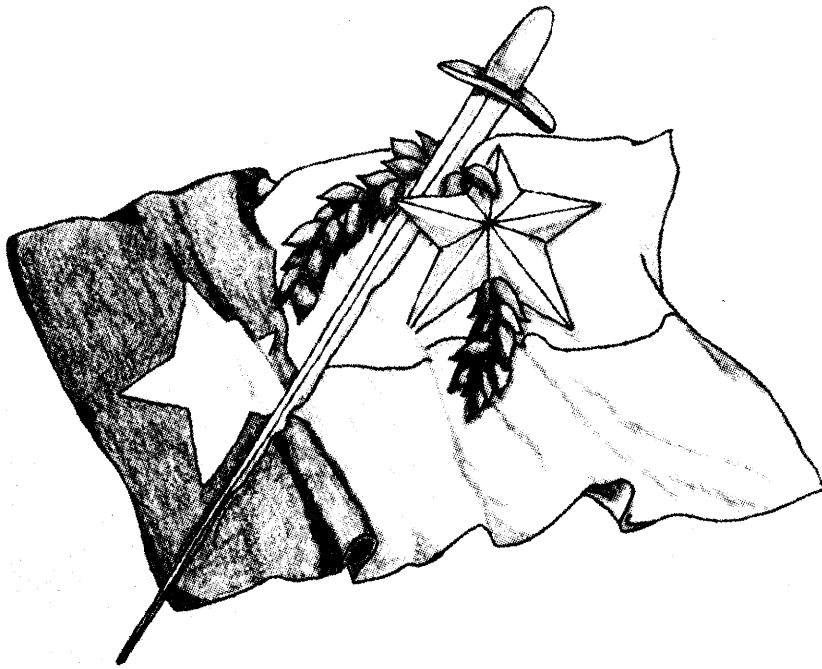


# Texas Register



# How To Use the Texas Register

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1982 with the exception of January 5, April 27, November 16, November 30, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

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

- Governor—appointments, executive orders, and proclamations
- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register Division six months after proposal publication date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 monthly, quarterly, and annual indexes to aid in researching material published.

**How To Cite:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document

published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: page 2 in the lower left-hand corner of this page is written: "7 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 7 TexReg 3."

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

### Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules currently being published by Shepard's/McGraw-Hill, in cooperation with this office.

**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* (a listing of all the titles appears below);

**TAC** stands for the *Texas Administrative Code*;

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

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 6, July 81

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### Table of TAC Titles

- TITLE 1. ADMINISTRATION
- TITLE 4. AGRICULTURE
- TITLE 7. BANKING AND SECURITIES
- TITLE 10. COMMUNITY DEVELOPMENT
- TITLE 13. CULTURAL RESOURCES
- TITLE 18. ECONOMIC REGULATION
- TITLE 19. EDUCATION
- TITLE 22. EXAMINING BOARDS
- TITLE 25. HEALTH SERVICES
- TITLE 28. INSURANCE
- TITLE 31. NATURAL RESOURCES AND CONSERVATION
- TITLE 34. PUBLIC FINANCE
- TITLE 37. PUBLIC SAFETY AND CORRECTIONS
- TITLE 40. SOCIAL SERVICES AND ASSISTANCE



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# Contents

## The Attorney General

### Requests for Opinions

1880 RQ-821

1880 RQ-822

### Opinions

1880 MW-463 (RQ-740)

1880 MW-464 (RQ-757)

1880 MW-465 (RQ-602)

## Emergency Rules

### Texas Education Agency

1881 Regional Service Centers

## Proposed Rules

### Office of the Secretary of State

1883 Office of the Secretary

### Texas Industrial Commission

1884 Revenue Bond for the Promotion and  
Development of Industrial Enterprises

### Texas Education Agency

1885 Regional Education Service Centers

### Texas Department of Health

1886 Chronic Diseases

1890 Veterinary Public Health

## Adopted Rules

### Texas Department of Health

1892 Preventive Health and Health Services

1895 Home Health Care Agencies

1897 Long-Term Care

1899 Occupational Health and Radiation Control

### State Board of Insurance

1900 Life, Health, and Accident Insurance

1904 Trade Practices

### Texas Department of Human Resources

## Open Meetings

1906 Texas Alcoholic Beverage Commission

1906 Texas Commission on the Arts

1906 Office of the Governor

1906 Statewide Health Coordinating Council

1907 Texas Health Facilities Commission

1907 Texas Housing Agency

1907 State Board of Insurance

1907 Commission on Jail Standards

1908 Texas Department of Mental Health and  
Mental Retardation

1908 Board of Pardons and Paroles

1908 Parks and Wildlife Department

1908 Texas Department of Public Safety

1908 Public Utility Commission of Texas

1908 Texas Real Estate Research Center

1908 School Land Board

1909 Texas Water Commission

1909 West Texas State University

1909 Regional Agencies

## In Addition

### Texas Air Control Board

1911 Applications for Construction Permits

### Banking Department of Texas

1911 Notice of Applications to Purchase Control of  
State Banks

### State Banking Board

1911 Notice of Hearing

### Texas Energy and Natural Resources Advisory Council

1912 Advisory Committee Meeting

### Texas Health Facilities Commission

1912 Applications Accepted for Amendment,  
Declaratory Ruling, and Notices of Intent

### Texas Department of Mental Health and Mental Retardation

1913 Consultant Proposal Request

### North Texas Council of Governments

1913 Consultant Proposal Request

### Railroad Commission of Texas

1914 Correction of Error

# The Attorney General

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

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

## Requests for Opinions

**RQ-821.** Request from John C. West, Jr., assistant general counsel, Texas Department of Public Safety, Austin, concerning whether the three digits of the 11-digit unique number on Texas driver's licenses, which represent the issuing station are excepted from public disclosure by §3(a)(8) of the Open Records Act.

TRD-823936

**RQ-822.** Request from W. Reed Quilliam, Jr., executive director, State Bar of Texas, Austin, concerning whether when a District of Columbia professional corporation becomes a partnership which maintains offices in Texas and Washington D.C., must the professional corporation procure a certificate of authority to transact business in Texas?

TRD-823937

## Opinions

**MW-740 (RQ-740).** Request from Oscar H. Mauzy, chairman, Committee on Jurisprudence, Texas Senate, Austin, regarding the legality under new state wiretap law of certain products now offered for sale in Texas.

**Summary of Opinion.** Texas Penal Code, §16.02(d), and Texas Code of Criminal Procedure, Article 18.20, §1(4), as enacted and amended by House Bill 360, are not preempted by federal statutes, 18 United States Code §2510(5) and §2512(1), and are

compatible with those provisions.

TRD-823938

**MW-464 (RQ-757).** Request from W. S. McBeath, administrator, Texas Alcoholic Beverage Commission, Austin, regarding whether information deemed confidential under §5.48 of the Alcoholic Beverage Code may be turned over to United States Justice Department pursuant to Antitrust Civil Process Act.

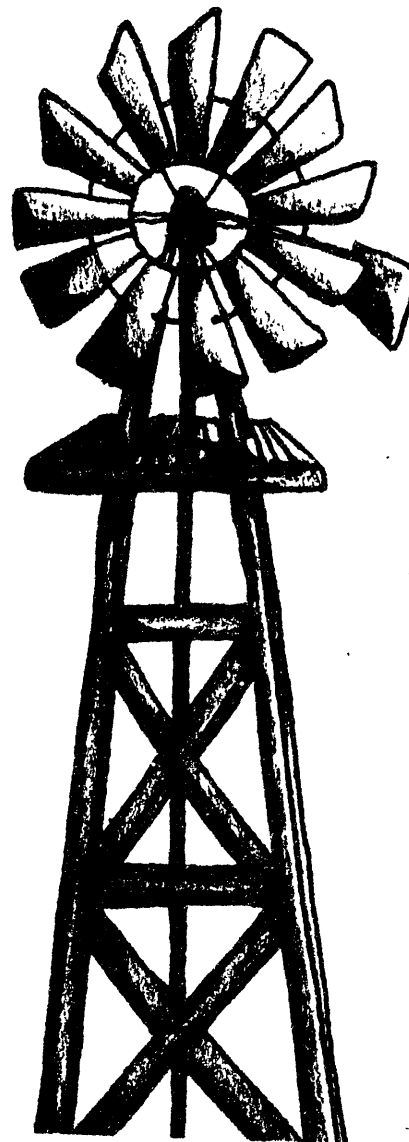
**Summary of Opinion.** The Alcoholic Beverage Commission may not withhold information which is the subject of a civil investigative demand issued pursuant to the Antitrust Civil Process Act, 15 United States Code §1311 et. seq., on the ground that the information is confidential under §3(a)(1) of the Open Records Act and Article 5.48 of the Alcoholic Beverage Code.

