handicapped as required by ANSI standards.

(6) Protection from fire. Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke. Door openings shall meet Life Safety Code standards for protection of vertical openings.

(7) Field inspection and tests. Inspections and tests shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this section and all applicable safety regulations and codes.

§145.284. Plans and Specifications.

(a) Submittal of preliminary plans.

(1) When construction is contemplated for new buildings, additions, conversion of buildings not licensed by the licensing agency (including formerly licensed nursing homes), or remodeling of existing licensed facilities, one copy of the preliminary proposed plans shall be submitted to the licensing agency (architectural section) for review prior to the preparation of working drawings. For additions, an overall plan (similar to §145.285(c)(1)(C) of this title (relating to Construction and Initial Survey of Completed Construction)) shall be included.

(2) The plans shall be drawn to scale, shall indicate the usage of all spaces, sizes of areas and rooms, and the type and location of fixed equipment. New construction or additions shall include a site plan showing all pertinent conditions including grades and all structures on the site. Written approval of the local health authority, building department, and of the local fire marshal having jurisdiction shall be submitted.

(3) A general description of the surrounding area and vicinity (commercial, residential, rural, shopping, available transportation, etc.) shall be furnished for new locations.

(b) Submittal of intermediate plans. Intermediate stage plans and specifications (50%-75% complete) may be needed for review, particularly on new, larger, or more complex construction projects.

(c) Submittal of final plans.

(1) Before construction is begun, one copy of working drawings and specifications (contract documents) in sufficient detail to interpret compliance with these standards and assure proper construction shall be submitted to the licensing agency for review. These documents shall be prepared according to accepted architectural practice and shall include general construction, special conditions, schedules, and any other pertinent information that the licensing agency may require. In addition, two extra copies of the floor plan (only) shall be submitted with the aforementioned complete set.

(2) Final copies of plans shall have (in the reproduction process by which plans are reproduced) a title block showing name of facility, person or organization preparing the sheet, sheet numbers, facility address, and drawing date. Certain parts of final plans, designs, and specifications shall bear the seal of a registered professional engineer approved by the State Board of Registration for Professional Engineers to operate in Texas. These certain parts include sheets and sections covering structural, electrical, mechanical, and sanitary engineering. Reference 145.271(e) of this title (relating to Introduction and Application). Contract documents for major additions and major remodeling and for the construction of an entirely new facility shall be prepared by an architect licensed by the Texas State Board of Architectural Examiners. Drawings shall bear the seal of the architect.

(3) A final plan for a major addition to a facility shall include a basic layout to scale of the entire building onto which the addition connects. North direction shall be shown. Usually the entire basic layout can be to scale such as 1/16 inch per foot or 1/32 inch per foot for very large buildings.

(4) Plans and specifications for conversions or remodeling shall be complete for all parts and features involved.

(5) It is the sponsor's responsibility to employ qualified personnel to prepare the contract documents for construction. If the contract documents have errors or omissions

to the extent that conformance with standards cannot be reasonably assured or determined, a revised set of documents for review may be requested. For additions and remodeling to existing licensed facilities, construction shall not be started until the final contract documents are reviewed and approved in writing by the licensing agency.

(6) The review of plans and specifications by the licensing agency is based on general utility and conformance with the Life Safety Code, and is not to be construed as all-inclusive approval of the structural, electrical, or mechanical components.

(d) Contract documents.

(1) Site plan. Site plan documents shall include grade contours; streets (with names); north arrow; fire hydrants; fire lanes; utilities, public or private; fences; unusual site conditions, such as ditches, low water levels, other buildings on-site, and indications of buildings five feet or less beyond site property lines (may include the developed landscaping plan for patient use as called for in §145.272(f) of this title (relating to Location and Site)).

(2) Foundation plan. Foundation plan documents shall include general foundation design and details.

(3) Floor plan. Floor plan documents shall include:

(A) room names, numbers, and usages; doors (numbered) including swing; windows; legend or clarification of wall types; dimensions; fixed equipment; plumbing fixtures; and kitchen basic layout;

(B) identification of all smoke barrier walls (outside wall to outside wall) or fire walls;

(C) for both new construction and additions or remodeling to existing buildings, an overall plan of the entire building shall be drawn or reduced to fit on an 8-1/2 inch by 11 inch sheet; submit two reduced plans for file record. See 145.285(c)(3) of this title (relating to Construction and Initial Survey of Completed Construction).

(4) Schedules. Schedules shall include door materials, widths, types; window materials, sizes, types; room finishes; special hardware.

(5) Elevations and roof plan. Elevations and roof plan shall include exterior elevations, including material note indications and any roof top equipment; roof slopes, drains, gas piping, etc. Interior elevations where needed for special conditions.

(6) Details. Details shall include wall sections as needed (especially for special conditions); cabinet and built-in work, basic design only; cross sections through buildings as needed; and miscellaneous details and enlargements as needed.

(7) Building structure. Building structure documents shall include structural framing layout and details (primarily for column, beam, joist, and structural frame building); roof framing layout (when cannot be adequately shown on cross section); cross sections in quantity and detail to show suffi-

cient structural design and structural details as necessary to assure adequate structural design, also calculated design loads.

(8) Electrical. Electrical documents shall include electrical layout, including lights, convenience outlets, equipment outlets, switches, and other electrical outlets and devices; service, circuiting, distribution, and panel diagrams; exit light system (exit signs and emergency egress lighting); emergency electrical provisions (generators, panels, etc.), nurse call system; fire alarm and similar systems (control panel, devices, bells, etc.); sizes and details sufficient to assure safe and properly operating systems.

(9) Plumbing. Plumbing documents shall include plumbing layout with pipe sizes and details sufficient to assure safe and properly operating systems, water systems, sanitary systems, gas systems, other systems normally considered under the scope of plumbing, fixtures, provisions for combustion air supply.

(10) Heating, ventilating, and air-conditioning (HVAC). HVAC documents shall include sufficient details of HVAC systems and components to assure a safe and properly operating installation including heating, ventilating, and air-conditioning layout, ducts, protection of duct inlets and outlets, combustion air, piping, exhausts, duct smoke and/or fire dampers, etc.; equipment types, sizes, locations.

(11) Sprinkler systems. Sprinkler systems documents shall include plans and details of full NFPA Number 13 design systems; plans and details of partial systems provided only for hazardous areas; electrical devices interconnected to the alarm system.

(12) Other. Other layouts, plans, or details as may be necessary for a clear understanding of the design and scope of the project, including plans covering private water or sewer systems shall be reviewed by the local health or wastewater authority having jurisdiction. If no local authority, then the plans will be reviewed by the Texas Department of Health.

(13) Specifications. Specifications shall include installation techniques, quality standards and/or manufacturers, references to specific codes and standards, design criteria, special equipment, hardware, painting, and any others as needed to amplify drawings and notes.

§145.285. Construction and Initial Survey of Completed Construction.

(a) Construction phase.

(1) The licensing agency shall be notified in writing of construction start.

(2) All construction shall be done in accordance with the completed plans and specifications as submitted for review and as modified in accordance with review requirements. Any deviations therefrom must have prior approval of the licensing agency. Revised drawings may be required if the change is significant.

(3) A preliminary stage construction inspection is required for most construction work unless otherwise instructed by the licensing agency. Three weeks notification prior to applying interior wall and ceiling surfaces (except for smoke barrier wall surfaces which shall be completed) must be given so that the inspector may schedule the intermediate visit.

(b) Initial survey of completed construction.

(1) Upon completion of construction, including grounds and basic equipment and furnishings, a final construction inspection (initial survey) of the facility is required to be performed by the licensing agency (architectural section) prior to admitting residents. Three weeks advance notice is needed. The completed construction shall have the written approval of the local authorities having jurisdiction, including the fire marshal, health department, and building inspector.

(2) After the completed construction has been surveyed by a representative of the architectural section of the licensing agency and found acceptable, this information will be conveyed to the licensing officer as part of the information needed to issue a license to the facility. In the case of additions or remodeling of existing facilities, a revision or modification to an existing license may be necessary. Note that the building and grounds must be essentially 100% complete at the time of this initial survey visit for occupancy approval and licensing, including basic furnishings and operational needs.

(3) The following documents must be available to the licensing agency's architectural inspecting surveyor at the time of the survey of the completed building:

(A) written approval of local authorities as called for in paragraph (1) of this section;

(B) written certification of the fire alarm system by the installing agent (Form FML-009 of the Office of the State Fire Marshal);

(C) documentation of materials used in the building which are required to have a specific limited fire or flame spread rating including special wall finishes or floor coverings, flame retardant curtains (including cubicle curtains), rated ceilings, etc. This must include a signed letter from the installer, in the case of carpeting, etc., verifying that the (carpeting) installed is the carpet named in the laboratory test document;

(D) approval of the completed sprinkler system installation by the State Board of Insurance or the designing engineer. A copy of the material list and test certification shall be available;

(E) service contracts for maintenance and testing of alarm systems, sprinkler systems, etc.;

(F) copy of gas test results of the facility's gas lines from the meter; and

(G) any other such documentation as needed and called for.

(c) Nonapproval of new construction.

(1) If, during the initial on-site survey of completed construction, the surveyor finds certain basic requirements not met, he may recommend to the licensing office that the facility not yet be licensed and approved for occupancy. Such basic items may include the following:

(A) substantial changes made during construction which were not submitted to the licensing agency for review and which may require revised as-built drawings to cover the changes. This may include architectural, structural, mechanical, and electrical items (reference subsection (a)(2) of this section);

(B) construction which does not meet minimum code or licensure standards for basic requirements such as corridor widths being less than eight feet clear width, ceilings installed at less than the minimum seven feet six inches height, resident bedroom dimensions less than 10 feet, and other such features which would disrupt or otherwise adversely affect the residents and staff if corrected after occupancy;

(C) no written approval by local authorities;

(D) fire protection systems not completely installed or not functioning properly (fire alarm systems, emergency power and lighting, sprinkler systems, etc.);

(E) required exits are not all usable according to Code requirements;

(F) telephone not installed or not properly working;

(G) sufficient basic furnishings and working essential appliances and equipment to begin operation are not installed or not functioning;

(H) any other basic operational or safety feature which the surveyor, as the authority having jurisdiction, encounters which in his judgement would preclude safe and normal occupancy by patients on that day.

