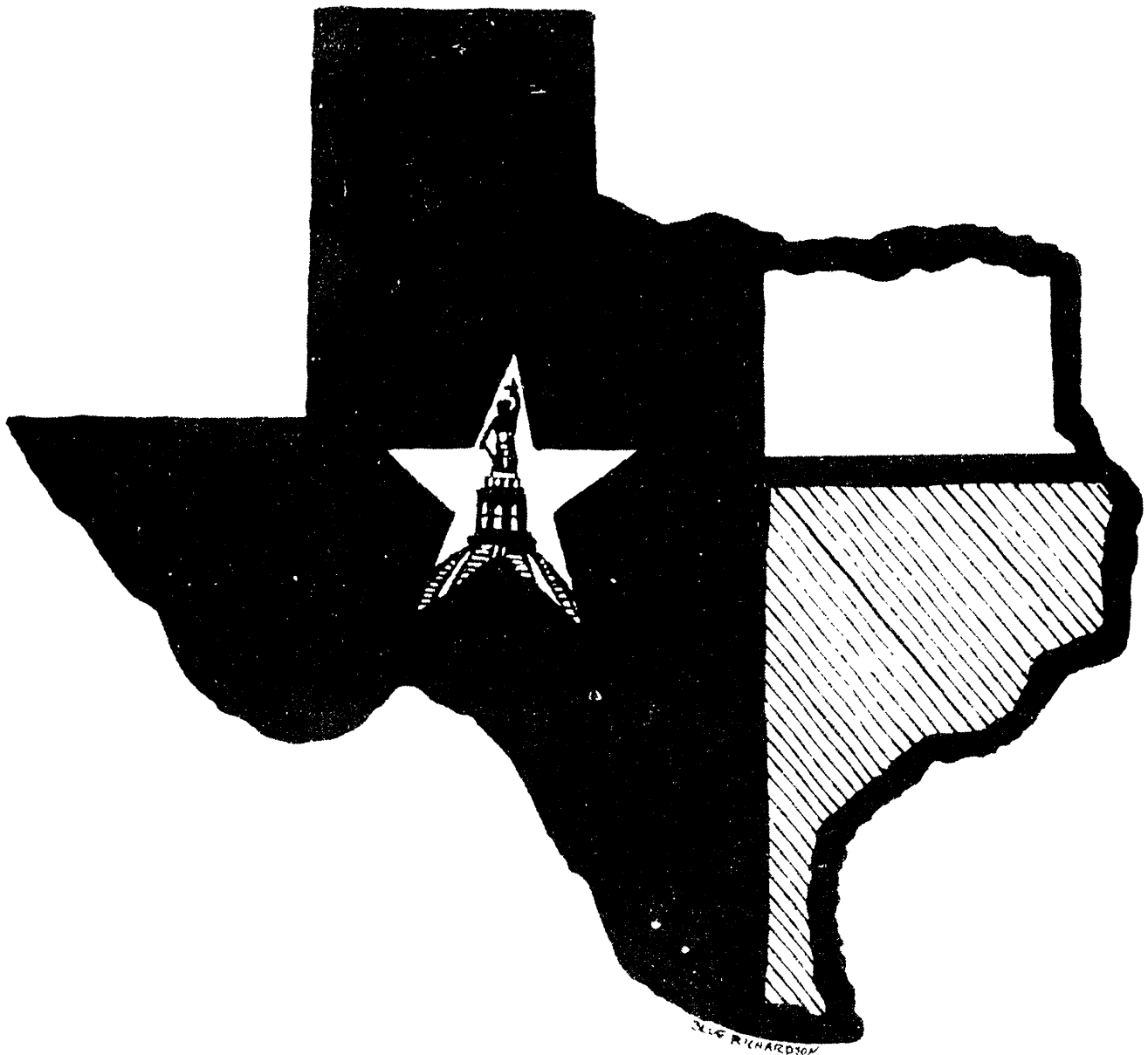


Texas Register

Volume 12, Number 82, October 30, 1987

Pages 3977-4029



Highlights

The **Office of the Attorney General** adopts on an emergency basis a new section concerning the approval of municipal securities by the attorney general. Effective date - October 22, 1987 **page 3984**

The **Texas Department of Agriculture** proposes an amendment concerning the expiration and renewal of licenses for commercial and noncom-

mercial applicators. Earliest possible date of adoption - November 30, 1987 **page 3985**

The **State Board of Physical Therapy Examiners** proposes an amendment clarifying the types of examinations that may be required by the board. Earliest possible date of adoption - November 30, 1987 **page 3990**

**Office of
the Secretary
of State**

Texas Register

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes 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, "12 TexReg 2," issue date; while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 12 TexReg 3."

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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*.

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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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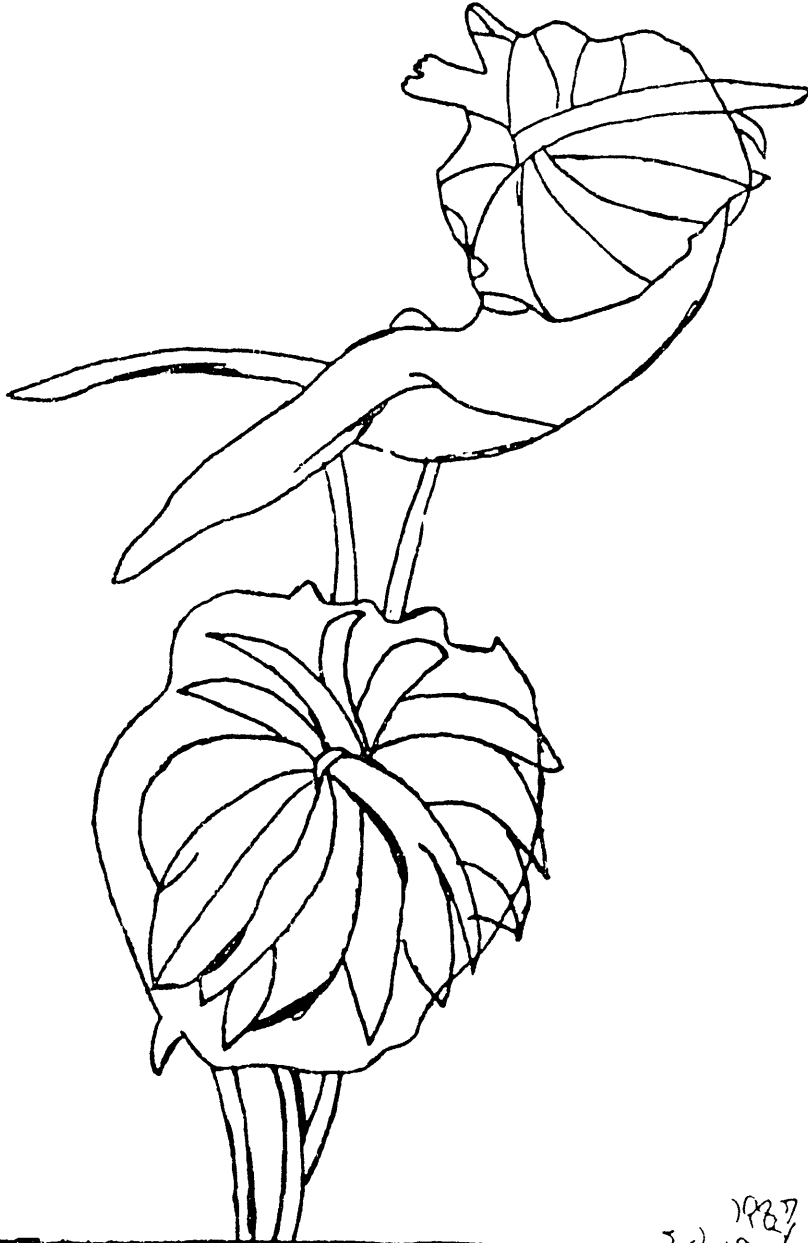
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Emergency

Rules

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

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

**TITLE 1.
ADMINISTRATION
Part III. Office of the
Attorney General
Chapter 53. Municipal
Securities
Subchapter A. Approval of
Municipal Securities by
Attorney General**

★ 1 TAC §53.31

The Office of the Attorney General adopts on an emergency basis new §53.31, concerning exemption from review. The new section exempts certain bonds from approval by the attorney general. The new section is adopted on an emergency basis to implement Senate Bill 56, 70th Legislature, 1987, Chapter 53, (Texas Civil Statutes, Article 717k-8, §§3.001-3.005) which requires submission and approval of bonds by the attorney general. The new section prevents imminent peril of the state by avoiding disruption of the municipal bond industry pending implementation of Senate Bill 56, 70th Legislature, 1987, Chapter 53, (Texas Civil Statutes, Article 717k-8, §§3.001-3.005).

The new section is adopted on an emergency basis under Senate Bill 56, 70th Legislature, 1987, Chapter 53, §3.003 (a)(4) (Texas Civil Statutes, Article 717k-8).

§53.31. *Exemption From Review.* Bonds subject to review by the attorney general solely because of the passage of Senate Bill 56, 70th Legislature, 1987, which are sold on or prior to October 15, 1987, and scheduled for delivery prior to November 1, 1987, are exempt from the submission and approval requirements of Senate Bill 56.

Issued in Austin, Texas, on October 21, 1987.

TRD-8709252

Lou McCreary
Special Assistant
Attorney General
Public Agency
Representative
Office of the Attorney
General

Effective date: October 22, 1987
Expiration date: February 19, 1988
For further information, please call
(512) 463-2087.



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

★ 34 TAC §3.560

The Office of the Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of new §3.560 for a 60-day period effective October 23, 1987. The text of new §3.560 was originally published in the July 3, 1987, issue of the *Texas Register* (12 TexReg 2131).

Issued in Austin, Texas, on October 23, 1987.

TRD-8709302

Wade Anderson
Rules Coordinator
Office of the
Comptroller of Public
Accounts

Effective date: October 23, 1987
Expiration date: December 22, 1987
For further information, please call
(512) 463-4004.



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 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 7. Pesticides

★4 TAC §7.17

The Texas Department of Agriculture (TDA) proposes an amendment to §7.17, concerning expiration and renewal of licenses.

Pursuant to the Agriculture Code, Chapter 76, Subchapter E, TDA is authorized to license commercial and noncommercial applicators to use restricted-use and state-limited-use pesticides. Chapter 76, §76.113 provides that each license expires on the last day of February of the year following the year in which it was issued. Added administrative burden of processing licenses and reduced appropriations for TDA programs require that TDA take steps to improve efficiency. The amendment to §7.17 reduces administrative costs and increases efficiency in the renewal process of licenses, pursuant to its authority in the Agriculture Code, Chapter 76, §§76.003-005, 76.104, 76.108-110, and 76.113.

TDA currently licenses approximately 1,300 commercial and 4,000 noncommercial applicators annually. In the past, TDA has allowed applicators to file their renewal applications up to the last day in February, the date their licenses expire. In addition to creating a significant administrative burden this process has resulted in late applications. Further, TDA cannot process applications filed on the last day of February or thereafter in time for applicators to receive renewal licenses by March 1. As a result, applicators are often put in a position of not knowing if they are relicensed before it is necessary for them to apply pesticides. In addition, while the vast majority of applicators comply with the renewal application date, some do not. Failure to renew on time can lead to violations. Further, without an expiration date for renewal applications, TDA can never be certain if the applicator will renew, and TDA's enforcement efforts are subject to uncertainty. Thus, following the end of February, TDA and the applicator are often left in difficult positions of uncertainty.

The amendment to §7.17 makes four changes. First, an early application date

is proposed to avoid the last minute filings and to ease timely renewals. Second, a complete application would be defined to give clarity to the process. Third, actions that could lead to penalties are explained. No penalties that are not currently available and used are proposed. Finally a retesting requirement is proposed. TDA needs a date after which it can presume that an applicator no longer desires to be licensed and under TDA regulatory authority. The amendment requires that such an applicator be treated like any new licensee and submit to testing before a license can be issued.

A public hearing will be held by TDA on November 11, 1987, starting at 1 p.m., in the ninth floor conference room of the Stephen F. Austin Building, Austin.

Melodie Krane, budget analyst, 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.

Ellen Widess, director of the Pesticide Program, 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 increased protection of farmers, ranchers, the public, and natural resources in the state through better assuring properly licensed and competent applicators of pesticides.

Comments may be submitted until 30 days after the date of publication of the proposal to Ellen Widess, Director of the Pesticide Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, §§76.108-110, which authorizes the Texas Department of Agriculture to require licensing of commercial and noncommercial pesticide applicators and set out conditions under which a license will be issued; the Agriculture Code, §76.113, which provides for the annual expiration of pesticide applicator licenses and renewal of such licenses; and the Agriculture Code, §§76.003-005 and 76.104 which authorizes the department, after notice and hearing, to adopt rules for carrying out provisions of Chapter 76 including regulation of the times and conditions of use and application of pesticides.

§7.17. *Expiration and Renewal of Licenses.*

(a) Each commercial and noncommercial applicator license expires on the last day of February of the year following the year in which it was issued. A complete application for renewal of a commercial or noncommercial applicator license must be filed with the Texas Department of Agriculture by January 31 of the year following the year in which the license was issued. An application for a commercial or noncommercial license will be deemed complete when the applicator has met the requirements of §7.13(a) of this title (relating to Commercial Applicator License) and has filed the appropriate license fee. Additionally, in the case of a commercial applicator, a complete application must include the proof of financial responsibility required by the Act, §76.111. [Renewal of a commercial or noncommercial applicator license must be made prior to the expiration of the applicator's current license. The holder of a license that expires without renewal shall not operate as a commercial or noncommercial applicator until a new application has been received and approved by the regulatory agency.]

(b) Failure to file a timely and complete application for renewal subjects an applicator to penalties under the Act, Chapter 76. Applications of restricted-use or state-limited-use pesticides by any commercial or noncommercial applicator after the expiration date of the license and when a complete application has not been filed with the Texas Department of Agriculture can subject the applicator to additional penalties and could also result in the department's refusal to issue a license for the rest of the licensing year under the Act, §76.108. Similarly, applications of such pesticides by a commercial applicator without having proper proof of financial responsibility shall subject the applicator to sanctions under the Act, Chapter 76.

(c) If a complete application for renewal of a commercial or noncommercial applicator's license is not submitted within 90 days after the expiration of the license, the license will be deemed to be terminated voluntarily and a renewal application will not be accepted. Before being licensed again, the applicator must meet the requirements for a new license, including testing in the appropriate license-use category.

(d)[(b)] Pursuant to the Act, §76.113,

the head of the licensing agency in determining whether additional training shall be required of current licensees before renewal of their applicator license may consider changes in technology, pesticide related problems, or the performance of individual applicators. If general retraining and/or retesting is required for all applicators in a category or subcategory, the licensing agency will publish notice at least six months in advance of the license renewal date. If individual retraining and/or retesting is required as a result of the applicator's performance, the agency may give notification and set a time and place of retraining that would be in the best interest of public health and environmental protection.

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 26, 1987.

TRD-8709357 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 463-7583.



TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 175. Schedule of Fees and Penalties

★ 22 TAC §175.1

The Texas State Board of Medical Examiners proposes an amendment to §175.1, concerning fees. The amendment sets out fees the board may charge. The amendment addresses the temporary increase mandated by the legislature, including the new special purpose examination (SPEX) fee being proposed for utilization by the board, and new fees for supervision of physician assistants and acupuncturists. The temporary increase in licensing fees is for fiscal years 1988 and 1989. The \$110 additional fee will be deposited, \$27.50 to the foundation school fund and \$82.50 to the General Revenue Fund.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Davis 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 that the only persons affected by the proposed amendment are physicians who are either licensed here or are seeking licensure here. The anticipated economic cost to individuals who are required to comply with the section as proposed will be an increase in the annual registration fee of \$118 for 1988 and 1989, and \$8.00 each year for 1990-1992; an increase in the licensure by examination fee of \$110 for 1988 and 1989; an increase in the licensure by reciprocity fee of \$110 for 1988 and 1989; an increase in the reinstatement after cancellation for cause fee of \$110 for 1988 and 1989; and an increase in fees for the supervision of an acupuncturist and the supervision of a physician assistant of \$25 each year for 1988-1992.

Comments on the proposal may be submitted to Jean Davis, Box 13562, Austin, Texas 78711. A public hearing is expected sometime between November 30 and December 3.

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

§175.1. *Fees.* The board shall charge the following fees:

- (1) annual registration—**\$202** [\$84];
- (2) (No change.)
- (3) **processing an application for complete or partial licensure** [by] examination (includes one FLEX and jurisprudence examination fee)—**\$610** [\$500];
- (4) **processing an application for licensure by reciprocity** (includes one jurisprudence examination fee)—**\$610** [\$500];
- (5) examination fees (required and payable each time applicant is scheduled for examination):
 - (A)-(C) (No change.)
 - (D) **SPEX—\$250**;
- (6)-(8) (No change.)
- (9) reinstatement after cancellation for cause—**\$260** [\$150];
- (10) **distinguished professor annual permit—\$50** [reinstatement after nonpayment-late registration penalty up to and including one year—\$100];
- (11) **state health agency annual permit—\$50** [reinstatement for nonpayment-late registration penalty after one year—\$200];
- (12) **permit to supervise physician assistant—\$25** [distinguished professor annual permit—\$50];
- (13) **permit to supervise acupuncturist—\$25** [state health agency annual permit—\$50].

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 22, 1987

TRD-8709260 G. V. Brindley, Jr.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 452-1078.



★ 22 TAC §175.2

The Texas State Board of Medical Examiners proposes the repeal of §175.2, concerning payment of fees. The repeal allows the Texas State Board of Medical Examiners to rewrite this chapter by repealing one section, proposing new sections, and amending one section. The repeal is proposed simultaneously with a new section containing slightly different wording.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have 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. Davis 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 limited, since the repeal does not affect the public as such. The section pertains only to physicians, and the simultaneously proposed new section contains essentially the same language. 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 Jean Davis, Texas Register Liaison, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected to occur at the November 30-December 3 board meeting.

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

§175.2. *Payment of Fees.*

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 22, 1987.

TRD-8709261

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

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 452-1078.



★ 22 TAC §175.2, §175.3

The Texas State Board of Medical Examiners proposes new §175.2 and §175.3, concerning penalties and payment of fees or penalties, respectively. The new sections address the issue of penalties and payment of fees and penalties. The new sections should be considered in concert with proposed repeal and proposed amendment of other sections, submitted simultaneously. The only wording changes pertain to the matter of providing separate areas for penalties in the sections.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Davis also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the only persons affected by the proposed new sections are physicians. There are no new requirements for physicians, therefore, the public at large is unaffected by the new sections. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected sometime between November 30 and December 3.

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

§175.2. *Penalties.* The board shall charge the following penalties:

- (1) issuance of physician permit following delinquent annual registration fee (delinquent no longer than one year)—\$100;
- (2) issuance of physician permit following delinquent annual registration fee (delinquent more than one year)—\$200.

§175.3. *Payment of Fees or Penalties.* All licensure fees or penalties must be submitted in the form of a money order or cashier's check payable on or through a United States bank. Fees and penalties cannot be refunded. If a single payment is made for more than one individual permit, it must be made for the same class of permit and a detailed listing, on a form prescribed by the board, must be included with each payment.

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 22, 1987.

TRD-8709263

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

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 452-1078.



Chapter 179. Investigation Files

★ 22 TAC §179.1, §179.2

The Texas State Board of Medical Examiners proposes amendments to §179.1 and §179.2, concerning confidentiality and request for information and records from physicians, respectively. The amendments conform with action taken by the 70th Legislature, 1987. The amendments track that legislation and bring the sections into compliance with the new law.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Davis also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the ability of licensing authorities and other appropriate entities to take quicker action against physicians who have violated the laws, thus providing improved quality health care for all citizens. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing on the proposed rule change will be held sometime during the board's November 30-December 3 meeting. More information can be had later.

The amendments are proposed under Texas Civil Statutes Article 4495b, which

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

§179.1. *Confidentiality.* All complaints, adverse reports, investigation files, other investigation reports, and other investigative information in the possession of, received or gathered, [maintained] by the board shall be confidential as provided by Texas Civil Statutes, Article 4495b, and no employee, agent, or member of the board may disclose information contained in such files **except in the following circumstances:** [to any person, provided, however, that in the course of any investigation, information may be disclosed to other enforcement agencies of the state. Investigators or other agents of the board may, during the course of an investigation, reveal information necessary for the conduct of the investigation.]

(1) to the appropriate licensing authorities in other states, the District of Columbia, or a territory or country in which the physician is licensed;

(2) to a peer review committee considering a physician's application to obtain or retain privileges;

(3) to appropriate law enforcement agencies if the investigative information indicates a crime may have been committed;

(4) to a health care entity upon receipt of written request. Disclosures by the board to a health care entity shall include only information concerning whether a complaint has been filed, whether the licensee is under investigation, the basis of the complaint or investigation, and its current status; and

(5) to other persons if required during the conduct of the investigation.

§179.2. *Request for Information and Records from Physicians.*

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

(c) Professional liability suits and claims. Following receipt of a notice of claim letter or a complaint filed in court against a licensee that is reported to the board pursuant to the Medical Practice Act, §5.05, [who has had three or more claims in professional liability suits filed against him or her within a three-year period] the licensee shall furnish to the board the following [to the board] information within two weeks of the date of receipt of the board's request for said information:

(1) a completed questionnaire to provide summary information concerning the suit or claim [all office medical records and hospital medical records (if applicable) of the injured party named in the malpractice suit]; [and]

(2) a completed questionnaire to provide information deemed necessary in assessing the licensee's competency [, as designed by the board, to obtain informa-

tion it deems applicable and necessary in determining the licensee's competency.];

(3) true and complete copies of the licensee's office medical records and the hospital records, if applicable, concerning the patient on whose behalf damages are reported; and

(4) current information on the status of any suit or claim previously reported to the board.

(d)-(e) (No change.)

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

Issued in Austin, Texas, on October 22, 1987.

TRD-8709264

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

Earliest possible date of adoption:
November 30, 1987

For further information, please call
(512) 452-1078.



★ 22 TAC §§179.3-179.5

The Texas State Board of Medical Examiners proposes new §§179.3-179.5, concerning investigation of professional review actions, other reports, and criminal conviction, respectively. The new sections deal with investigation of professional review actions, various types of reports, and criminal convictions. The new sections comply with recently enacted legislation. The new language tracks the law in outlining the new requirements. Specific information is contained in such areas as the information required to be furnished to the board.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Davis also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the board and other responsible agencies can be provided with more sufficient information regarding a physician's discipline. This should, in turn, result in better medical practitioners for the citizens of Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711. Although no definite time has yet been set, it is expected that a public hearing will be held between November 30 and December 3.

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

§179.3. *Investigation of Professional Review Actions.* A written report of a professional review action taken by a medical peer review committee or a health care entity provided to the board as required by Texas Civil Statutes, Article 4495b, §5.06(b), must contain the results and circumstances of the professional review action. Such results and circumstances shall include:

(1) the name, date of birth, and hospital identification number of any patient whose care formed the basis for the professional review action;

(2) the names and addresses of hospital employees, medical staff members, or other persons who provided information on which the professional review action was based;

(3) the specific basis for the professional review action, whether or not such action was directly related to care of individual patients; and

(4) the specific limitations imposed upon the physician's clinical privileges, or upon the physician's membership in the professional society or association, and the duration of such limitations.

§179.4. *Other Reports.*

(a) Relevant information required to be reported to the board pursuant to Texas Civil Statutes, Article 4495b, §5.06(d), indicating that a physician's practice of medicine poses a continuing threat to the public welfare shall include:

(1) the name, date of birth, and hospital or facility identification number of any patient whose care prompted the report;

(2) a narrative statement describing the time, date, and place of the acts or omissions on which the report is based; and

(3) the names of any other persons who have or might have information relevant to the report.

(b) A report that a physician's practice of medicine constitutes a continuing threat to the public welfare shall be made to the board as soon as possible after the peer review committee, physician, or medical student involved reaches that conclusion and is able to assemble the relevant information.

§179.5. *Criminal Conviction.*

(a) Upon initial conviction of a felony or of a misdemeanor involving moral turpitude, or the initial finding of the trier of fact of a physician's guilt in such a criminal proceeding, the board shall suspend the physician's license. Upon final conviction, the board shall revoke the physician's license. In either case, the board shall secure a certified

true and correct abstract of record of the court that considered the case.

(b) A misdemeanor involving moral turpitude shall be defined as an offense involving baseness, vileness, or depravity in the private and social duties one owes to other or to society in general, or an offense committed with knowing disregard for justice, honesty, principle, or good morals.

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 22, 1987.