TRD-823939

**MW-465 (RQ-602).** Request from Reynaldo S. Cantu, Jr., criminal district attorney, Cameron County Hall of Justice, Brownsville, regarding compensation of county for transporting prisoners to the Texas Department of Corrections.

**Summary of Opinion.** Under Texas Civil Statutes, Article 6166(r), the authority given to the director of the Texas Department of Corrections to provide for the transportation of prisoners to the state facility does not include the discretion to contract on a "credit barter system" with the county that performs such services.

TRD-823940



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 Division, 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.

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

Symbology in amended 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.

# Emergency Rules

## TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 53. Regional Service Centers Subchapter A. Authorization 19 TAC §53.4

The Texas Education Agency adopts new §53.4, concerning powers of the commissioner of education to impose sanctions, on an emergency basis. The commissioner may impose sanctions against regional education service centers by one or more of the following means: suspension of any or all state funds, and any or all federal funds to the extent permitted by federal law; removal of any or all of the members of the regional board of directors; or removal of the executive director of the education service center. Provisions for due process and a show cause hearing are included.

This new section is adopted on an emergency basis to ensure that when violations of law by regional service centers are brought to the attention of the commissioner of education, the commissioner can respond promptly and effectively.

The new section is adopted on an emergency basis under the authority of Texas Education Code, §11.32(a) and §11.33(a).

### §53.4. Powers of the Commissioner of Education To Impose Sanctions.

(a) Whenever the commissioner of education determines that a regional education service center is operating in substantial violation of law, including constitutional, statutory, and regulatory provisions, the commissioner of education may, after notice and an opportunity for hearing, in his discretion, impose sanctions against the

regional education service center, including one or more of the following.

(1) Suspension of any or all state funds, and any or all federal funds to the extent permitted by federal law.

(2) Removal of any or all of the members of the regional board of directors. In the event that any director is removed from office, a new director shall be elected in accordance with §53.23 of this title (relating to Board of Directors). In the event the entire board is removed, the functions of the board of directors in the election process shall be performed by the officers of the joint committee (see §53.22 of this title (relating to Joint Committee)). No member of the board of directors who has been removed by the commissioner shall be eligible for reelection or for appointment to the board.

(3) Removal of the executive director of the regional education service center. In the event that an executive director is removed from office, the commissioner of education shall appoint an acting executive director who shall serve pending the selection of an executive director in accordance with §53.27 of this title (relating to Staff).

(b) Prior to the imposition of any sanction, the commissioner of education shall give notice of his intention to impose sanctions. The notice shall be given in writing to the members of the board of directors of the regional education service center, to the executive director, and to the chief fiscal officer. The notice shall specify the nature of the alleged violation of law and the nature of the sanctions which the commissioner intends to impose.

(c) The regional education service center may request a hearing before the commissioner of education. A request for hearing must be received by the commissioner within 10 days of the receipt of notice of the commissioner's intention to impose sanctions. After a hearing, or in the event no hearing has been requested within the time specified in this subsection, the commissioner

of education may impose any or all of the sanctions described in his notice of intent as he deems necessary.

(d) If a regional education service center requests a hearing before the commissioner of education, the hearing shall be conducted within 15 days of the commissioner's receipt of the request unless the time for the hearing is extended by the commissioner. At the hearing, the burden shall be on the regional education service center to show cause why the proposed sanctions should not be imposed.

(e) A regional education service center may appeal any final action of the commissioner under this section to the State Board of Education. Such an appeal shall be based upon the record of the hearing before the commissioner. Notice of appeal to the State Board of Education must be filed with the commissioner of education within 10 days after receipt of notice of final action ordered by the commissioner. The order of the commissioner shall be in effect unless and until reversed or modified by the State Board of Education.

(f) Sanctions imposed by the commissioner under this section shall be reported to the State Board of Education at the next regular meeting of the board.

(g) Notwithstanding any provision of this section, the commissioner may, if he deems necessary, issue temporary orders simultaneous with the issuance of the notice provided for in subsection (b) of this section. Such temporary orders may include a freezing of any and all accounts of a regional education service center and the suspension of any or all funds which otherwise would be transferred to the regional education service center. Any such temporary orders may, in the discretion of the commissioner, remain effective until he enters his final order.

Issued in Austin, Texas, on May 10, 1982.

TRD-823908

Raymon L. Bynum  
Commissioner of Education

Effective date: May 10, 1982

Expiration date: September 7, 1982

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

Thirty days before an agency intends to permanently adopt a new or amended rule, or repeal an existing rule, it must submit a proposal detailing the action in the *Register*. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposal may not be adopted until 30 days after publication. The document, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state or local government; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of legal authority under which the proposed rule is to be adopted (and the agency's interpretation of the legal authority); the text of the proposed action; and a certification statement. The certification information which includes the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

Symbology in amended 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.

# Proposed Rules

## TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State

### Chapter 71. Office of the Secretary of State Inspection of Public Records

#### 1 TAC §§71.21-71.26

The Office of the Secretary of State proposes new §§71.21-71.26 concerning application to review records open to public inspection maintained by the Office of the Secretary of State.

The following rules are proposed in order to ensure compliance with the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a. The proposed rules are designed to promote the best possible public access to records open to public inspection while ensuring protection of those records.

Jimmy H. Delao, attorney, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Delao has also determined that for each year of the first five years the rule as proposed is in effect a public benefit is expected to result from these rules because they will embody and standardize existing procedures regarding public inspection of documents on file with the secretary of state.

There is no possible economic cost to individuals who are required to comply with the rule as proposed since these rules simply embody existing procedures.

Comments on the proposal may be submitted to Jimmy H. Delao, attorney, Corporations Division, Office of the Secretary of State, P.O. Box 13697, Austin, Texas 78711-3697.

The new section is proposed under Texas Civil Statutes, Article 6252-17a, §13, which provides the Office of the Secretary of State with the authority to promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, and without delay.

#### §71.21. Applications.

(a) Persons desiring to review documents maintained by the Office of the Secretary of State shall submit their request, in writing, on forms promulgated by the particular division to which the request is being made.

(b) The applications shall properly identify the document, or documents, to be inspected by name and/or number.

(c) The name and address of the applicant must be set forth on the application. A picture identification card, e.g., a driver's license, may be required to verify the person's identity.

(d) Applications will be handled in the order in which they are received.

§71.22. *Documents Unavailable.* In the event the requested documents are in active use or in storage and, therefore, not available at the time the application to review documents is submitted, the division of the Office of the Secretary of State to which the request is being made shall set forth this fact in writing on the application to the applicant, and set a date and hour at which time the requested materials will be available for inspection.

**§71.23. Designated Inspection Area.**

(a) Persons inspecting documents may do so only in a designated inspection area.

(b) Each division of the Office of the Secretary of State shall designate an area where persons inspecting documents may be assisted by an employee.

**§71.24. Limited Copies Available at Times of Request.**

(a) Only a limited number of pages can be copied and supplied during a person's visit. The number of copies will depend on the particular division's current activity level.

(b) Copies in excess of the number available during a person's visit will be made and mailed to the applicant in the order in which the request is received.

**§71.25. Approval of Applications to Review Documents.** All applications to review documents must be approved by a member of the supervisory staff or by an employee authorized to do so.

**§71.26. Inspection Hours.** The inspection of documents will be allowed during regular business hours.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823918 David A. Dean  
Secretary of State

Proposed date of adoption: June 18, 1982  
For further information, please call (512) 475-0545.

**TITLE 10. COMMUNITY DEVELOPMENT**  
**Part II. Texas Industrial Commission**  
**Chapter 107. Revenue Bonds for the Promotion and Development of Industrial Enterprises**  
**Industrial Projects**  
**10 TAC §107.2**

The Texas Industrial Commission proposes amendments to §107.2 concerning the special rules for commercial projects in blighted or economically distressed areas.

Darwin McKee, Industrial Revenue Bond Department manager, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. There is no effect on state government. The effect on local government will be an estimated additional cost of \$700 in 1982 and 1983; \$770 in 1984; and \$800 in 1985 and 1986. There is no estimated reduction in cost or estimated loss or increase in revenue.

Mr. McKee has also determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be an opportunity for the public to comment on each commercial project being

considered for economically blighted or distressed areas. The possible economic cost to individuals who are required to comply with the rule as proposed will be as listed below.

Legal Fees				
1982	1983	1984	1985	1986
\$2,500	\$7,000	\$7,700	\$8,470	8,510

Comments on the proposal may be submitted to Darwin McKee, P.O. Box 12728, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 5190.6, §24, which provides the Texas Industrial Commission with the authority to make rules governing the minimum standards for applications under the Industrial Revenue Bond Program.