(2) If the surveyor encounters only less basic (and less important) deficiencies, he may recommend licensure based on an approved written plan of correction for those items by the facility's administrator.

(3) Copies of reduced size floor plan (on an 8-1/2-inch by 11-inch sheet) shall be submitted in duplicate to the licensing agency for record/file use and for the facility use for evacuation plan, fire alarm zone identification, etc. The plan shall contain basic legible information such as overall dimensions, room usage names, actual bedroom numbers, doors, windows, etc.

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 October 14, 1986.

TRD-8609778

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

Proposed date of adoption: December 13, 1986
For further information, please call
(512) 458-7236.

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Adopted

Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *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 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure

The Board

★22 TAC §51.1

The State Board of Barber Examiners adopts an amendment to §51.1, without changes to the proposed text published in the August 5, 1986, issue of the *Texas Register* (11 TexReg 3455).

The amendment allows notice to out-of-state applicants for licensure who plan to appear before the board.

By having board meetings bi-monthly, the agency will save an estimated \$2,400 each year in travel expense for the board members.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to adopt rules and regulations necessary for the performance of its duties.

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

Issued in Austin, Texas, on October 13, 1986.

TRD-8609732

Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Effective date: November 4, 1986

Proposal publication date: August 5, 1986

For further information, please call
(512) 835-2040

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 116. Control of Air Pollution by Permits for New Construction or Modification

★31 TAC §§116.4-116.7

The Texas Air Control Board (TACB) adopts amendments to §116.5, §116.6, and §116.7, with changes to the proposed text published in the *Texas Register* (11 TexReg 2577). The amendment to §116.4 is adopted without changes and will not be republished.

The amendments to §116.4 and §116.5 add the term "special permits" to ensure applicability to special permits. The amendments to §116.6 and §116.7 clarify that carbon dioxide, water, nitrogen, methane, ethane, oxygen, and hydrogen are not considered to be air contaminants subject to the emission limits of the two sections. The amendment to §116.6 also requires facilities to comply with all board rules and with provisions of the Texas Clean Air Act (TCAA), and revises the date of the Standard Exemption List to reflect incorporation of the changes in the list which are adopted concurrently.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal. A commenter who suggested any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

A total of 15 written and seven oral statements were presented concerning the proposed revisions. The majority, however, concerned the changes in the Standard Exemption List. Since the list is incorporated into §116.6 by reference, and since the *Texas Register* does not publish documents which are incorporated by reference, a summary of the changes in the list will not be included in this announcement. However, copies of the summary are available for inspection at the TACB Central Office,

6330 Highway 290 East, Austin, Texas
78723.

Seven commenters presented testimony which addressed the proposed amendments to §§116.4-116.7. Those commenting in favor of the proposal were Texas Oil and Gas Corporation (TOGC); Texas Utilities Generating Company (TUGCO); and the Lone Star Chapter of the Sierra Club (Sierra Club). Those commenting against the proposal were Texas Mid-Continent Oil and Gas Association, Texas Chemical Council (TCC), Brown, Maroney, Rose, Barber and Dye (Brown Maroney), and Phillips Petroleum Company (Phillips). A summary of the comments and a discussion of the issues related to the proposed amendments follow.

Three commenters (TUGCO, TOGC, Sierra Club) were in favor of the proposed changes to §116.4 and §116.5 which add the term "special permits" to these sections to ensure applicability to this type of permit. No one commented against this change.

Phillips suggested that new language be added to §116.6(a)(7) which would exempt new facilities emitting less than one ton per year of any contaminant that is not listed in 40 Code of Federal Regulations 261, Appendix VIII, from permitting requirements. The language proposed by Phillips was intended to apply under all conditions and with no restrictions. Phillips proposed this change to allow the addition of new facilities, such as valves, without requiring a special permit. However, the Phillips proposal would amount to a blanket exemption which could theoretically allow any of several hundred chemicals not listed in 40 Code of Federal Regulations 261, Appendix VIII, to be emitted in potentially significant quantities. For this reason, the staff cannot agree with the changes proposed by Phillips. However, the staff sees merit in the particular circumstance (valves and related sources of fugitive emissions) introduced by Phillips, and a new exemption to address these more limited situations is being developed.

One additional change is made to the proposed amendment to §116.6. As proposed, the paragraphs concerned with preconstruction and operational requirements had become intermingled, resulting in possible misunderstanding by the reader. To improve the clarity of the section, the staff has reorganized the wording of §116.6



under separate subsections for preconstruction and operational requirements. The language of the provisions has not been changed, except to delete the word "proposed" from paragraph (5) of subsection (a), to clarify that it is an operational requirement. Essentially, the reorganized section now appears with preconstruction requirements described in subsection (a), operational requirements described in subsection (b), and copy availability described in subsection (c)

The TCC suggested a new definition be included in the TACB general rules which would combine the TCAA definition of air contaminant and a statement that the proposed excluded compounds are not considered air contaminants, rather than excluding these compounds under §116.6 and §116.7. As an alternative, the TCC requested that, if the list of excluded compounds was added to these sections as proposed, the other constituents of air such as oxygen, argon, neon, hydrogen, etc., be added to the exclusion list. Phillips requested that hydrogen be added to the list of excluded compounds

The intent of the staff was to exclude certain compounds which would not be harmful if emitted in the relatively small quantities characteristic of facilities qualifying for special permits or exemptions. Oxygen and hydrogen have been added to the proposed list. The staff, however, is concerned that placing the list within the general rules would broaden this restriction unnecessarily. Therefore, the list has been retained within §116.6 and §116.7

One commenter, Brown Maroney, asserted that the term "recreational area," as used in a number of standard exemptions, is vague and suggested a definition for inclusion under either §101.1 of the general rules or as a new subparagraph under §116.6

The staff has evaluated the definition of the term "recreational area" proposed by the commenter and has determined that the language could be unduly restrictive. The definition, as proposed, appears to apply only to public facilities, as such, and not to many private facilities, such as country clubs and resorts, which also may qualify as recreational areas. In addition, the meaning of the term "recreational activities," as presented in the commenter's proposed definition, is vague

Specific definitions usually are incorporated into the TACB general rules. However, from a procedural standpoint, such an action, now, would require a separate hearing. At some future date, consideration will be given to adding a definition of the term "recreational areas" to the general rules. In the interim, the staff will continue to include privately operated recreational areas in the definition. The staff will be most willing to work with the commenter and other interested parties to develop a mutually agreeable definition

The amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules consistent with the general intent and purposes of the Texas Clean Air Act, and to amend any rule or regulation the TACB makes.

§116.5. *Representations in Application for Permit and Exemption.* All representations with regard to construction plans and operation procedures in an application for a special permit, a permit to construct or a permit to operate, or in any request for an exemption become conditions upon which a subsequent exemption, special permit, or permit to construct or operate are issued. It shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless he first makes applications to the executive director to amend his permit, special permit, or exemption in that regard and such amendment is approved by the executive director.

§116.6. *Exempted Facilities.*

(a) Pursuant to the Texas Clean Air Act (TCAA), §3.27(a), the facilities or types of facilities listed in the Standard Exemption List, dated April 25, 1986, as filed in the Secretary of State's Office and herein adopted by reference, are exempt from the permit requirements of the TCAA, §3.27 and §3.28, because such facilities will not make a significant contribution of air contaminants to the atmosphere; provided, however, that:

(1) actual emissions from the proposed facility shall not exceed 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen. In addition, total actual emissions from the property where the proposed facility is to be located shall not exceed 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen, unless at least one facility at such property has been subject to public notification and comment as required by §116.10 of this title (relating to Public Notification and Comment Procedure) or §116.7 of this title (relating to Special Permits);

(2)-(4) (No change)

(5) The emissions from the proposed facility shall comply with all rules and regulations of the Texas Air Control Board (TACB) and with the intent of the Texas Clean Air Act, including protection of health and property of the public.

(6) Notwithstanding the provisions of this section, any facility which constitutes a major source, or any modification which constitutes a major modification, under any new source review requirement of the Fed-

eral Clean Air Act and regulations promulgated thereunder shall be subject to the requirements of §116.3 of this title (relating to Consideration for Granting Permits to Construct and Operate) rather than this section.

(b) Copies of the current Standard Exemption List are available from the TACB central office at 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices.

§116.7. *Special Permits.*

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

(e) The executive director shall issue the special permit, after considering any written comments submitted pursuant to subsection (c) of this section, if he determines that:

(1) the emissions from the proposed facility will be less than 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen;

(2)-(3) (No change.)

(f)-(g) (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 October 14, 1986

TRD-8609782 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: November 5, 1986
Proposal publication date: June 6, 1986
For further information, please call
(512) 451-5711, ext. 353

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

★ 34 TAC §3.299

The Comptroller of Public Accounts adopts an amendment to §3.299, concerning newspapers, magazines, publishers, sacred writings, and broadcasters, without changes to the proposed text published in the September 12, 1986, issue of the *Texas Register* (11 TexReg 3924)

The amendment is necessary to inform publishers of newspapers which are given away without charge, of their responsibility to collect sales tax on these publications. When a newspaper is given away to readers but the publisher charges advertisers more to advertise in the publication than advertisers are required to pay

(4) general knowledge and basic techniques of working with aged and disabled individuals.

(i) The contract agency must provide all staff, including volunteers, who come in contact with clients in a capacity other than just serving or delivering meals, with at least two hours of training before assuming duties. The training must cover:

- (1) client confidentiality;
- (2) procedures used in handling emergency situations involving clients;
- (3) sanitary methods used in serving and delivering meals;
- (4) general knowledge and basic techniques of working with aged and disabled individuals; and
- (5) orientation in applicable TDHS and contract agency forms, procedures, and policies.

(j) The contract agency must provide the food service supervisor with at least two hours of training before assuming duties. The training must cover the following sanitation and safety areas:

- (1) personal hygiene;
- (2) food storage, preparation, and service;
- (3) equipment cleaning before, during, and after meal service;
- (4) selection of proper utensils and equipment for transporting and serving food; and
- (5) automatic and manual dishwashing procedures.