TRD-8709262

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

Earliest possible date of adoption:
November 30, 1987

For further information, please call
(512) 452-1078.



Chapter 195. Administrative Sanction Procedure

★ 22 TAC §§195.1-195.4

The Texas State Board of Medical Examiners proposes amendments to §§195.1-195.4, concerning administrative sanction procedure. The amendments reflect changes in the law. In addition, some portions of the sections have been rephrased with the intent of being more clear to a reader. Of significance are the notification time frames and reiteration of the public action provision when a physician's practice is modified, limited, or restricted.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Davis also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a continuation of freedom of information between the public and the board office records of actions when a physician's license is modified, limited, or restricted. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected to be held at the board's meeting between November 30 and December 3. More information can be obtained from the board office approximately mid-November.

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

§195.1. Purpose. The purpose of this chapter [these sections] is to encourage the expeditious resolution or correction of medical practice activities which constitute [resulting in] a violation of the Act [statutes] or the rules of the board [regulating a licensee of the board where the director of the Field Operations Division and the secretary or chief executive officer of the board concur that the alleged violation is either minor in nature or subject to proper resolution by voluntary restriction or limitation of the authority to practice medicine by the licensee]. **The administrative sanction procedure shall be available to resolve those cases in which the executive director of the board determines that the alleged violation is either minor in nature or subject to proper resolution by voluntary restriction or limitation of the licensee's authority to practice medicine [by the licensee]. Through this chapter, the board will** [It is the further purpose of these sections to] make public actions [when possible the action] taken to modify, limit, or restrict a [the] physician's practice [pattern].

§195.2. Approval for Administrative Sanction. Upon completion of an investigation [by the Field Operations Division,] the director of the **Field Operations** Division shall [evaluate the final investigation reports and if he or she determines that the alleged violations may be properly handled by the administrative sanction procedure, he or she shall] present a summary of the investigation reports and his or her **recommendations** [recommendation] to the **secretary-treasurer** [secretary] or [chief] executive **director** [officer of the board]. The **secretary-treasurer** [secretary] or [chief] executive **director** [officer of the board] shall determine if the violations are minor in nature or subject to proper resolution by voluntary restriction or limitation of the **licensee's** authority to practice medicine [by the licensee], that the public health and welfare will not be adversely affected in any way by utilization of the administrative sanction procedure, that the public interest will be served by use [institution] of the administrative sanction procedure in lieu of a formal disciplinary procedure [as provided by law or rule], and that the matter may be **handled** more expeditiously [handled] by the utilization of the administrative sanction procedure. The **secretary-treasurer** [secretary] or [chief] executive **director** [officer] shall approve the matter for administrative sanction and **shall** notify the licensee **and other persons** as **provided** [set out] in this chapter.

§195.3. Procedure. If the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] of the board approves use of the administrative sanction hearing procedure for the resolution of alleged violations of the Act [Texas Civil Statutes, Article 4495b,] or the rules of the board, the following procedure shall [is to] be followed.

(1) The **secretary-treasurer** [secretary] or [chief] executive **director** [officer] or his or her **designee** will **provide** [notify] the licensee **not less than 10 or more than 40 days** notice in writing of the time, date, and place of the administrative sanction hearing. [Such notice shall provide sufficient time for the licensee to adequately prepare and arrange for appearance at the site of the hearing but shall not be less than 10 nor more than 40 days following receipt of the notice.] Such [letter of] notification shall inform the licensee of the nature of the alleged violation, [shall inform the licensee] that he or she may be represented by counsel [but need not be necessarily so represented], that the licensee may offer the testimony of such witnesses as he or she [the licensee] may desire, that the hearing will be **conducted** before a hearings officer and one or more representatives of the board, [or members of a district review committee] and that the licensee may **choose** [exercise his or her option] to have the matter presented by formal complaint [as provided by law or rule]. A copy of the board rules relating to [the] administrative sanction hearing **procedure** shall be enclosed with the notice of the hearing. Notice of the hearing, with enclosure, shall be sent by certified mail, return receipt requested, to the current address of the licensee on file with the Texas State Board of Medical Examiners. **The period of notice provided by this section shall be computed beginning on the day following delivery to the licensee.**

(2) Notice of the hearing, with enclosures, shall be sent by certified mail, return receipt requested, to the current address of the complainant on file with the Texas State Board of Medical Examiners. The complainant shall be given the opportunity to appear and testify, **or the complainant may submit a written statement for consideration at the hearing.** [At the election of the complainant, a written statement maybe submitted for consideration at the hearing.]

(3) **The hearing procedure shall be informal and need not follow the procedure established in Chapter 187 of this title (relating to Procedure) for contested cases.** [The hearing procedure shall be informal in nature and need not follow the procedure established for other disciplinary hearings pursuant to a formal complaint, but] The licensee, his or her attorney, and representatives of the board **may** [shall have the opportunity to] question witnesses, make **relevant** statements [as are relevant to the hearing], present affidavits or statements of persons not in attendance, and present **other** [such documentary] evidence as deemed ap-

propriate by the hearings officer.

(4) The administrative sanction hearing will be conducted by a hearings officer who shall explain the **provisions of this chapter relating to the conduct of the hearing** to the licensee and his or her counsel [the provisions of these sections relating to the conduct of the hearing, shall swear each witness, question each witness, and afford all parties to the hearing the opportunity to make such statements as are material and relevant]. **The hearing officer shall require that each witness be sworn, shall question each witness, and shall afford all parties to the hearing the opportunity to make such statements as are material and relevant.** The hearings officer may exclude irrelevant, immaterial, or unduly repetitious evidence. The **secretary-treasurer** [secretary] or [chief] executive **director** [officer] may designate one or more members of the board to **represent the whole board at** [or members of a district review committee to serve as board representatives for] the hearing.

(5) (No change.)

(6) The hearings officer may review the **board's investigative file and** [of the Field Operations Division but] may prohibit review of such file by the licensee or his or her attorney, the complainant, and his or her representative, if such review **might** [would] jeopardize confidential information or [jeopardize] an ongoing investigation.

(7) Minutes of the hearing shall be taken by an employee of the board or [, at the direction of] the hearings officer [,] **may direct that** a recording of the testimony [may] be made in lieu of minutes. The minutes or recording, or a transcription thereof, shall be for the exclusive use of the board and shall not be made available to the licensee, his or her attorney, or any other person, unless such minutes, recording, or transcription **will** [is to] be used in a subsequent disciplinary proceeding.

(8) The hearings officer shall exclude from the hearing room all persons except witnesses during their testimony, the licensee, his or her attorney, the complainant and his or her representative, board members, [district review committee members,] and board employees.

(9) **After presentation of all evidence and argument** [At the conclusion of the hearing] or as soon thereafter as is practicable, the hearings officer and the board representatives [, if any,] shall make [findings of fact and conclusions of law which shall be recorded and shall make] **recommendations to the licensee** for resolution or correction of **any violations of the Act** [the matters found in violation of the Medical Practice Act, Texas Civil Statutes, Article 4495b,] or board rules. Such recommendations may include limitation or cancellation of the licensee's authority to practice medicine; limitation or cancellation of the licensee's authority to possess, prescribe, administer, or dispense drugs or medications; limitation or cancellation of

hospital privileges; change or limitation of practice setting or practice organization; [requirement that] **submission** by the licensee [submit] to care, counseling, or treatment **from** [of] physicians designated by the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] of the board as a condition for [initial, continued,] **continuation** or renewal of license or other authorization to practice medicine; **participation** [requirement that the person participate] in a program of education or counseling **specified** [prescribed] by the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] of the board for a specified period of time. **The board representative and hearings officer may also conclude that a violation of the Act or the board's rules has not been established, and may recommend that no action against the licensee is warranted.**

(10) [Following the presentation of recommendations by the hearings officer and] With the advice of counsel if the licensee is so represented at the hearing, the licensee shall either reject or voluntarily accept the recommendations of the **board representative and the hearings officer**. If the licensee accepts such recommendations, the licensee shall execute as soon thereafter as is practicable such [letters,] agreements, affidavits, or other documents as are necessary to **implement his or her** [effect the accomplishment of the] voluntary acceptance [of the recommendations]. If the licensee rejects the **proposed agreement** [recommendations of the hearings officer], the matter shall be automatically referred to the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] for appropriate action.

(11) Following acceptance **by the licensee** of the recommendations [presented by the hearings officer] and [the] execution **by the licensee** of the necessary documents as provided in paragraph (10) of this section, [a report of the hearing, the findings made by the hearings officer and representatives of the board, and] the executed documents shall be [subject to review by] **submitted for approval to the secretary-treasurer** [secretary] or [chief] executive **director** [officer] of the board [who may approve or disapprove the recommendations and actions taken pursuant to the administrative sanction hearing].

(12) If the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] approves the actions taken as a result of the hearing, then **said** [the] approval shall be noted in the investigation file and the licensee and the complainant **shall be so notified**. [The results and] **Any** [letter,] agreement [,] or affidavit **which reflects a disciplinary action or a restriction on the physician's practice** shall be an open record.

§195.4. **Approval by Secretary-Treasurer [Secretary] or [Chief] Executive Director [Officer] and Reporting to Board.** **After receiving** [Following recommendation by the hearings officer and upon presentation of a summary of the findings of the hearings officer and] documents evidencing a licensee's voluntary acceptance of the recommendations **for resolution of the complaint,** the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] shall take the following actions.

(1) If the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] approves the **proposed resolution of the complaint voluntarily agreed to** [recommendations of the hearings officer and the limitations or other restrictions, if any, voluntarily agreed upon] by the licensee, the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] shall [note] **report** his or her approval [of such action and make a] at the next meeting of the board [for its acceptance or rejection of the administrative sanction report or action concerning the licensee].

(2) The report of the **secretary-treasurer** [secretary] or [chief] executive **director** [officer] to the board shall include the **physician's** name and license number [of the physician], the city or county of the physician's practice, [and] a summary of the action **recommended** [taken], and the **licensee's** voluntary acceptance of **said limitations** [limitation] or **restrictions upon his or her** [restriction of] license, if any.

(3) **The board shall approve or disapprove** [Upon presentation of] the administrative sanction report [to the board, the board shall approve or disapprove the report]. If the board approves the administrative sanction [action,] **recommendation for a particular licensee, said** [the] approval shall be noted in the minutes of the board and the investigation file [, and the licensee and the complainant shall be so notified]. [The results, as well as the letters,] **The agreements or [, and] affidavits reflecting a disciplinary action or a restriction on the physician's practice** shall be open records.

(4) If the board **does not** [fails to] approve the administrative sanction **recommendation** [action], such **disapproval** [failure to approve] shall be [likewise] noted, and the licensee shall be so informed [and the matter shall be referred to the secretary or chief executive officer of the board for filing of formal complaint for disciplinary action before the board or other appropriate action]. **The matter shall be referred to the secretary-treasurer or executive director for consideration or other appropriate action.** If [In such event, where voluntary limitation of practice] notification **of the licensee's voluntary acceptance of a limitation or restriction on his or her practice** has already been provided [made] under [the] provisions of the **Act** [Texas Civil Statutes, Article 4495b,] or in accordance with the **rules of the board,** [these sections, such] additional notification indicating the **board's decision not** [failure]

to approve the **proposed administrative sanction agreement** [action by the board] shall be promptly made.

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 21, 1987.

TRD-8709259

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

Earliest possible date of adoption:

November 30, 1987

For further information, please call
(512) 452-1078.

Part XVI. Texas State Board of Physical Therapy Examiners

Chapter 323. Powers and Duties of the Board

★ 22 TAC §323.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §323.1, concerning types of examination. The amendment clarifies the types of examinations that may be required by the board.

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

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

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

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

§323.1. *Types of Examination.* It is the duty of the board to pass on **all** the qualifications of applicants and to conduct examinations that measure those qualifications. The **written** examination shall be **approved by the board** [prepared by the Professional Examination Service]. At the discretion of the board, **an applicant may also be required to satisfactorily complete an oral and/or[and] practical**

examination [examinations may be given]. **The education committee shall administer all examinations.** Applicants will be given a 14-day notice of the time and place of examination.

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

Issued in Austin, Texas, on October 22, 1987.

TRD-8709298

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

Earliest possible date of adoption:
November 30, 1987

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



Chapter 329. Physical Therapy License

★22 TAC §329.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §329.1, concerning physical therapist license. The amendment offers further clarification of the administration procedure relating to application prerequisites, examination offerings, and score requirements.

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

Ms. Smith also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be further clarification to applicants regarding application and examination processes in compliance with the Physical Therapy Practice Act. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

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

§329.1. Physical Therapist License.

(a) Applications.

(1) The board office will receive applications from persons seeking licensure

under the Act until 60 days prior to a scheduled examination date. Applications [received] shall be examined by the executive director for conformity with rules and regulations governing applications for licensure as established by the board. Applications shall include:

(A) (No change.)

(B) physical therapy certificate or diploma from a board approved program; or [and]

(C) a certificate of proficiency or a statement of official transcript that the curriculum has been completed as required in the Act, §8 or §9, signed by the director of the program and the registrar of the school, is required in lieu of certificate or diploma.

(D)[(C)] two recent color photographs, [(]passport type.)]

(2) (No change.)

(3) Applicants will be charged an issuance fee and temporary license fee prior to the first examination. If the applicant passes the examination, the permanent license will be included with the reporting of scores. If the applicant fails the examination, another examination fee is required for each succeeding [a second] examination. When [If] the applicant passes the written examination or an oral and/or practical examination as required [after the second time], the permanent license will be included with the reporting of [the] scores.

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

(d) Examinations. The board will administer three written [annual] examinations annually [on the Saturdays closest to the PES scheduled uniform national testing dates]. Oral and/or practical examinations will be scheduled as required at the discretion of the board. Use of dictionaries, translators, or any other supportive information will not be permitted.

(e) Examination score requirements [Exam results evaluation]. All written examinations will be [are] prepared by the Professional Examination Service. Any score on that testing date 1.0 standard deviation below the nationwide mean or higher on each part will be considered passing. The applicant will be notified in writing [sent a letter stating the applicant's] of the scores and the pass or fail status on each part of the examination [and a pass or fail status will be indicated]. If an applicant fails one or more parts, the applicant [individual] will be required to repeat each part failed. This must be done at the next scheduled examination for a second temporary license to be considered. Upon receipt of notification of failure, the applicant is immediately ineligible to practice [until a new temporary license has been issued]. A second temporary license may be issued if score results meet requirements under §333.1 of this title (relating to Second Temporary License) (Board Rule IX,A).

(f)-(h) (No change.)

(i) Examination guidelines.

(1)-(5) (No change.)

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

(j) (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 22, 1987.

TRD-8709303

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

Earliest possible date of adoption:
November 30, 1987

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



Chapter 331. Endorsement Licensure

★22 TAC §331.2

The Texas State Board of Physical Therapy Examiners proposes an amendment to §331.2, concerning license by endorsement. The amendment clarifies the license requirements to persons who have taken the written examination in another state and/or have become licensed in another state.

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

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

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

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

§331.2. License by Endorsement. Persons having taken the PES examination or who are licensed in another state and whose PES exam scores meet Texas standards, must apply for licensure by endorsement.

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

Issued in Austin, Texas, on October 22, 1987.

TRD-8709304 Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 835-1846.



Chapter 333. Temporary License

★22 TAC §333.4

The Texas State Board of Physical Therapy Examiners proposes new §333.4, concerning precondition. The new section offers additional protection to public citizens receiving physical therapy treatments. A person holding a temporary license issued by this board must, prior to treating a patient, have a referral from a person licensed by the State of Texas authorized to prescribe such treatment or must have an evaluation and plan of care signed by a physical therapist holding a current permanent Texas license.

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

Ms. Smith also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be additional assurance that the temporary licensed physical therapist has been determined qualified by the board and is complying with guidelines set out by the board, to provide competent, safe physical therapy treatments to the patient. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

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

§333.4. *Precondition.* An applicant holding a temporary license as a physical therapist must have as a precondition to initiating

any treatment program, protocol, or procedure:

(1) a referral from a person licensed by the State of Texas authorized to prescribe such treatment of individuals as defined in §343.1 of this title (relating to Revocation of License) (Board Rule III,a); or

(2) an evaluation and plan of care signed by a physical therapist holding a current permanent license in the State of Texas.

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 22, 1987.

TRD-8709305 Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 835-1846.



Chapter 339. Fees

★22 TAC §§339.1, 339.3, 339.4

The Texas State Board of Physical Therapy Examiners proposes amendments to §§339.1, 339.3, and 339.4, concerning examination, license, and renewal fees. The amendments conform with the Appropriations Act, Article I-190, Rider 5, 70th Legislature, 1987, by raising fees. The amendments will result in the board's depositing \$215,315 to general revenue in exchange for the additional \$140,000 appropriated to the board. Projected total excess (above amounts appropriated) which will be deposited to general revenue in fiscal year 1988-1989 will amount to \$558,265.

Lois M. Smith, executive director, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government will be an estimated increase in revenue of \$101,040 in 1988; \$114,275 in 1989; \$159,640 in 1990; \$180,390 in 1991; and \$203,840 in 1992. There will be no effect on local government or small businesses.

Ms. Smith also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. The anticipated economic cost to individuals who are required to comply with the proposed sections will be increased fees paid by Texas licensees totaling \$101,040 in 1988, \$114,275 in 1989, \$159,640 in 1990, \$180,390 in 1991, and \$203,840 in 1992.

Comments on the proposal may be submitted to Lois M. Smith, 1300 East Ander-

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

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

§339.1. *Examination.* [Beginning July 1, 1985, the following fees will be in effect.]

(a)[(1)] Physical therapist—\$80 [\$75].
(b)[(2)] Physical therapist assistant—\$75 [\$70].

§339.3. *License.*

(a) Endorsement.
(1) Physical therapist—\$80 [\$70].
(2) Physical therapist assistant—\$75 [\$60].
(b) (No change.)

§339.4. *Renewal.*

(a) Physical therapist—\$70 [\$50].
(b) Physical therapist assistant—\$55 [\$40].

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 22, 1987.

TRD-8709306 Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 835-1846.



Chapter 343. Enforcement of Act

★22 TAC §343.1

The Texas State Board of Physical Therapy Examiners proposes new §343.1, concerning revocation of license or discipline of a licensee. The new section conforms with a mandate in the Appropriations Act, Article I, Rider 3, passed by the 70th Legislature, 1987, (Page I-190 of Appropriations Act). That rider indicates the board must promulgate rules that relate to the Physical Therapy Practice Act, §19, in order to expend appropriations on the enforcement of the Act.

Lois M. Smith, executive director, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimated additional cost of \$10,000 each year in 1988 and 1989, \$12,000 each year in 1990 and 1991, and \$14,000 in 1992.

There will be no effect on local government or small businesses.

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

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

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

§343.1. Revocation of License or Discipline of a Licensee.

(a) For the purpose of this section, license or licensee shall mean a license or a holder of a license issued pursuant to Texas Civil Statutes, Article 4512e, §§8, 9, or 10, or a temporary license or a holder of a temporary license issued pursuant to Texas Civil Statutes, Article 4513e, §11.

(b) A license will be denied, suspended, or revoked for a period of not less than 30 days and a licensee or applicant will be appropriately disciplined if the applicant or licensee:

(1) except as otherwise provided in paragraph (2) of this subsection, provides treatment except upon the request of a physician licensed to practice medicine by the Texas State Board of Medical Examiners, or by a dentist licensed by the State Board of Dental Examiners, or a doctor licensed to practice chiropractic by the Texas Board of Chiropractic Examiners, or a podiatrist licensed by the Texas State Board of Podiatry Examiners, or by any other qualified, licensed health care person authorized to prescribe treatment of individuals; or in the case of a licensed physical therapist assistant, has provided physical therapy treatment other than upon the evaluation and plan of care provided by a licensed physical therapist in accordance with all the applicable Act and rule requirements;

(2) treats a patient other than upon the request of those indicated in paragraph (1) of this subsection, for more than 20 treatment sessions or 30 consecutive calendar days from the initial evaluation, whichever occurs first, and such treatment fails to indicate objective improvement of the patient's condition as determined by current measureable standards of practice, satisfactory to the board;

(3) treats or continues to treat a patient whose condition upon initial, subsequent, and ongoing evaluation is determined to be, by current measureable standards of practice, beyond the ability or training of the

physical therapist and is not referred immediately to a professional qualified to provide needed care;

(4) practices, allows, condones, authorizes, or has practiced, allowed, condoned, or authorized physical therapy to be conducted under the licensee's care, supervision, and/or responsibility in a manner detrimental to the public's health and/or welfare;

(5) does not supervise and maintain the supervision of supportive personnel, licensed or unlicensed, in compliance with the Act and rule requirements;

(6) is practicing or has practiced with an expired temporary or permanent license;

(7) has used drugs, chemicals, or intoxicating liquors to the extent that professional competence is affected;

(A) provided that with participation in a substance abuse recovery program acceptable to the board, the license may continue in a probationary status with conditions as set forth by the full board; and

(B) failure to comply and maintain the complete conditions of the probation provided in subparagraph (A) of this paragraph, will cause immediate revocation of the license;

(8) has received a final conviction of a felony in this or any other state, territory, or nation. Final conviction as used in this subdivision includes one resulting from a plea of nolo contendere;

(9) attempts to obtain or has obtained a license by fraud, falsification, or deception of an application or examination procedure;

(10) has been judged mentally incompetent by a court of competent jurisdiction;

(11) employs or agrees to employ, pays, or promises to pay, or rewards, or promises to reward, any person, firm, association of persons, partnership, or corporation, for securing, soliciting, or drumming patients, or patronage. A physical therapist or physical therapist assistant may not accept or agree to accept any payment, fee, reward, or anything of value for securing, soliciting, or drumming for patients or patronage for any physical therapist or physical therapist assistant, physician, or surgeon. Each payment, reward, or fee or agreement to pay or accept a reward or fee is a separate offense. The preceding shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of professional service in a superior manner and that is not readily subject to verification.

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 22, 1987.

TRD-8709307

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

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 835-1846.

Chapter 345. Discipline

★22 TAC §345.1

The Texas State Board of Physical Therapy Examiners proposes new §345.1, concerning board may discipline. The new section conforms with the mandate in the Appropriations Act, Article I-190, Rider 3, passed by the 70th Legislature, 1987, which indicates the board must promulgate rules relating to the Texas Physical Therapy Practice Act, §19, in order to expend appropriations on the enforcement of the Act.

Lois M. Smith, executive director, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an unknown estimated additional cost. There will be no effect on local government or small businesses.

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

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

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

§345.1. Board May Discipline. A license may be denied, suspended, or revoked for a period of not less than 30 days and a licensee or applicant may be appropriately disciplined if the applicant or licensee is under investigation or has disciplinary action pending, is on probation, or has had license revoked or suspended by a physical therapy licensing authority in this or any other state, territory, or nation.

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 22, 1987.

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 835-1846.



TITLE 28. INSURANCE
Part I. State Board of
Insurance
Chapter 5. Property and
Casualty Insurance
Subchapter C. Texas Medical
Liability Insurance
Underwriting Association

★ 28 TAC §5.2003, §5.2004

The State Board of Insurance proposes amendments to §5.2003 and §5.2004, concerning members and policyholders participation in the Texas Medical Liability Insurance Underwriting Association (JUA), and medical liability insurance. The amendments conform with recent amendments to the Insurance Code, Article 21.49-3, §3(b)(1). The amendments authorize the JUA to issue policies with increased limits of \$1 million per occurrence and \$3 million aggregate per annum. Prior to 1987, statutory and administrative limits were \$750,000 per occurrence and \$1.5 million aggregate.

Charles Sobeck, director of professional liability insurance, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Sobeck also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the availability of greater coverage of losses to policyholders, and to persons to whom policyholders may become liable. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Charles Sobeck, Director of Professional Liability Insurance, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendments are proposed under the Insurance Code, Article 21.49-3, §3(c)(4), which provides for amendments to the plan of operation of the JUA under the approval or direction of the State Board of Insurance.

§5.2003. Members and Policyholders Participation in the Texas Medical Liability Insurance Underwriting Association.

(a) Power of the association. The association is created by the Act and shall be governed by the provisions of the Act, as amended, and this **subchapter** [these sections]. Pursuant to the Act and this **subchapter** [these sections], with respect to medical liability insurance, the association shall have the power on behalf of its members:

(1) to issue or cause to be issued policies of insurance to applicants including primary, excess, and incidental coverages; provided that no individual or organization may be insured by policies issued by the association for an amount exceeding a total of **\$1 million** [\$750,000] per occurrence (for all coverages combined) and **\$3 million** [\$1.5 million] aggregate per annum (for all coverages combined);

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

§5.2004. Medical Liability Insurance.