**§107.2. Application and Procedure for Approval.**

(a) (No change.)

(b) Application contents.

(1)-(8) (No change.)

(9) Special rules for commercial projects in blighted or economically depressed areas.

(A) Establishment of eligible blighted areas. Under the Act, the financing of projects for commercial uses is confined to, among others, geographical areas found by the governing body of a city to be a blighted area. The provisions of this rule govern the method of establishing blighted areas for the purpose of administering the Act by the commission. The commission will not approve the financing of projects which are to be used for commercial purposes, except in or adjacent to eligible blighted areas established under this rule, and subject to other limitations contained in the rules of the commission.

(i)-(iii) (No change.)

(iv) Unless the city shall be notified by the commission to the contrary in writing within 30 days from the date of receipt of such resolution, the eligible blighted area described in such resolution shall be deemed accepted by the commission. After final acceptance of a resolution under this provision, the commission will approve projects for commercial uses in and adjacent to the eligible blighted area only after the applicant demonstrates to the satisfaction of the commission that:

(I) (No change.)

(II) the city has, after posting notice and holding a public hearing, approved the project and has made the determination and findings required by these rules;

(III) (No change.)

(v)-(vi) (No change.)

(B) (No change.)

(10)-(12) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on May 11, 1982.

TRD-823880 Timothy F. Schaffner  
Fiscal and Staff Services  
Manager  
Texas Industrial Commission

Proposed date of adoption: June 18, 1982  
For further information, please call (512) 472-5059.



**TITLE 19. EDUCATION**  
**Part II. Texas Education Agency**  
**Chapter 53. Regional Education Service Centers**  
**Subchapter A. Authorization**  
**19 TAC §53.4**

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new rule it adopts on an emergency basis in this issue. The text of the rule is published in the Emergency Rules section.)*

The Texas Education Agency (TEA) proposes new §53.4, concerning powers of the commissioner of education to impose sanctions. The commissioner may impose sanctions against regional education service centers by one or more of the following means: suspension of any or all state funds, and any or all federal funds to the extent permitted by federal law; removal of any or all of the members of the regional board of directors; or removal of the executive director of the education service center. Provisions for due process and a show cause hearing are included. TEA simultaneously adopts this rule on an emergency basis.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule. Although funds may be withheld under the proposed rule, for purposes of determining the rule's fiscal implications it has been assumed that the funds would be released to the service center once the violations for which sanctions were imposed had been cured.

Mr. Bennett and Dr. Beverly J. Bardsley, director for policy development, have determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be to ensure that when violations of law by regional service centers are brought to the attention of the commissioner of education, the commissioner can respond promptly and effectively. There will be no economic costs to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under the authority of Texas Education Code, §11.32(a), which authorizes the State Board of Education to provide, by rules and regulations, for the establishment and operation of

regional education service centers and Texas Education Code, §11.33(a), which authorizes the establishment and operation of regional education media centers under rules of the State Board of Education.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823907

Raymon L. Bynum  
 Commissioner of Education

Proposed date of adoption: July 10, 1982

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

**TITLE 25. HEALTH SERVICES**  
**Part I. Texas Department of Health**  
**Chapter 1. Texas Board of Health**  
**Procedures and Policies**

**25 TAC §§1.4, 1.7, 1.9, and 1.11**

The Texas Department of Health proposes amendments to §§1.4, 1.7, 1.9, and 1.11 to clarify and update Texas Board of Health procedures and policies.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule will be current board policies and procedures. There is no possible economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary A. Fuchs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. Public comments will be accepted for 30 days after publication of these amendments in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4418a, §(a)(3), which provides the Texas Board of Health with the authority to adopt rules for its own procedures.

**§1.4. Committees.** The board will have an executive committee consisting of the chairman, vice-chairman, and secretary. In addition, the chairman [board] will appoint standing and special ad hoc committees of the board to expedite the work of the board.

**§1.7. Board Meetings.**

(a)-(e) (No change.)

(f) **Agendas.** The commissioner of health shall prepare and submit to each member of the board prior to each meeting a preliminary copy of the agenda, outlining items that he believes should be considered by the board, those required by law, and others as members have requested. Materials supplementing the agenda may be

included. The chairman has final approval of the monthly agenda. Official agendas are distributed the day of the board meeting.

(g)-(k) (No change.)

§1.9. Actions Requiring Board Approval.

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

(c) Other appointments. Of those appointments made by the commissioner, the board shall approve the following:

- (1) deputy commissioner for professional services [deputy director of health resources];
- (2) deputy commissioner for management and administration [deputy director for health maintenance];
- (3) associate commissioner for support services [deputy director for preventable diseases];
- (4) associate commissioner for community and rural health [deputy director for special health services];
- (5) associate commissioner for personal health services [deputy director for administrative services];
- (6) associate commissioner for preventable diseases [deputy director for environmental and consumer health protection];
- (7) associate commissioner for special health services;
- (8) associate commissioner for environmental and consumer health protection.

(d)-(f) (No change.)

§1.11. Other Actions. The board is responsible for approving any other actions by the commissioner or the department where the approval of the Board of Health is required by law, [or] requested by the commissioner, or desired by the board [director].

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

Issued in Austin, Texas, on May 7, 1982.

TRD-823853 Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of Health

Proposed date of adoption: June 14, 1982  
For further information, please call (512) 458-7484.

Chapter 61. Chronic Diseases  
Kidney Health Care Program Benefits

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

The Texas Department of Health proposes to repeal existing §561.1-61.9 and adopt new §561.1-61.13 concerning the Kidney Health Care Program benefits. The new rules cover definitions, application procedures and requirements, eligibility requirements for individuals and approval requirements for facilities, criteria for terminating benefits or approval, a description of program benefits, explanations of patient reim-

bursement obligations, confidentiality assurances, and a nondiscrimination assurance.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rules will be in effect, there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government will be an estimated additional cost of \$91,000 in 1982; \$68,500 in 1983, and \$45,000 for each year in 1984-1986. The estimated cost to state government is based upon the reallocation of agency time to provide the administrative hearings provided for in the rules. The estimated maximum number of hearings for each of the first five years has been used in the calculation. There is no effect on local government and no estimated reduction in cost or loss or increase in revenue for state government anticipated.

Mr. Seale has also determined that for each year of the first five years the rules as proposed are in effect, the public benefits anticipated as a result of enforcing the rules as proposed will be an expanded and clarified description of the operation of the Kidney Health Care Program. Definitions and specific criteria are included to enable program recipients to understand their rights and obligations. Specific criteria are included to provide notice of possible termination of benefits for failure to comply with program rules. Provisions are made for persons adversely affected by agency actions to contest those actions in administrative hearings.

The estimated cost to a person wishing to avail himself of an administrative hearing may vary widely and depends upon many variables: personal travel expenses and time lost from employment; attorney's fees and expenses, etc. The estimated cost to participate in an administrative hearing may range from 0 to \$2,500. This estimate does not include the estimated cost to appeal the agency's decision to a district court in Travis County.

Comments on the proposal may be submitted to Manual Zapata, director, Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas, (512) 458-7338. Comments will be received for 30 days after publication of the proposed rules in the *Texas Register*.

25 TAC §561.1-61.9

The repeal and new sections are proposed under Texas Civil Statutes, Article 4477-20, §3(13), which provides the Texas Board of Health with the authority to adopt rules to provide adequate kidney care and treatment for citizens of Texas and to implement the Texas Kidney Health Care Act.

- §61.1. Generally.
- §61.2. State Benefits Before Medicare Coverage.
- §61.3. State Benefits Before and After Medicare Coverage.
- §61.4. Claims.
- §61.5. Availability of Funds for Benefits.
- §61.6. Denial of Medicare Chronic Renal Disease Coverage.
- §61.7. Funds Remaining at End of Fiscal Year.

**§61.8. Benefits Provided by the Texas Kidney Health Care Program.**

**§61.9. Kidney Health Care Patient Reimbursement Obligation.**

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

Issued in Austin, Texas, on May 7, 1982.

TRD-823933      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Proposed date of adoption: June 14, 1982  
For further information, please call (512) 468-7338.

**25 TAC §§61.1-61.13**

**§61.1. Introduction and Brief Description of Program Operation.**

(a) In April 1973, the 63rd Legislature of Texas passed the Kidney Health Care Act, Texas Civil Statutes, Article 4477-20, which established the Kidney Health Care Program under the Texas Department of Health. This law called for state funds to be expended for the care and treatment of Texans suffering from end-stage renal disease (ESRD).

(b) End-stage renal disease is defined as that stage of renal impairment which is virtually always irreversible and permanent and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life. Patients meeting the eligibility requirements must make application through an approved kidney health care facility. Benefits are available for dialysis treatments, hospitalization, laboratory charges, physician charges, home dialysis supplies, drugs, and transportation.