(k) The contract agency must provide the food service supervisor with at least six hours of training within 30 days of assumption of duties in the following food preparation areas:

- (1) practical procedures for food preparation, storing, and serving;
- (2) portion control of food in appropriate dishes;
- (3) use of standardized recipes;
- (4) nutritional needs and meal pattern requirements of elderly adults to be served; and
- (5) quality control of:
 - (A) flavor;
 - (B) consistency;
 - (C) texture;
 - (D) temperature;
 - (E) appearance (including use of garnishes).

(l) The contract agency must meet local and state codes for food service operations as established by the Texas Department of Health and local political subdivisions. The contractor must provide a copy of all inspection results to the TDHS contract manager within five calendar days of receipt of the results.

§48.9410. General Contractual Requirements for Congregate Meals Services.

(a) Administration.

(1) The contract agency must date stamp all written complaints received and

maintain a record of the complaints and their responses in a central location.

(2) The contract agency must notify the TDHS contract manager in writing within five calendar days of any of the following:

(A) change in director or administrator;

(B) change in the location of the agency's office(s) or service delivery site(s); or

(C) change in hours of operation.

(3) The contract agency must identify an individual who is responsible for the overall management of the meals program and who ensures compliance with the terms of the contract.

(4) Neither the contract agency nor the contractor's employees, agents, or representatives may solicit or accept gifts, favors, or any other items of value from a client or other person on behalf of the client in connection with services rendered under this contract. Contributions resulting from a general broad-based appeal for public donations may be accepted from TDHS clients as long as the donations are not directly solicited from individual clients by the agency.

(5) Problem areas between TDHS and the contract agency must be addressed in writing to the TDHS contract manager with a copy of the correspondence sent to the regional director for services to the aged and disabled.

(6) The contract agency must allow TDHS staff to conduct monitoring visits throughout the contract period to examine agency records to measure compliance with the terms of the contract, including the meal standards.

(7) If the contract agency intends to subcontract meal preparation and/or service delivery, the agency must obtain written prior approval from the TDHS regional director for services to the aged and disabled.

(8) The contract agency and/or subcontractor must make application for participation in the United States Department of Agriculture (U.S.D.A.) donated commodities program. If eligible, the agency must enter into a contract to participate in this program.

(9) The contract agency must have staff or other resources available who are able to communicate with the client or family members.

(10) The contract agency must report suspected cases of abuse, neglect, and exploitation within 24 hours of awareness to the caseworker or the TDHS hotline. These telephone numbers are supplied by the regional contract manager.

(11) The contract agency must provide TDHS written notification if any portion of the building used to meet the terms of this contract is used for other activities on an ongoing basis.

(12) The contract agency facility must comply with all applicable federal,

state, and local health, fire, safety, building, zoning, and sanitation laws, ordinances, or codes. The contract agency must provide the TDHS contract manager with all inspection reports within five calendar days of the receipt of the report.

(13) The contract agency is responsible for correcting any safety, health, and fire hazards on an ongoing basis.

(14) The contract agency must post their complaint procedures in a conspicuous location inside each service delivery site.

(15) The contract agency must have at least one volunteer or paid staff member with a current certification by the Red Cross in the standard first aid and personal safety course and the basic life support cardiopulmonary-resuscitation course on the premises during all hours of operation.

(16) The contract agency must have a basic first aid kit on the premises at all times.

(17) The contract agency must ensure that vehicles used to transport clients are:

- (A) insured for liability; and
- (B) have a valid inspection sticker.

(b) Service delivery.

(1) The contract agency must implement service plan changes within seven calendar days from the date of receipt of the client intake form. The time frame allowed to implement service plan changes applies only to those cases where the contract agency has a current authorization for the client.

(2) The contract agency must notify the TDHS caseworker within one work day after becoming aware of significant changes in a client's physical or mental condition or environment.

(3) The contract agency must notify the TDHS contract manager within one work day after an occurrence or incident that may result in the agency's inability to deliver meals to one or more clients.

(4) Contract agency staff with communicable diseases or open infectious wounds must not come in contact with clients or be involved with the preparation or delivery of the meal.

(5) The contract agency must ensure that meals which have been prepared without the addition of salt as seasoning or flavoring are available to TDHS clients when specified by the TDHS caseworker.

(6) If the delivery of meals is suspended, the contract agency must notify the TDHS caseworker on the day of suspension, unless the suspension was requested by the client and a specific resumption date was provided. The contract agency suspends the delivery of meals when:

- (A) the client moves out of the geographical area served by the contract agency;
- (B) the client enters an institution;
- (C) the client requests service be suspended or terminated;
- (D) the client dies; or

(E) notified by the TDHS caseworker.

(7) The contract agency must notify a client's relative or other responsible person on the same day of occurrence if the client becomes ill or is injured at the congregate meal site.

(8) The contract agency must post monthly menus in each service delivery site.

(9) The contract agency must have sturdy and appropriate chairs and tables at each congregate meal site in sufficient numbers to seat all the clients at one time.

(c) Record keeping.

(1) The contract agency must use appropriate TDHS forms.

(2) The contract agency must maintain records on each client that contain at least:

(A) the authorization for services and record of termination (client intake form);

(B) a daily record of meal delivery which includes the client's name and date of delivery; and

(C) documentation of written notification of complaint procedures provided to each client.

(3) The contract agency must maintain financial records in sufficient detail to support:

(A) TDHS payment vouchers;

(B) purchase of service delivery reports (cost reimbursement contracts), community care purchased services delivery reports, and any TDHS output reports;

(C) documentation in accounting records of TDHS reimbursement noting the amount of reimbursement, voucher number, warrant number, and date of receipt; and

(D) the source and application of other funding such as Title III meals program.

(4) The contract agency must maintain additional financial records including, but not limited to:

(A) revenue documents, such as deposit slips, bank statements, canceled checks, program income/client fee ledgers, donation ledgers, and receipts;

(B) purchase orders;

(C) supplies and equipment receipts, invoices, statements, and delivery receipts;

(D) journals, ledgers, and other books of account and supporting documentation;

(E) payroll and tax records;

(F) inventory records for food and other supplies;

(G) time sheets;

(H) Internal Revenue Service and Department of Labor records and forms;

(I) insurance payments and documentation of persons and/or vehicles covered (medical, liability, fire and casualty, and workmen's compensation);

(J) equipment inventory records;

(K) agency's internal accounting procedures; and

(L) chart of accounts.

(5) The contract agency must maintain invoices, contracts, and service delivery records of all subcontractors. Maintenance of all records to support subcontractor claims is the responsibility of the prime contractor.

(6) The contract agency must maintain a record of the names of paid and volunteer staff who work in the congregate site.

(7) The contract agency must retain all service delivery and financial records according to procedures outlined in §51.50 of this title (relating to Record Retention Requirements).

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 October 14, 1986.

TRD-8609755

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 1, 1987

Proposal publication date: June 13, 1986

For further information, please call
(512) 450-3768.

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Home-Delivered Meals

★ 40 TAC §48.9501, §48.9510

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§48.9501. Minimum Standards for Agencies Contracted to Provide Home-Delivered Meal Services.

(a) The contract agency must initiate services within 10 calendar days from the date of the referral from the Texas Department of Human Services (TDHS).

(b) The contract agency must inform clients in writing of complaint procedures on or before initiation of service.

(c) The contract agency must investigate and respond in writing to all written complaints received from TDHS staff within 14 calendar days of receipt.

(d) The contract agency must respond to the TDHS initial referral within 21 calendar days from the date of the referral by returning page three of the approval for CCAD services-referral response form.

(e) The contract agency must provide services as authorized on the approval for CCAD services-referral response form.

(f) Each menu with a list of allowable substitutions must be approved by a dietitian consultant as meeting 1/3 of the recommended dietary allowance (RDA). The approval must be dated before the date the meal is served. The dietitian consultant must:

(1) be a registered dietitian;

(2) be licensed by the Texas State Board of Examiners of Dietitians; and

(3) have a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management.

(g) The director of the contract agency must:

(1) be a high school graduate or have passed a general education development (G.E.D.) test and have one year of experience working in a human services organization; or

(2) have two years of college or university credits.

(h) The contract agency must provide at least one hour of training or provide the same information in a contract manager-approved written document to all staff (including volunteers) who only serve and/or deliver meals. This information must be provided before staff assume duties and must include:

(1) client confidentiality;

(2) procedures used in handling emergency situations involving clients;

(3) sanitary methods used in serving and delivering meals; and

(4) general knowledge and basic techniques of working with aged and disabled individuals.

(i) The contract agency must provide all staff, including volunteers, who come in contact with clients in a capacity other than just serving or delivering meals, with at least two hours of training before assuming duties. The training must cover:

(1) client confidentiality;

(2) procedures used in handling emergency situations involving clients;

(3) sanitary methods used in serving and delivering meals;

(4) general knowledge and basic techniques of working with aged and disabled individuals; and

(5) orientation in applicable TDHS and contract agency forms, procedures, and policies.

(j) The contract agency must provide the food service supervisor with at least two hours of training before assuming duties. The training must cover the following sanitation and safety areas:

(1) personal hygiene;

(2) food storage, preparation, and service;

(3) equipment cleaning before, during, and after meal service;

(4) selection of proper utensils and equipment for transporting and serving food; and

(5) automatic and manual dishwashing procedures.

(k) The contract agency must provide the food service supervisor with at least six hours of training within 30 days of assumption of duties in the following food preparation areas:

(1) personal hygiene;

(2) food storage, preparation, and service;

(3) equipment cleaning before, during, and after meal service;

(4) selection of proper utensils and equipment for transporting and serving food; and

(5) automatic and manual dishwashing procedures.

(1) practical procedures for food preparation, storing, and serving;

(2) portion control of food in appropriate dishes;

(3) use of standardized recipes;

(4) nutritional needs and meal pattern requirements of elderly adults to be served; and

(5) quality control of:

(A) flavor;

(B) consistency;

(C) texture;

(D) temperature;

(E) appearance (including use of garnishes).