(a) The Policy.

(1)-(2) (No change.)
(3) Limits of liability.

(A) No individual or organization may be insured by policies issued, or caused to be issued, by the association for an amount exceeding a total of **\$1 million** [\$750,000] per occurrence (for all coverages combined) and **\$3 million** [\$1.5 million] aggregate per annum (for all coverages combined). As used herein, the terms individual and organization means each physician and health care provider holding a separate license or accreditation from the appropriate licensing or accrediting agency as applicable.

(B) (No change.)
(4)-(5) (No change.)
(b)-(e) (No change.)

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

Issued in Austin, Texas, on October 26, 1987.

TRD-8709373 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
November 30, 1987
For further information, please call
(512) 463-6327.



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts
Chapter 5. Funds Management (Fiscal Affairs)

Deferred Compensation—Vendor Participation

★ 34 TAC §5.113

The Comptroller of Public Accounts proposes an amendment to §5.113, concerning vendor participation—deferred compensation plan. The amendment defines the responsibilities of vendors in the deferred compensation program.

The amendment is proposed as a result of problems with some vendors currently in the program who have not processed distributions in a timely manner, thereby causing employees to suffer a loss of investment income or a postponement of benefits.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government or on small businesses as a result of enforcing or administering the section.

Mr. Moore 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 a clear understanding of the kind of products that can be offered in the plan; the assurance that vendors process distributions in a timely manner in order to avoid financial loss to participants; and the assurance of timely reporting by vendors. 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 Wade Anderson, Executive Counsel, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 6252-3b, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the deferred compensation program.

§5.113. Vendor Participation—Deferred Compensation Plan.

(a)-(c) (No change.)
(d) Product approval.

(1) **The investments eligible for purchase are fixed and variable annuities; life insurance; mutual funds; or an account with a bank, savings and loan, or credit union. An account with a bank, savings and loan, or credit union, or any other investment product not specifically authorized by statute,**

requires written approval by the plan administrator before it can be offered in the plan.

(2)(1) Upon requesting approval to become a vendor in a plan, the company will be sent an application package, including a list of items which must be submitted for approval. Upon approval of the application and of the product and any advertising materials, the product approval notice will be signed by the plan administrator and a copy of the signed notice will be returned to the vendor.

(3)(2) No person may solicit business in the deferred compensation plan prior to approval of the product to be used and receipt of the product approval notice.

(4)(3) No vendor may offer to any state employee any product or product contract that has not been approved by the plan administrator.

(5)(4) Revised or amended product contracts must be approved prior to use.

(6)(5) When an approved product is no longer offered in the deferred compensation plan, the vendor should notify the plan administrator in writing within 30 days.

(7)(6) If a product offers a guaranteed rate of return, notice of any change in the rate must be given to the plan administrator and to all affected participants. No reduction of such rates will be effective unless such notice is given.

(e)-(g) (No change.)

(h) Reporting.

(1) General requirements.

(A) All reports must be on computer tape or diskette in a format of 21 prescribed by the plan administrator, or manually in a format that is data-entry ready and prescribed by the plan administrator.

(B) Any vendor with 50 or more participants must report by tape or diskette.

(C)(B) The types of products shall be defined and coded as prescribed by the plan administrator.

(D)(C) If a participant has more than one account in the same type of product, a cumulative total for all accounts of that type should be reported.

(2) (No change.)

(3) Reports to the plan administrator.

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

(E) The quarterly reports to the plan administrator must be received no later than 35 [45] days after the end of the calendar quarter.

(F) Penalties for late and incomplete reports.

(i) Late reports will be any reports received up to 45 days after the due date.

(ii) An incomplete or incorrect report that must be returned to the vendor will be considered a late report.

(iii) Vendors are allowed one late report with no penalty. A second late report brings a three-month suspension during which no new business may be trans-

acted; a third late report, a six-month suspension during which no new business may be transacted; and a fourth late report, removal from the program.

(iv) Any vendor that does not file a report within 45 days after the due date will be considered a nonfiler. Nonfilers will be removed from the program.

(i) (No change.)

(j) Distribution of deferred compensation accounts.

(1)-(5) (No change.)

(6) Vendors must process disbursements and resolve any administrative problems with the plan administrator within a reasonable length of time, not to exceed 30 days.

(7)(6) Federal taxes.

(A)-(E) (No change.)

(k) The vendor shall reimburse the State of Texas for any financial loss due to the failure of a vendor to process the state's request for a disbursement, transfer of account balance, or a change of product within a reasonable length of time, not to exceed 30 days.

(l)(k) Termination of vendor participation.

(1)-(3) (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 23, 1987.

TRD-8709301

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:

November 30, 1987

For further information, please call
(512) 463-4004.



★ 34 TAC §5.114

The Comptroller of Public Accounts proposes an amendment to §5.114, concerning disclosure, representations, and violations. Due to a lack of control by the comptroller over the reproduction of publications originally printed by the department, subsection (d) is deleted. Vendors will no longer be allowed to reproduce original Comptroller of Public Accounts department publications.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government or on small businesses as a result of enforcing or administering the section.

Mr. Moore 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 the assurance of the integrity of

deferred compensation publications. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments may be submitted to Wade Anderson, Executive Counsel, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 6252-3b, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the deferred compensation program.

§5.114. Disclosure, Representations, and Violations.

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

(d) Deferred compensation publications produced by the comptroller's office.

(1) A vendor may reproduce any publication of the comptroller's office concerning deferred compensation for distribution to state employees.

(2) No changes to such publications may be made by the vendor.

(3) A vendor may not print, stamp, or otherwise affix its name, address, or that of an agent or salesman on comptroller publications or reproductions of comptroller publications for distribution to state employees.]

(d)(e) Violations.

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

(e)(f) Remedies.

(1)-(5) (No change.)

(f)(g) Procedure.

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

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

Issued in Austin, Texas, on October 23, 1987.

TRD-8709300

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:

November 30, 1987

For further information, please call
(512) 463-4004.



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VII. Texas Commission on Law Enforcement Officer Standards and Education

Chapter 211. Administrative Division

Substantive Rules

★ 37 TAC §§211.80, 211.82, 211.85-211.87, 211.97

The Texas Commission on Law Enforcement Officer Standards and Education proposes amendments to §§211.80, 211.85, 211.86, and 211.97, and new §211.82 and §211.87, concerning minimum standards for licensing, proficiency certificates, the revocation of license, the minimum licensing standards for entry level age, issuance of license, and suspension of license, respectively.

The amendment to §211.80 removes the minimum age standard of 18 years of age since it conflicts both with the statutory minimum of 21 and with §211.97, which has implemented that statutory minimum.

The amendment to §211.85 deletes the proficiency certificate subsection since that topic will be covered, upon adoption, by new §211.106, relating to crime prevention and homeowners insurance inspection certificates.

The amendment to §211.86 incorporates the statutory definition of the term "convicted of a felony," found in the Government Code, §415.058, and it deletes the multiple, confusing cross-references to other sections. It provides for reinstatement upon proof by the licensee that the facts supporting the initial revocation have been negated, and it provides for both informal and formal procedures to do this. It provides for the notification of any appointing agency by the commission and clarifies the date of revocation. It provides for revocation based on either any misdemeanor conviction or for any deferred probation, whether misdemeanor or felony, if the criminal offense involved is related to the duties and responsibilities of office and after consideration of a series of aggravating and mitigating factors.

The amendment to §211.97 simplifies the section by restating the general rule and its several exceptions without substantive change except to clarify that the military discharge necessary to meet one of the exceptions must be after two years of active duty and not reserve duty service.

Section 211.82 and §211.87 have been sufficiently rewritten to require the repeal of each existing old section and the separate proposal of these two rewritten new sections. New §211.82 deletes all references to temporary peace officer licenses and temporary reserve law enforcement officer licenses, since they have been eliminated by law. It enumerates the licenses issued by the commission and also the conditions necessary for each to be issued. It recognizes the issuance of permanent licenses to various constitutionally elected officers and provides for revocation of some of those licenses. New §211.87 simplifies the section by removing the confusing cross-references to other sections, and restating more clearly the various terms of suspension. It provides for enhancement of a term of suspension based on proof of other finalized section violations and it provides for

both probation of any suspension and for reprimand by the commission. It provides for notification of any appointing agency and clarifies the beginning date of any suspension. It provides for discretionary suspension for Class C misdemeanors related to the duties and responsibilities of office.

David M. Boatright, general counsel, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Boatright also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be, generally, easier and better enforcement of clearer sections, which reflect current practices and recent changes in legislation. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to David M. Boatright, General Counsel, 1606 Headway Circle, Suite 100, Austin, Texas 78754.

The amendments and new sections are proposed under the Government Code, §415.010(10), which provides the commission with the authority to establish minimum standards for licensing as an officer or county jailer; §415.010(1), which provides the commission with the authority to adopt rules for the administration of the Government Code, Chapter 415; §415.052 (a) and (b), which provides the commission with the authority to issue licenses where appropriate; §415.062, which provide the commission with the authority to issue professional achievement certificates; §415.060 (a) and (b), which provides the commission with the authority to revoke a license for a violation of Chapter 415 or the rules of the commission; and §415.059, which provides the commission with the authority to adopt rules setting the minimum age of officer license applicants.

§211.80. Minimum Standards for Licensing.

(a) [A person who is] An applicant for a peace officer, a reserve [law enforcement officer], or a jailer [, or guard of a county jail] license shall:

- (1) (No change.)
- (2) **meet the minimum standard for entry level age found in §211.97 of this title (relating to Minimum Entry Level Age Requirement)** [be at least 18 years of age];
- (3)-(16) (No change.)
- (b)-(d) (No change.)

§211.85. Proficiency Certificates.

(a)-(h) (No change.)
(i) A crime prevention inspector proficiency certificate may be awarded to a person who is a licensed Texas peace officer

currently under appointment as a peace officer and who has completed a commission-approved course of instruction in basic crime prevention.]

§211.86. Revocation of License.

(a) The commission shall revoke a license issued by the commission [to a person pursuant to Texas Civil Statutes, Article 4413(29aa), where] if the license holder [person]:

(1) is or has been convicted of a felony offense under the laws of this state, another state, or the United States [as defined by Texas Civil Statutes, Article 4413(29aa), §8A;]. (A deferred adjudication probation is not a felony conviction though it is a probation). A person is convicted of a felony when an adjudication of guilt on a felony offense is entered against that person by a court of competent jurisdiction whether or not:

(A) the sentence is subsequently probated and the person is discharged from probation;

(B) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense;

(C) the cause has been made the subject of an expunction order; or

(D) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence;

(2) is or has been discharged from any or all military service under other than honorable conditions;

(3) has made, submitted, caused to be submitted, or filed a false or untruthful report to the commission; or

(4) violates any section where revocation is the penalty noted [the provisions of §211.80(c), (d) in failing to comply with §211.80(a)(8) and (15) of this title (relating to Minimum Standards for Licensing);].

[(5) violates the provisions of §211.83(b) by failing to comply with §211.83(a) (4)-(6) of this title (relating to Minimum Standards for Retention of License).]

(b) Revocation of a license shall permanently disqualify a person from licensing and a license may not be reinstated[.] except when the license holder proves the facts supporting the revocation have been negated, such as:

(1) the felony conviction has been reversed or set aside on direct or collateral appeal, or a pardon based on subsequent proof of innocence has been issued;

(2) the discharge under other than honorable conditions has been upgraded to honorable conditions;

(3) the report was found to be truthful; or

(4) the rule was not violated.

(c) During the direct appeal of any appropriate conviction, a license may be conditionally revoked pending resolution of the

mandatory direct appeal. The license will remain revoked unless and until the holder proves that the conviction has been set aside on appeal.

(d) The holder of any revoked license may informally petition the executive director for reinstatement of that license based upon proof by the license holder that the facts supporting the revocation have been negated.

(e) If granted, the executive director shall inform the commission of such action at its next regular meeting.

(f) If denied informally, the holder of a revoked license may petition the commission for a hearing to determine reinstatement based upon the same proof.

(g) Once a license has been revoked, the commission shall search its files and send, by regular mail, notice of the action to the chief administrator of any agency shown to have the license holder under either current or latest appointment.

(h) The commission may revoke a license even though it has become inactive by some other means, such as:

- (1) expiration;
- (2) suspension;
- (3) voluntary surrender;
- (4) two-year break deactivation; or
- (5) any other means.

(i) The date of revocation will be the earliest date that:

- (1) a waiver was signed by the holder; or
- (2) a final order of revocation was signed by the commission.

(j) Except as provided by subsection (a) of this section, the commission may revoke the license of a person who is either convicted of a misdemeanor offense or placed on deferred adjudication probation for a misdemeanor or felony offense, if the offense directly relates to the duties and responsibilities of any law enforcement office held by that person. In determining whether a criminal conviction directly relates to such office, the commission shall, under this subsection, consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license for such office;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of such office.

(k) In addition to mandatory consideration of the four factors outlined in subsection (j) of this section, the commission may, under this subsection, consider:

- (1) the extent and nature of the person's past criminal activities;
- (2) the age of the person at the time

of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity; or

(5) if provided by the person, any other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers with personal knowledge of the facts surrounding the prosecution, arrest, probation, or incarceration of the person; the sheriff or chief of police in the community where the person resides, and any other person in contact with the license holder.

(l) The effective date of this section is January 1, 1988.

§211.97. *Minimum Licensing Standards for Entry Level Age [Requirement for Licensing].*

(a) [A person who is] An applicant for each of the following [a peace officer] licenses [or a reserve law enforcement officer license] may not be issued such license before reaching the following age, respectively [shall be at least 21 years of age.]:

- (1) peace officer, 21 years of age;
- (2) reserve, 21 years of age; and
- (3) jailer, 18 years of age.

[(b) A person who is an applicant for a jailer or guard of a county jail license shall be at least 18 years of age.]

(b)[(c)] The commission shall [may] issue either a peace officer or a reserve [law enforcement officer] license to an applicant [a person] younger than 21 years of age, who is at least 18 years of age and who meets all the other minimum standards for the license sought, and [has]:

(1) has [successfully completed and] received credit for at least 60 semester hours of study from [at] an accredited college or university;

(2) has received an associate degree from such school [an accredited college or university]; [or]

(3) has received an honorable discharge from the armed forces of the United States after at least two years of active service;[.]

(4) has received either a temporary or permanent license of either type before July 1, 1987;

(5) was enrolled and attending a basic training course for either license on July 1, 1986, and then later successfully completed that course and passed the state licensing examination for that license; or

(6) has successfully completed a basic training course for either license before July 1, 1986, and then later passed the state licensing examination for that license.

(c) The effective date of this section is July 1, 1986.

[(d) Subsection (a) of this section does not apply to a person who is licensed as a peace officer or as a reserve law enforcement

officer prior to the effective date of this section.

[(e) Subsection (a) of this section does not apply to a person who is enrolled and attending a basic training course for peace officers or reserve law enforcement officers on the effective date of this section and successfully completes the basic training course and receives a passing score on the licensing examination required by Texas Civil Statutes, Article 4413 (29aa), §6(B).

[(f) Subsection (a) of this section does not apply to a person who successfully completes a basic training course for peace officers or reserve law enforcement officers prior to the effective date of this section and receives a passing score on the licensing examination required by Texas Civil Statutes, Article 4413(29aa), §6(B).]

§211.82. *Issuance of License.*

(a) The commission shall issue the following licenses:

- (1) temporary jailer;
- (2) provisional peace officer or reserve; and

(3) permanent peace officer, reserve, or jailer.

(b) A temporary jailer license shall be issued to an individual who meets all the minimum standards for licensing for that license except for either the training or testing requirements. Except as provided by law, a temporary license:

- (1) expires 12 months from the original licensing date; and
- (2) may not be reissued.

(c) A provisional peace officer license or a provisional reserve license shall be issued to an individual who meets the requirements found in §211.99 of this title (relating to Provisional License).

(d) A permanent peace officer license, permanent reserve license, or permanent jailer license shall be issued to an individual who meets the minimum standards for licensing for the license sought, including the appropriate training and testing requirements.

(e) Except as otherwise provided by rule or law, the commission may not issue a permanent license to a person who:

(1) fails to complete the required basic training course;

(2) fails to receive a passing score on the required licensing examination;

(3) has not been submitted for licensing to the commission by a law enforcement agency on a signed, completed application for license; or

(4) is not reported as currently commissioned or appointed, or about to be so commissioned or appointed, in one of the following capacities:

(A) a peace officer license applicant, commissioned as either a peace officer or a reserve;

(B) a reserve license applicant, commissioned as a reserve; or

(C) a jailer license applicant, appointed as a jailer or guard of a county jail.

(f) A permanent license is issued for an indefinite term and shall be valid permanently unless it:

- (1) is revoked;
- (2) is suspended;
- (3) is voluntarily surrendered; or
- (4) becomes inactive because of a two-year break in service as a peace officer or reserve.

(g) The commission may cancel any license if:

(1) the commission issued the license in error when the recipient had not met the minimum standards or requirements for the issuance of the license; or

(2) the commission issued the license as a result of incorrect information furnished to the commission indicating that the recipient was entitled to the license when, in truth and fact, the recipient was not entitled to the license.

(h) The commission may issue a permanent peace officer or jailer license to any peace officer who is otherwise qualified for that license, even if that officer is not subject to the licensing law or rules because of holding a commission by virtue of election or appointment to office under the Texas Constitution.

(i) The commission shall issue a permanent peace officer license to any peace officer, elected or appointed under the Texas Constitution after September 1, 1985, if that officer meets all the minimum standards for peace officer licensing, including the training and testing requirements. Such license shall be subject to revocation as any other license issued by the commission. This subsection shall not apply to:

- (1) a sheriff; or
- (2) a constable or any other constitutional peace officer who first assumed office before September 1, 1985, even if re-elected after that date unless there was a break in office and that officer was then re-elected after that date to that or another office as a constitutional peace officer.

§211.87. *Suspension of License.*

(a) Unless revocation is explicitly noted, the commission may suspend a license issued by the commission if the license holder violates any provision of:

- (1) these sections; or
- (2) the Act, the Government Code, Chapter 415.

(b) Unless otherwise specified, the term of suspension shall be 12 months. The exceptions are as follows.

(1) If a judgment and sentence is entered resulting in a misdemeanor conviction and sentence of either a fine, a jail term or both, or probation, then, regardless of the actual sentence imposed, the term of suspension shall be essentially equal to the maximum potential confinement applicable to that offense, such as:

- (A) DWI—24 months;
- (B) Class A misdemeanor—12 months;

(C) Class B misdemeanor—six months; or

(D) Class C misdemeanor—no suspension is possible (since no jail time is possible), except as otherwise provided in this section.

(2) If the court's judgement or adjudication is deferred for any felony or serious misdemeanor and the license holder is then placed on probation, the term of suspension shall be equal to the actual time served on probation.

(3) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.

(c) If a license can be suspended, the commission may, in its discretion and upon proof of mitigating factors, either:

(1) probate all or part of the term of suspension for a probation term of up to twice the maximum suspension term; or

(2) issue a written reprimand in lieu of suspension.

(d) A suspension may not be probated for less than six months.

(e) The commission may impose any reasonable terms of probation, such as:

- (1) continued employment requirements;
 - (2) special reporting conditions;
 - (3) special document submission conditions;
 - (4) voluntary duty requirements;
 - (5) no further rule or law violations;
- or
- (6) any other reasonable term of probation.

(f) A probated license remains probated until:

- (1) the term of suspension has expired;
- (2) all other terms of probation have been fulfilled; and
- (3) a written request for reinstatement has been received by the commission from the license holder, unless the probation has been revoked by the commission for violation of probation.

(g) A license probation may be revoked upon a showing that any of its terms have been violated before the expiration date of the probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.

(h) Once a license has been suspended, or the suspension probated, or the license holder reprimanded, the commission shall search its files and send, by regular mail, notice of the action to the chief administrator of any agency shown to have the license holder under either current or latest appointment.

(i) The beginning date of the suspension shall be:

- (1) any date agreed to by both parties

which is no earlier than the date of the rule violation;

(2) the date the license holder notifies the commission in writing of the rule violation if commission later receives a signed waiver of suspension from the license holder that was postmarked within 10 days of its receipt;

(3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.

(j) A suspended license remains suspended until:

(1) the term of suspension has expired; and

(2) a written request for reinstatement has been received from the license holder.

(k) The commission may suspend for not less than six months and not more than 24 months the license of a person convicted of a Class C misdemeanor directly related to the duties and responsibilities of office after consideration, where applicable, of the factors listed in the revocation section.

(l) The commission may suspend a license even though it may have become inactive by some other means, such as:

- (1) expiration;
- (2) voluntary surrender;
- (3) two-year break de-activation; or
- (4) any other means.

(m) The effective date of this section shall be January 1, 1988.

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 21, 1987.

TRD-8709220

David M. Boatright
General Counsel
Texas Commission on
Law Enforcement
Officer Standards and
Education

Earliest possible date of adoption:

November 30, 1987

For further information, please call
(512) 834-9222.

★ 37 TAC §211.82, §211.87

The Texas Commission on Law Enforcement Officer Standards and Education proposes the repeal of §211.82 and §211.87, concerning issuance of license and suspension of license, respectively. The repeals allow the simultaneous proposal of new rewritten sections.

David M. Boatright, general counsel, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Boatright also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the ability to adopt clearer sections, which reflect current practices and recent changes in legislation. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to David M. Boatright, General Counsel, 1606 Headway Circle, Suite 100, Austin, Texas 78754.

The repeals are proposed under the Government Code, §415.010(1), which provides the commission with the authority to adopt rules for the administration of the Code, Chapter 415; the Government Code, §415.052(a) and (b), which provides the commission with the authority to issue licenses where appropriate; and the Government Code, §415.060(a) and (b), which provides the commission with the authority to suspend a license for a violation of Chapter 415 or the rules of the commission.

§211.82. *Issuance of License.*

§211.87. *Issuance of Suspension.*

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 21, 1987.

TRD-8709219 David M. Boatright
General Counsel
Texas Commission on
Law Enforcement
Officer Standards and
Education

Earliest possible date of adoption:

November 30, 1987

For further information, please call
(512) 834-9222.



Part X. Texas Adult Probation Commission Chapter 321. Standards

★37 TAC §321.12

The Texas Adult Probation Commission proposes an amendment to §321.12, concerning restitution centers. The amendment reflects statutory changes in the Restitution Center Program, including the change of name to the Community Rehabilitation Center Program.

Edmond J. Peterson, CPA, director of fiscal services, 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. Peterson 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 agency standards which follow the recently enacted legislation concerning restitution centers. 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 Virginia Grote, Texas Adult Probation Commission, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

§321.12. *Community Rehabilitation [Restitution] Center.*

(a) Sentencing alternative. The judicial district court shall [should] use the **rehabilitation [restitution] center** as a sentencing alternative to incarceration in the Texas Department of Corrections (**TDC**), not as a sentencing alternative to regular probation or intensive supervision probation. In utilizing this sentencing alternative, the district court should give priority to **rehabilitation [restitution] center** placements to offenders on whom there has been a motion to revoke probation, and to offenders whose presentence investigation reports have indicated the need for incarceration at the **TDC** [Texas Department of Corrections] were the **rehabilitation [restitution] center** alternative not available.

(b) Reaching capacity. The judicial district court and adult probation department shall [should] ensure that a sufficient number of eligible offenders are placed in the **rehabilitation [restitution] center** so that it will reach at least 50% of its capacity within three months and 90% capacity within six months after commencing operation.

(c) Eligibility for placement. **To be eligible for placement in a rehabilitation center, the offender [eligibility requirements for placement in a restitution center include]:**

(1) must have been **convicted or plead guilty or nolo contendere to [sentenced for] a felony offense other than those under the Penal Code, Title 5, [(including, but not limited to) those offenses include murder, capital murder, voluntary manslaughter, [criminally negligent homicide,] false imprisonment, kidnapping, [rape, sexual abuse,] indecency with a child, assault, aggravated assault, sexual assault, aggravated sexual assault, deadly assault on a law enforcement or corrections officer or a court participant, injury to a child or an elderly individual, abandoning or endangering a child, terroristic threat, tampering with a consumer product, or leaving a child in a vehicle [or robbery]) or other than those under the Texas Controlled Substances Act**

(Texas Civil Statutes, Article 4476-15), including, but not limited to, unlawful manufacture, delivery, or possession of a controlled substance];

(2)-(3) (No change.)

(4) must not have an extensive history of drug or alcohol abuse;]

(4) [(5)] must be employable; and

(5) [(6)] would have been incarcerated at the TDC if it were not for the availability of the **rehabilitation [restitution] center**.