**§61.2. Eligibility Requirements.** A person is eligible to receive kidney health care benefits when he/she meets all of the following requirements:

- (1) has a medical diagnosis of end-stage renal disease;
- (2) is a bona fide resident of Texas; and
- (3) makes application through a kidney health care approved facility.

**§61.3. Payment of Program Benefits.**

(a) Benefits are available for dialysis treatments, hospitalization, laboratory charges, home dialysis supplies, drugs, and transportation, up to a maximum per patient based on available funds.

(b) Benefits are payable only after all other possible third parties (e.g., private/group insurance, Medicare, Medicaid, or the Veterans Administration) have met their liability.

(c) Payment can be made either directly to physicians or medical facilities, or as a reimbursement to the patient for charges which he/she has paid.

(d) All benefits provided in behalf of approved patients are limited to charges incurred in Texas except when they are receiving treatment in an approved kidney health care facility located out-of-state.

(e) Eligibility for all benefits will begin:

- (1) the first day of the month prior to the month in which regular dialysis was started; or
- (2) the first day of the month prior to the month a transplant was received; or

(3) the date of establishment of a bona fide Texas residency when a patient who is already on an established course of dialysis, or has a functioning transplant, moves into Texas.

(4) In order for the patient to receive full benefits, applications must be received no later than three months after the month in which dialysis initially started, a transplant was received, or the patient moved to Texas, whichever is applicable.

(f) In-center dialysis patient benefits are available to cover expenses for medical services performed during the three-month waiting period required for Medicare chronic renal disease coverage.

(g) For home dialysis patients and transplant patients, the Kidney Health Care Program will cover the portion of the 20% Medicare co-insurance on kidney-related charges which is not covered by a third party. For transplant patients, these benefits will terminate 36 months after a successful transplant.

(h) Long-term benefits for medical care are extended to those patients under age 65 who do not qualify for Medicare coverage. Medicare denial must be documented by a copy of the official Social Security Administration denial notification.

(i) Medicare Part A and B premiums may be paid for by the program for those persons that meet all the following criteria:

- (1) are over age 65 and are not eligible for "premium free" Part A coverage;
- (2) are not covered by a state "buy-in" agreement with the Texas Department of Human Resources;
- (3) apply through their local Social Security Administration office during the "open-enrollment period;" and

(4) sign an agreement for the Kidney Health Care Program to purchase Medicare coverage in their behalf.

(j) Drug and transportation benefits are available for all kidney health care approved patients on a continuing basis, regardless of their treatment mode.

(k) Additional benefits may be provided if sufficient funds are available after payments have been made on all other allowable claims filed. All approved patients are eligible. If funds remain, notification and filing dates will be mailed to those concerned regarding the procedure for filing for these additional benefits. These benefits are limited to:

- (1) deductibles, co-insurance, and totally non-covered items for patients with Medicare coverage, and
- (2) charges prior to Medicare eligibility for those patients who reached maximum kidney health care benefits during their regular benefits period.

**§61.4. Applications.** Patients meeting the eligibility requirements set forth in paragraphs (1) and (2) of §61.2 of this title (relating to Eligibility Requirements) must make application for benefits through a kidney health care approved facility.

(1) Complete application. An application shall consist of:

(A) a properly completed original kidney health care application for benefits (Form KHC 1), supplied by Kidney Health Care. The form is adopted by reference in §61.13 of this title (relating to Forms);

(B) a copy of the properly completed, signed, and dated Health Care Financing Administration (HCFA) Medical Form 2728-U4. The form is adopted by reference in §61.13 of this title (relating to Forms); and

(C) two documents which are acceptable to the department to provide evidence of bona fide Texas residency (See §61.6 of this title (relating to Documentation of Residency)).

(2) Deficient applications.

(A) An application shall be deemed deficient for:

(i) Failure to provide information requested in the application form.

(ii) Lack of accompanying documents.

(iii) Lack of, or improper signatures.

(I) The application must be signed by the patient.

(II) An application signed with a "mark" by the patient must be attested to by two witnesses.

(III) If a member of the patient's immediate family signs for the patient, the reason they are doing so must be stated on the application.

(iv) Lack of legal residency documentation.

(B) Deficient applications will be returned to the initiating facility for correction, with the deficiencies noted.

(i) A copy of the letter notifying the facility that the application is deficient will be sent to the patient.

(ii) The date used for determining the eligibility effective date for a deficient application will be the date the properly completed application is finally received, not the date the original application was received.

§61.5. *Residency.* A bona fide resident means a person who:

(1) is lawfully present in the United States;

(2) is physically present within the geographic boundaries of the State of Texas;

(3) has an intent to remain within the state, either permanently or for an indefinite period; and

(4) meets one of the following criteria:

(A) actually maintains an abode (i.e., house, apartment, etc., but not merely a post office box) within this state; or

(B) is a minor child of a bona fide resident; or

(C) is a legal dependent spouse of a bona fide resident; or

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

§61.6. *Documentation of Residency.*

(a) The department will consider the following documentation as adequate evidence of bona fide residency in the State of Texas.

(1) An applicant who is a citizen of the United States may provide evidence of Texas residency by submitting either:

(A) Copies of two of the following documents:

(i) a current, valid Texas driver's license;

(ii) a current, valid Texas voter's registration card;

(iii) a current, valid Texas motor vehicle registration; or

(iv) receipts for the payment of rent or utilities for two consecutive months prior to the date of the applicant's first dialysis; or

(B) Two sworn statements (affidavits) from reputable bona fide residents which state that the applicant meets the residency criteria set forth in §61.5 of this title (relating to Residency).

(2) An applicant who is a lawful permanent resident alien of the United States may provide evidence of Texas residency by submitting either:

(A) a complete copy of United States Immigration and Naturalization Service Form I-151 or Form I-551 (Alien Registration Receipt Card), available from United States Immigration offices and one document from a category enumerated in subsection (a)(1) of this section; or

(B) two sworn statements (affidavits) from reputable bona fide residents which state that the applicant meets the residency criteria set forth in §61.5 of this title (relating to Residency).

(b) An applicant who has been lawfully granted temporary entry into the United States may provide adequate evidence of Texas residency by submitting the following documentation on a periodic basis, at intervals not to exceed six months, measured from the date of the applicant's approval.

(1) A complete copy of the forms issued to the applicant by the United States Immigration and Naturalization Service as evidence of lawful temporary entry into the United States. Such forms may include but are not limited to Form I-90; Form I-94; Form I-120; or Form I-181, available from United States Immigration offices; and

(2) One of the following items:

(A) one document from a category enumerated in subsection (a)(1) of this section; or

(B) two sworn statements (affidavits) from reputable bona fide residents that state that the applicant meets the residency criteria set forth in §61.5 of this title (relating to Residency).

§61.7. *Modification, Suspension, or Termination of Patient Benefits.*

(a) Reasons for modification, suspension, or termination of benefits. Any person receiving benefits from the program may be put on notice that these benefits may be modified, suspended, or terminated if:

(1) the person submits an application form or documents to prove Texas residency which contains a misstatement of fact which is material to the department's determination that the person is eligible for program benefits;

(2) the person is no longer a resident of the state;

(3) the person fails or refuses to provide the periodic documentation of residency required in §61.6(b) of this title (relating to Documentation of Residency);

(4) the person regains kidney function;

(5) the person refuses to reimburse the department after being notified of third party benefits or patient reimbursement obligations;

(6) the person submits false claims to the Kidney Health Care Program.

(b) Procedure for modification, suspension, or termination.

(1) Within 10 working days after receiving the above notice, the patient must respond to, or question, the program's reason(s) in a written response to the program by certified mail.

(2) Upon receipt of the patient's response, the program will affirm or reverse its proposed action in writing to the patient, giving the reason(s) for the decision.

(3) Any patient aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal procedure, at a minimum, will include the following:

(A) Within 10 working days after receiving the program's decision, the patient must send a notice to the program by certified mail requesting a hearing.

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

(C) The administrative hearing will be conducted under §§1.21-1.32 of this title (relating to Formal Hearing Procedures). A copy of the hearing rules will be provided to the patient or the patient's representative.

(D) In the event of a decision adverse to the patient's interest, the patient may appeal to the District Court of Travis County.

**§61.8. Kidney Health Care Approved Facilities.**

(a) An approved facility is one that:

(1) has met all Medicare certification requirements;

(2) has been assigned a Medicare ESRD provider number; and

(3) has submitted a letter of agreement to participate in the Texas Kidney Health Care Program and agrees to cooperate with the program in accordance with Texas Civil Statutes, Article 4477-20.