(l) The contract agency must meet local and state codes for food service operations as established by the Texas Department of Health and local political subdivisions. The contractor must provide a copy of all inspection results to the TDHS contract manager within five calendar days of receipt of the results.

(m) The contract agency must ensure that once services are initiated, no client is without services for more than two consecutive service delivery days, unless a suspension of services has been authorized.

§48.9510. General Contractual Requirements for Home-Delivered Meals Services.

(a) Administration.

(1) The contract agency must date stamp all written complaints received and maintain a record of the complaints and their responses in a central location.

(2) The contract agency must notify the TDHS contract manager in writing within five calendar days of any of the following:

(A) change in director or administrator;

(B) change in the location of the agency's office(s); or

(C) change in hours of operation.

(3) The contract agency must identify an individual who is responsible for the overall management of the meals program and who ensures compliance with the terms of the contract.

(4) Neither the contract agency nor the contractor's employees, agents, or representatives may solicit or accept gifts, favors, or any other items of value from a client or other person on behalf of the client in connection with services rendered under this contract. Contributions resulting from a general broad-based appeal for public donations may be accepted from TDHS clients as long as the donations are not directly solicited from individual clients by the agency.

(5) Problem areas between TDHS and the contract agency must be addressed in writing to the TDHS contract manager with a copy of the correspondence sent to the regional director for services to the aged and disabled.

(6) The contract agency must allow TDHS staff to conduct monitoring visits throughout the contract period to examine

agency records to measure compliance with the terms of the contract, including the meal standards.

(7) If the contract agency intends to subcontract meal preparation and/or service delivery, the agency must obtain written prior approval from the TDHS regional director for services to the aged and disabled.

(8) The contract agency and/or subcontractor must make application for participation in the United States Department of Agriculture (U.S.D.A.) donated commodities program. If eligible, the agency must enter into a contract to participate in this program.

(9) The contract agency must have staff or other resources available who are able to communicate with the client or family members.

(10) The contract agency must report suspected cases of abuse, neglect, and exploitation within 24 hours of awareness to the caseworker or the TDHS hotline. These telephone numbers are provided by the regional contact manager.

(b) Service delivery.

(1) The contract agency must implement service plan changes within seven calendar days from the date of receipt of the client intake form. The time frame allowed to implement service plan changes applies only to those cases where the contract agency has a current authorization for the client.

(2) The contract agency must notify the TDHS caseworker within one work day after becoming aware of significant changes in a client's physical or mental condition or environment.

(3) The contract agency must notify the TDHS contract manager within one work day after an occurrence or incident that may result in the agency's inability to deliver meals to one or more clients.

(4) Contract agency staff with communicable diseases or open infectious wounds must not come in contact with clients or be involved with the preparation or delivery of the meal.

(5) The contract agency must ensure that meals which have been prepared without the addition of salt as seasoning or flavoring are available to TDHS clients when specified by the TDHS caseworker.

(6) If the delivery of meals is suspended, the contract agency must notify the TDHS caseworker on the day of suspension, unless the suspension was requested by the client and a specific service resumption date was provided. The contract agency suspends the delivery of meals when:

(A) the client moves out of the geographical area served by the contract agency;

(B) the client enters an institution;

(C) the client requests service be suspended or terminated;

(D) the client dies; or

(E) notified by the TDHS caseworker.

(7) The contract agency must notify the client at the time of awareness of safety, health, or fire hazards in the client's home when such hazards are identified by contract agency staff. The contract agency must notify the TDHS caseworker within one work day of identification of such hazards.

(8) Contract agency staff must notify the TDHS caseworker, and other authorities as appropriate, when the previous day's meal is found uneaten and/or where left the previous day, the client cannot be found, and suspension of services has not been authorized. Notification must occur on the day of awareness.

(c) Record keeping.

(1) The contract agency must use appropriate TDHS forms.

(2) The contract agency must maintain available records on each client that contain at least:

(A) the authorization for services and record of termination (client intake form);

(B) a daily record of meal delivery which includes the client's name and date of delivery; and

(C) documentation of written notification of complaint procedures provided to each client.

(3) The contract agency must maintain financial records in sufficient detail to support:

(A) TDHS payment vouchers;

(B) purchase of service delivery reports (cost reimbursement contracts), community care purchased services delivery reports, and any TDHS output reports;

(C) documentation in accounting records of TDHS reimbursement noting the amount of reimbursement, voucher number, warrant number and date of receipt; and

(D) the source and application of other funding such as Title III meals program.

(4) The contract agency must maintain other financial records, including but not limited to:

(A) revenue documents, such as deposit slips, bank statements, canceled checks, program income/client fee ledgers, donation ledgers, and receipts;

(B) purchase orders;

(C) supplies and equipment receipts, invoices, statements, and delivery receipts;

(D) journals, ledgers, and other books of account and supporting documentation;

(E) payroll and tax records;

(F) inventory records for food and other supplies;

(G) time sheets;

(H) Internal Revenue Service and Department of Labor records and forms;

(I) insurance payments and documentation of persons and/or vehicles covered (medical, liability, fire and casualty, and workmen's compensation);

(J) equipment inventory records;

(K) agency's internal accounting procedures; and

(L) chart of accounts.

(5) The contract agency must maintain invoices, contracts, and service delivery records of all subcontractors. Maintenance of all records to support subcontractor claims is the responsibility of the prime contractor.

(6) The contract agency must maintain a record of the names of paid and volunteer staff who deliver the meals.

(7) The contract agency must retain all service delivery and financial records according to procedures outlined in §51.50 of this title (relating to Record Retention Requirements).

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 October 14, 1986.

TRD-8609754
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 1, 1987
Proposal publication date: June 13, 1986
For further information, please call
(512) 450-3786.

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Chapter 69. Purchased Social Services

Subchapter J. Standards

★ 40 TAC §69.198

The Texas Department of Human Services (DHS) adopts the repeal of §69.198 in its purchased social services chapter. Section 69.198, concerning standards for agencies contracting to provide congregate and home-delivered meals, is obsolete. The department has developed new standards that are simultaneously being adopted in its community care for aged and disabled chapter. The repeal is adopted without changes to the proposed text published in the June 13, 1986, issue of the *Texas Register* (11 TexReg 2717).

The repeal removes obsolete standards from the department's rules and allows

current standards to be placed in a more appropriate chapter.

The repeal makes rules for purchased social services clearer and more concise.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on October 14, 1986.

TRD-8609756
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 1, 1987
Proposal publication date: June 13, 1986
For further information, please call
(512) 450-3786

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State Board of Insurance Exempt Filings

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

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

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

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

The purpose of this revision is to clarify, amend, and add general liability classifications, codes, or footnotes.

These changes are applicable to all policies effective on or after April 1, 1987. No policy effective prior to April 1, 1987, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is 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 October 15, 1986.

TRD-8609783
Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 1, 1987
For further information, please call
(512) 463-6327.

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The State Board of Insurance has approved a revision of the rules rates and guide (a) rate pages for use with the Simplified Boiler and Machinery Programs approved by Board Order Number 49396 dated August 18, 1986.

These changes are applicable to all policies effective on or after April 1, 1987. No policy effective prior to April 1, 1987, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is 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 October 15, 1986.

TRD-8609784
Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 1, 1987
For further information, please call
(512) 463-6327.

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The State Board of Insurance has approved a filing by American Casualty Company of Reading, Pennsylvania, proposing to withdraw the rules, rates, and forms for the Professional Golfers Liability Program.

This filing was effective December 1, 1986.

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

Issued in Austin, Texas, on October 15, 1986.

TRD-8609785
Nicholas Murphy
Chief Clerk
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 approved revisions to the following standard programs to conform to the rules included in Board Order Number 48578 dated March 27, 1986, amending the rules on notice of cancellation and nonrenewal:

- (1) Waterbed Liability Program;
- (2) Registered Representative Errors and Omissions Program;
- (3) Aquarium Liability Program.

These revisions were approved effective November 1, 1986.

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 October 15, 1986.

TRD-8609786 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: November 6, 1986
For further information, please call
(512) 463-8327.

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Open Meetings

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

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

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

Texas Aeronautics Commission

Tuesday, October 28, 1986, 11:30 a.m. The Texas Aeronautics Commission will meet at Louie B's Restaurant, 601 East Sixth Street, Austin. According to the agenda summary, the commission will have lunch and may discuss items on the commission meeting agenda scheduled for Tuesday, October 28, 1986, at 1:30 p.m. The meeting is rescheduled from October 21, 1986.

Contact: Lydia Scarborough, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: October 15, 1986, 1:53 p.m.
TRD-8609802

Tuesday, October 28, 1986, 1:30 p.m. The Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. Items on the agenda include the Air Carrier Administration report concerning Docket 86-5—Kio Airways, application to delete the point of Temple; Docket 86-6—Texas National Airlines, cancellation of Certificate of Operating Authority 21 to serve the points of Corpus Christi and San Antonio and cancellation of the interim order of Docket 86-4 granting service to Brownwood, Paris, and Temple; hear the director's report; and elect officers.

Contact: Lydia Scarborough, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: October 15, 1986, 1:53 p.m.
TRD-8609803

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Texas Alcoholic Beverage Commission

Monday, October 27, 1986, 1:30 p.m. The Texas Alcoholic Beverage Commission will meet in the hearing room, Third Floor, 1600 West 38th Street, Austin. According to the agenda, the commission will approve the minutes; hear the administrator's and staffs' reports of agency activity; and approve the

affidavit of destruction of tested alcoholic beverages.

Contact: W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: October 14, 1986, 10:31 a.m.
TRD-8609736

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Coordinating Board, Texas College and University System

Thursday, October 30, 1986. Committees of the Coordinating Board, Texas College and University System will meet in the boardroom, Bevington A. Reed Building, 200 East Riverside Drive, Austin. Times, committees, and agendas follow.