(d) Court order. The probation department shall [should] place an offender in a **rehabilitation [restitution] center** only after an order by the court and release a probationer from a **rehabilitation [restitution] center** only by order of the court.

(e) Presentence investigation. If a district court does not order a presentence investigation, the probation department shall [should] have a post-sentence investigation report written for each offender placed in a **rehabilitation [restitution] center**. This report shall [should] be in compliance with TAPC presentence investigation report standards.

(f) Term of residency. The probationary sentence ordered by the court to be served in a **rehabilitation [restitution] center** shall [should] be for a period of not less than **three [six] months** nor more than 12 months.

(g) Community advisory council. A community advisory council of not less than seven persons representative of the community shall [should] be appointed by the district judge or judges to advise the probation department in its establishment and maintenance of the **rehabilitation [restitution] center**. The community advisory council shall [should] meet at least once in each calendar quarter.

(h) Appointment of the director. The chief adult probation officer shall [should] appoint a director of the **rehabilitation [restitution] center** who is familiar with the operation of a residential program, the goals and procedures of an adult probation department, and the diversionary purpose of the **rehabilitation [restitution] center**.

(i) Maximum resident capacity. The probation department shall [should] establish the maximum resident capacity limit of the **rehabilitation [restitution] center** prior to commencing operations at the center. The limit shall not be exceeded under any circumstances.

(j) Denying admission. The judicial district court and the adult probation department shall [should] give the **rehabilitation [restitution] center** director the authority to deny admission of a prospective resident if that offender is not eligible for placement in a **rehabilitation [restitution] center** or if the **rehabilitation [restitution] center** has reached its capacity.

(k) Prohibited uses. The judicial district court and the probation department shall [should] not use the **rehabilitation [restitution] center** as a diagnostic facility to determine offender eligibility for **rehabilita-**

tion [restitution] center services or as an emergency shelter for probationers experiencing crisis situations or to alleviate overcrowding at the county jail.

(l) Fiscal management. The probation department shall [should] maintain a separate account within the judicial district fund for **rehabilitation** [restitution] center funds and use a **rehabilitation** [restitution] center fiscal management system approved by the TAPC.

(m) Data. The probation department shall [should] submit on a timely basis the **rehabilitation** [restitution] center data requested by the TAPC.

(n) Employment opportunities and placement. The probation department shall [should] ensure that the **rehabilitation** [restitution] center director assists residents in obtaining and maintaining employment. To this end, programs shall [should] be available to enhance the employability of the residents.

(o) Reports to TDC. If the probation of a resident at the **rehabilitation** [restitution] center is revoked, the probation department shall [should] forward to TDC with the commitment papers a copy of the written evaluation report, the PSI, and other information as required by TAPC standards.

(p) Training. The probation department shall [should] require that the **rehabilitation** [restitution] center personnel participate in residential services training offered by the TAPC.

(q) Equipment transfer. The probation department shall [should] transfer the equipment and any remaining supplies purchased with **rehabilitation** [restitution] center funds to another **rehabilitation** [restitution] center or to an adult probation department temporarily or permanently upon request of the TAPC [if state aid for the restitution center is terminated].

(r) Fiscal guidelines. The probation department shall [should] follow TAPC fiscal guidelines for **rehabilitation** [restitution] centers, including, but not limited to:

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

(s) Autonomy. The probation department shall [should] ensure that the **rehabilitation** [restitution] center is autonomous and separate from other correctional or treatment residential facilities.

(t) Case classification. The probation department shall [should] require the **rehabilitation** [restitution] center to utilize the TAPC case classification system **and the TAPC case management system** as part of the intake, assessment, reassessment, and termination processes.

(u) **Policies and procedures** [Operations procedure manual]. The probation department shall [should] **operate the community rehabilitation center in accordance with policies and procedures developed by the chief adult probation officer and approved by the executive director of the Texas Adult Probation Commission** [require the restitution center under its jurisdiction

to operate under the guidelines of an operations procedure manual approved by the TAPC. The manual is to include guidelines on at least the following]. **The policies and procedures are to include, but not be limited to:**

(1) utilizing the TAPC case classification system **and TAPC case management system;**

(2)-(7) (No change.)

(8) providing for release procedures and intensive supervision upon release from the **rehabilitation** [restitution] center;

(9)-(15) (No change.)

(16) **providing a pass/furlough policy for the residents** [restricting resident time away from the restitution center].

(v) Location.

[(1)] The probation department shall [should] ensure that the location of the **rehabilitation** [restitution] center is suited to the employment needs of the residents, and other factors considered important by the local courts and probation departments.

[(2)] Before selecting the location to be used as the basis for an application for establishing a **rehabilitation** [restitution] center to be operated by the probation department, the department shall publish a notice [of] in three consecutive issues of a newspaper of general circulation in the county of the proposed location. The notice shall describe the proposed location or locations in a manner sufficient to enable a reasonable person to locate the premises and identify it from other places in the community, and shall also state the time, date, and place of a public hearing on the proposed **rehabilitation** [restitution] center. The hearing shall be held not less than 10 nor more than 30 days after the date the last notice is published. **No center established after September 1, 1987, may be located within 1,000 feet of a public or private school.**

(w) Regional **rehabilitation** [restitution] center. Probation departments choosing to cooperate in establishing a **rehabilitation** [restitution] center shall [should] follow the TAPC guidelines for regional **rehabilitation** [restitution] centers.

(x) Caseload average.

(1) The following shall [should] not be included in calculating the department average caseload or in claiming per capita state aid:

(A) residents of a **rehabilitation** [restitution] center;

(B) probationers who have been terminated from a **rehabilitation** [restitution] center and are being intensively supervised within the judicial district in which the **rehabilitation** [restitution] center is located.

(2) Probationers who have been terminated from a **rehabilitation** [restitution] center and are being intensively supervised in a judicial district other than the [one in which they were residents of a restitution center] **rehabilitation center**, may be included in calculating the department average caseload and in claiming per capita state aid.

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 23, 1987.

TRD-8709288

David Spencer
General Counsel
Texas Adult Probation
Commission

Proposed date of adoption:

January 15, 1988

For further information, please call
(512) 834-8188.

★ 37 TAC §§321.14-321.16

The Texas Adult Probation Commission proposes new §§321.14-321.16, concerning court residential treatment centers, specialized caseloads, and electronic monitoring. New §321.14 reflects legislative changes in residential probation programs. New §321.15 reflects legislative changes in programs to divert probationers from incarceration. New §321.16 responds to the creation of a new program by legislation.

Edmond J. Peterson, CPA, director of fiscal services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Peterson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be insurance that probation departments follow the legislation for court residential treatment centers and receive guidelines concerning legislation regarding specialized caseloads and electronic monitoring. Some parts of the legislation speak to the location of centers and public input about locations. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Virginia Grote, Texas Adult Probation Commission, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753.

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

§321.14. *Court Residential Treatment Center.*

(a) Population. The primary population to be served by the court residential treatment center (CRTC) is felony offenders who are exhibiting drug and alcohol abuse problems, or mental health problems who can benefit from the treatment models utilized by the CRTC.

(b) Term of residency. Placement in a CRTC shall be for a term not to exceed six months. A CRTC director may extend the term up to an additional six months with case file documentation substantiating the need for continued residential treatment with the court's approval.

(c) Discharge from a CRTC. When significant progress in achieving the goals of the treatment plan has been accomplished and documented, the director may recommend discharge for the offender from the CRTC to regular probation.

(d) Community advisory council. Judicial district adult probation departments shall use a community advisory council to assist in establishing a CRTC or selecting a site for a CRTC, or in other designated functions.

(e) Community support. The judicial district adult probation department shall develop and implement an annual plan for community involvement in and awareness of the CRTC.

(f) Appointment of the director. The chief adult probation officer shall appoint a director of the CRTC who has experience and knowledge of residential treatment programs.

(g) Maximum resident capacity. The probation department shall establish the capacity limit at the CRTC. The limit shall not be exceeded under any circumstances.

(h) Denying admission. The judicial district court and the adult probation department shall give the CRTC director the authority to deny admission of a prospective resident if that offender is inappropriate for placement in a CRTC or if the CRTC has reached its capacity.

(i) Fiscal management. The probation department shall maintain a separate account within the judicial district fund for CRTC funds and use a CRTC fiscal management system approved by the Texas Adult Probation Commission (TAPC).

(j) Data. The probation department shall submit on a timely basis the CRTC data requested by the TAPC.

(k) Training. The probation department shall require that the CRTC personnel participate in residential services training offered by the TAPC.

(l) Equipment transfer. The probation department shall transfer the equipment and any remaining supplies purchased with CRTC funds to another center or to an adult probation department temporarily or permanently upon a request of the TAPC.

(m) Fiscal guidelines. The probation department shall follow TAPC guidelines for CRTC's, including, but not limited to:

- (1) purchase of equipment;
- (2) leasing of real property or equipment; and
- (3) contractual services.

(n) Case classification. The probation department shall require the CRTC to utilize the TAPC case classification and TAPC case management system (reintegration model) as

part of the intake, assessment, reassessment, and termination processes.

(o) Policies and procedures. The probation department shall operate the CRTC in accordance with policies and procedures developed by the chief adult probation officer and approved by the executive director of the TAPC. The policies and procedures are to include, but not be limited to:

(1) utilizing the TAPC case classification system and TAPC case management system;

(2) providing food service;

(3) providing security and discipline;

(4) providing medical examinations;

(5) providing fiscal accountability;

(6) performing community service restitution;

(7) providing for discharge procedures;

(8) developing and implementing individualized supervision plans;

(9) meeting health and safety standards;

(10) providing for adequate facilities;

(11) implementing sound personnel practices;

(12) orienting incoming residents; and

(13) providing a pass/furlough policy for residents.

(p) Location. The probation department shall ensure that the location of the CRTC demonstrates the sensitivity to the community and other factors considered important by the local courts and probation departments. Before selecting the location to be used as the basis for an application for establishing a CRTC to be operated by the probation department, the department shall publish a notice in three consecutive issues of a newspaper of general circulation in the county of the proposed location. The notice shall describe the proposed location or locations in a manner sufficient to enable a reasonable person to locate the premises and identify it from other places in the community, and shall also state the time, date, and place of a public hearing on the proposed CRTC. The hearing shall be held not less than 10 nor more than 30 days after the date the last notice is published.

§321.15. Specialized Caseloads Program.

(a) Program description. The Specialized Caseloads Program (SCP) is a community-based sanction designed to provide services and supervision to felony offenders with special needs, who would otherwise be incarcerated in the Texas Department of Corrections (TDC).

(b) Department eligibility. All probation departments participating in the Texas Adult Probation Commission (TAPC) state-aid program shall be eligible to apply for funding for the SCP provided the department:

(1) can document a specific target population of special needs offenders to be

served; and

(2) can demonstrate the availability of services to be provided for the special needs offenders.

(c) Community-based sanction. The probation department shall utilize the SCP as a sentencing alternative for the court to divert special needs felony offenders from the TDC.

(d) Court order. Placement of an offender into the SCP shall be only after an order of the court. The department shall include in the case file, documentation of the specific special needs which substantiate placement in this particular caseload supervision strategy. Placement may occur as a result of:

- (1) a direct court sentence;
- (2) shock probation/incarceration;
- (3) an alternative to revocation; or
- (4) court-authorized intensive probation.

(e) Presentence investigation/specialized assessment. A pre/post sentence investigation and/or a specialized assessment to document a specific need shall be conducted on each special needs offender placed on the caseload.

(f) Case classification. The TAPC computerized case classification system shall be utilized on each person supervised on specialized caseloads.

(g) Individualized supervision. The department shall require the probation officer supervising special needs offenders to prepare an individualized supervision plan for each probationer. The plan should be based on the identified needs/risk area, specifying time frames and measurable objectives.

(h) Term of participation. The probation department shall establish policy and procedures to discharge an offender from a specialized caseload when the measurable objectives of the supervision plan have been achieved.

(i) Caseload size. The specialized caseload shall not exceed the workload of 40 probationers supervised at an intensive level of supervision.

(j) Supervision. The probation department shall provide services and supervision to SCP probationers consistent with the need and risk factors identified, and use available community resources, including the purchase of services, if necessary, to provide safety to the community and promote responsible behavior by the probationer.

(k) Training. Probation officers supervising SCP probationers shall participate in computerized case classification training sponsored by the TAPC. The probation department shall encourage training in the special needs areas.

(l) SCP officers. A probation department participating in the SCP shall designate an individual probation officer to supervise SCP probationers. This officer shall possess knowledge and skills in the special need area the officer supervises.

(m) Policies and procedures. The pro-

bation department shall operate the SCP in accordance with policies and procedures developed by the chief probation officer and approved by the executive director of the TAPC. The policies and procedures are to include, but not be limited to, the concepts identified in the TAPC specialized caseload guidelines, where appropriate according to identified special needs.

§321.16. Electronic Monitoring.

(a) Department eligibility. All probation departments participating in the Texas Adult Probation Commission (TAPC) state aid program and having established a continuum of supervision strategies shall be eligible to apply for funding of electronic monitoring (EM) as a supervision strategy.

(b) Eligibility. Electronic monitoring shall be restricted to felony probationers diverted from the Texas Department of Corrections (TDC). Departments shall submit to the TAPC for approval a limited population of offenders to be served by the use of EM. Additionally, the department shall provide a detailed reason for placement in this supervision strategy as opposed to one of the other community-based sanctions.

(c) Court order. Utilization of the EM supervision strategy shall be only after an order of the court. A written letter of consent authorizing the placement and use of the EM system in the home must be signed by the head of the household. If the probationer is the head of the household and has a spouse, the spouse is to provide the letter of consent. Placement may occur as a result of:

- (1) a direct court sentence;
- (2) shock probation;
- (3) an alternative to revocation; or
- (4) court-authorized intensive probation.

(d) Term of participation. The probation department shall establish policy and procedures to immediately terminate the use of EM when the measurable outcomes of the supervision plan have been achieved or when it becomes apparent that compliance with the conditions of probation will not be achieved through the use of EM. The maximum term of utilizing the EM supervision strategy shall not exceed three months without the specific order of the court.

(e) Case classification. The department shall utilize the TAPC case classification system on each person supervised on EM.

(f) Individualized supervision. The probation department shall require the probation officer supervising EM cases to prepare an individualized supervision plan for each probationer. The plan should be based on the identified risk/needs areas, specifying time frames and measurable objectives that relate to the use of EM.

(g) Policies and procedures. The probation department shall supervise probationers on EM in accordance with policies and procedures developed by the chief adult probation officer and approved by the executive director of the TAPC. The policies and

procedures are to include, but not be limited to:

- (1) constitutional issues such as search and seizure, right to privacy, equal protection;
- (2) equipment installation and verification of proper functioning;
- (3) officer intervention strategies;
- (4) how EM complements the continuum of sanctions;
- (5) continuum of intervention strategies in response to violations;
- (6) violation verification procedures;
- (7) furloughs from curfew;
- (8) frequency of face-to-face, verification contacts;
- (9) procedure to notify the court of the family's response to the potential placement of EM equipment in the home;
- (10) alternate supervision strategies if EM is not feasible; and
- (11) probationer/family orientation on the use of EM.

(h) Technology. Continuously signaling monitors shall be utilized only in conjunction with the capability to respond immediately to violations.

(i) Reliability. Departments shall use EM equipment which has been evaluated as reliable by a nationally recognized and objective authority.

(j) Fees. The EM supervision strategy shall not be denied to any eligible probationer because of inability to pay a direct or indirect fee for it.

(k) Training. The department shall design a training program for personnel prior to the implementation of the program. This training should include, but not be limited to:

- (1) the capacity and limitations of the system used;
- (2) intervention strategies;
- (3) case classification (TAPC sponsored); and
- (4) verification procedures.

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 23, 1987.

TRD-8709287

David Spencer
General Counsel
Texas Adult Probation
Commission

Proposed date of adoption:

January 15, 1988

For further information, please call

(512) 834-8188.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Subchapter G. Resources

★40 TAC §3.704

The Texas Department of Human Services proposes an amendment to §3.704, concerning types. The section sets out resource exclusions in the AFDC Program. The amendment deletes the resource exclusion for households that own a lot on which they intend to build a home. Federal regulations require DHS to count as a resource any property on which the household does not currently reside, but intends to build a home. The amendment also revises the homestead policy to be consistent with state law concerning homesteads.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect is an estimated reduction in cost of \$10,969 for fiscal year 1988; \$18,539 for fiscal year 1989; \$21,280 for fiscal year 1990; \$23,351 for fiscal year 1991; and \$26,519 for fiscal year 1992. There will be no fiscal implications for local governments or small businesses.

Mr. Packard also has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be restriction of AFDC grant benefits to those most in need. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-463, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 31 and 33, which provides the department with the authority to administer public assistance programs.

§3.704. Types.

(a) (No change.)
(b) Aid to families with dependent children. Exclusions from resources in AFDC are:

- (1) (No change.)
- (2) homestead. DHS [DHR] exempts the usual residence and surrounding property which is not separated by property owned by others.

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

(C) Households which currently do not own a home, but own or are purchasing a lot on which to build or are building a permanent home, receive an exemption for the lot, and if partially completed, for the home.]

(C)((D)) A rural homestead cannot exceed [be more than] 200 acres.

(D)((E)) An urban homestead may include one or more lots, but must not exceed one acre [the land value must have been no more than \$10,000 when designated as the client's homestead]. DHS [DHR] does not count the value of improvements, including the house.

(3)-(10) (No change.)

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

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

Issued in Austin, Texas, on October 23, 1987.

TRD-87709312 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption:

January 1, 1988

For further information, please call
(512) 450-3765.



Subchapter I. Income

★ 40 TAC §3.902

The Texas Department of Human Services (DHS) proposes an amendment to §3.902, concerning types. The amendment deals with income exclusions in the Food Stamp Program. The amendment specifies that DHS does not exclude from income any portion of child support payments.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Packard 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 an explicit statement in this section regarding how DHS considers child support payments. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-463, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The section is proposed under the Human Resources Code, Title 2, Chapters 31 and 33, which provides the department with the authority to administer public assistance programs.

§3.902. Types.

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

(d) Food stamps. DHS [DHR] excludes as income the types of income stipulated in 7 Code of Federal Regulations §273.9(c) except for child support payments. DHS does not exclude any portion of child support payments.

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 23, 1987.

TRD-8709313 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

January 1, 1988

For further information, please call
(512) 450-3765.



Chapter 10. Family Self-support Services Child Day Care Services

★ 40 TAC §10.3190

The Texas Department of Human Services (DHS) proposes new §10.3190, concerning parent advisory groups for day care centers. The new section requires day care centers that have more than 30% of their licensed capacities purchased by DHS to establish ongoing parent advisory committees to review day care center operations. The requirement is based on legislation passed by the 70th Legislature, 1987.

Brian Packard, associate commissioner for budget, planning, and economic analysis, 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. Packard has also 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 increased interaction and improved understanding between parents and providers leading to better care of children. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-486, Texas Depart-

ment of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§10.3190. Parent Advisory Groups for Day Care Centers.

(a) If DHS purchases more than 30% of a contracted day care center's licensed capacity, the day care center must establish and maintain a parent advisory group.

(b) Contractors covered under subsection (a) of this section must develop and implement written policies that describe the membership and functions of the parent advisory groups. The contractors must ensure that the policies include provisions for regular meetings, at least annually, to address the concerns of the parents of enrolled children. The policies are subject to DHS approval.

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 26, 1987.

TRD-8709365 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption:

January 1, 1988

For further information, please call
(512) 450-3765.



Chapter 23. Nursing Facility Administration Subchapter L. General Policies

★ 40 TAC §§23.1116-23.1119

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Human Services (DHS) proposes the repeal of §§23.1116-23.1119, concerning retirement home; amendments, revised statements,

and financial information; providing statement to individual; and administrative procedures, respectively. The repeals delete DHS sections governing the registration of retirement homes, which is a function no longer performed by DHS.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the repeals.

Mr. Packard has also determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be more accurate and concise department rules. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-401, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The repeals are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§23.1116. *Retirement Home.*

§23.1117. *Amendments, Revised Statements, and Financial Information.*

§23.1118. *Providing Statement to Individual.*

§23.1119. *Administrative Procedures.*

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 23, 1987.

TRD-8709266 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
December 15, 1987
For further information, please call
(512) 450-3765.



Chapter 48. Community Care for Aged and Disabled Definitions

★ 40 TAC §48.1201

The Texas Department of Human Services (TDHS) proposes an amendment to §48.1201, concerning definitions of program terms. The amendment adds the de-

inition of an emancipated minor as required by legislation passed by the 70th Legislature, 1987. The proposal also adds the definition of an incapacitated person and deletes definitions that no longer apply to the program.

Brian Packard, associate commissioner for budget, planning, and economic analysis, 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 governments or small businesses as a result of enforcing or administering the section.

Mr. Packard 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 is that adult protective services (APS) will be provided more appropriately because APS responsibility will be clarified by defining client types. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-400, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§48.1201. *Definitions of Program Terms.*
The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

[Crisis intervention—Casework to assess the need for CCAD services and protective services case management with disabled adults 18-64 years old who are alleged to be abused, neglected, or exploited.]

Emancipated minor—A person under 18 years of age who has the power and capacity of an adult. This includes a minor who has had the disabilities of minority removed by a court of law or a minor who, with or without parental consent, has been married. Marriage includes common-law marriage.

Incapacitated person—A person who has a mental or physical impairment that adversely affects his understanding of the nature of his problems or the services offered and who does not have the ability to accept or reject those services.

[Investigation—Contacts with the elderly or disabled alleged victim or collateral source after receipt of a report to determine the validity of an allegation of abuse, neglect, or exploitation. (This contact does not require the consent of the client or his caretaker.)

[Involuntary protective services—Arrangement for the emergency removal of

a person from life-threatening situations if directed by court order, as authorized by the Human Resources Code, Chapter 48.

[Protective services case management—Activities performed by the caseworker to help a client needing protective services. These activities include: developing and modifying the service plan; monitoring the client's situation and the delivery of services; arranging for a representative payee; working with the courts to obtain emergency orders for protective services or other legal alternatives; and locating resources that help the client to eliminate or reduce the severity of the abuse, neglect, or exploitation.]

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 26, 1987.

TRD-8709364 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption:
February 1, 1988
For further information, please call
(512) 450-3765.



Chapter 49. Child Protective Services Subchapter C. Eligibility for Child Protective Services

★ 40 TAC §§49.301-49.306

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Human Services (DHS) proposes the repeal of §§49.301-49.306 and 49.1308, and amendments to §§49.307, 49.506-49.508, 49.510, 49.511, 49.1102, and 49.1303-49.1307, concerning definitions for abuse, neglect, and other harm to children; abuse; exploitation; sexual abuse; sexual exploitation; neglect; service plan for children; other harm; access for the investigation; investigations interviews; purchase of physical examination; notification about results investigation of lack of medical care because of religious beliefs; legal rights of parents and children; service plan for children; service plan for families; review of service plan for children; administrative reviews; and changes in service plans because of subsequent placements; respectively. Legislation passed in the 70th Legislature, 1987, made changes to the Texas Family Code and the Human Resources Code which impacted

DHS' child protective services program. The legislation established statutory definitions for abuse and neglect and made other changes in the requirements for abuse and neglect investigations and administrative reviews of client complaints. Subsequently, DHS is repealing its definitions of abuse and neglect in §§49.301-49.306 because they were rendered obsolete by statute. The department is making some changes in its operating practices to support the new legislation. Amended sections clarify policy regarding abuse and neglect investigation interviews, purchase of medical exams, rights to an administrative review of the investigation findings, and notice requirements. Sections concerning service planning for children and parents are amended to consolidate and clarify the expectations for service plans and the parties that must be involved.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections and repeals will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections and repeals.

Mr. Packard also has determined that for each year of the first five years the sections and repeals are in effect the public benefit anticipated as a result of enforcing the sections and repeals will be better planning of services to be delivered to children and families. There is no anticipated economic cost to individuals who are required to comply with the proposed sections and repeals.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-344, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The repeals are proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children; and the Texas Family Code, Title 2, which provides the department with the authority to enforce laws and regulations governing the parent-child relationship.

§49.301. *Definitions for Abuse, Neglect, and Other Harm to Children.*

§49.302. *Abuse.*

§49.303. *Exploitation.*

§49.304. *Sexual Abuse.*

§49.305. *Sexual Exploitation.*

§49.306. *Neglect.*

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 26, 1987.

TRD-8709358

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
December 1, 1987
For further information, please call
(512) 450-3765.



★ 40 TAC §49.307

The amendment is proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children; and the Texas Family Code, Title 2, which provides the department with the authority to enforce laws and regulations governing the parent-child relationship.