(b) The approval date will be the same date as that granted by the Health Care Financing Administration for Medicare ESRD approval.

**§61.9. Termination of Facility Approval.**

(a) Reasons for termination of facility approval. A kidney health care approved facility may lose its approval and privilege to participate in the Kidney Health Care Program if:

(1) the facility submits a letter of agreement which contains a false statement which is material to the department's determination that the facility is approved for participation in the program;

(2) the facility loses Medicare approval;

(3) the facility fails to reimburse the Kidney Health Care Program when overpayments have been made;

(4) the facility fails to reimburse the Kidney Health Care Program when primary liability for payment of patient medical care expense has not been satisfied; or

(5) the facility files false claims.

(b) Notice of termination or loss of approval.

(1) The Kidney Health Care Program shall notify the medical director of record by certified mail of its intent to withdraw kidney health care approval.

(2) Within 10 working days after receiving this notice, the facility must respond to, or question, the program's reason(s) in a written response to the program by certified mail.

(3) Upon receipt of the facility's written response, the program will affirm or reverse its proposed action, in writing, to the facility medical director of record, giving the reason(s) for the decision.

(4) A facility aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal procedure will be the same set forth in §61.7 of this title (relating to Modification, Suspension, or Termination of Patient Benefits).

**§61.10. Patient Reimbursement Obligation.**

(a) Although there is no means test for receiving benefits through the Kidney Health Care Program, the Texas Kidney Health Care Act does impose a reimbursement obligation on all approved patients. The law states that at the end of each calendar year any person who has received benefits from the Kidney Health Care Program must pay back to the program either:

(1) an amount not to exceed 5.0% of the patient's adjusted gross income (or the adjusted gross income of those responsible for the patient's debts, e.g., spouse, parent) minus the following deductions:

(A) \$1,000 (standard deduction), and

(B) the amount paid in premiums for private/group health insurance; or

(2) an amount equal to the benefits received from the Kidney Health Care Program, whichever is the smaller amount.

(b) For purposes of computing the patient's reimbursement obligation, a patient's adjusted gross income (AGI) is that amount shown as adjusted gross income on his/her federal income tax return, Forms 1040 or 1040A. The person responsible for the patient's debts shall be determined for reimbursement purposes by the existing law of the state.

**§61.11. Confidentiality of Information.**

(a) All information as to personal facts and circumstances obtained by the program staff or the staff of cooperative agencies of the state, regional, or local level will constitute privileged communications, and will be held confidential and will not be divulged without the consent of the patient, patient's parents, or guardians of minors or wards, except as necessary to provide services and as may be necessary under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

(b) Information may be disclosed in summary, statistical, or other forms which does not identify particular individuals.

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

§61.13. Forms.

(a) The department adopts by reference the following two forms contained in subparagraphs (A) and (B) of §61.4(1) of this title (relating to Applications):

(1) kidney health care application for benefits (Form KHC 1), and

(2) Health Care Financing Administration medical Form 2728-U4.

(b) Copies are indexed and filed and are available for public inspection in the office of the Kidney Health Care Program located at 5350 Burnet Road, Austin, 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 May 7, 1982.

TRD-823854 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Proposed date of adoption: June 14, 1982  
For further information, please call (512) 458-7338.

Chapter 169. Veterinary Public Health

Rabies Control and Eradication

25 TAC §169.33

The Texas Department of Health proposes new §169.33 concerning rabies control and eradication. The new rule specifically will cover the submission of specimens to the laboratory for rabies examination and diagnosis.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule will be more complete instructions for the submission of specimens to the laboratory for rabies examination and diagnosis.

The possible economic cost to individuals who are required to comply with the rule as proposed will be the average cost per head (specimen) submitted. For each year during years 1982-1986 the costs have been estimated as follows: telephone call—\$1.80; shipping container and ice pack—\$9.19; bus fare—\$5.17. The total cost per year is estimated as \$16.16.

Comments on the proposal may be submitted to F.V. McCasland, D.V.M., M.P.H., Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7221. Comments will be received for 30 days after publication of the proposed rule in the Texas Register.

The new section is proposed under Texas Civil Statutes, Article 4477-6a, §2.01, which provides the

Texas Board of Health with the authority to adopt rules necessary to implement the Rabies Control Act of 1981.

§169.33. Submission of Specimens for Laboratory Examination. Preparation of specimens either for shipment or for personal delivery for rabies diagnosis shall include the following.

(1) Damage to the brain by shooting or other traumatizing procedures shall be avoided.

(2) Suspect animal's head shall be separated from the body immediately after death by a qualified person. Only the head shall be submitted with the exception that whole bats may be submitted.

(3) The head shall be immediately chilled to between 45°F and 32°F, but should not be frozen.

(4) If specimens are shipped, two containers shall be used for packing.

(A) The immediate (inner) container. Only one head shall be placed in each immediate container which shall be a metal container or double plastic bags. A completed Texas Department of Health Form G-172, Laboratory Test for Rabies (see the form following this section), or the information requested on this form, shall be attached to each immediate container. One form is required for each head submitted.

(B) The shipping (outer) container.

(i) The immediate container(s) shall be placed in an insulated shipping container of adequate strength to withstand shipping conditions.

(ii) Sufficient refrigerant shall be added so the head will remain chilled for a minimum of 48 hours. Do not use dry ice.

(iii) Packing material shall be added to absorb water in the event of leakage.

(iv) Labeling on the outside of the shipping container shall be legible and include:

(I) name and address of the appropriate laboratory (listed in paragraph (6) of this section);

(II) the return address, name, and telephone number of the shipper; and

(III) the following statements: "CONTAINS (number) ANIMAL HEAD(S) FOR RABIES TESTING. HANDLE WITH CARE. UPON ARRIVAL CALL (telephone number of appropriate laboratory)."

(5) The following procedures are required for shipment:

(A) shipment shall be by bus or other reliable carrier;

(B) a shipping receipt will be obtained and retained by the shipper;

(C) at the time of the shipment, the shipper shall telephone the appropriate laboratory of the shipment; and

(D) the shipper shall provide the return postage if return of the shipping container is desired.

(6) The certified laboratories in Texas are:

Austin—  
Bureau of Laboratories  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756  
Telephone: (512) 458-7545

El Paso—  
Laboratory  
El Paso City-County Health Department  
222 South Campbell  
El Paso, Texas 79901  
Telephone: (915) 541-4657

San Antonio Metropolitan Health District  
131 West Nueva Street  
San Antonio, Texas 78204  
Telephone: (512) 299-8822

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

Houston—  
Laboratory  
Houston City Health Department  
1115 North MacGregor  
Houston, Texas 77030  
Telephone: (713) 222-4211

Issued in Austin, Texas, on May 7, 1982.

TRD-823865 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

San Antonio—  
Laboratory

Proposed date of adoption: June 14, 1982  
For further information, please call (512) 458-7221.

LABORATORY TEST FOR RABIES  
FORM NO. G-172

Texas Department of Health  
Bureau of Laboratories

Lab No. \_\_\_\_\_ Date Rec'd. \_\_\_\_\_ Date Reported \_\_\_\_\_

Carrier \_\_\_\_\_ Time Rec'd. \_\_\_\_\_

Do Not Mark Above This Line — Please Print Below with BALLPOINT PEN OR TYPEWRITER.

Animal \_\_\_\_\_ Senders ID \_\_\_\_\_

Description \_\_\_\_\_ County of Animal \_\_\_\_\_

Send report to: NAME \_\_\_\_\_  
STREET \_\_\_\_\_  
CITY \_\_\_\_\_ TEXAS \_\_\_\_\_  
(Zip Code)

Telephone \_\_\_\_\_  
Area Code Number Ext.

Human Exposure:  Yes  No

Type of human exposure:  bite  scratch

other \_\_\_\_\_

Remarks:

LABORATORY REPORT (DO NOT WRITE BELOW)

- Positive Fluorescent Rabies Antibody Test.
- Negative Fluorescent Rabies Antibody Test.
- Brain decomposed. Unable to perform examination.
- Brain destroyed before its arrival. Unable to perform examination.
- Not tested.

Rodents, hares, and rabbits will be accepted only if a human has been bitten without provocation. Cage-raised pets of these animals are not accepted for rabies testing.

Laboratory results inconclusive. Further testing in progress. \_\_\_\_\_  
(date)

# Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the Texas Register Division, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute under which the rule was adopted.

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. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

## TITLE 25. HEALTH SERVICES Part I. Texas Department of Health Chapter 89. Preventive Health and Health Services

### Rape Prevention and Crisis Services 25 TAC §§89.1-89.9

The Texas Department of Health adopts new §§89.1-89.9, with changes to the proposed text published in the December 18, 1981, issue of the *Texas Register* (6 TexReg 4711).