9:30 a.m. The Financial Planning Committee will consider matters relating to financial planning and administration.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 1, 1986, 1:48 p.m.
TRD-8609746

9:45 a.m. The Student Services Committee will consider matters relating to student services.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 14, 1986, 1:48 p.m.
TRD-8609747

10 a.m. The Community Junior College and Technical Institutes Committee will consider matters relating to community junior colleges and technical institutes.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 14, 1986, 1:48 p.m.
TRD-8609748

10:30 a.m. The Campus Planning Committee will consider matters relating to facilities and campus planning.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 14, 1986, 1:50 p.m.
TRD-8609749

1:30 p.m. The Health Affairs Committee will consider a request from Pan American University for a Bachelor of Science degree with a major in rehabilitation services.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 14, 1986, 1:50 p.m.
TRD-8609750

1:45 p.m. The Senior College and University Committee will consider matters relating to senior colleges and universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 14, 1986, 1:50 p.m.
TRD-8609751

Friday, October 31, 1986, 9 a.m. The Coordinating Board, Texas College and University System will meet in the boardroom, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda summary, the board will consider matters relating to the Committee on Financial Planning and Administration, the Committee on Student Services, the Committee on Community Junior Colleges and Technical Institutes, the Committee on Facilities and Campus Planning, the Committee on Senior Colleges and Universities, and the Committee on Health Affairs.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: October 14, 1986, 1:50 p.m.
TRD-8609752

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Texas State Board of Dental Examiners

Thursday-Saturday, October 30-November 1, 1986, 8 a.m. daily. The Texas State Board of Dental Examiners will meet at Embassy Suites Hotel, 5901 IH 35 North, Austin. According to the agenda summary, the board will conduct disciplinary hearings; discuss proposed legislation, the number of X-ray exams, the Hernandez Modern Dental Laboratory, WESTAT, mobile dental clinics, nursing home dentistry, Sunday board meetings, the budget for 1987, exam and registration fees, advertising violations, Rule 109.144—Records and Their Transfer, the request of Dr. Mark Looney for exception to rules, unregistered dental laboratories, the request of Dr. Thomas Tippit for reinstatement of controller substances permits, examination guidelines, Dr. Cheryl Douresseauz's request to take the exam a fourth time, appearances by Dr. Donald Masters on specialty teaching in implant dentistry, Dr. Sam Elder on delivery of orthodontic care to school children, Dr. Chris Freeman to request reinstatement of Class III license, Dr. Roy Tomlin to request reinstatement of controlled substances permits, Mehoob Teja regarding licensure, and the board committee report on specialty advertising approval of honorary retired dentists and dental hygienists. The board also will meet in executive session to discuss personnel matters and pending litigation.

Contact: William S. Nail, Suite 400, 8317 Cross Park Drive, Austin, Texas 78754, (512) 834-6021.

Filed: October 14, 1986, 1:47 p.m.
TRD-8609753

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Texas Education Agency

Friday, October 24, 1986, 5 p.m. The Committee on Membership of the Commission on Standards for the Teaching Profession of the Texas Education Agency will meet in the Hall of Fame Room, Sheraton CentrePark Hotel, 1500 Stadium Drive East, Arlington. According to the agenda, the committee will review nominations for commission membership.

Contact: Dr. Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: October 15, 1986, 3:09 p.m.
TRD-8609805

Friday, October 24, 1986, 6 p.m. The Commission on Standards for the Teaching Profession of the Texas Education Agency will meet in the Hall of Fame Room, Sheraton CentrePark Hotel, 1500 Stadium Drive East, Arlington. According to the agenda, the commission will report on new teachers in Texas, statewide supply, 1980-1985; report

on the State Board of Education actions; hear the report from the Committee on Membership; and review nominations of commission membership.

Contact: Dr. Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: October 15, 1986, 3:09 p.m.
TRD-8609806

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Texas Employment Commission

Wednesday, October 22, 1986, 8:30 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider prior meeting notes; discuss the South Texas Conference; consider internal procedures of commission; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 42; and set the date of the next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78711, (512) 463-2226.

Filed: October 14, 1986, 2:27 p.m.
TRD-8609760

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Commission on Fire Protection Personnel Standards and Education

Wednesday, October 15, 1986, 1:30 p.m. The Commission on Fire Protection Personnel Standards and Education made an emergency addition to the agenda for a meeting held in the Deaf Commission Conference Room, basement level, 510 South Congress Avenue, Austin. The addition concerned final action on the proposal for decision order #052286-004A-Contested Docket, Wendell Presley vs. Commission on Fire Protection Personnel Standards and Education. The emergency status was necessary in order to comply with due process and decisions under the Administrative Procedure and Texas Register Act, Article 6252-13a, §16.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: October 14, 1986, 1:51 p.m.
TRD-8609745

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Texas Department of Human Services

Tuesday, October 28, 1986, 9:30 a.m. The Church Relations Advisory Group of the

Texas Department of Human Services will meet in Room 5-W, Fifth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the group will elect officers, consider the impact of the budget reductions, the outcome of special sessions, the Sunset Commission findings; consider the one church one child recruitment campaign for adoptive parents for black children, the adopt-a-caseworker project, adult protective services CEAPP, TV spots; hear a report on public forum, and church coalitions; and consider planning and objective setting for fiscal year 1987, homelessness, media and communications, and the continuation of interest groups.

Contact: Lucy Todd, P.O. Box 2960, Austin, Texas 78769, (512) 450-3129.

Filed: October 14, 1986, 4:13 p.m.
TRD-8609771

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State Board of Insurance

Tuesday, October 21, 1986, 10 a.m. The State Board of Insurance made an emergency revision to the agenda for a meeting held in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. The revision concerned the adoption of Emergency Rules 11.1201-11.1206, concerning merger or acquisition of control of domestic health maintenance organizations. The emergency status is necessary to protect the public health and welfare by filing a need that has arisen for a procedure under which merges or changes in control of domestic health maintenance organizations may be effected while maintaining a sound basis for providing health care services to enrollees of existing health maintenance organizations.

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

Filed: October 15, 1986, 9:54 a.m.
TRD-8609787

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Texas Department of Labor and Standards

Thursday, October 30, 1986, 10 a.m. The Texas Industrialized Building Code Council of the Texas Department of Labor and Standards will meet in Room 103, 105 West 15th Street, Austin. According to the agenda, the council will review the minutes of the last meeting; and consider new business, including the clarification of criteria for approval of design review agencies, the clarification of criteria for approval of third party inspection agencies/inspectors, and hear public comment.

Contact: Jimmy G. Martin, P.O. Box 12157, Austin, Texas 78711, (512) 463-7352.

Filed: October 15, 1986, 4:06 p.m.
TRD-8609823

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Legislative Audit Committee

Wednesday, October 22, 1986, 9:30 a.m. The Legislative Audit Committee will meet in Room 309, State Capitol, Austin. According to the agenda, the commission will consider Senate Bill 1—Error Correction of Classified Positions for State Board of Medical Examiners.

Contact: Lawrence F. Alwin, P.O. Box 12067, Austin, Texas 78711, (512) 462-5776.

Filed: October 14, 1986, 2:27 p.m.
TRD-8609759

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Texas State Board of Medical Examiners

Friday, October 31, 1986, 9 a.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Austin. According to the agenda, the committee will review investigation files and discuss committee recommendations. The committee also will meet in executive session under the authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §3.05(d), 2.07, 4.05(d), 5.06(e)(1) and Attorney General Opinion H-484, 1974.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: October 15, 1986, 1:37 p.m.
TRD-8609801

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Texas Department of Mental Health and Mental Retardation

Monday, October 20, 1986, 3 p.m. The Texas Board of Mental Health and Mental Retardation (MHMR) of the Texas Department of MHMR met in emergency session in the Central Office, 909 West 45th Street, Austin. According to the agenda, the board approved the minutes of the October 2 and 3, 1986, meetings; considered RAJ and Lelsz litigation; considered the second submittal of fiscal year 1988-1989 appropriations request, and House Bill 20, 69th Legislature, Regular Session, Rider 13 recommendations. The emergency status was necessary because RAJ required staffing report to the court by October 27, 1986; Lelsz required consideration of current hearings on implementation plan; and other items required submission to LBB by November 1, 1986.

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

Filed: October 14, 1986, 4:22 p.m.
TRD-8609773

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Texas State Board of Public Accountancy

Thursday, October 23, 1986, 9 a.m. The Executive Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committee will review legislation regarding the fiscal year 1987 budget; consider the ratification of fiscal year 1988-1989 appropriation request; consider the status of the distribution of board history; discuss NASBA activities; review the status of the Constructive Enforcement Program; review personnel actions; hear the report on the hearing held on GAO complaints/substandard audits; and consider other matters coming before the committee.

Contact: Bob E. Bradley, Suite 340, 1033 La Posada, Austin, Texas 78752-3892, (512) 451-0241.

Filed: October 14, 1986, 3:07 p.m.
TRD-8609764

Thursday and Friday, October 23 and 24, 1986, 1 p.m. daily. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the board will approve the minutes of the September board meeting; hear the reports of the Entry and Reentry Screening Committee, Enforcement Committee, Technical Standards Review Committee, Examination Committee, Executive Committee, and Continuing Education Committee; consider the final adoption of substantive rules; review proposed amendments to the Public Accountancy Act of 1979, as amended; review attorney general opinion, the board's financial condition, and pending litigation; consider the resolution regarding examination; hear the report on the candidate characteristics and performance survey for the May and November, 1985 Uniform CPA Examinations; ratify board orders, consent orders, and proposals for decision; and review certain board communications, the board activity summary, and future meetings and hearings.

Contact: Bob E. Bradley, Suite 340, 1033 La Posada, Austin, Texas 78752-3892, (512) 451-0241.

Filed: October 14, 1986, 3:07 p.m.
TRD-8609765

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Public Utility Commission of Texas

Thursday, November 6, 1986, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Docket 6609—request of the colony for extended area service to Dallas Metro calling area.

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

Filed: October 14, 1986, 2:59 p.m.
TRD-8609761

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Texas Rehabilitation Commission

Friday, October 24, 1986, 8:30 a.m. The Program Accountability Subcommittee of the Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission will meet in Room 104, 158 East Riverside Drive, Austin. According to the agenda, the subcommittee will recommend the fiscal year 1987 objectives action steps.