§49.307. *Other Harm.* Harm to children other than abuse or neglect includes the following.

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

(5) Social studies required [by a court order or] under the Human Resources Code, Chapter 45, Interstate Placement of Children. In a [disputed conservatorship suit, an adoption suit, or a] placement into Texas from another state, DHS [DHR] may be required to study potential placements for the child to assess whether harm to the child could occur.

(6) (No change.)

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

Issued in Austin, Texas, on October 26, 1987.

TRD-8709359

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
December 1, 1987
For further information, please call
(512) 450-3765.



Subchapter E. Intake and Investigation Services

★ 40 TAC §§49.506—49.508, 49.510, 49.511

The amendments are proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children; and the Texas Family Code, Title 2, which provides the department with the authority to enforce laws and regulations governing the parent-child relationship.

§49.506. *Interviews with Parents or Other Alleged Perpetrators [Access for the Investigation].* The first and subsequent visits to the home or other locations to interview the parents and child and to examine the child may be announced or unannounced. DHS [DHR] must determine the best method for contacting the parents or other alleged perpetrator [caretakers] based on the nature of the allegation and the protection needs of the child. At the first contact with the parents, DHS [DHR] staff must identify themselves, explain the nature of the complaint or the reason for the contact, and explain DHS's [DHR's] role and responsibilities regarding the investigation.

§49.507. *Investigation Interviews.* The worker must interview the following persons during the investigation:

(1) (No change.)

(2) other persons who are responsible for the care, custody, [health] or welfare of the children and who are alleged to be responsible for the abuse or neglect;

(3) the alleged victims, [children] if they can communicate;

(4) (No change.)

§49.508. *Purchase of Medical [Physical] Examinations.*

(a) Sources of funding for medical examinations include:

(1) families who are willing to pay for the examination or to use family insurance;

(2) local resources that make examinations available without cost;

(3) local funds; or

(4) Medicaid when the child is eligible and:

(A) has medical problems or injuries that require a medical examination or treatment; or

(B) is periodically eligible for EPSDT screening.

(b)(a) If none of these [other] resources are [not] available, DHS [DHR] may use child welfare earned funds to purchase medical [physical] examinations of children during investigations of abuse or neglect.

(c)(b) Purchased medical [physical] examinations must be performed by a licensed physician or dentist. The maximum allowable expenditure for the examination and medically necessary diagnostic services is \$150 per child, per incident.

(d) [(c)] Child welfare earned funds must not be used to purchase treatment or the physician's or dentist's professional time required for court testimony.

§49.510. *Notification about Results.*

(a) DHS [DHR] must explain the findings of the investigation to:

(1) the parents [or caretakers]; [and]

(2) the alleged perpetrator, when not the parent; and

(3)[(2)] the alleged victim who was interviewed about the [alleged] abuse or neglect.

(b) The alleged perpetrator may request an administrative review of investigation findings within 15 calendar days after receiving the notice of the findings. The review must be requested in writing.

§49.511. *Investigation of Lack of Medical Care Because of Religious Beliefs.*

(a) DHS [DHR] must investigate allegations of lack of medical care because of religious beliefs if the child's condition meets the criteria for priority I or priority II reports.

(b) A parent or guardian legitimately practicing his religious belief who fails to provide specified medical treatment for a child for that reason alone may not be considered a negligent parent or guardian; however, such an exception does not preclude staff from requesting a court to order that medical services be provided to the child if the child's health requires it.

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 26, 1987.

TRD-8709360

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption:

December 1, 1987

For further information, please call

(512) 450-3765.

Subchapter K. Court-Related Services

★ 40 TAC §49.1102

The amendment is proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children; and the Texas Family Code, Title 2, which provides the department with the authority to enforce laws and regulations governing the parent-child relationship.

§49.1102. *Legal Rights of Parents and Children.* While providing court-related services, DHS [DHR] protects the legal rights of parents and children as follows.

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

(4) When DHS takes possession of a child without a court order or pursuant to an emergency order, DHS must give the parent or legal guardian written notice.

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 26, 1987.

TRD-8709362

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

December 1, 1987

For further information, please call

(512) 450-3765.

Subchapter M. Substitute Care Placement Services

★ 40 TAC §§49.1303—49.1307

The amendments are proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children; and the Texas Family Code, Title 2, which provides the department with the authority to enforce laws and regulations governing the parent-child relationship.

§49.1303. *Service Plan for Children.*

(a) DHS [DHR] must document in the child's service plan the reason for choosing the type of substitute care placement for the child, how it meets [will meet] the child's needs, and notification to the parents about any changes made in the child's placement while the service plan was being developed. DHS [DHR] must develop a placement plan that ensures [which will ensure] placement in the least restrictive setting available and close proximity to the parents' home if this is consistent with the best interest and [the] needs of the child.

(b) (No change.)

(c) The following persons must be asked to participate in developing the service plan:

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

(4) the child's parents, unless parental rights are terminated, parents are deceased or cannot be found, or other appropriate relatives;

(5)-(6) (No change.)

(7) the attorney or guardian ad litem or both.

§49.1304. *Agency-Parent Plan of Service [Plan for Families].*

(a) DHS [DHR] must develop a written service plan for parents [families] of children in substitute care on the agency-parent plan of service form unless the parents cannot be found, parental rights are terminated, or an affidavit of relinquishment has been executed.

(b) DHS [DHR] must develop the [family's] service plan with the parents within 30 days after the child's placement and must obtain the parent's signature on the plan unless the parents are absent or refuse to cooperate. A copy of the plan must be given to the parents.

(c) If DHS [DHR] cannot establish the [family's service] plan with the parents because they [the parents] are absent, hostile, or uncooperative, the worker must establish the [family's service] plan without the parents and document in the record the reasons for the lack of input from the

parents and attempts to alleviate these conditions.

[(d) DHS must include the following in the service plan:

[(1) a description of efforts made to obtain services before the removal of the child and any services which were provided to prevent the substitute care placement;

[(2) identification of the problems which caused removal of the child;

[(3) changes that must take place before DHR will recommend that the court return conservatorship to the parents;

[(4) services to be provided to accomplish the changes and who will provide the services;

[(5) the role of the worker, other service providers, and the parents in achieving the changes;

[(6) a proposed time limit for achieving the changes;

[(7) a plan for the parents to visit, telephone, and write to the child;

[(8) the family's plan for the financial support of the child including payment of child support and availability of insurance;

[(9) specific conditions or stipulations in the court order;

[(10) consequences if changes are not achieved.]

§49.1305. *Review of Service Plans [for Children].* The child's plan of service and the agency-parent plan of service must be reviewed every six months[, DHS must review the status of a child in substitute care] to determine the continued need for and appropriateness of the [child's] placement. DHS [DHR] must ensure that the child's parents are allowed to participate in the reviews unless parental rights are terminated or parents are deceased, absent, or refuse to cooperate. DHS must document in the case record that the parents were notified or the reason they were not notified or the reason the parents did not participate in the review.

§49.1306. *Administrative Reviews of Service Plans.* If a periodic court review [hearing] cannot be held within the required time frame [or is delayed], a service plan review must be held and [DHR must conduct an administrative review of the service plan at least every six months. Unless parental rights are terminated or the parents are deceased or cannot be located, DHR must notify both parents about the review and allow their participation. A panel of DHR staff, including the worker and supervisor, must conduct the administrative review. The panel must] include a third party who is [person] not directly or administratively responsible for the case [or for services to the child or family].

§49.1307. *Changes in Service Plans Because of Subsequent Placements.* Parents have a right to be notified about a change in the child's placement unless parental rights are terminated or the parents are deceased or absent.

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 26, 1987.

TRD-8709361 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption:
December 1, 1987
For further information, please call
(512) 450-3765.



★ 40 TAC §49.1308

(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 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children; and the Texas Family Code, Title 2, which provides the department with the authority to enforce laws and regulations governing the parent-child relationship.

§49.1308. *Review of Service Plans for Families.*

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 26, 1987.

TRD-8709363 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
December 1, 1987
For further information, please call
(512) 450-3765.



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 *Tex 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 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association Plan of Operation

★28 TAC §5.4001

The State Board of Insurance adopts an amendment to §5.4001, without changes to the proposed text published in the September 22, 1987, issue of the *Texas Register* (12 TexReg 3308).

Section 5.4001 concerns the plan of operation of the Texas Catastrophe Property Insurance Association (the association). The amendment limits the maximum level of individual risks under insurance coverage of catastrophe losses from destruction or damage to apartments, condominiums, and townhouses. Limiting the level of these risks will protect the stability of the association, on which many citizens must rely for insurance coverage in coastal areas. The amendment also clarifies the plan of operation by utilizing language in the Texas general basis schedules which the State Board of Insurance has adopted under the Insurance Code, Article 5.96.

The amendment redefines limits of liability for insurance coverage through the association by adding specific provisions concerning coverage of apartments, condominiums, and townhouses. These provisions for limitation of liability address separately those risks constructed prior to January 1, 1988, and those risks constructed on or after January 1, 1988. The amendment provides an increased limit of liability of \$2 million for damage to a public building. The amendment addresses liability concerning each structure and concerning corporeal moveable property located therein.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.49, §5, which provides for approval by the State Board of Insurance of the plan of operation of the Texas Catastrophe Property Insurance

Association for providing catastrophe coverage by property insurance.

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 26, 1987.

TRD-8709374

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 16, 1987
Proposal publication date: September 22, 1987
For further information, please call
(512) 463-6327.



Manual

★28 TAC §5.4501

The State Board of Insurance adopts an amendment to §5.4501, without changes to the proposed text published in the September 22, 1987, issue of the *Texas Register* (12 TexReg 3309). The amendment adopts by reference amendments to a manual. The adoption by reference material was not published, but is on file with the Office of the Secretary of State, Texas Register Section.

Section 5.4501 concerns adoption by reference of a manual of rules and regulations for insurance coverage effective through the Texas Catastrophe Property Insurance Association (the association). The amendment incorporates amendments to the manual which specify limits for the maximum level of individual risks under insurance coverage of catastrophe losses from destruction or damage to apartments, condominiums, and townhouses. Limiting the level of these risks will protect the stability of the association, on which many citizens must rely for insurance coverage in coastal areas. The amendment also clarifies the manual by utilizing language in the Texas general basis schedules which the State Board of Insurance has adopted under the Insurance Code, Article 5.96. The board has filed with the secretary of state's office copies of the proposals for amendments to the manual which this amendment adopts by reference. Persons desiring copies of the amendments to the manual can obtain them from the Property In-

urance Lines Section, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment incorporates by reference amendments to the manual which redefine limits of liability (including specification of deductible amounts) for insurance coverage through the association by adding specific provisions concerning coverage of apartments, condominiums, and townhouses. These provisions for limitation of liability address separately those risks constructed prior to January 1, 1988, and those risks constructed on or after January 1, 1988. The amendments to the manual provide an increased limit of liability of \$2 million for damage to a public building. The amendments to the manual address liability concerning each structure and concerning corporeal moveable property located therein.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.49, §8, which provides the State Board of Insurance with the authority to approve manuals of classifications, rules, and rates for the Texas Catastrophe Property Insurance Association.

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 September 26, 1987.

TRD-8709375

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 16, 1987
Proposal publication date: September 22, 1987
For further information, please call
(512) 463-6327.



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter B. Natural Gas Production Tax

★34 TAC §3.12

The Comptroller of Public Accounts adopts new §3.12 with changes to the proposed text published in the August 25, 1987, issue of the Texas Register (12 Tex-Reg 2848). The new section modifies purchaser and/or processor reporting requirements. The new section enables first purchasers to properly report their transactions with producers in a market brought about by government creation of pipeline carriage.

The new section requires first purchasers of condensate to report whenever delivery is made to the purchaser either on or off the lease. The change to the proposed text makes the reporting requirement imposed on the first purchaser compatible with that of the producer. The change appears in subsection (b)(1).

Comments were received regarding adoption of the new section. Texas Utilities Fuel Company (TUFCo) believes the new section conflicts with the Tax Code because the section does not provide the purchaser an opportunity to remit tax on purchases made off the leases. TUFCo comments that the Tax Code, §201.205, clearly authorizes a purchaser to withhold tax from the producer and to remit it to the state.

The withholding procedure, prior to the July 21, 1987, amendment to House Bill 62, applied to purchasers taking delivery from producers both on and off the leases. After the July 21, 1987, amendment, which eliminated the reporting requirement for purchasers taking delivery off the premises, the comptroller believes the withholding procedure for purchasers applies only to deliveries on the lease.

Lone Star Gas Company (Lone Star) commented that the new section is invalid in that the comptroller has exceeded its rulemaking authority because the new section is inconsistent with applicable statutory provisions. The applicable statutory provision is cited as the Tax Code, §201.205, which states that producers or purchasers of gas, or both, are authorized and required to withhold from any payment due interested parties the proportionate tax due and remit it to the comptroller.

The Tax Code, §201.205, must be read in conjunction with §201.204. The withholding requirement is imposed upon a first purchaser taking delivery on the premises. Thus, §201.205 simply reiterates this requirement as to first purchasers

and extends the withholding authorization to producers required to pay tax in all other instances.

Lone Star believes that the new section is in violation of due process of law because the purchaser may be subject to penalty and interest on taxes allowed to become delinquent by producers and the purchaser was not afforded an opportunity to pay the taxes when due.

The statute provides for the imposition of penalty and interest on unpaid tax. The statute also states that a purchaser shall satisfy himself that the tax on that gas has been or will be paid by the person liable for the tax. The comptroller believes that unpaid tax, penalty, and interest may be lawfully collected from a purchaser taking delivery off the premises and whenever the gas is purchased for resale.

Lone Star also commented that the proposal preamble and the fiscal impact and public benefit statements do not comply with the requirements of the Administrative Procedures and Texas Register Act. Lone Star believes that contrary to the preamble, the new section will cause improper reporting by gas purchasers.

The comptroller has had several meetings with representatives from the gas industry and is convinced that because of contract carriage being engaged in by most pipelines, it is impossible for first purchasers to properly report their transactions with producers in most cases whenever delivery is made to the purchaser off the premises. If these purchasers are not required to report there can be no improper reporting by purchasers.

Lone Star strenuously disagrees with the published fiscal impact statement and enumerates eight areas of impact on either Lone Star or its gas suppliers. The first area addresses the need for notification by Lone Star to its gas suppliers and the need for some contract amendments in order to authorize producers to remit tax instead of Lone Star. The comptroller believes that there never was a statutory requirement for purchasers to remit tax on gas purchased from producers making delivery off the premises, and Lone Star's decision to do so was made by Lone Star. Lone Star's second contention is that many small producers have never remitted taxes and will incur added expense to set up the services necessary to pay taxes. According to the comptroller's records, very few natural gas producers have paid no tax in the past. Lone Star's third, fourth, fifth, and sixth contentions concern the volume of inquiries that will result from the reporting changes; computer changes that will be required; shifting the tax burden for certain royalty owners to the operators; and, additional administrative work for Lone Star. The comptroller believes that these do not create a significant fiscal impact for state or local government or for small businesses. Lone Star's seventh contention is

that it will be forced to conduct a complete rewrite of all severance tax reporting systems in a time frame that puts the reliability of the reported information in jeopardy. The comptroller believes that Lone Star was given sufficient notice of reporting changes. Lone Star's eighth contention is that it is now prohibited from protecting itself from audit assessments and deficiency notices will increase substantially. The comptroller believes that this is not a significant fiscal impact for state or local government or for small businesses.

Finally, Lone Star believes that the proposed modifications in reporting requirements do not constitute a public benefit. The comptroller does believe that the proposed modifications will result in a public benefit, since the current gas marketing trend is for producers to sell directly to the end users of the gas. Removing a reporting requirement imposed upon the end user, who has no detailed knowledge as to the original source of the gas, results in a public benefit.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.12. *Purchaser and/or Processor Reporting Requirements.*

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

(1) First purchaser—Any person purchasing gas and/or condensate from a producer.

(2) Processor—Any person processing gas, under contract or other arrangement with a producer, for the purpose of extracting liquid hydrocarbons or other products from the gas.

(b) Persons required to file the purchaser/processor report.

(1) All first purchasers taking delivery of gas on the lease from which the gas was produced must file the purchaser/processor report. All first purchasers of condensate must file the purchaser/processor report.

(2) All processors processing gas and taking delivery on the lease from which the gas was produced must file the purchaser/processor report.

(c) Information required to be reported.

(1) The first purchaser must report the following:

(A) the name of the operator of the lease, unless the purchase is being made from an interest owner taking in-kind, in which case the name of the interest owner shall be reported;

(B) the name of the lease;

(C) the volume purchased;

(D) the entire value paid to the

producer excluding severance tax reimbursement; and

(E) the value upon which the purchaser remits tax.

(2) The processor must report the following:

(A) the name of the operator of the lease, unless gas is being processed for an interest owner taking in-kind, in which case the name of the interest owner shall be reported;

(B) the name of the lease;

(C) the total volume processed;

(D) the entire value, excluding severance tax reimbursement, paid to the producer by the processor for the gas stream processed;

(E) the value upon which the processor remits tax; and

(F) if products are being taken in-kind by the producer.

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 23, 1987.

TRD-8709299 Bob Bullock
Comptroller of Public
Accounts

Effective date: November 12, 1987
Proposal publication date: August 25, 1987
For further information, please call
(512) 463-4004.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 8. Home Energy Assistance Program Program Requirements

★ 40 TAC §§8.2, 8.5, 8.6

The Texas Department of Human Services (DHS) adopts amendments to §§8.2, 8.5, and 8.6, without changes to the proposed text published in the September 15, 1987, issue of the *Texas Register* (12 Tex-Reg 3209).

The amendments provide for changes being made in the 1988 Home Energy Assistance Program (HEAP) winter program.

The amendments delete the medical need eligibility criteria and add housing authorities as payees of HEAP warrants for subsidized housing residents.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with

the authority to administer public 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 26, 1987.

TRD-8709366 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 1, 1988
Proposal publication date: September 15, 1987
For further information, please call
(512) 450-3765.



Chapter 10. Family Self-support Services Job Search Services

★ 40 TAC §§10.2401-10.2418

The Texas Department of Human Services (DHS) adopts the repeal of §§10.2401-10.2418, without changes to the proposed text published in the September 22, 1987, issue of the *Texas Register* (12 TexReg 3320).

The repeals are necessary because the Board of Human Services has determined that the department should develop and evaluate more effective approaches to assist clients to obtain employment rather than continuing the current Vendor Job Search Program.

The repeals provide the department with the opportunity to reexamine its approach to providing services in a manner that is consistent with and takes advantage of proposed changes in federal law related to work programs.

No comments were received regarding the proposal.

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public 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 26, 1987

TRD-8709367 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

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Proposal publication date: September 22, 1987
For further information, please call
(512) 450-3765.



Chapter 16. ICF/SNF Medical Review and Evaluation

★ 40 TAC §§16.7101-16.7103 and §16.9801

The Texas Department of Human Services (DHS) adopts amendments to §§16.7101-16.7103 and 16.9801. The amendment to §16.7103 is adopted with changes to the proposed text published in the July 14, 1987, issue of the *Texas Register* (12 Tex-Reg 2283). The amendment to §§16.7101, 16.7102, and 16.9801 are adopted without changes to the proposed text, and will not be republished.

The amendments delete material that is no longer applicable and to clarify certain provider responsibilities.

The amendments function by deleting the option for in-house (facility-based) utilization-review committees in intermediate-care and skilled-nursing (ICF/SNF) facilities and by specifying providers' responsibilities for maintaining private-pay residents' medical records in a manner that meets utilization-review requirements.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§16.7103. Utilization Review Plan.

(a) Professionally developed written criteria are used to evaluate the necessity for continued stay. Criteria are based on current regional health care delivery norms and are developed and maintained by the single state agency.

(b) Plan objectives:

(1) To promote high quality recipient care that meets the recipient's needs.

(2)—(5) (No change.)

(c) Long-term care unit, utilization review committee.

(1)—(3) (No change.)

(d) Requirements of the review process. A continued-stay review is the determination of the need for continuing nursing facility care and a re-evaluation of the established level-of-care.

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

(3) Continued-stay reviews are the responsibility of the long-term care unit. Reviews are based on facility documentation required by the Texas Department of Human Services. The continued-stay review is done every 30 days for the first 90 days and every 90 days thereafter for skilled-care recipients and every 180 days for intermediate-care recipients.

(4) Long-term care unit utilization reviews:

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

(5) Continued-stay reviews are initiated by facility staff if the recipient's condition has significantly improved or

worsened. If a substantial change in the medical plan of care is indicated, a new level of care is required, based on an evaluation of the recipient's current medical needs. This level-of-care establishes a new continued-stay date.

(6) Continued-stay reviews are submitted by facility staff to the long-term care unit no later than the day after the expiration of the current level of care, and these reviews establish a new continued-stay effective date.

(7) If the recipient is discharged or transferred to another section of the facility, the administrator of the facility must submit, within 72 hours, a patient transaction notice showing the change to the long-term care unit. The administrator must include the recipient's post-discharge address, if known, on the patient transaction notice. If the recipient moves to another Title XIX facility or is readmitted to the same Title XIX facility (ICF II, ICF, SNF, or ICF-MR); the administrator of the admitting facility must initiate a level-of-care assessment for admission (which includes current certification by a physician) when:

(A)-(E) (No change.)

(8) The Texas Department of Human Services (DHS) does not make vendor payment when a level of care expires. A provider is not entitled to payment for services rendered between the expiration date and the new effective date of a recipient's level of care. Vendor payment made by DHS for that period is subject to recoupment.

(9) If more than 30 days elapse between the effective dates of a facility's contract cancellation and new contract, the facility must initiate a level-of-care assessment for admission for recipients who have remained in the facility during the noncontracted period.

(10) If the long-term care unit nurse determines that the written criteria for continued stay are not met, the nurse's decision is reviewed by the long-term care unit physician.

(A) If the physician agrees with the decision, the attending physician is notified within two workdays and allowed an opportunity to present his views and any additional information about the recipient's need for continued stay. This notification must be documented. If the long-term care unit physician performs the continued-stay review instead of the long-term care unit nurse and finds that the continued stay is not necessary, he may notify the attending physician directly.

(B) (No change.)

(C) If the attending physician contests the findings of the committee or sub-group, or those of the physician who performed the continued-stay review, or if he presents additional information about the need for continued stay, at least one additional physician member of the long-term care unit must review the case. If two physician members determine that the recipient's

stay is not medically necessary or appropriate after considering all the evidence, their determination becomes final. Written notification of this decision must be sent to the attending physician, recipient (or next of kin), facility administrator, and the state office of DHS no later than two days after the decision, and in no event later than three workdays after the end of the assigned continued-stay period.

(D)-(F) (No change.)

(e) Retroactive level-of-care (LOC) determination. Private-pay individuals living in Medicaid-certified nursing facilities who do not receive SSI cash benefits may be eligible for three months prior vendor payments. To ensure that vendor payments begin on the date that an individual's financial resources are exhausted, the potential recipient must have a valid level-of-care and the nursing facility staff should maintain his medical records in compliance with the Medicaid utilization review (UR) requirements.

(1) To be in compliance with UR requirements, potential recipients' medical records must be maintained and reviewed as follows.

(A) The physician's plan of care must be dated no more than 30 days before the date that the facility administrator learned about the patient's application for Medicaid assistance, or before authorization for vendor payment.

(B) The physician's recertifications and plans of care must be maintained and reviewed according to the requirements described in subsection (d)(1) and (2) of this section; §§16.2904—16.2906 of this title (relating to Visit Schedules in SNFs, Visit Schedules in ICFs, and Recertification Requirements); and §16.3903(b) of this title (relating to Content).

(2) If a patient is found to be otherwise eligible for vendor payments for all or part of the three months prior to the date of his application for Medicaid assistance, facility staff may use either of the options described in subparagraphs (A) and (B) of this paragraph.

(A) When the facility administrator learns about the patient's need for Medicaid assistance, facility staff submit a level-of-care (LOC) assessment form to the local Texas Department of Health/Long Term Care Unit (TDH/LTCU) requesting a preadmission LOC evaluation. The preadmission LOC must be updated every 30 days until the patient's financial eligibility is established.

(B) If a patient's preadmission LOC has not been maintained as described in subparagraph (A) of this paragraph and DHS Medicaid Eligibility staff notify the facility about an applicant's potential eligibility for all or part of the three-month-prior coverage, facility staff must review the applicant's medical record to ensure that it meets the UR requirements and submit a LOC assessment form for the retroactive period. Facility staff must ensure that the

form:

(i) indicates potential eligibility for Medicaid;

(ii) clearly identifies, in the form's comment section, the applicable retroactive period(s) for which payment is requested; and

(iii) includes, in the form's comment section, a statement of certification that the applicant required ICF or SNF services during the applicable period(s). This statement must be initialed by the attending physician.