The rules cover rape prevention and crisis services. The rules' purpose is to establish an environment for the development of coordinated victim services, encourage local financial commitment for the maintenance of centers, promote prevention of rape, and increase public awareness of the problems of rape. The rules establish a system for providing services to rape victims and for rape prevention in the state through maintenance and upgrading of existing local services and by providing money for the development of such services.

Several comments were received requesting changes for clarification. The department has accepted these comments and made minor clarification changes to §§89.4-89.7. There are no substantive changes to these rules.

The new sections are adopted under Texas Civil Statutes, Article 4418a, §3, which provides the Texas Department of Health with the authority to adopt rules governing the department's programs.

#### §89.1. *Introduction and Scope.*

(a) *Statement of need.* The department recognizes the statewide need for coordinated development of rape

crisis centers to standardize availability of service, reporting and data collection, public information and education, and prevention.

(b) *Goals.* The goal of this department in the funding of rape crisis centers is to provide services to rape victims and for rape prevention in the state through maintenance and upgrading of existing local services and by providing money for the development of such services.

(c) *Objectives.* The objectives of these rules are:

- (1) To establish an environment for the development of coordinated victim services;
- (2) To encourage local financial commitment for the maintenance of centers;
- (3) To promote prevention of rape;
- (4) To increase public awareness of the problems of rape.

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

Department—Texas Department of Health.

RFA—Request for application.

§89.3. *Potential Applicants.* Rape crisis centers which are either public or private nonprofit entities and provide direct service are potential applicants.

§89.4. *Procedure to Apply for Funds (General Information for the Applicant).*

(a) *Issuing office.* The RFA is issued by the Texas Department of Health, Emergency Medical Services Division, and applicants should submit applications to: The Commissioner of Health, Attn: Program Administrator, Emergency Medical Services Division, (512) 458-7259, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(b) *Purpose.* The RFA provides the applicants with essential information to enable them to prepare and submit proposals to assist in providing sexual assault services.

(c) *Summary work statement.* The applicant will



be responsible for planning and implementing a program relating to sexual assault which will be designed to provide one or more of the following services:

(1) direct crisis intervention to victims of sexual attack;

(2) support services to victims of sexual attack by trained volunteers during the hospital examination, police investigation, and court proceedings;

(3) referral of victims of sexual attack to public and private agencies offering the services desired by the victims;

(4) the establishment of volunteer counseling groups for the victims of sexual attack;

(5) the development of training programs and the standardization of procedures for law enforcement, hospital, legal, and social service personnel to enable them to respond appropriately to the needs of the victims;

(6) the coordination of services which are being provided by existing agencies;

(7) education of the public about the nature and scope of sexual assault and the services which are available;

(8) development of services to meet the needs of special populations; for example, the child, racial minorities, the mentally or physically disabled, and the elderly.

(d) Project funding.

(1) This program will be financed with funds made available through the Preventive Health and Health Services Block Grant as designated for rape crisis. The majority of these funds will be utilized to fund centers eligible for continuation of rape crisis funds based on population and need, and for those developing rape crisis centers based on population and need.

(2) Successful applicants will be expected to abide by the policies and procedures of the Texas Department of Health including evaluation requirements in §89.6 of this title (relating to Evaluation Requirements of the Program); Texas Department of Health audit and requirements of an affirmative action program as required by the Preventive Health and Health Services Block Grant (Title VI of Civil Rights Act of 1964 (42 United States Code 2000d et. seq.) and its implementing regulation, 45 Code of Federal Regulations Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin); §504 of the Rehabilitation Act of 1973 (29 United States Code 794) and its implementing regulation, 45 Code of Federal Regulations Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap)).

(e) Eligibility. Rape crisis centers are eligible for funds based on population and need and developing rape crisis centers based on population and need.

(f) Response date. Completed application must arrive at the department's Emergency Medical Services Division within 60 days notice of grant cycle. Those mailing applications should allow ample mail delivery time to insure timely receipt of their applications.

(g) Incurring costs. The department is not liable for costs incurred by applicants prior to issuance of a contract.

(h) Application assistance. All interested applicants

may call the issuing office for more details at (512) 458-7259.

(i) Application submission. To be considered, applicants must submit a brief but complete response to this RFA, using the format provided. Each application should be submitted in three copies to the issuing office. All applications received in response to this RFA will be retained.

(j) Economy of preparation. Proposals should be prepared simply and economically providing a straightforward, concise description of the contractor's ability to meet the requirements of the RFA. Emphasis should be placed on completeness and clarity of content.

(k) Rejection of proposals. This RFA is made for information and planning purposes only. The department does not intend to award a contract solely on the basis of any response made to this request or pay for information solicited or obtained.

(l) Acceptance of proposal content. Applications will be subject to a review process. The contents of the proposal made by the successful bidder may become contractual obligations, if a contract ensues.

(m) Contract term. The term of the contract shall be for approximately 12 months (beginning October 1 of each year) but will be determined during any negotiations resulting from this RFA.

(n) Special conditions. The department will include in the grant agreement special conditions relating to hiring of staff, other sources of funds, and any other aspect of the applicant's proposal deemed necessary to successfully implement the project as required by the Preventive Health and Health Services Block Grant.

**§89.5. Criteria for Applications (Information Required for Applications).** Applicant proposals must be brief and submitted to the issuing office typed on forms prescribed by the department. Proposals must contain the information listed in paragraphs (1)-(6) of this section.

(1) Business organization.

(A) State the full name and address of your organization.

(B) Give the name, title, and telephone number of the contact person submitting application.

(C) Indicate whether you operate as a public or private non-profit entity. If private non-profit, give proof of incorporation with Secretary of State office.

(D) Give the name of the person who will be responsible for implementation of the program (project director).

(E) Give the name of the financial officer of your organization.

(F) Give the name of the person authorized to sign legal contracts for your organization.

(2) Background.

(A) Give historical description of program.

(B) Indicate the years of operation and give amounts and sources of funding for each year of operation.

(C) Explain who has participated in the development of this proposal and the ways in which support and cooperation have been solicited from potentially interested and/or relevant community agencies or groups on the development of this proposal—criminal justice, medical, women's groups, county attorneys' offices,

social service departments, minorities, etc. Include letters of community support.

(D) Indicate medical and criminal justice support availability.

(E) Include a brief statement concerning the recent experience of persons (can be volunteer or staff) from your organization who will actively be engaged in the proposed effort and emphasize recent experience directly applicable to sexual assault. Include resumes and job descriptions for all staff members involved in the rape crisis program. Include job descriptions for any staff positions proposed in application.

(F) Include bylaws.

(G) Describe the structure of your board of directors and include names and occupations (or your plan for board).

(H) Include personnel policies.

(3) Program description and services offered. (Refer to subsection (c) of §89.4 of this title (relating to Procedure to Apply for Funds (General Information for the Applicant))).

(A) Describe in full what services your program is currently offering.

(B) Give population and geographic area served. Indicate for each area whether services being provided are crisis intervention services and/or public education. Include current program statistics.

(C) Describe in full what services are proposed for this funding.

(4) Objectives.

(A) State the major objectives you propose to accomplish in your current fiscal year.

(B) State the objectives to be accomplished with this funding.

(C) Give the indicators you will use for measuring your objectives.

(5) Work program.

(A) Provide a work plan for implementing the proposed project.

(B) The work plan should identify the task necessary to achieve each of the objectives, provide a timetable for completion of each task, and identify the staff member or volunteer to be assigned responsibility for the completion of each task.

(6) Budget.

(A) Proposed budget. No equipment may be purchased with these funds. Give fiscal year dates under which your agency or program operates. Please submit a detailed budget (rape program only) for each of the following categories:

Budget Category Allowable Cost; Total Budget (give current fiscal year); Source; Proposed Budget (funding requested). Each category should include the following entries: personnel, fringe benefits, travel, supplies, contractual, and other costs.

(B) Budget narrative.

(i) List the items and amounts from above budget categories to be funded by this application.

(ii) Explain in detail each budget item requested and its relationship to the programmatic needs.

(iii) The information requested in this section is required to support the reasonableness of your quotation and is for internal use only. This information

will be held in confidence and will not be revealed to or discussed with any other applicant.

**§89.6. Evaluation Requirements of the Program.**

(a) The funded applicant will be required to furnish to the department an annual fiscal report and annual program report.

(b) The annual program report will include:

(1) the number of reports received;

(2) the number of persons counseled and number of counseling hours;

(3) the number of persons referred for other definitive health care;

(4) the number of cases entered into criminal justice system and/or prosecuted;

(5) the annual percent increase in number of cases entered into criminal justice system and/or prosecuted; and

(6) the number of public education programs given and number of persons participating in each.