Contact: Virginia Roberts, Room 104, 158 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: October 15, 1986, 4:45 p.m.
TRD-8609829

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Texas Savings and Loan Department

Thursday, October 23, 1986, 10 a.m. The Savings and Loan Section of the Finance Commission of Texas of the Texas Savings and Loan Department will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the section will consider final adoption of proposed amendments to §53.9, Exemption for Supervisory Purchase; §53.10, "Designation as Supervisory Purchase;" and §53.11, Remote Service Units; §63.13, Fee for Charter Application Under §2.15; consider proposed new rules to §53.18, Office and Remote Service Units in Other States or Territories; §55.7, Agencies in Other States or Territories; §69.10, Acquisitions Involving Associations in Other States or Territories; discuss SCR 4, Third Called Session of the 69th Legislature, and proposed action to implement SCR 4. The section also will meet in executive session in regard to personnel and supervisory matters.

Contact: Russell R. Oliver, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: October 15, 1986, 3:01 p.m.
TRD-8609804

State Securities Board

Friday, October 24, 1986, 9:30 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner will determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Lincoln Title and Financial Services, Inc., and for the purpose of determining whether the application of Norton Securities, Inc., to be registered as a dealer should be granted or denied. The meeting is rescheduled from October 23, 1986.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: October 14, 1986, 11:43 a.m.
TRD-8609739

Tuesday, November 4, 1986. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. Times and agendas follow.

9 a.m. The commissioner will determine whether the registration of EBCO Securities Trading Company, Inc., as a securities dealer should be revoked.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: October 14, 1986, 11:42 a.m.
TRD-8609740

10 a.m. The commissioner will determine whether the registration of Invesco Securities, Inc., as a securities dealer should be revoked.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: October 14, 1986, 11:41 a.m.
TRD-8609741

11 a.m. The commissioner will determine whether the registration of Elton B. Singer as a securities dealer should be revoked.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: October 14, 1986, 11:41 a.m.
TRD-8609742

1 p.m. The commissioner will determine whether the registration of William Lee Ruid, Jr., as a securities dealer should be revoked.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: October 14, 1986, 11:40 a.m.
TRD-8609743

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Texas Turnpike Authority

Thursday, October 23, 1986, 10:30 a.m. The Board of Directors of the Texas Turnpike Authority will meet in the Monterrey Room,

Hobby Airport Hilton, 8181 Airport Boulevard, Houston. According to the agenda summary, the board will approve the minutes of the last board meeting and preliminary budgets for calendar year 1987; ratify the Interagency Cooperation Contracts in regard to the Dallas North Tollway Project; award the construction contract; hear a construction progress report; consider the Houston Ship Channel Bridge Project; act on the bond resolution and ratify the Interagency Cooperation Contract; and approve the supplemental agreement to Contract MLB-17 regarding Mountain Creek Lake Bridge Project. The board also will meet in executive session for ratification and action of the chairman pursuant to Resolution 858.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: October 14, 1986, 10:17 a.m.
TRD-8609737

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University Interscholastic League

Sunday and Monday, October 19 and 20, 1986, 9 a.m. daily. The 46th Legislative Council of the University Interscholastic League met at the Marriott at the Capitol, 11th Street and IH 35, Austin. According to the agenda summary, the council considered policy, athletic, music, and literary related items and referred to the standing committees; and considered final action by the council on Monday on items brought forth.

Contact: Dr. Bailey Marshall, 2622 Wichita, Austin, Texas 78712, (512) 471-5883.

Filed: October 15, 1986, 3:25 p.m.
TRD-8609809

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Texas Water Commission of Texas

The Office of Hearings Examiner of the Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Wednesday, November 19, 1986, 10 a.m. In Room 1149A, the office will consider Docket 7051-R—rate increase by Holly Ranch Water Company.

Contact: Marcella Sellers, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 15, 1986, 3:57 p.m.
TRD-8609822

Tuesday, November 25, 1986, 9 a.m. In Room 512, the office will conduct a preliminary hearing in Docket 7047-C—application for a water certificate of convenience and necessity by Bastrop West Water Systems.

Contact: Marcella Sellers, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 15, 1986, 3:57 p.m.
TRD-8609814

Tuesday, December 2, 1986, 10 a.m. In Room 215, the office will consider Docket 7056-R—application for a rate increase by Hill Country N. W. Water Supply, Inc.

Contact: Robert Caine, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 15, 1986, 3:57 p.m.
TRD-8609824

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Regional Agencies

Meetings Filed October 14

The Deep East Texas Regional Mental Health Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Angelina, on October 21, 1986, at 5 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The Education Service Center Region III, Board of Directors, met at 1905 Leary Lane, Victoria, on October 20, 1986, at 1 p.m. Information may be obtained from Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, (512) 575-1471.

The Education Service Center Region XII, Board of Directors, will meet at 401 IH 35, Waco, on October 23, 1986, at 1:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703-1249, (817) 756-7494

The Gray County Appraisal District, Board of Directors, will meet in Suite 196-1, Hughes Building, 400 West Kingsmill, Pampa, on October 21, 1986, at 5 p.m. Information may be obtained from Charles Buzzard, P.O. Box 836, Pampa, Texas 79065, (806) 665-0791.

The Hunt Tax Appraisal District, Board of Directors, will meet in the boardroom, 4815-B King Street, Greenville, on October 28, November 20, and December 30, 1986, at 9 a.m. Information may be obtained from Joe Pat Davis, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Mental Health and Mental Retardation of Brazos Valley, Board of Trustees, met in emergency session at 3232 Braircrest Drive, Bryan, on October 16, 1986, at 1:30 p.m. Information may be obtained from Dr. Ann Pye-Shively, Suite 225C, 707 Texas Avenue, College Station, Texas 77840, (409) 822-6467.

TRD-8609738

Meetings Filed October 15

The Austin-Travis County Mental Health and Mental Retardation Center, Operations and Planning Committee, met in emergency session in the boardroom, 1430 Collier, Austin, on October 17, 1986, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier, Austin, Texas 78704, (512) 447-4141.

The Bastrop County Appraisal District, Board of Directors, will meet at 1200 Cedar Street, Bastrop, on October 23, 1986, at 8 p.m. Information may be obtained from Lorraine Perry, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925.

The Brazos River Authority, Board of Directors, met at 4400 Cobbs Drive, Waco, on October 20, 1986, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Comal Appraisal District, Board of Directors, met at the District Office, 644 North Loop 337, New Braunfels, on October 16, 1986. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130, (512) 625-8597.

The Deep East Texas Private Industry Council will meet at the Rodeway Inn, Highway 59 South, Lufkin, on October 24, 1986, at

3 p.m. Information may be obtained from Don E. Boyd, 109 Ratcliff Circle, Lufkin, Texas 75901, (214) 586-3556.

The Houston-Galveston Area Council, Project Review Committee, will meet at the Holiday Inn-Greenway Plaza, 2712 Southwest Freeway, Houston, on October 21, 1986, at 8:30 a.m. The Board of Directors will meet on the same day at the same location at 9:30 a.m. Information may be obtained from Aquina Janice, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200, ext. 555.

The Lamar County Appraisal District met in the District Office, 1523 Lamar Avenue, Paris, on October 20, 1986, at 4 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Lower Neches Valley Authority (LNVA), Board of Directors, made a revision to the agenda for a meeting to be held in the LNVA Office Building, 7850 Eastex Freeway, Beaumont, on October 21, 1986, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.
TRD-8609777

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Meetings Filed October 16

The Austin-Travis County Mental Health and Mental Retardation Center, Development Committee, will meet at 1430 Collier, Austin, on October 21, 1986, at noon. Information may be obtained from Sharon Taylor, 1430 Collier, Austin, Texas 78704-5124, (512) 474-4141.

The Dallas Central Appraisal District, Appraisal Review Board, will meet in Suite 500, 1420 West Mockingbird Lane, Dallas, on October 24, 1986, at 10 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

The Deep East Texas Private Industry Council, Planning Committee, will meet at the Rodeway Inn, Highway 59 South, Lufkin, on October 24, 1986, at 2 p.m. Information may be obtained from Mary Daniel, P.O. Box 2381, Beaumont, Texas 75901, (409) 833-7421.
TRD-8609828



In Addition

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of September 29-October 3, 1986.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Mobile Producing Texas, Coyanosa; gas sweetening plant; Pecos County; 17647; new source

Texas Gas Exploration, Tilden; gas sweetening plant modifications; McMullen County; 17649; new source

Issued in Austin, Texas, on October 13, 1986.

TRD-8609733 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: October 14, 1986
For further information, please call (512) 451-5711, ext. 353.

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Committee of 100 for the Merit Selection of Judges Announcement of Meeting

The Office of Court Administration announces a meeting of the Committee of 100 for the Merit Selection of Judges, on Saturday, October 25, 1986, at 9 a.m., in the Capitol Ballroom of the Marriott at the Capitol, 701 East 11th Street, Austin, Texas.

A summary of the agenda consists of: organizational meeting; appointment of committees; reports of chairman and vice chairman: Chief Justice John L. Hill, Jr.—Chairman; Lieutenant Governor William P. Hobby—Vice Chairman; and Speaker Gib Lewis—Vice Chairman.

For further information contact Bill Willis, 463-1353, or Connie Snoddy, 463-1316 at the Supreme Court of Texas, Supreme Court Building, Austin, Texas 78701.

Issued in Austin, Texas, on October 13, 1986.

TRD-8609758 C. Raymond Judice
Administrative Director
Office of Court Administration

Filed: October 14, 1986
For further information, please call (512) 463-1625.

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Texas Department of Community Affairs Request for Proposals

In accordance with the Job Training Partnership Act (JTPA), Public Law 97-300, the Texas Department of Community Affairs (TDCA) announces a request for proposals to provide employment and training programs for Vietnam-era, disabled, and recently separated veterans under the Job Training Partnership Act (JTPA), Title IV-C. This request for proposals is not filed pursuant to Texas Civil Statutes, Article 6252-11c. The goal of the Texas Veterans' Employment and Training Program is to increase the long-term employment stability and earned incomes of participating veterans. This goal will be met by providing high quality, intensive labor exchange services and on-the-job training in permanent high paying jobs for Vietnam-era, disabled, and recently separated veterans. A total of \$1,018,000 will be available for the Texas Veterans' Employment and Training Program.