(3) If an applicant meets all other eligibility criteria for three-months-prior coverage, DHS makes retroactive vendor payments according to the section of the facility in which the recipient is physically located and according to:

(A) the assigned LOC on the preadmission LOC assessment form submitted by the facility as described in paragraph (2)(A) of this subsection; or

(B) the assigned LOC for the period indicated on the second LOC assessment form submitted by the facility as described in paragraph (2)(B) of this subsection.

(4) DHS makes retroactive vendor payments for only those months during which physician-certification, plan-of-care, and level-of-care requirements are met. The LTCU nurse verifies, during the first on-site visit after establishment of any retroactive level of care, that the applicant's record includes the physician's certification, recertification, and plans of care, and that the plans were reviewed as required during the applicable period(s).

(5) The effective date of the new level-of-care for the retroactive period of eligibility is the first day of the earliest month in which the applicant qualified for a level of care.

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

Issued in Austin, Texas, on October 23, 1987

TRD-8709315

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date. November 30, 1987
Proposal publication date. July 14, 1987
For further information, please call
(512) 450-3765.

Support Documents

★ 40 TAC §16.9801

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provide the department with the authority 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 23, 1987.

TRD-8709314 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: November 30, 1987
Proposal publication date: July 14, 1987
For further information, please call
(512) 450-3765.



Chapter 41. Utilization Review Level-of-care Criteria

★40 TAC §41.803

The Texas Department of Human Services (DHS) adopts the repeal of §41.803 without changes to the proposed text published in the July 14, 1987, issue of the *Texas Register* (12 TexReg 2286). The repeal deletes material no longer applicable because of the recent separation of the continued-stay review and inspection-of-care functions as performed by staff of the Texas Department of Health/Long Term Care Unit. The repeal functions by removing material that is no longer necessary.

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 provide the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the section 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 30, 1987.

TRD-8709316 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: November 30, 1987
Proposal publication date: July 14, 1987
For further information, please call
(512) 450-3765.

State Board of Insurance Exempt Filings

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

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

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

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

The State Board of Insurance has adopted on an emergency basis amendments to the *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements III* (hereinafter referred to as the Texas Automobile Manual) and amendments to the manual entitled *Standard Provisions for Automobile Policies* (June 1, 1981, edition).

The state board had previously approved for use in Texas effective November 1, 1987, new forms for a business auto coverage part, a truckers coverage part, and for a garage coverage part, each of which is to be used in conjunction with common policy conditions, a declarations page and a mandatory endorsement to be utilized to conform the Insurance Services Office forms to Texas usage. In conjunction with these changes, the board had approved, effective November 1, 1987, extensive changes to the Texas Automobile

Manual to accommodate the manual to use with the new policy forms. The purpose of these amendments was to accomplish the editing process.

The following rules of the Texas Automobile Manual have been amended: Rule 11.C., Rule 34.B., and Rule 74.A.4. These changes are editorial in nature. Endorsement TE OO 31A has been adopted to provide a means by which either split limits of liability or a combined single limit of liability may be afforded.

Endorsement TE 99 04A has been amended. The change is editorial in nature. The increased limits tables, conversion tables, and factors have been adopted. In addition, the symbol and identification pages and pages containing various endorsements have been adopted for the Texas Automobile Manual.

Current rates and factors previously approved by the board have been adopted for the Texas Automobile Manual. The rate pages have been converted to 20/40/15 limits of liability and appropriate combined limits. The rates and factors are based on those currently in use and do not represent changes in the rates to be charged for any coverages.

The *Standard Provisions for Automobile Policies* (June 1, 1981, edition) has been amended to include the changes as noted in the endorsement section for TE OO 30A, a change in reference notes to add Item 10, changes in pages 94, 102, 106, and 110 to provide an optional schedule, and a change in page 96 to add an optional display for medical payments. These amendments are effective on an emergency basis under the Insurance Code, Article 5.96, §(l), at 12:01 a.m. on November 1, 1987, and remain effective on an emergency basis until suspended by amendments adopted under Board Order 51680.

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 26, 1987.

TRD-8709371 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 1, 1987
For further information, please call
(512) 463-6327.



The State Board of Insurance has adopted on an emergency basis amendments to the *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements III* (hereinafter referred to as the Texas Automobile Manual) and amendments to the manual entitled *Standard Provisions for Automobile Policies* (June 1, 1981, edition).

The state board had previously approved for use in Texas effective November 1, 1987, new forms for a business auto coverage part, a truckers coverage part, and for a garage coverage part, each of which is to be used in conjunction with common policy conditions, a declarations page and a mandatory endorsement to be utilized to conform the Insurance Services Office forms to Texas usage. In conjunction with these changes, the board had approved, effective November 1, 1987, extensive changes to the Texas Automobile Manual to accommodate the manual to use with the new policy forms. The purpose of these amendments was to accomplish the editing process.

The following rules and indexes of the Texas Automobile Manual have been amended: Rule 7.B., Rule 11., Rule 13., Rule 24., Rule 37., Rule 42.G., Rule 44., Rule 48., §II Endorsement Index, Rule 57., Rule 58.III.B., Rule 59., Rule 73.A.2., Rule 74., Rule 75.I., Rule 76., Rule 77., Rule 79., Rule 80.II., §IV Endorse-

ment Index, Rule 86.D.3.b.(3), Rule 125. Cancellation Tables, Rule 126., Rule 135., Rule 136., Rule 138., and Rule 139.A.2.e.(2). These changes are editorial in nature.

Rule 99. has been added to the Texas Automobile Manual.

The Texas Automobile Manual endorsement supplement, §§A, B, and C, have been amended. These proposed changes are editorial in nature. The Texas Automobile Manual endorsement index has been amended to reflect the proposed changes in the endorsement section of the Texas Automobile Manual. These changes are editorial in nature.

The following endorsements contained in the Texas Automobile Manual have been amended: 561B., 562A., 583, IL 00 21, TE 00 30A, TE 03 01A, TE 04 07A, TE 20 34A, TE 20 35A, TE 23 15, TE 23 17, TE 23 20A, TE 23 26A, TE 24 05A, TE 99 17A, TE 99 26A, TE 99 27A, TE 99 76A, and TE 99 81A. The changes are editorial in nature.

Endorsement TE 99 83A has been adopted to implement the coverage in Rule 24.D., Endorsements TE 99 84A, TE 99 85A, and TE 99 86A have been adopted to implement the coverages in Rule 99., and Endorsement 575. has been added as a result of prior adoption in a hearing held on December 3, 1986.

The *Standard Provisions for Automobile Policies* (June 1, 1981, edition) has been amended to include the changes as noted in the endorsement section for TE 00 30A, a change in reference notes for policy forms and a change in Special Instructions Number 6.

These amendments are effective on an emergency basis under the Insurance Code, Article 5.96, §(i), at 12:01 a.m. on November 1, 1987, and remain effective on an emergency basis until suspended by amendments adopted under Board Order 51584.

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 26, 1987.

TRD-8709370 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 1, 1987
For further information, please call
(512) 463-6327.



The State Board of Insurance has adopted amendments to the *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements III* (hereinafter referred to as the Texas Automobile Manual) and amendments to the manual entitled *Standard Provisions for Automobile Policies* (June 1, 1981, edition).

The state board had previously approved for use in Texas effective November 1, 1987, new forms for a business auto coverage part, a truckers coverage part, and for a garage coverage part, each of which is to be used in conjunction with common policy conditions, a declarations page and a mandatory endorsement to be utilized to conform the Insurance Services Office forms to Texas usage. In conjunction with these changes, the board had approved, effective November 1, 1987, extensive changes to the Texas Automobile Manual to accommodate the manual to use with the new policy forms. The purpose of these amendments was to accomplish the editing process.

The following rules of the Texas Automobile Manual have been amended: Rule 11.C., Rule 34.B., and Rule 74.A.4. These changes are editorial in nature. Endorsement TE 00 31A has been adopted to provide a means by which

either split limits of liability or a combined single limit of liability may be afforded.

Endorsement TE 99 04A has been amended. The change is editorial in nature. The increased limits tables, conversion tables, and factors have been adopted. In addition the symbol and identification pages and pages containing various endorsements have been adopted for the Texas Automobile Manual.

Current rates and factors previously approved by the board have been adopted for the Texas Automobile Manual. The rate pages have been converted to 20/40/15 limits of liability and appropriate combined limits. The rates and factors are based on those currently in use and do not represent changes in the rates to be charged for any coverages.

The *Standard Provisions for Automobile Policies* (June 1, 1981, edition) has been amended to include the changes as noted in the endorsement section for TE 00 30A, a change in reference notes to add Item 10, changes in pages 94, 102, 106, and 110 to provide an optional schedule and a change in page 96 to add an optional display for medical payments. These amendments are effective 15 days after notice of their adoption appears in the *Texas Register*.

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

Issued in Austin, Texas, on October 26, 1987.

TRD-8709372 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 15, 1987
For further information, please call
(512) 463-6327.



Open Meetings

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

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

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

Texas Adult Probation Commission

Tuesday, November 3, 1987, 9:30 a.m. The Advisory Committee on Probation Management of the Texas Adult Probation Commission will meet in Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda, the committee will introduce guests; discuss minutes; consider mission and objectives; action plans; approve budget; hear subcommittee reports; and set date and site of next meeting.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188

Filed: October 23, 1987, 11:40 a.m.
TRD-8709281



Texas Department of Agriculture

Wednesday, November 11, 1987, 9 a.m. The Texas Department of Agriculture will meet in the Ninth Floor Conference Room, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will receive public comment regarding proposed amendments to §7.8 of the department's pesticide regulations and proposed amendments to §11.7 of the department's herbicide regulations regarding dealer license fees.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: October 26, 1987, 3:58 p.m.
TRD-8709396

Wednesday, November 11, 1987, 1 p.m. The Texas Department of Agriculture will meet in the Ninth Floor Conference Room, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will receive public comment regarding proposed amendments to §7.17 of the department's pesticide regulations regarding expiration and renewal of pesticide applicator licenses.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: October 26, 1987, 3:58 p.m.
TRD-8709382

State Banking Board

Thursday, November 12, 1987, 10 a.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will approve previous minutes; consider proposed rules relating to substitute members of the State Banking Board; adopt proposed rules regarding trust company charter applications and withdrawal of emergency rules; consider trust company charter application; discuss House Bill 5 relating to charter application process; consider pending litigation, including Allied Bank Marble Falls v. State Banking Board, et al.; review applications approved, but not yet opened, and other pending applications; and discuss changes to open meetings statute.

Contact: Jorge A. Gutierrez, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: October 22, 1987, 11:53 a.m.
TRD-8709245



Texas Cosmetology Commission

Monday, October 26, 1987, 9:30 a.m. The Texas Cosmetology Commission met in emergency session at the Wyndham Hotel South, 4140 Governor's Row, Austin. According to the agenda, the commission met in executive session to interview prospective executive directors. The emergency status was necessary because the urgent need to fill this position requires immediate consideration.

Contact: Janis Rebold, 1111 Rio Grande, Austin, Texas 78711, (512) 463-5542.

Filed: October 22, 1987, 12:18 p.m.
TRD-8709248



Texas Education Agency

Thursday, November 12, 1987, 1:30 p.m. The Committee of the Whole for the State Board of Insurance, Texas Education Agency, will meet in Room 1-104, William B.

Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will conduct a public hearing on textbooks bid for adoption, in response to Proclamation 63. In order to appear and be heard at this hearing, a person had to appear at the July 13-15 hearings or have filed official written comments in June. To request to appear at this public hearing, a person must have submitted a written request to appear at the public hearing and listed the books to be addressed. In accordance with Proclamation 63, approved by the State Board of Education on March 8, 1986, the written request must have been received on or before October 23, 1987, at 5 p.m.

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

Filed: October 26, 1987, 1:56 p.m.
TRD-8709385



Employees Retirement System of Texas

Tuesday, November 10, 1987, 8:30 a.m. The Group Insurance Advisory Committee for the Employees Retirement System of Texas will meet in Room 332, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin. According to the agenda, the committee will discuss the prescription drug card plan, and consider other insurance matters.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701-3207, (512) 476-6431, ext. 217.

Filed: October 26, 1987, 3:36 p.m.
TRD-8709390



Firemen's Pension Commission

Thursday, November 5, 1987, 1 p.m. The Administrative Division of the Firemen's Pension Commission will meet in Suite 235, 3910 South IH-35, Austin. According to the agenda, the Board of Trustees for the Senate Bill 411 Pension System, as prescribed by

Texas Civil Statutes, Article 6243e.3, will meet to discuss the pension plan.

Contact: Helen Campbell, Suite 235, 3910 South IH-35, Austin, Texas 78704, (512) 462-0222.

Filed: October 26, 1987, 10:41 a.m.
TRD-8709381



Texas Department of Health

The Texas Board of Health of the Texas Department of Health will meet in the Howard Johnson Plaza Hotel, One South Main, Laredo. Rooms, times, dates, and agendas follow.

Saturday, October 31, 1987, 1 p.m. The Crippled Children's Services and Maternal and Child Health Committee will consider proposed rules concerning the Crippled Children's Services program; approve the Cardiovascular Advisory Committee recommendation on the Texas Children's Hospital; discuss Crippled Children's Services (CCS) Cardiovascular Center approval guidelines; annual report for cardiovascular centers; review appointment to the CCS general advisory committee; overview of the Children's Outreach Heart program, Children's Heart Institute of Texas; discuss CCS case management: request for proposal for expanded M&CH block grant; CCS task forces on medical condition coverage; CCS workshop November 12-13, 1987; and hear report on the CCS ambulatory care task force.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:07 p.m.
TRD-8709339

Saturday, October 31, 1987, 1 p.m. The Environmental Health Committee will meet in the Americas East Room (Lower Lobby) to consider emergency and proposed rules concerning representation and readoption pertaining to Type IV landfills; final adoption of rule concerning memorandum of understanding among the Texas Department of Health, the Texas Water Commission, and the Railroad Commission of Texas regarding oil and gas waste; discuss revised "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems"; proposed rule to incorporate a hierarchy of waste management methods in regional and local planning guidelines; discuss revised "Rules and Regulations for Public Water Systems"; emergency and proposed rules, "Fees for Asbestos Services"; and request from Hancor, Inc.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:09 p.m.
TRD-8709334

Saturday, October 31, 1987, 3:30 p.m. The Hospital Committee will meet in the Americas West Room (Lower Lobby) to consider final adoption of amendments to the Hospital Licensing Standards.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:10 p.m.
TRD-8709333

Saturday, October 31, 1987, 4 p.m. The Disease Control Committee will meet in the Americas Room (Lower Lobby) to discuss defining conditions for possible exposure of health care workers to human immunodeficiency virus (continuation from September Texas Board of Health meeting); define protocols for mandatory testing for HIV antibodies in the case of persons indicted for sexual assault (continuation from September Texas Board of Health meeting); and final rules for the prevention and control of communicable disease.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:08 p.m.
TRD-8709338

Saturday, October 31, 1987, 4 p.m. The Nursing Homes Committee will meet in the Americas East Room (Lower Lobby) to discuss memorandum of understanding with the Texas Department of Health and the joint accreditation of hospitals; letter from Dr. Oliver R. Smith, Jr., concerning inclusion of chiropractic referral list under 145.16 of the minimum licensing standards for nursing homes.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:08 p.m.
TRD-8709337

Saturday, October 31, 1987, 5 p.m. The Personnel Committee will meet in the Americas East Room (Lower Lobby) to consider an appointment to the Lay Midwifery Board; Crippled Children's Services general advisory committee; state primary health care services advisory committee; and the kidney health program advisory committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:09 p.m.
TRD-8709335

Saturday, October 31, 1987, 5 p.m. The Alternate Care Committee will meet in the Americas West Room (Lower Lobby) to consider proposed rules concerning the increase of fees for all licensed speech-language pathologists and audiologists; proposed rules concerning reduction of fees for massage therapy registration; and final adoption of rules concerning massage therapy registration.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:08 p.m.
TRD-8709336

Sunday, November 1, 1987, 7:30 a.m. The Executive Committee will meet in the Presidential Suite to consider senior staff efficiency evaluation; and use of aircraft pooling board.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:11 p.m.
TRD-8709332

Sunday, November 1, 1987, 8:30 a.m. The Texas Board of Health will meet in Window's North to approve minutes; hear commissioner's report on AIDS update; approve board resolutions; consider health issues along the U.S.-Mexico border; hear committee reports: alternate care; Crippled Children's Services and Maternal and Child Health; disease control; emergency and disaster; environmental health; hospitals; nursing homes; personnel; public health promotion; legislative; and announcements and comments (requiring no board action).

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1987, 4:07 p.m.
TRD-8709340



Texas Industrial Accident Board

Monday, October 26, 1987, 9:30 a.m. The Texas Industrial Accident Board met in Room 107, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda summary, the board approved minutes; set maintenance tax for calendar year 1987; set board policy for awarding medical charges prior to an award on its merits; adopted pharmaceutical arbitration bylaws; contracted with legislative council on joint workers' compensation study; and reviewed and discussed board activities. The executive committee met in closed session to consider executive director job description; personnel selection of new prehearing examiner and medical cost containment director; options for additional office space; and reviewed board files.

Contact: Inez "Tippy" Foster, 200 East Riverside Drive, First Floor, Austin, Texas 78704, (512) 448-7960.

Filed: October 22, 1987, 3:22 p.m.
TRD-8709253



State Board of Insurance

The State Board of Insurance met and will meet at 1110 San Jacinto Street, Austin, unless otherwise noted. Dates, times, rooms, and agendas follow.

Monday, October 26, 1987, 9 a.m. The board met in Room 414 in an emergency

revised agenda to consider amendments on an emergency basis under the Texas Insurance Code, Article 5.96(i), of Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements III and Standard Provisions for Automobile Policies (June 1, 1981 edition). The revised agenda was necessary to provide rules and rates for automobile insurance effective at the same time as previously adopted policy forms and endorsements.

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

Filed: October 23, 1987, 3:50 p.m.
TRD-8709323

Tuesday, October 27, 1987, 8:45 a.m. The board met in emergency session in Room 1-110, Joe C. Thompson Conference Center, 26th and Red River, Austin. According to the agenda, the board considered authorization for publication of proposed amendments to 28 TAC 5.4001 on rule concerning the plan of operation of the Texas Catastrophe Property Insurance Association. The emergency status was necessary to provide maximum notice for possible amendment of rule concerning property insurance policies written on a calendar year basis beginning January 1 of each year.

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

Filed: October 26, 1987, 3:54 p.m.
TRD-8709391

Monday, November 2, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9712—Application of L.O.A. Financial Corporation, a Texas corporation, to acquire control of First National Indemnity Company, Cisco, Texas.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 3:55 p.m.
TRD-8709342

Monday, November 2, 1987, 10:30 a.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9713—Application of L.O.A. Financial Corporation, a Texas corporation, to acquire control of First National Indemnity Life Insurance Company, Houston.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 3:57 p.m.
TRD-8709355

Monday, November 2, 1987, 3 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9670—Merger of Tyler Life Insurance Company, Gal-

veston, into Mark H. Hannah Life Insurance Company, Houston.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 3:58 p.m.
TRD-8709354

Tuesday, November 3, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9684—Whether disciplinary action should be taken against Ken Higginbotham who holds a fire and casualty local recording agent's license issued by the State Board of Insurance.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 3:58 p.m.
TRD-8709356

Tuesday, November 3, 1987, 10 a.m. The board will meet in Room 414 to discuss the advisory committee on title insurance forms; applicability of Open Meetings Act to notices and meetings of the board; board orders on several different matters as itemized on the complete agenda; will decide on appeal of American Legion Post Number 291 from action of Texas Catastrophe Property Insurance Association; consider personnel and litigation matters from the fire marshal; personnel matters from statistical and rate development; personnel and medicare supplement insurance matters from research and information services; personnel and litigation matters from the commissioner; discuss a letter from the state auditor concerning operations; letter from the attorney general concerning occupational safety; letter from Senator Gene Green concerning 800 telephone service; HMO solvency surveillance committee; advisory committee to draft rules for licensure of third party administrators.

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

Filed: October 26, 1987, 2:53 p.m.
TRD-8709389

Tuesday, November 3, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9621—Application of Joseph A. Martinez, San Antonio, for a Group I, legal reserve life, health, and accident insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 3:59 p.m.
TRD-8709353

Wednesday, November 4, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9702—Merger of Republic National Life Insurance Company, Houston, into American General Life Insurance Company, Houston.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 3:59 p.m.
TRD-8709345

Thursday, November 5, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9583—Request of Income Builders Sales Corporation, Houston, to withdraw deposit held by the state treasurer pursuant to the Insurance Code, Article 21.07-1, §4(d)(3)(C).

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 4:00 p.m.
TRD-8709344

Thursday, November 5, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9504—Approval of amendments to Article of Agreement of Republic of Texas Lloyds, Dallas.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 4:00 p.m.
TRD-8709343

Friday, November 6, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9688—Whether disciplinary action should be taken against Armando Govea, Weslaco, who holds a Group II, health and accident insurance agent's license issued by the State Board of Insurance.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 23, 1987, 4:00 p.m.
TRD-8709341



Texas National Guard Armory Board

Saturday, October 31, 1987, 9 a.m. The Texas National Guard Armory Board will meet in the Conference Room, Building 64, Camp Mabry, Austin. According to the agenda, the board will approve minutes of previous meeting; consider personnel matters (grievance of roxie faires); hear an update on infra-red heater litigation; consider renewal of Camp Bowie grazing lease; and establish the date for the next meeting.

Contact: Sandra Hille, P.O. Box 5218, Austin, Texas 78763, (512) 451-6394.

Filed: October 23, 1987, 1:45 p.m.
TRD-8709290



Pan American University

The Board of Regents of Pan American University will meet on Thursday, November 5, 1987, in the Boardroom, Administration Building, Edinburg. Times, committees, and agendas follow.

10 a.m. The Building and Grounds Committee will consider Hidalgo County Easement request; and informational items (action, if any, shall be limited to approval of an item for the board's next agenda).

Contact: Miguel A. Nevarez, 1201 West University Avenue, Edinburg, Texas 78539, (512) 381-2101.

Filed: October 23, 1987, 1:46 p.m.
TRD-8709296

10:15 a.m. The Finance Committee will consider budget changes; and informational items (action, if any, shall be limited to approval of an item for the board's next agenda).

Contact: Miguel A. Nevarez, 1201 West University Avenue, Edinburg, Texas 78539, (512) 381-2101.

Filed: October 23, 1987, 1:46 p.m.
TRD-8709295

10:30 a.m. The Development Committee will consider acceptance of Brownsville Foundation Grant; acceptance of Gift-in-Kind from Tenneco; and informational items (action, if any, shall be limited to approval of an item for the board's next agenda).

Contact: Miguel A. Nevarez, 1201 West University Avenue, Edinburg, Texas 78539, (512) 391-2101.

Filed: October 23, 1987, 1:46 p.m.
TRD-8709294

10:45 a.m. The Brownsville Committee will consider approval for Bachelor of Science Physical Education degree; and the president's informational items (action, if any, shall be limited to approval of an item for the board's next agenda).

Contact: Miguel A. Nevarez, 1201 West University Avenue, Edinburg, Texas 78539, (512) 381-2101.

Filed: October 23, 1987, 1:47 p.m.
TRD-8709293

11 a.m. The Academic Affairs Committee will consider a revision to the Academic Committee and Councils' policy (Admissions Committee); and informational items (action, if any, shall be limited to approval of an item for the board's next agenda). The executive committee will meet in closed session to discuss personnel matters; employment of faculty (new hires); grievance appeal of Dr. Daniel Lee; requests for professor emeritus; pending litigation; Friedrichs v. PAU; and PAU v. BFW Construction Company, et al.

Contact: Miguel A. Nevarez, 1201 West University Avenue, Edinburg, Texas 78539, (512) 381-2101.

Filed: October 23, 1987, 1:47 p.m.
TRD-8709291

11:15 a.m. The Board of Regents will consider reports of the Buildings and Grounds, Finance, Development, Academic Affairs Committees, and Committee of the Whole; approve executive session agenda of the October 6, 1987, meeting; discuss, consider, and act on board committee reports and recommendations; discuss, consider, and act on resolution for former regent Kenton E. Schaefer; resolution for former regent Ramon Garcia; president's informational items (action, if any, shall be limited to approval of an item for the board's next agenda); and will set date for the next meeting.