**§89.7. Application Review Criteria.** The department will review the application using the following review criteria.

(1) Applicant's business organization:

(A) name and address;

(B) contact person, title, telephone number;

(C) public or private non-profit entity; incorporation proof;

(D) project director;

(E) financial officer; and

(F) person authorized to sign contract.

(2) Applicant's background:

(A) historical description;

(B) years of operation; sources and amounts of funding for each.

(i) The applicant should indicate if source was community support (city/county supplement, United Way, donations, and fund raisers).

(ii) The applicant should indicate funding support from Law Enforcement Administration Act, foundations, corporations, and others.

(C) participation of individuals; letters of community support;

(D) medical and criminal justice support;

(E) recent experience of persons to be actively involved in program:

(i) resumes of staff, and

(ii) job descriptions.

(F) bylaws;

(G) board of directors; and

(H) personnel policies.

(3) Program description and services offered by applicant.

(A) Services offered:

(i) Hotline capability. Is there hotline capability 24 hours a day, seven days a week, for counseling of sexual assault emergencies, emotional emergencies related to sexual assault and for information concerning the crimes of rape and other sexual assault or sexual abuses?

(ii) Counseling. Is there in-person counseling and/or advocacy and accompaniment 24 hours a day, seven days a week, to assist sexual assault victims with

the initial trauma or with later effects of the crime? Is there accompaniment, including transportation where needed, to all phases of process the victim must confront to obtain closure? Also, is there counseling for family members and/or identified significant others of the victim?

(iii) Liaison. Is there a liaison with other community agencies the victims may need to approach during recovery process? Are direct referrals made to professional therapist for treatment of psychological trauma on a long-term basis, where needed?

(iv) Public education.

(I) Is there a public education service available to educate any adult, youth, or children group on the aspects of sexual assault including the availability of the rape crisis center service, the rights of the victim, and rape prevention?

(II) Is the applicant able to conduct classes or seminars for groups desiring more indepth knowledge?

(III) Does the applicant have available public service announcements concerning the scope of service and rape prevention information?

(v) Outside professionals. Is the applicant able to train outside agency professionals who are providing direct services to victims of sexual assault including doctors, police, nurses, therapists, emergency medical services, school personnel, and others?

(B) Population and geographic area served (crisis services/public education), program statistics; and

(C) Services needed (refer to paragraph (3), subparagraph (A) of this section).

(4) Objectives. The applicant should have objectives clearly stated and indicators given for measuring accomplishment. (Example—Do objectives support program description, services offered, and services proposed?)

(5) Work program. The applicant should have:

(A) tasks identified for achieving objectives;

(B) timetables for tasks; and

(C) staff or volunteers to be assigned to tasks identified.

(6) Budget. The applicant must give its total current budget and its proposed budget. Each of the requested categories in the budget should correspond to identified program needs. Is there a budget narrative?

**§89.8. Future Participation.** Continuation in this program by an applicant will be based on results of fiscal and programmatic audits and annual reports. In addition, this decision presupposes continued federal appropriations.

**§89.9. Administrative Review.** Any applicant who is denied funds under this program may file a written request for an administrative review and redetermination of the denial. The request shall be mailed to the Bureau of Emergency Management. Upon receipt of this request, the staff shall conduct an administrative review and this decision will be final. A written notice of the decision, either upholding or overruling the denial, will be mailed to the applicant.

This agency hereby certifies that the rule as adopted

has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 7, 1982.

TRD-823856

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

Effective date: June 13, 1982

Proposal publication date: December 18, 1981

For further information, please call (512) 458-7259.

## Chapter 115. Home Health Care Agencies Licensing and Regulation

The Texas Department of Health adopts the repeal of §§115.1-115.8, without changes to the proposed notice of repeal and adopts new §§115.1-115.10, with changes to the proposed text published in the February 2, 1982, issue of the *Texas Register* (7 Tex-Reg 415).

The justification for these rules is to implement the amendments to the Home Health Care Agencies Act, Texas Civil Statutes, Article 4447u, made by Senate Bill 594, 67th Legislature, 1981; and clarify the minimum standards for home health care services licensed in Texas. The rules will function by updating and replacing existing rules being repealed in this same issue of the *Register*, and providing more detailed minimum standards for home health services licensed in Texas.

Most comments requested clarification of wording and the addition of the category of medical social worker to the list of professional staff used by a home health agency. The department made clarifications and added the medical social worker category. All changes are minor ones. Other comments addressed the law itself. Most of the comments received were not totally for or against the rules. Instead they expressed concern, raised questions, and made recommendations. Some of the comments simply objected to the enabling legislation itself. Linda Wassenich of the Visiting Nurses Association submitted comments favoring adoption of the rules as proposed.

The repeal and new sections are adopted under Texas Civil Statutes, Article 4447u, §4(b), which provides the Texas Board of Health with the authority to adopt rules covering the licensing of home health care agencies.

### 25 TAC §§115.1-115.8

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

Issued in Austin, Texas, on May 7, 1982.

TRD-823965

Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of Health

Effective date: May 28, 1982

Proposal publication date: February 2, 1982

For further information, please call (512) 458-7638.

25 TAC §§115.1-115.10

**§115.1. Introduction.** In order to be licensed as a home health care agency, hereafter referred to as "agency," the following rules must be followed for either a Class "A" home health care agency or a Class "B" home health care agency (Class "A" agency must be certified by Medicare, Class "B" agency is not certified by Medicare) except where the individual rule specifies otherwise.

**§115.2. Definitions.** Definitions used in these rules are the same as those set out in §1 of Article 4447u, Texas Civil Statutes, relating to the licensure and regulation of home health care agencies.

**§115.3. Qualifications for Professional Personnel.**

(a) A skilled nurse is a registered professional nurse or a licensed vocational nurse currently licensed by the state and having preferably some public health or home health experience.

(b) A physical therapist is graduated from a physical therapy curriculum approved by the American Physical Therapy Association (APTA); is eligible for membership in APTA; and is currently licensed by the state.

(c) A speech therapist is certified and has a certificate of Clinical Competence in the appropriate area by the American Speech and Hearing Association and is currently licensed by the state, if required.

(d) An occupational therapist is a graduate of a program approved by the Council on Medical Education with the American Occupational Therapy Association (AOTA), is eligible for membership in AOTA, and is currently licensed by the state, if required.

(e) A respiratory therapist is certified or registered by the appropriate professional organization or is eligible for it and is currently licensed by the state, if required.

(f) A nutritional counselor is an individual who is a member of the American Dietetic Association, a registered dietician, or eligible for membership in the American Dietetic Association, and is currently licensed by the state, if required.

(g) A medical social worker has a master of science degree in social work from a school of social work accredited by the Council on Social Work Education, has had social work experience, i.e., hospital, outpatient clinic, rehabilitation program, or mental health program, and is currently licensed by the state, if required.

**§115.4. Qualifications for Nonprofessional Personnel.**

(a) A home health aide has had a minimum of one year of experience in direct patient care in an institutional setting (home health agency, hospital, or nursing home) or has satisfactorily completed a Texas Department of Health approved course of home health aide training; has the ability to read and write; and must be supervised by a registered professional nurse who will write plans of care.

(b) A physical therapy assistant is a graduate of a training course approved by the APTA; is currently licensed by the state; and must be supervised by a licensed physical therapist who will write plans of care.

(c) An occupational therapy assistant is a graduate

of a training course approved by the AOTA; is certified by AOTA as an assistant; and is supervised by an occupational therapist who will write plans of care.

(d) A social work assistant is a graduate of a baccalaureate degree program in psychology, social work, or sociology; and will have on-the-job training and supervision by a medical social worker.

(e) Anyone else is a person trained and oriented by the home health agency to provide non-health related services.

**§115.5. Treatment and Services Provided.**

(a) Patients are accepted for treatment and health services on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence. Care follows a plan of treatment which must be written and signed by the designated agency personnel or signed by the physician if skilled treatment is ordered and reviewed at least every six months by the patient's physician. Drugs will be administered by an agency registered professional nurse or licensed vocational nurse only if such medication is ordered by the patient's physician.

(b) Patients are accepted for non-health related services on the basis of a reasonable expectation that the patient's needs can be met adequately in the patient's place of residence. Service must follow a written plan established and reviewed at least every two months by the appropriate agency supervisor.

**§115.6. Supervision of Professional and Nonprofessional Personnel.** All staff should be supervised by the appropriate professional as designated by the agency. This supervision shall include at least the following:

(1) on-site supervision by a registered nurse of home health aide every 60 days;

(2) patient care conference at least monthly to evaluate patient care needs and delivery of service.

**§115.7. Organizational Structure of the Agency.** Organizational structure of the agency, lines of authority, and delegation of responsibility will be in writing.