Selected deliverers will be expected to assume responsibility for the delivery of services effective upon contract award.

Detailed information regarding the project format is set forth in the request for proposals instructions which will be available on or about October 17, 1986, at the following location: Texas Department of Community Affairs, Training and Employment Development Division, Planning Evaluation and Coordination Section, 8317 Cross Park Drive, Room 2-48, Austin, Texas 78754-5124.

Proposals should be addressed to the attention of Enrique Barrera. The deadline for receipt of proposals in response to this request will be Thursday, November 20, 1986.

TDCA reserves the right to accept or reject any or all proposals submitted. TDCA is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractor alternatives. TDCA intends to use responses as a basis for further negotiation.

of specific project details with potential contractors. TDCA will base its choice on demonstrated competence, qualifications, and evidence of superior conformance with criteria.

This request for proposals does not commit TDCA to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates TDCA to award a contract or to pay any costs incurred in the preparation of a response. TDCA specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where TDCA deems it to be in the best interest of the state of Texas.

For further information regarding this notice, or to obtain copies of the request for proposal instructions, please contact Enrique Barrera or Arturo Gil, Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, Austin, Texas 78754-5124, (512) 834-6000.

Issued in Austin, Texas, on October 13, 1986.

TRD-8609770 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: October 14, 1986
For further information, please call (512) 834-6000.

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Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Corsicana	The Osteoporosis Center	05-3986	Corsicana	0	09/12/86
Houston	Exploration Technologies, Inc	11-3981	Houston	0	09/10/86
San Antonio	Diagnostic Medicine, Inc.	09-3973	San Antonio	0	09/15/86

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Abilene	Humana Hospital— Abilene	04-2126	Abilene	5	09/12/86
Abilene	Radiology Associates	04-339	Abilene	48	09/12/86
Abilene	Humana Hospital— Abilene	04-2434	Abilene	17	09/12/86
Abilene	Hendrick Medical Center	04-2433	Abilene	18	09/12/86
Alvin/Baytown	Amoco Chemical Corporation	11-1422	Alvin	32	09/03/86
Athens	Lakeland Medical Center	07-2470	Athens	11	09/12/86
Austin	Holy Cross Hospital	06-2751	Austin	5	9/12/86
Baytown	Mobay Corporation	11-1577	Baytown	22	09/05/86
Baytown	Exxon Chemical Company	11-3335	Baytown	7	09/03/86
Beaumont	Saint Elizabeth Hospital	10-1580	Beaumont	10	09/12/86

Beaumont	Beaumont Hospital, Inc	10-2102	Beaumont	19	09/12/86
Cleburne	Manville Sales Corporation	05-1482	Cleburne	9	09/05/86
Corpus Christi	Riverside Hospital, Inc.	08-2977	Corpus Christi	5	09/12/86
Crosby Dallas	Unaspect, Inc. North Dallas Diagnostic Center	11-2799 05-3125	Crosby Dallas	9 17	09/05/86 09/12/86
Deer Park	Diamond Shamrock Corporation	11-155	Deer Park	22	09/12/86
Del Rio	Val Verde Memorial Hospital	09-1967	Del Rio	7	09/12/86
Denton	AMI Denton Regional Medical Center	05-2764	Denton	9	09/12/86
Fort Worth Houston	City of Fort Worth University of Houston	05-2888 11-1886	Fort Worth Houston	6 26	09/12/86 08/29/86
Houston McAllen	York Plaza Hospital Ruo Grande Regional Hospital	11-2779 08-3288	Houston McAllen	5 12	08/29/86 09/12/86
Missoua	Mission Hospital, Inc.	08-2802	Missoua	9	09/12/86
Odessa	El Paso Products Company	12-547	Odessa	25	08/29/86
Orange Pasadena	Inland-Orange, Inc. Occidental Chemical Corporation	10-1029 11-2231	Orange Pasadena	27 3	09/03/86 09/05/86
Pasadena	Occidental Chemical Corporation	11-2257	Pasadena	12	09/05/86
Port Neches	Ameripol Synpl Company	10-77	Port Neches	9	9/12/86
Round Rock	Round Rock Com- munity Hospital	6-3469	Round Rock	7	08/29/86
San Antonio	Cancer Therapy & Research Foundation of South Texas	09-3350	San Antonio	3	09/12/86
Sealy	Brazos Valley Hospital	11-3661	Sealy	1	09/12/86
Seguin	Guadalupe Valley Hospital	09-2292	Seguin	9	09/05/86
Temple	Scott and White Clinic	06-331	Temple	33	09/12/86
Throughout Texas	H & H X-Ray Ser- vices, Inc.	07-2516	Tyler	12	08/21/86
Throughout Texas	Texas Water Development Board	06-1852	Austin	9	09/05/86
Throughout Texas	Atomic Energy of Canada Limited	99-721	Kanata, Ontario, CN	24	09/03/86
Throughout Texas	Weldtest, Inc.	10-3560	Beaumont	16	09/04/86
Throughout Texas	T-Tru-Tec, Inc	11-3913	Friendswood	2	09/04/86
Throughout Texas	Schlumberger Well Services	11-1833	Houston	51	09/03/86
Throughout Texas	Phillips Petroleum Company	01-2459	Bartlesville, OK	11	09/12/86
Throughout Texas	Pengo Wireline	05-3079	Fort Worth	28	09/15/86
Throughout Texas	City of Huntsville	11-3392	Huntsville	1	09/09/86
Throughout Texas	Continental Airlines, Inc	11-2718	Houston	6	09/03/86
Throughout Texas	NL/MWD	11-2603	Houston	20	09/12/86
Throughout Texas	Dunack Brothers and Gilchrist	05-3957	Grapevine	1	09/09/86
Throughout Texas	Well Analysis Company, Inc.	07-3682	Tyler	5	09/12/86
Throughout Texas	Alpha Process Sales Inc.	11-3305	Sugar Land	2	09/13/86

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Dallas	Oak Cliff Medical and Surgical Hospital	05-3046	Dallas	4	09/12/86
Jourdanton	Atascosa Mining Company	09-3041	Jourdanton	5	09/12/86
LaPorte Midland	PPG Industries, Inc. Texas Instruments, Inc	11-2206 12-2981	LaPorte Midland	11 4	09/11/86 09/03/86

Seguin	Cone Biotech, Inc	09-2045	Seguin	10	09/12/86
Stafford	Texas Instruments, Inc	11-714	Houston	30	09/15/86
Throughout Texas	Texas Utilities Mining Company	07-2074	Malakoff	8	09/05/86
Throughout Texas	Schlumberger Well Services	11-109	Houston	26	09/03/86
Throughout Texas	Mike Rathman Logging Company	04-1700	Wichita Falls	9	09/03/86
Throughout Texas	Monsanto Company	11-219	Alvin	46	09/04/86
Throughout Texas	A. V. C. Development Corporation	03-2566	El Paso	4	09/12/86
Throughout Texas	Star-Jet Services, Inc.	08-2214	Corpus Christi	10	09/12/86
Throughout Texas	City of Brownwood	04-2552	Brownwood	4	09/12/86
Throughout Texas	DJ Inspection Services, Inc.	11-2067	Houston	14	09/15/86
Throughout Texas	Houston Lighting and Power	11-2063	Houston	29	09/15/86

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Carrollton	United Technologies Mostek	05-2260	Carrollton	12	09/10/86
Houston	Exxon Corporation	11-3213	Houston	2	09/05/86
Throughout Texas	Black and Veatch	05-3512	Dallas	1	09/12/86

In issuing new licenses and amending and renewing existing licenses, the Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Texas Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday through Friday (except holidays).

Issued in Austin, Texas, on October 14, 1986.

TRD-8809724 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: October 14, 1986

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

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Revocation of Certificate of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation Part 13.8, has revoked the following certificates of registration.

Listed following is the name, registrant number, city, and date of action: Chiropractic Arts and Science Center, 11-11579, Houston, August 19, 1986; Health Care for Industry, 03-12009, El Paso, August 9, 1986; Redi-Med, 11-09546, Houston, August 9, 1986; South Oak Cliff Community Hospital, 5-01294, Dallas, August 9, 1986; and Laservision Productions, Z00187, New York, Augusts 12, 1986.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, Monday-Friday 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas, on October 14, 1986.

TRD-8809723 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: October 14, 1986

For further information, please call (512) 835-7000.

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Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation Part 13.8, has revoked the following radioactive material licenses.

Listed following is the name, license number, city, and date of action: South Oak Cliff Community Hospital, 5-2916, Dallas, Texas, August 9, 1986; and B.F. Industrial X-Ray, 12-3546, Odessa, Texas, August 2, 1986.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, Monday-Friday, 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas, on October 14, 1986.

TRD-8809725 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: October 14, 1986

For further information, please call (512) 835-7000.

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State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for a name change by The Total Insurance Company, a domestic life, accident, and health insurance company. The home office is in San Antonio. The proposed new name is Advanced Benefits Life Insurance Company.

(2) Application for a name change by American Overseas Reinsurance Company, a foreign reinsurance company. The home office is in Philadelphia, Pennsylvania. The proposed new name is American Royal Reinsurance Company.

(3) Application for a name change by John A. Post Life Insurance Company, a domestic life, accident, and health insurance company. The home office is in Dallas. The proposed new name is American Veterans Life Insurance Company.

(4) Application for a name change by American Risk Transfer Insurance Company, a domestic fire and casualty insurance company. The home office is in Bryan. The proposed new name is AMTEX Insurance Company.

(5) Application for incorporation of Consumers Insurance Corporation, to be a domestic fire and casualty insurance company. The home office is to be in Cypress.

(6) Application for incorporation of Continental American Lloyds, to be a domestic Lloyds insurance company. The home office is to be in Huntsville.

(7) Application for admission to do business in Texas of Progressive Southeastern Insurance Company, a foreign fire and casualty insurance company. The home office is in Tampa, Florida.

(8) Application for admission to do business in Texas of Teton National Insurance Company, a foreign life, accident, and health insurance company. The home office is in Cheyenne, Wyoming.