Contact: Miguel A. Nevarez, 1201 West University Avenue, Edinburg, Texas 78539, (512) 381-2101.

Filed: October 23, 1987, 1:49 p.m.
TRD-8709292

Board of Pardons and Paroles

Monday, October 26, 1987, 9:30 a.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board revised their agenda to include discussion of potential litigation. The emergency status was necessary because board members cannot adjust their schedules to meet at any other reasonable time.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: October 23, 1987, 3:56 p.m.
TRD-8709326

Monday-Friday, November 2-6, 1987, 1:30 p.m. daily, except 11 a.m. Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: October 23, 1987, 10:32 a.m.
TRD-8709267

Tuesday, November 3, 1987, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than out-of-country conditional pardons), including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commu-

tations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: October 23, 1987, 10:29 a.m.
TRD-8709268

Tuesday, November 3, 1987, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider and act on minutes for the October 6, 1987, meeting; pre-parole transfer committee report; pre-parole transfer to residence with electronic monitoring committee report; request for bids for electronic monitoring; consider board imposed special conditions; NTO on Senate Bill 215 cases; substitution on parole review panels; attorney general's opinion regarding full pardon and/or restoration of full civil rights of citizenship; procedures for distribution of gate money; review of issuance of warrants and/or summons; review of tentative parole month procedures; hear executive director's report; public input/comments; and promotional procedures pilot project.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: October 26, 1987, 4:09 p.m.
TRD-8709393

State Pension Review Board

Monday, November 9, 1987, 10 a.m. The State Pension Review Board will meet in the Senate Reception Room, Capitol Building, Austin. According to the agenda, the board will discuss old and new business; interim study projects; and appoint a nominating committee for 1988 pension review board of officers.

Contact: Betty J. Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: October 22, 1987, 1:08 p.m.
TRD-8709249

Texas State Board of Examiners of Psychologists

Wednesday-Saturday, November 4-7, 1987, 8:30 a.m. The Texas State Board of Examiners of Psychologists will meet at the Wyndham Hotel, 9821 Colonnade Street, San Antonio. According to the agenda, the board will consider minutes, open letters, proposed rules, interviews, hearings, complaints, supervision guidelines, budget, legislative matters, applications, and meetings with the Texas Psychological Association.

Contact: Patti Bizzell, 1300 East Anderson Lane, Austin, Texas 78752, (512) 835-2036.

Filed: October 26, 1987, 9:01 a.m.
TRD-8709376



Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Monday, November 2, 1987, 9 a.m. The Extended Area Service (EAS) Advisory Committee will discuss EAS issues.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1987, 2:39 p.m.
TRD-8709310

Monday, November 2, 1987, 1:30 p.m. The Hearings Division will consider Docket 7756—Petition of Brazos Electric Power Cooperative, Inc. to lower fixed fuel factor and request for interim order.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1987, 2:39 p.m.
TRD-8709309

Monday, November 2, 1987, 1:30 p.m. The Hearings Division will consider Docket 7754—Application of South Texas Electric Cooperative, Inc. et al, for waiver of certain obligations under Rule 23.66(d).

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1987, 2:40 p.m.
TRD-8709311

Tuesday, November 3, 1987, 9 a.m. The Hearings Division will consider Dockets 7720, 7677, and 7706.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1987, 2:43 p.m.
TRD-8709387

Tuesday, November 3, 1987, 11 a.m. The Administrative Division will discuss minutes; report, discuss, and act regarding budget and fiscal matters. The executive committee will meet in closed session regarding personnel and litigation matters; and reconvene for decisions on matters considered in executive session; and set time and place for next meeting.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1987, 2:43 p.m.
TRD-8709386

Wednesday, November 4, 1987, 9 a.m. The Hearings Division will consider Docket 7460—Application of El Paso Electric Company for authority to change rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1987, 2:38 p.m.
TRD-8709322

Friday, November 13, 1987, 10 a.m. The Hearings Division will consider Docket 7361—Application of Rayburn Country Electric Cooperative, Inc., for approval of wholesale rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1987, 2:39 p.m.
TRD-8709320

Tuesday, November 17, 1987, 10 a.m. The Hearings Division will consider Docket 7598—Application of Tri-County Telephone Company to implement mandatory service upgrade, unbundle service connection charges, detariff CPE and inside wire.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1987, 2:39 p.m.
TRD-8709321



Railroad Commission of Texas

Monday, November 2, 1987, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The division will meet for an agenda revision to consider adoption of an amendment on an emergency basis to State-wide Rule 34(h)(3) (16 TAC §3.34) for the State of Texas, Docket 20-91,626, and to consider Oil and Gas Rule 37, Case 103,332—Application of W & W Oil Company (M) for Rule 37 exception for its L.R. Irish lease, well 1, Joaquin (Travis Peak) Field, Shelby County.

Contact: Lisa C. Anderson, Drawer 12967, Austin, Texas 78711, (512) 463-6291.

Filed: October 23, 1987, 3:52 p.m.
TRD-8709324-8709325

Monday, November 2, 1987, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The division will meet to consider various matters falling within the Railroad Commission's Oil and Gas regulatory jurisdiction.

Contact: Tim Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7325.

Filed: October 23, 1987, 11:04 a.m.
TRD-8709277

Monday, November 2, 1987, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet with a revised agenda in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The division will meet to consider investigation of cementing practices of Western Company of North America.

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

Filed: October 23, 1987, 11:03 a.m.
TRD-8709278

Monday, November 2, 1987, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

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

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: October 23, 1987, 11:03 a.m.
TRD-8709270

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: October 23, 1987, 11:01 a.m.
TRD-8709271

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

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6787.

Filed: October 23, 1987, 11:02 a.m.
TRD-8709272

Various matters falling within the Gas Utilities Division's regulatory jurisdiction; will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Railroad Commission may take various actions, including, but not limited to, scheduling an item in its entirety or for particular action at a future time or date.

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

Filed: October 23, 1987, 11:03 a.m.
TRD-8709273

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: October 23, 1987, 11:01 a.m.
TRD-8709275

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

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: October 23, 1987, 11:00 a.m.
TRD-8709276

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 23, 1987, 11:05 a.m.
TRD-8709279

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

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: October 23, 1987, 11:01 a.m.
TRD-8709282

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: October 23, 1987, 11:01 a.m.
TRD-8709283

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

Contact: Walter Earl Lillie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

Filed: October 23, 1987, 11:02 a.m.
TRD-8709284

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters; the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Railroad Commission may take various actions, including but not limited to, scheduling an item in its entirety or for particular action at a future time or date.

Contact: Walter Earl Lillie, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 445-1186.

Filed: October 23, 1987, 11:00 a.m.
TRD-8709285

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

Contact: C. Tom Clowe, Jr., P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: October 23, 1987, 11:06 a.m.
TRD-8709286

Monday, November 2, 1987, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the division will consider motion for rehearing in the application of Plains Resources, Inc., Docket F-04-114425.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 23, 1987, 11:03 a.m.
TRD-8709280

Monday, November 2, 1987, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will consider and possibly elect a chairman of the Railroad Commission of Texas.

Contact: Walter Earl Lillie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

Filed: October 23, 1987, 11:03 a.m.
TRD-8709269

Monday, November 2, 1987, 9 a.m. The Office of General Counsel of the Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the office will consider and act on the General Counsel's report on division administration, budget, procedures, and personnel matters; including, but not limited to, discussion and/or action on Hufo Oils, et al v. Railroad Commission, C-5937 in the Supreme Court of Texas, Walker Operating Corporation, et al v. Federal Energy Regulatory Commission, U.S. Court of Appeals for the 10th Circuit, 85-2683 and 86-2698 et al in relation to Oil and Gas Docket No. 10-87,017.

Contact: Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 23, 1987, 11:02 a.m.
TRD-8709274

Texas Rehabilitation Commission

Wednesday, November 4, 1987, 9:30 a.m. The Planning and Evaluation Committee of the Texas Planning Council for Developmental Disabilities of the Texas Rehabilita-

tion Commission will meet in Room 302, 118 East Riverside Drive, Austin. According to the agenda, the committee will approve the summary report; discuss the state plan status report, process for public input, fiscal year 1988-1989 budget forecast; consider prioritization of funding activities—recommendations from grantees and public input; and evaluate products.

Contact: Roger Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867.

Filed: October 23, 1987, 1:49 p.m.
TRD-8709297

School Land Board

Tuesday, November 3, 1987, 10 a.m. The School Land Board will meet in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous board meeting; consider schedule and procedures for the April, 1988 oil, gas, and other minerals lease sale; discuss excess acreage applications; coastal public lands—preliminary consideration of lease option request, Packery Channel area, Nueces County; and discuss commercial lease applications, easement applications, lease applications, and pooling applications.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: October 26, 1987, 2:49 p.m.
TRD-8709388

Teacher Retirement System of Texas

Tuesday, November 10, 1987, noon. The Medical Board of the Teacher Retirement System of Texas will meet in the Boardroom, 1001 Trinity Street, Austin. According to the agenda, the board will discuss the files of members who are currently applying for disability retirement and the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1001 Trinity Street, Austin, Texas 78701, (512) 397-6400.

Filed: October 27, 1987, 9:41 a.m.
TRD-8709411

Texas State Technical Institute

Sunday, November 15, 1987, 1 p.m. The Board of Regents, Policy Committee for Texas State Technical Institute, will meet at the Central Administrative Building, TSTI-Waco Campus, Waco. According to the agenda, the committee will review minute orders and reports to the board.

Contact: Theodore A. Talbot, 3801 Campus Drive, Waco, Texas 76706, (817) 799-3611.

Filed: October 26, 1987, 8:59 a.m.
TRD-8709377

Monday, November 16, 1987, 8:30 a.m. The Board of Regents for Texas State Technical Institute will meet in the Boardroom, Administrative Building, TSTI-Systems, Waco. According to the agenda, the board will discuss action on proposed minute orders.

Contact: Theodore A. Talbot, 3801 Campus Drive, Waco, Texas 76706, (817) 799-3611, ext. 3910.

Filed: October 26, 1987, 8:59 a.m.
TRD-8709378



Texas Southern University

Friday, November 6, 1987, 9:30 a.m. The Board of Regents of Texas Southern University will meet in Room 203, Sterling Student Life Center, Texas Southern University, 3100 Cleburne Avenue, Houston. According to the agenda, the board will consider matters relating to financial reporting systems and budget; review fiscal reports from the administration; discuss investments and informational items; construction change orders; payment to architects, contractors, and engineers; authorize and ratify contracts and awards; review on-going construction and current contractual relations; consider personnel actions; and hear a report on the progress of academic activities and programs. The board also will meet in executive session.

Contact: Everett O. Bell, Texas Southern University, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: October 27, 1987, 8:58 a.m.
TRD-8709401



Board of Vocational Nurse Examiners

Monday-Wednesday, November 16-18, 1987, 8 a.m. The Board of Vocational Nurse Examiners will meet at Howard Johnson Plaza Hotel, 7800 North IH-35, Austin. According to the agenda, the board will conduct administrative hearings on Monday and Tuesday, and discuss agreed order/voluntary surrenders, approve minutes, hear the executive director's report, the education report (regarding program matters, program actions, other education division matters, revision of Rules 235.6, 235.7, and 235.13), and consider unfinished and new business (regarding revision of Rules 231.99 and 235.17) on Wednesday.

Contact: Joyce A. Hammer, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

Filed: October 27, 1987, 8:59 a.m.
TRD-8709400

Texas Water Commission

The Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Committees, times, and agendas follow.

Tuesday, November 3, 1987, 10 a.m. The commission will meet in Room 118 for a hearing on TA-5812 of J.H. Strain and Sons, Inc., for a permit to divert and use 30 acre-feet of water for a two year period from the Colorado River, Colorado River Basin, for industrial purposes in Brown County.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 23, 1987, 4:04 p.m.
TRD-8709350

Tuesday, November 3, 1987, 10 a.m. The commission will meet in Room 118 to discuss water district bond issues, bond extension, use of surplus funds, release from escrow, certificates of convenience and necessity matters, proposed water quality permits, amendments and renewals, and forfeiture and cancellation of a portion of a certificate of adjudication.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 23, 1987, 4:03 p.m.
TRD-8709351

Tuesday, November 3, 1987, 2 p.m. The commission will meet in Room 118 to consider a request by Keystone Feedyard for authorization to commence construction of a wastewater disposal facility in Frio County; discuss order assessing administrative penalties and requiring certain actions of Pioneer Aggregates, Inc. (Permit 01406); and consider an order requiring certain actions of Zoccon Corporation (Solid Waste Registration 30702).

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 23, 1987, 4:03 p.m.
TRD-8709352

Wednesday, November 4, 1987, 2 p.m. The commission will meet in Room 118 to consider an emergency order by Brown and Root, Inc., Jefferson County; hear a report and order assessing administrative penalties and requiring certain actions of Big Three Industries Gas, Inc.-Nowso Services (no solid waste registration number); consider W. J. Smith Wood Preserving facility (Solid Waste Registration 31332); and order finding substantial noncompliance and requiring certain actions of the City of Texarkana (Permit 10372-01).

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 23, 1987, 4:05 p.m.
TRD-8709347

Wednesday, November 4, 1987, 2 p.m. The commission will meet in Room 118 to consider a motion requesting the setting of interim

rates in the application of Tawakoni Water Utility Corporation for a water utility rate increase within Hunt, Kaufman, and Van Zandt counties, Docket 7368-R.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 26, 1987, 4:08 p.m.
TRD-8709395

Thursday, November 5, 1987, 9:30 a.m. The Texas Water Well Drillers Board will meet in Room 118 to consider approval of the minutes of the September 10, 1987, meeting, consider the certification of applicants for registration, applications for driller-trainee registration and consider whether to set the following complaints for formal public hearing before the board or for other appropriate legal action: Billy Bruce, George Hazelet, Jimmie T. Hinson, Kenny Hoefling, D. R. Jones, Sr., Charlie Kuhn, Jimmy Madewell, Charles McDowell, Kelvin Miles, Emanuel Miller, Buddy Nelson, Jerry Owens, Fred Paskell, Jr., Charles E. Ryan, and Robert Earl West; and consider staff reports.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 26, 1987, 9:44 a.m.
TRD-8709379

Thursday, November 5, 1987, 10 a.m. The commission will meet in Room 119 to consider the executive director's report on agency administration, policy, budget, procedures, and personnel matters.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 23, 1987, 4:04 p.m.
TRD-8709349

Thursday, November 5, 1987, 1:45 p.m. The Texas Water Well Drillers Board will meet in Room 118 to consider the revocation or suspension of the water well drillers licenses or imposition of an administrative penalty in the following dockets: WWDB-87-0022, Timmie Johnson (License 854W), November 5, 1987, 1:45 p.m.; WWDB-87-0023, Norman Lee Franzina (License 515W), November 5, 1987, 1:45 p.m.; WWDB-87-0024, David Bryce (no license), November 5, 1987, 1:45 p.m.; WWDB-87-0025, L. T. Davis (License 317W), November 5, 1987, 1:45 p.m.; WWDB-87-0026, John Jenkins (License 1146), November 6, 1987, 9:15 a.m.; WWDB-87-0027, Jimmy Madewell (License 1022), November 6, 1987, 9:15 a.m.; WWDB-87-0028, John Spivey (License 1925W), November 6, 1987, 9:15 a.m.; WWDB-87-0029, W. R. Doyle and Jeffrey Rogers (Licenses 02692W and 2303W), November 6, 1987, 2 p.m.; WWDB-87-0030, P.E. Thomas (License 2396), November 5, 1987, 1:45 p.m.; WWDB-87-0017, W. R. Doyle (License 02692W-continuation), November 6, 1987, 10:30 a.m.; and WWDB-87-0018, Charlie A. Kuhn (License 1430W-continuation), November 6, 1987, 10:30 a.m.

Contact: Larry Persky, P.O. Box 13087, Capitol Station, Austin, Texas 78711-3087, (512) 463-8071.

Filed: October 26, 1987, 9:43 a.m.
TRD-8709380

Tuesday, November 10, 1987, 10 a.m. The Office of Hearings Examiner will meet in Room 215 to consider an application of the City of Palestine for a certificate of convenience and necessity in Anderson County and complaints against the City of Palestine by Walston Springs Water Supply Corporation and Pleasant Springs Water Supply Corporation, Dockets 7263-C and 7102-D.

Contact: Cynthia Hayes, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7875.

Filed: October 26, 1987, 4:08 p.m.
TRD-8709394

Friday, November 20, 1987, 10 a.m. The Office of the Hearings Examiner will meet in Room 618 to conduct a public hearing regarding the rate increase of Channel Oaks Water System, Docket 7322-G.

Contact: Marcella Sellers, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7875.

Filed: October 23, 1987, 4:05 p.m.
TRD-8709346

Thursday, December 3, 1987, 9 a.m. The Office of the Hearings Examiner will meet in the City Council Chambers, Stephenville City Hall, 345 Belknap, Stephenville. According to the agenda, the hearings examiner will discuss Michael D. Lloyd, Route 4, Box 192, Dublin, Texas 76446, who has applied to the commission for a permit (Proposed Permit 02922) to authorize the disposal by irrigation of wastewater effluent from a 900 milking head capacity dairy. The dairy operation will generate washdown, flushwater, and stormwater which will be retained in two ponds with a total capacity of 13.97 acre-feet. The wastewater from the ponds is to be used for irrigation on 43 acres of coastal bermuda grass.

Contact: Joe O'Neal, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7875.

Filed: October 22, 1987, 11:39 a.m.
TRD-8709246

Thursday, December 10, 1987, 10 a.m. The Office of the Hearings Examiner will consider Chemical Waste Management, Inc., Highway 73, Port Arthur, Texas 77640, who has applied to the commission for a permit (Proposed Permit HW-50212-001) to authorize the operation of a commercial Class I hazardous and nonhazardous, and Class II nonhazardous industrial solid waste storage and processing facility for wastes received from off-site generators and wastes generated on site. The company also has applied for a compliance plan (Proposed Compliance Plan CP-50212-001) to address groundwater qua-

lity at solid waste management units located on adjacent property owned by the company. The wastes to be managed at this facility include ignitable, EP toxic, corrosive, reactive, and listed hazardous wastes and "PCBs". The industrial solid waste management facility is located on a 15.8 acre tract of land near Port Arthur, Jefferson County, approximately 3.2 miles west of the intersection of State Highway 73 and Taylor Bayou. This location is in the drainage area of Segment 0701 of the Neches Trinity Coastal River Basin.

Contact: Steve Dickman, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7875.

Filed: October 23, 1987, 4:05 p.m.
TRD-8709348

Tuesday, December 15, 1987, 10 a.m. The commission will meet in Room 118 to conduct a public hearing on F. W. "Bert" Wheeler, Number 5160, seeking a permit to authorize maintenance of two existing on-channel reservoirs on Shop Branch of Steele Creek and an unnamed tributary of Steele Creek, tributary of the Navasota River, tributary of the Brazos River, Brazos River Basin for domestic and livestock uses, Robertson County.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512)463-7898.

Filed: October 22, 1987, 11:38 a.m.
TRD-8709244



Regional Agencies Meetings Filed October 22

The Leon County Appraisal District, Board of Directors, met at the Appraisal District Office, Centerville, on October 26, 1987, at 7 p.m. Information may be obtained from Robert Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Wood County Appraisal District, Appraisal Review Board, met in the Conference Room of the Wood County Appraisal District Office, 217 North Main, Quitman, on October 29, 1987, at 9 a.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783.
TRD-8709247



Meetings Filed October 23

The Bandera County Appraisal District, Appraisal Review Board, will meet at the Appraisal District Office, north end of Ninth Street, Bandera, on November 5, 1987, at 9 a.m. Information may be obtained from Larry Reagan, P.O. Box 1119, Bandera, Texas 78003, (512) 796-3039.

The Brown County Appraisal District, Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on November 2, 1987, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Comal Appraisal District, Board of Directors, met at the Appraisal District Office, 430 West Mill Street, New Braunfels, on October 29, 1987, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597.

The Dallas Area Rapid Transit, ART Committee, met at 601 Pacific Avenue, Dallas, on October 27, 1987, at 2:30 p.m., 4 p.m., and 6:30 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Education Service Center Region XV, Board of Directors, met in Conference Room 1, ECS Region XV, 612 South Irene Street, San Angelo, on October 29, 1987, at 1:30 p.m. Information may be obtained from Clyde Warren, ESC Region XV, 612 South Irene Street, San Angelo, Texas 76903, (915) 658-6571.
TRD-8709331

The Lower Colorado River Authority, Energy Operations Committee, met at 3700 Lake Austin Boulevard, Austin, on October 29, 1987, at 9 a.m. Information may be obtained from John E. Bagalay, Jr., 3700 Lake Austin Boulevard, Austin, Texas 78705, (512) 473-3200.

The San Patricio County Appraisal District, Board of Directors, will meet in the Court-house Annex, Sinton, on November 4, 1987, at 2 p.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on November 3, 1987, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The West Central Texas Council of Governments, Executive Committee, met for an agenda revision at 1025 East North 10th, Abilene, on October 28, 1987, at 12:45 p.m. The Big Country Development Corporation and Board of Directors, will meet at Zentner's Daughter, 4358 Sayles, Abilene, on November 12, 1987, at 5:45 p.m. and 6 p.m., respectively. Information may be obtained from Brad Helbert and James K. Compton, 1025 East North 10th, Abilene, Texas 79601, (915) 672-8544.
TRD-8709265



Meetings Filed October 26

The Brazos River Authority, Lake Management Committee and Properties Committee, will meet in the Lake Supervisor's Office, Possum Kingdom Lake, on October 30, 1987, at 10 a.m. and 11 a.m., respectively. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555.

The Burnet County Appraisal District, Appraisal Review Board, will meet at 215 South Pierce Street, Burnet, on November 5, 1987, at 9 a.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Callahan County Appraisal District, Board, will meet at the Appraisal District Office, First Floor, Callahan County Courthouse, Baird, on November 3, 1987, at 7 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1265.

The Central Appraisal District of Johnson County, Board of Directors, met in emergency session at 109 North Main Street, Cleburne, on October 29, 1987, at 9 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3987.

The Central Texas Council of Governments, Transportation Planning Committee, will meet in the CTCOG Classroom, 302 East

Central, Belton, on November 5, 1987, at 10 a.m. Information may be obtained from Gerald B. Bunker, P.O. Box 729, Belton, Texas 76513, (817) 939-1801.

The Grayson Appraisal District, Appraisal Review Board, will meet at 205 North Travis, Sherman, on November 6, 1987, at 9 a.m. Information may be obtained from Deborah Reneau, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

The High Plains Underground Water Conservation District Number 1, Board of Directors, will meet in the Conference Room, 2930 Avenue Q, Lubbock, on November 2, 1987, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Lower Rio Grande Valley Development Council, Executive Committee, will meet in the Emerald Room, Richard's Sun Valley, 1802 South 77 Sunshine Strip, Harlingen, on October 30, 1987, at noon. Information may be obtained from Robert A. Chandler or Kenneth N. Jones, 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481.

The South Texas Development Council, Board of Trustees and Board of Directors, met in the Commissioner's Courtroom, Courthouse Annex, Zapata, on October 29, 1987, at 10:30 a.m. and 11 a.m., respectively. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The Tarrant Appraisal District, Board of Directors, met in Suite 505, 1701 River Run, Fort Worth, on October 29, 1987, at 10 a.m. Information may be obtained from Olive Miller, 1701 River Run, Suite 200, Fort Worth, Texas 76107, (817) 332-3151.

The Wise County Appraisal District, Board of Directors, will meet in the Boardroom, 206 South State, Decatur, on November 12, 1987, at 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

TRD-8709368



Meetings Filed October 27

The Gillespie County Appraisal District, Appraisal Review Board, will meet in Room 101-B, Gillespie County Courthouse, Fredericksburg, on November 6, 1987, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807.

The Golden Crescent Service Delivery Area Private Industry Council, Inc., will meet at 1301 East Rio Grande, Victoria, on November 4, 1987, at 6:30 p.m. Information may be obtained from Cleva Schoener, P.O. Box 2149, Victoria, Texas 77902, (512) 578-0341.

TRD-8709399



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 Department of Community Affairs

Notice of Public Hearing

Pursuant to Texas Civil Statutes, Article 4413(201), §4(A), the Texas Department of Community Affairs (TDCA) announces a public hearing to solicit comments on a proposed amendment to the federal fiscal year 1987 final statement which governs the Texas Community Development Program. In accordance with House Bill 4, 70th Legislature, 1987, the administration of the Texas Community Development Program is being transferred to the Texas Department of Commerce (TDOC) effective December 1, 1987. The 1987 final statement is being amended to effectuate the transfer of the program to TDOC at the federal level. The amendment to the final statement will substitute TDOC for TDCA throughout the document.