Issued in Austin, Texas, on October 8, 1986.

TRD-869734 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Filed: October 14, 1986

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



Texas Department of Mental Health and Mental Retardation Consultant Contract Amendment

The Texas Department of Mental Health and Mental Retardation is amending the consultant contract it has with Arthur Andersen and Company, which it originally entered into on March 31, 1986.

Under this contract, Arthur Andersen and Company is to carry out the installation phase of the Client Assignment and Registration (CARE) System

The original contract will be amended to increase the maximum amount payable to \$551,400 and the period of service has been extended to August 31, 1987.

For further information contact Mike Laritz, Contract Manager, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, (512) 465-4664.

Issued in Austin, Texas, on October 13, 1986.

TRD-8609719 Gary E. Miller, M.D.
 Commissioner
 Texas Department of Mental Health
 and Mental Retardation

Filed: October 13, 1986

For further information, please call (512) 465-4591.



Public Utility Commission of Texas Public Notice

Parties wishing to submit comments on the commission's proposed section, 16 TAC §23.25, concerning the deregulation of dominant interexchange carriers, published in this issue of the *Texas Register*, are asked to address specific comments to the following issues as well as any other issues they may wish to raise.

Rules for the Deregulation of Private Line Service.

Should the private line service market be subdivided into submarkets along such lines as band width, e.g., high speed data versus voice grade? If so, how should the markets be delineated?

Is the statewide market the most appropriate geographic market for private line service? If not, what is the appropriate market?

In terms of the voice grade private line sector, are AT&T's current prices below their costs of service? If so, do transition rules need to be adopted by the commission to allow AT&T to gradually raise those rates toward full recovery of costs before the deregulation of that submarket? How should those rules be structured and over what period of time should the transition period extend?

Has equal access to private line services been achieved in all regions of the state? In the voice grade sector, is it appropriate to apply thresholds related to market share, market capacity, and the number of carriers in assessing the competitiveness of the market? If so, at what level should those thresholds be set? If not, what criteria should be used?

In the data grade sector of private line service, what thresholds for market share, market capacity, and the number of carriers should apply? If these thresholds are inappropriate, what criteria should be used?

Rules for the Deregulation of WATS/MTS.

Are the proposed thresholds for market share and independent capacity sufficiently low to ensure that a regulated carrier no longer possesses market power once equal access has been achieved and a choice of carriers is assured? Alternatively, are these thresholds too low, preventing a regulated carrier from being considered for deregulation long after any opportunity for the exercise of market power has passed? The reasoning behind responses should be explained in detail, and alternatives based on that reasoning should be proposed.

How should operator services be treated in the context of the proposed WATS/MTS deregulation rules? Should these services be treated as an adjunct to MTS or as an altogether separate service?

How should AT&T's intraLATA services be treated under the proposed deregulation rules? For example, should AT&T's intraLATA MTS in an exchange be deregulated

simultaneously with any deregulation of the interLATA WATS/MTS market in that exchange?

Is the total market's current average daily peak volume the appropriate basis for the assessment of independent capacity given the commission's concern with ensuring that sufficient unused capacity is available to competitors to allow them to respond to price increases of a newly deregulated carrier? If so, what is the appropriate unit of measure that should be used in measuring average daily peak volume? If not, what is an appropriate measure?

Does United States antitrust law provide any guidance for setting the thresholds for market share and capacity at specific levels? If so, how does it apply to the deregulation of telecommunications markets?

Do the proposed rules maximize the ability of the commission to use IXC market share and capacity information supplied by the local exchange carriers to ensure the validity of the market share and capacity information provided by the interexchange carriers? If not, how can this be improved without causing significant delays in the assessment of competition in a market?

Is it appropriate to adjust the gross revenues of the interexchange carriers for uncollectibles and billing adjustments? Do these adjustments represent an opportunity (not readily preventable by commission staff analysis of the adjustments) for carriers to invalidate the revenue-based measures of market share?

What adjustments, if any, should be made to the local exchange carrier-supplied IXC originating minutes of usage measures of market share? Why are these adjustments necessary? Which of these adjustments can be made based on local telco provided information and which adjustments must be made based on information only available from the interexchange carriers?

Do the commission's proposed rules successfully minimize the necessity of disclosing company-specific market data provided by both the interexchange carriers and the local telcos? If not, how can this be improved and still ensure that the commission will have available all information needed for the assessment of the competitiveness of specific markets? Would it be appropriate to require an independent, third-party verification of the IXC revenue data and adjustments?

Is the requirement reasonable that the minutes of use data be used for the market share test if interexchange carriers representing more than 3.0% of the total originating minutes of use have not reported their revenue-based market share information? In other words, does the 3.0% level ensure that sufficient market information will be available to the commission without granting a virtual veto power over the use of revenue-based data to very small interexchange carriers?

Is it necessary for the commission to require a full rate case for a regulated interexchange carrier once a market served by the carrier has been deregulated, or should existing rates be frozen in the remaining regulated markets? If existing rates are to be frozen, should provisions be made for the commission to adjust rates which are well above or below costs outside the context of a full rate case? What provisions would be appropriate?

If a rate case is necessary to establish cost-based rates, could the case be delayed beyond the deregulation of the first submarket without introducing the opportunity for the carrier to subsidize deregulated markets with revenues

from regulated markets? If so, how long could the case be delayed and how are cross-subsidies to be prevented?

If rates in the remaining regulated markets are to be frozen, how long should the freeze be effective? If, after the freeze has expired, regulated rates are to be adjusted annually based on an index, is use of the electronics component of the producer price index an appropriate index? If not, what index would be more appropriate?

After the initial deregulation, how can regulated rates be adjusted to take into account changes in expenses resulting from legislative or commission-ordered increases and decreases in taxes, access charges, and similar expense items?

In order to mitigate the problems of rate equity between regulated and deregulated markets, is it appropriate to require a partially regulated IXC to charge the deregulated rate to all MTS traffic originating and terminating in a deregulated exchange? Should rate reciprocity be extended to out-WATS as well, and if so, how is it to be implemented?

New Services.

Do the proposed rules for the deregulation of new service offerings maximize the commission's ability to quickly approve new services in deregulated markets while also ensuring that the new service offering is not a repackaging of or simply substitute for an existing regulated service of the DIXC? Do the rules also provide an effective incentive for the DIXC to supply the commission with sufficient cost information for the commission to determine the cost-basis of the service for pricing in regulated markets?

Reregulation of WATS/MTS Markets.

Is the 65% threshold appropriate for the initiation of proceedings to investigate the reregulation of a deregulated market? What other standards should be applied in the determination of whether a carrier possesses market power sufficient to control prices in a manner adverse to the public interest?

Abandonment.

What other means are available to the commission to prevent the total abandonment of a market by all carriers subsequent to the deregulation of that market and prior to its reregulation after a single carrier's market share exceeds the threshold triggering proceedings to reregulate?

Issued in Austin, Texas, on October 15, 1986.

TRD-8609780 Rhonda Colbert Ryan
Secretary
Public Utility Commission of Texas

Filed: October 15, 1986

For further information, please call (512) 458-0100.



Office of the Secretary of State Texas Register

Due to the upcoming November 4, 1986, election, the *Texas Register* has revised issue dates and deadlines for the November 4, 1986, Quarterly Index, and the November 7, 1986, issue of the *Texas Register*.

The Quarterly Index will be published on November 7, 1986. The November 7, 1986, issue of the *Texas Register* will be published on November 4, 1986, thereby changing the deadline for submission of rules to 10 a.m., Wednesday, October 29, and the deadline for open meeting submissions to 10 a.m., Thursday, October 30, 1986.

The publication schedule will resume with the November 11, 1986, issue and follow publication schedule deadlines thereafter.

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 October 6-10, 1986.

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) 463-7905.

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 October 6-10, 1986

Big Three Industries, Inc., air separation plant, Victoria, Bloomington; air separation plant which produces oxygen, nitrogen, and argon; on Old Bloomington Road between McCoy Road and Black Bayou Road #1, north of the community of Bloomington in Victoria County; 02465; renewal

Enron Corporation, downtown Houston plant, Houston; large scale heating and air conditioning plant; at the intersection of Travis Street and Dallas Avenue in the City of Houston, Harris County; 01743; renewal

Greenwich Oil Corporation, Forest Hill Field oxygen plant, Quitman; air compressors and air separation facility; south of State Highway 37 and approximately five miles northeast of the City of Quitman, Wood County; 02867; new permit

Spring Independent School District, director of ancillary services, Spring; transportation center for bus maintenance and washing; on Hardy Road at Lemm Road #1 south of the community of Spring in Harris County; 02483; renewal

Dove Springs Development Company, Inc., Georgetown; approximately 2¾ miles east of the intersection of State Highway 29 and State Highway 418, 4,000 feet south of the intersection of County Road 102 and State Highway 29 and 1,000 feet west of County Road 102 in Williamson County; 13322-01; new permit

City of Granbury, Water Treatment Plant, Granbury; potable water treatment plant; East Pearl Street and State Highway 426 in the City of Granbury, Hood County; 02625; amendment

Union Stockyards, San Antonio; livestock auction facility; at the intersection of San Marcos and Pendleton Street in the City of San Antonio, Bexar County; 00968; renewal

Texaco Refining and Marketing, Inc., Amarillo; petroleum refining operations; on plant property in Section 123, Block 2 of Adams, Beatty, and Moulton Survey within the eastern incorporated limits of the City of Amarillo, Potter County; WDW-135 and WDW-136; amendment

Les Anders, doing business as Silver Creek Lodge; Burnet; wastewater treatment facilities; on the north side of Lake Buchanan within the Silver Creek Village Subdivision, approximately one mile south of FM Road 2341 in Burnet County; 11394-01; renewal

Celanese Chemical Company, Bay City; waste disposal wells; all on Celanese property in the James Moore League, Abstract No. 62, approximately 10 miles southwest of Bay City, Matagorda County; WDW-14, WDW-32, WDW-49, and WDW-110; amendments

Issued in Austin, Texas, on October 13, 1986.

TRD-8809720 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: October 13, 1986
For further information, please call (512) 463-7898.

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