The public hearing will be held in the first floor conference room at the TDCA, 8317 Cross Park Drive, Austin, Texas 78754, at 2:30 p.m. on Friday, November 13, 1987. Public comments may be presented at that time or may be submitted in writing to the TDCA, P.O. Box 13166, Austin, Texas 78711, attention: City and County Assistance Division, by November 13, 1987.

Issued in Austin, Texas, on October 21, 1987.

TRD-8709243 Anne O. Paddock
Assistant General Counsel
Texas Department of Community
Affairs

Filed: October 22, 1987

For further information, please call (512) 834-6060.



Texas Department of Health

Intent to Revoke a Certificate of Registration

The Texas Department of Health, Bureau of Radiation Control, filed a complaint against the following registrant, pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8. The agency intends to revoke the certificate of registration, order the registrant to cease and desist use of radiation machine(s), and order the registrant to divest himself of such equipment, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with the order and the provisions of Texas Civil Statutes, Article 4590f. The complaint is as shown following this notice.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint

to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a.m.-5 p.m. (except holidays).

The Texas Department of Health, Bureau of Radiation Control, Division of Compliance and Inspection (the agency), through its division director, and makes the following complaint against Jake E. King, D.D.S., 6601 Wesley, Greenville, Texas 75401 (the registrant), holder of Certificate of Registration Number 5-09878.

Texas Regulations for Control of Radiation (TRCR) 12.11(b) requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in TRCR, Schedule 12.31. The fee shall be received each year on or before the last day of the expiration month of the certificate of registration. On March 10, 1987, the registrant was billed \$102 for fees due on Certificate of Registration Number 5-09878 covering the period from March, 1987-February, 1988. On June 23, 1987, the agency informed the registrant of the delinquency of payment by personal service, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of fees has not been received. On August 17, 1987, the agency issued a third notice of violation by certified mail, advising the registrant of the delinquency of payment and advising the registrant that if payment was not received within 10 days of receipt of the notice, the agency must consider issuing a compliant, requesting an order for revocation of the certificate of registration, requiring that the registrant cease and desist radiographic operations, and that the registrant divest himself of the radiographic equipment. The third notice was returned unclaimed on September 7, 1987.

TRCR, 22.11(a) and 32.3(b)(2), requires that the registrant shall provide written safety rules and operating procedures to each individual operating x-ray equipment under his control, including any restrictions of the operating technique required for the safe operation of the particular x-ray apparatus, and require that the operator demonstrate familiarity with these rules. An inspection conducted by an agency representative on March 5, 1987, revealed that the required operating and safety procedures were not present at the facility. A notice of violation was issued to the registrant on March 20, 1987, requesting a written reply providing steps taken to correct the violations and results achieved, steps taken to avoid repeating the violation, and the date full compliance would be achieved. No response was received by the agency. On May 27, 1987, the agency issued a second notice of violation by certified mail requir-

ing a written notification of corrective actions within 10 days of receipt of the notice. The second notice was returned unclaimed on June 13, 1987. On June 23, 1987, the agency issued a second notice of violation by personal service requiring a written notification of corrective actions within 10 days of receipt of the notice. No response was received by the agency. On August 17, 1987, the agency issued a third notice of violation by certified mail, advising the registrant that if notification of corrective actions was not received within 10 days of receipt of the notice, the agency must consider issuing a complaint, requesting an order for revocation of the certificate of registration, requiring that the registrant cease and desist radiographic operations and that the registrant divest himself of the radiographic equipment. The third notice was returned unclaimed on September 7, 1987.

THEREFORE, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the items above are corrected within 30 days of the date of this complaint, no order will issue.

Issued in Austin, Texas, on October 22, 1987.

TRD-8709319 Robert A. MacLean
 Deputy Commissioner
 Professional Services
 Texas Department of Health

Filed: October 23, 1987
For further information, please call (512) 835-7000



Intent to Revoke Radioactive Material Licenses

The Texas Department of Health, Bureau of Radiation Control, filed complaints against the following licensees, pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8. The agency intends to revoke the radioactive material licenses, order the licensees to cease and desist use of such radioactive materials, and order the licensees to divest themselves of the radioactive material, presenting evidence satisfactory to the Bureau of Radiation Control that they have complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the fee is paid within 30 days of the date of each complaint, no order will issue. The complaints are as shown following this notice.

This notice affords the opportunity for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a.m.-5 p.m. (except holidays).

The Texas Department of Health, Bureau of Radiation Control, Division of Compliance and Inspection, (the agency), through its division director, and makes the following complaint against Medical Arts Hospital of Houston, 1215 Walker, Houston, Texas 77002 (the licensee), holder of Radioactive Material License Number 8-2404.

Texas Regulations for Control of Radiation (TRCR) 12.11(b) requires payment of an annual fee for a radioactive material license, in the amount indicated for the appropriate category in TRCR, Schedule 12.21. The fee shall be received each year on or before the last day of the expiration month of the license. On October 15, 1986, the licensee was billed \$506 for fees due on Radioactive Material License Number 8-2404 covering the period from November, 1986-October, 1987. In correspondence dated August 12, 1987, the agency informed the licensee of the delinquency of payment, giving the licensee opportunity to show compliance with all requirements of the law for retention of the radioactive material license. Payment of fees has not been received.

THEREFORE, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the radioactive material license of the licensee and ordering the licensee to cease and desist use of such radioactive materials, and further that the licensee, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, divest himself of the radioactive materials, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the fee is paid within 30 days of the date of this complaint no order will issue.

The Texas Department of Health, Bureau of Radiation Control, Division of Compliance and Inspection (the agency), through its division director, and makes the following complaint against Emerald Tubular Inspection, Inc., 1409 Story, Houston, Texas 77055 (the licensee), holder of Radioactive Material License Number 11-3100.

Texas Regulations for Control of Radiation (TRCR) 12.11(b) requires payment of an annual fee for a radioactive material license, in the amount indicated for the appropriate category in TRCR, Schedule 12.21. The fee shall be received each year on or before the last day of the expiration month of the license. On April 3, 1985, November 25, 1985, and October 15, 1986, the licensee was billed \$269, \$170, and \$290 for fees due on Radioactive Material License Number 11-3100 covering the period from April, 1984-October, 1985, November, 1985-October, 1986, and November, 1986-October, 1987. In correspondence dated January 5, 1987, the agency informed the licensee of the delinquency of payment, giving the licensee opportunity to show compliance with all requirements of the law for retention of the radioactive material license. Payment of fees has not been received.

THEREFORE, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the radioactive material license of the licensee and ordering the licensee to cease and desist use of such radioactive materials, and further that the licensee, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, Article 4590f, §13, divest himself of the radioactive materials, presenting

evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the fees are within 30 days of the date of this complaint no order will issue.

Issued in Austin, Texas, on October 22, 1987.

TRD-8709318 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: October 23, 1987
For further information, please call (512) 835-7000.



Rescindment of Order

Notice is given that the Texas Department of Health, Bureau of Radiation Control, rescinded the emergency impoundment order issued to First Republic Bank Abilene upon transfer of the sources of radiation to Illini Logging and Perforating, Inc., holder of U.S. Nuclear Regulatory Commission Materials License Number 12-21337-01.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on October 22, 1987.

TRD-8709317 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: October 23, 1987
For further information, please call (512) 835-7000.



Amended Request for Proposals

This is an amendment to the statewide request for proposals regarding the Epilepsy Assistance Program, which was published in the October 2, 1987, issue of the *Texas Register* (12 TexReg 3571). The proposals should be directed to Jim Ramin, Purchasing and Records Supervisor, Crippled Children's Services Bureau, (512) 465-2666. In order to be considered, the deadline for proposals has been extended and must be received by the Texas Department of Health, Crippled Children's Services Bureau, no later than 5 p.m., November 30, 1987.

Issued in Austin, Texas, on October 22, 1987.

TRD-8709254 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: October 22, 1987
For further information, please call (512) 465-2666



State Department of Highways and Public Transportation Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the

following notice for request for proposals is filed.

Notice of Invitation. The State Department of Highways and Public Transportation (SDHPT) is seeking technical advice and assistance to the motor vehicle Registration and Title System Project which has been charged with the responsibility of developing and implementing an automated point of sale system for the county tax-assessors collectors of Texas. Advice and assistance must be provided for but not limited to: data dictionary functionalism; leveled process models; data flow diagrams; event list; entity relationship diagrams; processor data flow diagrams; process module specifications; state transition diagrams; and structure charts. Applied knowledge of the latest Yourdon structured analysis and design techniques as it may apply to an extremely large project is required. No more than 500 hours should be expended by the offerer on this contract.

Agency Contact. Additional information regarding this request for proposal may be obtained by contacting Robert J. Braden, RTS Project Administrator, SDHPT, (512) 465-7970. Copies of the detailed request for proposal will be available from Mr. Braden's office after November 2, 1987.

Response Date. To be considered, proposals must arrive at the Registration and Title System Project office on or before December 8, 1987, and must be typewritten and in the format specified in the detail request for proposals. Proposals may be delivered to 40th and Jackson Avenue, Room 123, Austin, or may be mailed to the State Department of Highways and Public Transportation, RTS Project, 40th and Jackson Avenue, Austin, Texas 78779. If proposals are mailed, sufficient time must be allowed to insure delivery by December 8, 1987.

Selection Criteria. Proposals will be reviewed and selection made on the basis of the offerers demonstrated competence, technical qualifications, and reasonableness of fee. Final recommendation for selection will be made by the administrator of the Registration and Title System Project.

Issued in Austin, Texas, on October 23, 1987.

TRD-8709289 Diane L. Northam
Administrative Technician
State Department of Highways and
Public Transportation

Filed: October 28, 1987
For further information, please call (512) 463-8630.



Texas Parks and Wildlife Department Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Parks and Wildlife Department invites proposals from interested parties to provide assistance to this agency in acquiring land for outdoor recreation purposes and managing the department's varied real estate transactions. The party will provide on-going counsel and advice to the Texas Parks and Wildlife Department in all land acquisition matters, and other real estate transactions such as easement, mineral royalties, and leases.

Selection of a consultant will be based upon the person's qualifications and experience in the areas noted previously. Proposals will be reviewed by, and final selection will be made by the executive director of the Texas Parks and Wildlife Department.

It is the intent of the Texas Parks and Wildlife Department to continue using the services of a consultant who is presently being retained by this agency, unless a better offer is received from a person possessing the necessary qualifications and experience to provide the requested services.

Additional information regarding this request for services may be obtained by contacting Charles D. Travis, Executive Director, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. To be considered, all proposals for service must be received on or by December 1, 1987.

Issued in Austin, Texas, on October 22, 1987.

TRD-8709251 Charles D. Travis
Executive Director
Texas Parks and Wildlife Department

Filed: October 22, 1987

For further information, please call (512) 389-4805.



Railroad Commission of Texas Public Notice

Notice is hereby given to all interested persons, that the Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711, on its own motion in Docket Number 003623ZZCW, will investigate the operations of the Long Island Bridge Company, Inc. of the Long Island Swing Bridge (located over, through, and across the intercoastal canal at the northern tip of Long Island and the City of Port Isabel, Cameron County). The purpose of this proceeding is to allow the Railroad Commission to regulate and control the Long Island Bridge Company, Inc. pursuant to Texas Civil Statutes, Article 1466, et seq.

All interested persons affected by this commission called proceeding that wish to participate in this commission investigation may do so only by filing a written protest, intervention in opposition, or intervention in support at or before 10 a.m. on Monday, November 16, 1987, by writing Docket Services, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. Please include the Docket Number (003623ZZCW) in all responses.

Issued in Austin, Texas, on September 28, 1987.

TRD-8708567 Walter Earl Lille
Special Counsel
Railroad Commission of Texas

Filed: October 2, 1987

For further information, please call (512) 463-7149.



Southwest Texas State University Consultant Proposal Request

Pursuant to the provisions of Texas Civil Statutes, Article 6252-11c, Southwest Texas State University (SWT) is seeking a qualified contractor to assist the university in identifying and pursuing federal and private funded research opportunities and other federal education program activity that it would be eligible to receive from agencies including, but not limited to: the United States Department of Defense; the United States Department of Housing; the United States Department of Health and Human

Services; the United States Department of Education; the United States Department of Justice; the United States Department of Labor; the United States Department of Energy; the United States State Department; the United States Commerce Department; the National Aeronautics and Space Administration; the National Endowment for the Humanities; and the National Endowment for the Arts.

SWT will expect the contractor to have sufficient technical knowledge of and contacts within those agencies with grant opportunities to provide the university with assistance to complete and process competitive proposals within the appropriate time frame as specified by agency guidelines.

The contractor shall be designated as an official representative on behalf of the University in Washington, D.C., and shall be guaranteed a set number of work days to include on-campus assistance meetings.

The contractor for this activity will work closely with the special assistant to the president for external affairs.

SWT intends to use the private consultant who previously performed the service unless a better offer is submitted. Price/daily rate should include the professional fee, travel costs, and miscellaneous expenses, since SWT will pay on the basis of a daily rate only.

Issued in Austin, Texas, on October 26, 1987.

TRD-8709250 Harold G. Oldham
Associate Vice President of Finance
Management
Southwest Texas State University

Filed: October 22, 1987

For further information, please call (512) 245-2396.



Texas Water Commission Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Coastal Forest Products, on October 13, 1987, assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Patricia Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 21, 1987.

TRD-8709255 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 22, 1987

For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Rayburn Village Utility Company, on October 13, 1987, assessing \$3,320 in administrative deferred penalties.

Information concerning any aspect of this order may be obtained by contacting William W. Thompson, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 23, 1987.

TRD-8709329 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 23, 1987

For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Parker County, Texas, Utility District, on October 13, 1987, assessing \$7,040 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Patricia Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 23, 1987.

TRD-8709330 Karen A. Phillips
Chief Clerk
Texas Water Commission

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For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Bar-B Management, Inc. on October 14, 1987, assessing \$3,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Patricia Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 23, 1987.

TRD-8709327 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 23, 1987

For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Atchison, Topeka, and Santa Fe Railway Company, Temple Facility, on October 14, 1987, assessing stipulated in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Debra Eccles, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 23, 1987.

TRD-8709328 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 23, 1987

For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Cominco American, Inc., on October 13, 1987, assessing \$5,440 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Patricia Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 21, 1987.

TRD-8709256 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 22, 1987

For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Lester A. Gallatin, on October 13, 1987, assessing \$2,000 in administrative suspended penalties.

Information concerning any aspect of this order may be obtained by contacting William W. Thompson, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 21, 1987

TRD-8709257 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 22, 1987

For further information, please call (512) 463-7898



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 12-16, 1987.

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 12-16, 1987

City of Hallsville; wastewater treatment facilities; approximately 6,200 feet east of the intersection of FM Road 450 and U.S. Highway 80 and 1,100 feet south of U.S. Highway 80 in Harrison County; 10460-01; renewal

Twinwood (U.S.) Inc., Simonton; wastewater treatment plant; approximately 1.5 miles southwest of the intersection of FM Roads 1093 and 1489 (the City of Simonton), between Guyler Road and Brundreff Road in Fort Bend County; 13089-01; renewal

Amerada Hess Corporation, Galena Park; petroleum products storage terminal; at 15001 Moore Road in the Community of Channelview, Harris County; 02568; renewal

Freedom Financial Corporation, Hawkins; wastewater treatment plant; approximately 7,600 feet south and 2,400 feet east of the intersection of FM Roads 49 and 2869 and nine miles north of the Town of Hawkins in Wood County; 12492-01; renewal

James H. Glanville, Houston; wastewater treatment plant; approximately .4 mile south of the intersection of IH 10 and Addicks-Fairbanks (Eldridge) Road, in the northeast quadrant of the intersection of Eldridge Street and Memorial Drive, on the north bank of Turkey Creek, Harris County; 12500-01; renewal

Perry K. Schuller, doing business as North Pines Mobile Home Park, Houston; wastewater treatment facilities; approximately two miles north of the intersection of U.S. Highway 290 and Fairbanks-North Houston Road and on the north bank of White Oak Bayou, immediately west of Fairbanks-North Houston Road in Harris County; 11093-01; renewal

Town of Blue Ridge; wastewater treatment facilities; on the east bank of Pilot Grove Creek, approximately .5 mile west of the Town of Blue Ridge and .35 mile south of FM Road 545 in Collin County; 10039-01; renewal

Boling Municipal Water District, Boling; wastewater treatment facilities; adjacent to Caney Creek, west of and adjacent to Rycade Avenue in the City of Boling, Wharton County; 10843-01; renewal

Schlumberger Well Services, division of Schlumberger Technology Corporation, Alvin; wastewater treatment plant; approximately 14 miles west-southwest of the City of Alvin, about 1.25 miles north of FM Road 1462, near the intersection of Brazoria County Roads Number 48 and 52, Brazoria County; 12062-01; renewal

City of New London; wastewater treatment facilities; approximately 7,500 feet northwest of the intersection of the State Highway 323 and FM Road 838, approximately 5,000 feet east of FM Road 2089 in Rusk County; 12376-01; renewal

City of Aransas Pass; wastewater treatment facilities; at the corner of Ransom Drive and Ocean Drive in the City of Aransas Pass, San Patricio County; 10521-02; renewal

Trinity Cove Improvement Association, Inc., Trinity; wastewater treatment facilities approximately four miles southeast of the City of Trinity, off State Highway 356 within a reserve area of the Trinity Cove Subdivision adjacent to Lot 3, Block 2, Section Two of the subdivision in Trinity County, 11876-01, renewal

Witco Corporation, Point Comfort; wastewater treatment plant; approximately .5 mile south of State Highway 35 on the east shore of Lavaca Bay on property leased from Alcoa near the City of Point Comfort, Calhoun County; 01158; renewal

City of Hitchcock; wastewater treatment facilities; approximately two miles south-southeast of the intersection of State Highway 6 and FM Road 2004 in Galveston County; 10690-01; renewal

West Texas Utilities Company, Oak Creek Steam Electric Station, Bronte; steam electric station; adjacent to Oak Creek Reservoir, approximately 10 miles north of the City of Bronte, Coke County; 00997; renewal

Lanco-Continental Plaza, Incorporated, Houston; sewage treatment plant; approximately 250 feet north of Atascocita Road and 300 feet northeast of the crossing of Williams Gully by Atascocita Road, Harris County; 12591-01; renewal

Michael B. Boylan, trustee and H. Deforest Ralph, Jr., trustee, Houston; wastewater treatment facilities; in northwest Houston on the north bank of Cole Creek, east of Guhn Road, north of U.S. Highway 290, and west of Alamo Road in Harris County; 12564-01; renewal

Fred King, Don Hendryx, Horace Hebert, John Collins and Robert Dinsmore, trustees for Country Club Park Estates Utilities; Port Arthur; wastewater treatment facilities; in the Country Club Park Estates Subdivision, approximately two miles north of State Highway 73 and six miles west of the City of Port Arthur, adjacent to the banks of Taylor Bayou in Jefferson County; 11107-01; renewal

Bastrop County Water Control and Improvement District No. 3, Bastrop; wastewater treatment facilities; approximately 400 feet north of Pearce Lane, six miles north of the intersection of Pearce Lane and State Highway 21 and 18 miles west of the City of Bastrop, Bastrop County; 12963-01; renewal

Trinity Bay Company, Inc., Houston; wastewater treatment plant, on the east shore of Trinity Bay, approximately one mile south of Double Bayou in Chambers County; 12505-01; renewal

James E. Taubach, Baytown; wastewater treatment facilities; approximately one mile south of FM Road 565 and two miles east of the intersection of FM Roads 565 and 1405 in Chambers County; 12478-01; renewal

Montgomery County Municipal Utility District No. 48, Houston; wastewater treatment facilities; approximately 1/4 mile west of U.S. Highway 59 and 250 feet south of River Ridge Drive in Montgomery County; 12434-01; renewal

Montgomery County MUD No. 24, Houston; wastewater treatment facilities; approximately 2 1/2 miles east of U.S. Highway 59 and 1/2 mile northwest of the point where White Oak Creek leaves Montgomery County in Montgomery County; 11789-01; renewal

Mobil Chemical Company, a division of Mobil Oil Corporation, Beaumont; petrochemical plant manufacturing olefins and aromatics; between State Highway 347 and the Neches River which is southeast of the City of Beaumont, Jefferson County; 00462; renewal

Rollins Environmental Services (TX), Inc., Deer Park; commercial industrial waste disposal facility; south of Tidal Road, west of State Highway 134, and east of and adjacent to Tucker Bayou in the City of Deer Park, Harris County; 01429; amendment

City of Streetman (amended notice); wastewater treatment facilities; west of FM Road 80 and east of the Fort Worth and Denver Railway (FW & DRR) on the north bank of Sloan Creek on the southern portion of the City of Streetman in Freestone County; 10471-01; renewal

United States Department of the Army, Red River Army Depot, Texarkana; wastewater treatment facilities; within the Red River arsenal area which encompasses 19,000 acres and which is approximately 18 miles west of the City of Texarkana, Bowie County; 02206; amendment

Gifford-Hill and Company, Inc., Yelverton Site, Dallas; limestone mining and crushing facility; adjacent to U.S. Highway 84, approximately 0.5 mile west of its intersection with FM Road 2681, Limestone County; 02956; new

Environmental Protection Resources of Lubbock, Inc., Lubbock; steam electric generating station using municipal solid waste as a fuel at 302 Municipal Hill Drive in the City of Lubbock, Lubbock County; 02960; new

Harris County Municipal Utility District No. 130, Houston; wastewater treatment facilities; approximately one mile east of Jack Rabbit Road and approximately 1/2 mile south of U.S. Highway 290 in Harris County; 12574-01; renewal

Knox Oil of Texas, Inc., San Felipe; restroom facilities; on the northeast corner of IH 10 and FM Road 1458 intersection in the City of San Felipe, Austin County; 13381-01; new

M.D. Bailey, doing business as Inwood Square Utility Company, Houston; wastewater treatment facilities; north of Areba Street, approximately 0.5 mile southwest of the intersection of West Little York Road and Nuben Avenue, three miles west-southwest of the in-

tersection of IH 45 and North Shepherd Drive in the City of Houston, Harris County; 12569-01; renewal

Issued in Austin, Texas, on October 16, 1987

TRD-8709223 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: October 21, 1987
For further information, please call (512) 463-7905



Public Hearing

The Texas Water Commission (TWC) will conduct a public hearing to receive comments on the proposed amendments to 31 TAC Chapter 335, Subchapter G, entitled Location Standards for Hazardous Waste Storage, Processing, or Disposal. The proposed amendments were published in the October 13, 1987, issue of the *Texas Register* (12 TexReg 3768).

The proposed amendments to 31 TAC §§335.201, 335.202, and 335.204 seek to implement the directives in the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c)(7), to define the characteristics that make areas unsuitable for a hazardous waste management facility, including consideration of areas of direct drainage within one mile of a lake used to supply public drinking water, active geological processes, coastal high hazard areas, and critical habitat of endangered species. In addition, the proposed amendments include revisions to the applicability provisions for the location standards, and additions to and revisions of the definitions used in the subchapter, including the definition of existing hazardous waste management facility. The Solid Waste Disposal Act and the existing commission regulations also contain other considerations and prohibitions concerning the issuance of permits for new hazardous waste management facilities or the areal expansion of existing facilities according to site characteristics.

The hearing will be held at 9 a.m. on Monday, November 9, 1987, in Room 118 of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin. Oral and written comments on the proposed revisions are invited at the public hearing. The hearing is structured for the receipt of narrative comments, and cross-examination or interrogation is not permitted. Persons participating in the public hearing are encouraged to summarize their testimony in written presentations.

Written comments not presented at the hearing may be submitted to Cynthia C. Smiley, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments received by 5 p.m. on November 12, 1987, will be considered by the commission prior to any final action on the proposed revisions.

For further information, please call Cynthia C. Smiley at (512) 463-8069.

Issued in Austin, Texas, on October 26, 1987

TRD-8709369 J. D. Head
Director
Legal Division
Texas Water Commission

Filed: October 26, 1987
For further information, please call (512) 463-8069.

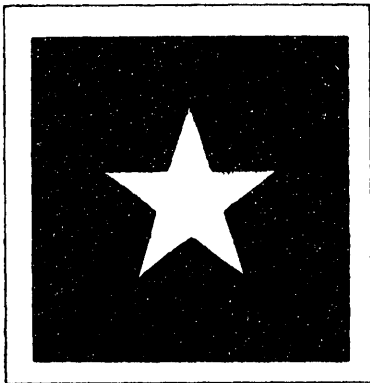




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