**§115.8. Clinical Records.** Clinical records kept by the agency should include patient identification data, appropriate treatment plan, clinical notes, assessments, and discharge summary. Clinical records must be retained at least five years.

**§115.9. Financial Ability to Carry Out the Functions as Proposed.** Prior to the issuance of a license to a new applicant, an on-site survey will be conducted by the Texas Department of Health. The surveyor will be provided with a copy of the proposed budget and an affidavit as to the availability of funds necessary to meet the expenses of the budget.

**§115.10. Other Aspects of Home Health Services Necessary to Protect the Public.**

(a) The agency must have a written contingency plan in the event of dissolution for continuity of patient care and transfer and safekeeping of records.

(b) An agency providing in-home care by individuals only of the type outlined in §115.3 of this title

(relating to Qualifications for Professional Personnel) and §115.4 of this title (relating to Qualifications for Non-professional Personnel) is subject to all licensure regulations herein contained.

(c) An agency must respect the rights and privileges of other agencies. In order to preserve the rights of the patient, the solicitation of referrals by coercion or harassment by an agency will be considered a violation of this Act.

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

Issued in Austin, Texas, on May 7, 1982.

TRD-823857 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date: May 28, 1982

Proposal publication date: February 2, 1982

For further information, please call (512) 458-7538.

## Chapter 145. Long-Term Care

### Subchapter M. Minimum Licensing Standards for Adult Day Care and Adult Day Health Care Facilities

25 TAC §§145.191, 145.192, 145.194, 145.195

The Texas Department of Health adopts amendments to §§145.191, 145.192, 145.194, and 145.195, with changes to the proposed text published in the February 26, 1982, issue of the *Texas Register* (7 Tex-Reg 807).

The rules being amended are the department's minimum licensing standards for adult day care and adult day health care facilities. The justification for the amendments is threefold: (1) to provide reduced requirements in areas where conformance with existing standards would create a hardship; (2) to reflect more accurately the conditions of clients to be cared for in the facilities; and (3) to update the rules to comply with the requirements of the amendments to Texas Civil Statutes, Article 4442a-1 by Senate Bill 170, 67th Legislature, 1981.

The amendments make the rules less stringent on the facilities while not diminishing the requirements for client safety. Particularly, many of these facilities already operating and becoming providers in this program are having undue difficulties in complying with some of the physical plant requirements, such as toilets, bathing units, emergency lighting, kitchen construction, heating systems, and fire alarm systems. The amendments provide reduced requirements in those areas, some for all facilities, new or existing, and others for only certain existing facilities where otherwise conformance would create a hardship. Some of the amendments also provide clarification or more explicit information described in a general way in the Life Safety Code. The amendments now more accurately reflect the conditions of clients to be cared for in these facilities. The clients are ambulatory and semiambulatory clients and not nonambulatory clients.

As regards the Senate Bill 170 amendments, the amendments change the definition of handicapped person and remove the requirements for a certificate of need from the Texas Health Facilities Commission. The comments received suggested the following.

(1) The language in certain amendments is too general and would cause inequalities in interpretation.

(2) Section 145.194(a)(8)(C)(iv) should be changed to read "30 clients or less" instead of "less than 30 clients."

(3) Making the rules less restrictive unduly relaxes the part of the rules on "Exceptions to Life Safety Code."

(4) There should be separate handwashing fixtures in areas where food is being prepared for serving only.

None of the comments received were totally for or against the proposed rules; instead, the comments received consisted primarily of questions, recommendations, and requests for clarifications.

The department disagreed with a few comments for the following reasons.

In regard to comment (1) above—Enforcement and interpretation in a given case is performed by a single qualified individual and, therefore, inequalities in interpretation are either nonexistent or highly unlikely.

In regard to comment (3) above—Making the rules less restrictive does not unreasonably relax the "Exceptions to the Life Safety Code." The relaxation is necessary to make the rules less restrictive, but the amendments are designed so as not to reduce client safety.

In regard to comment (4) above—The department believes that in a serving kitchen permitting handwashing in an existing sink, instead of requiring separate facilities, meets general and satisfactory sanitation requirements without additional expense.

The amendments are adopted under Texas Civil Statutes, Article 4442a-1, §5, which authorizes the department to adopt procedures and standards covering safety and sanitation for adult day care and adult day health care facilities.

#### §145.191. Introduction.

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

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

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

(4) Ambulatory—Mobility not relying on walker, crutch, cane, other physical object, or use of wheelchair.

(5) Client—A person who receives the services of an adult day care facility or an adult day health care facility.

(6) Director—Person responsible for the overall operation of a facility.

(7) Elderly person—A person 65 years of age or older.

(8) Existing building—In these standards, except where defined otherwise, a building either occupied as

an adult day care facility or an adult day health care facility at the time of initial inspection by the licensing agency or converted to occupancy as an adult day care facility or an adult day health care facility.

(9) Handicapped person—A person whose functioning is sufficiently impaired to require frequent medical attention, counseling, physical therapy, therapeutic or corrective equipment, or another person's attendance and supervision.

(10) Licensing agency—The Texas Department of Health.

(11) Safety—Action taken to protect from injury or loss of life due to such conditions as fire, electrical hazard, unsafe building or site conditions, and the presence of hazardous materials.

(12) Sanitation—Action taken to protect from illness, the transmission of disease, or loss of life due to unclean surroundings, the presence of disease-transmitting insects or rodents, unhealthful conditions or practices in the preparation of food and beverage, or the care of personal belongings.

(13) Semiambulatory—Mobility relying on walker, crutch, cane, other physical object, or independent use of wheelchair.

§145.192. Licensing Procedures.

(a) General requirements. Copies of these rules and the Texas Department of Human Resources' minimum standards for adult day activity services, Rule 326.64.90.026, or for minimum standards for day activity and health services, Chapter 326.49, as appropriate, shall be made available to all facility personnel and to clients and/or clients' responsible parties. Personnel shall be instructed on the requirements of the law and regulations pertaining to their respective duties.

(b) (No change.)

§145.194. Safety.

(a) Environmental safety.

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

(3) The handicap features of the physical plant must comply with applicable federal, state, and local requirements.

(4) There shall be provided not less than 35 square feet for each ambulatory client and not less than 50 square feet for each semiambulatory client. This space shall be exclusive of the kitchen and food service area, rest rooms, bath areas, offices, corridors, stairways, storage areas, and outdoor space.

(5) The jurisdiction of the licensing agency will extend beyond the licensed facility when the licensed area is only a part of a building or floor that is not fire separated in accordance with §6-1 of the Life Safety Code.

(6) The manual fire alarm system and automatic smoke detection system shall be installed in accordance with NFPA Number 72 series and state fire marshal licensing requirements.

(7) Requirements for a facility which is part of a licensed nursing home or custodial care home building.

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

(8) Requirements for a facility in a free-standing or detached building or in a building fire section separate from a licensed nursing home or custodial care home.

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

(C) Exceptions to Life Safety Code, 1976, §9-5.3.

(i) Automatic transmission of fire alarm to the fire department serving the facility will not be required.

(ii) The required smoke detection system will be powered by the facility electrical system and be interconnected with the fire alarm system.

(iii) Exception number 2 under §9-5.3.3.3.2, Life Safety Code, does not apply to adult day care or adult day health care facilities.

(iv) The manual fire alarm system is not mandatory for an existing detached single story building with 30 clients or less which is in operation as an adult day care facility or adult day health care facility at the time of first application for licensure under this program. As a minimum for such facility, battery-type smoke detectors will be required in specified areas.

(v) Reference to apartment buildings in Life Safety Code, §9-5.3.1.1.5(b), shall be deleted. Any floor above or below the floor of exit discharge which is used by semiambulatory clients or those whose handicap prevents them from taking appropriate action for self-preservation in emergency will be provided with smoke compartmentation as approved by the licensing agency.

(vi) Emergency lighting is not required for means of egress if the facility operation is during daylight hours and if natural light, direct or borrowed, is provided so that means of egress is usable in emergency.

(vii) Special protective electrical receptacle covers will not be required.

(viii) Where kitchen provisions consist of serving kitchens only, and cooking equipment is used only to warm food, prepare hot drinks, or provide similar food service, the kitchen need not be considered a hazardous area under Life Safety Code, §9-5.3.3.5

(ix) National Fire Protection Association Number 96 publication is not applicable if the facility has residential type cooking equipment.

(x) Public corridors shall not be used for return or supply air systems in any adult day care or adult day health care facility.

(xi) Residential type heating units or heating units designed for attic installations are not considered to be units requiring furnace room construction as specified under Life Safety Code, §9-5.3.3.5.

(xii) New additions or remodeling shall be as required for new construction, unless approved otherwise by the licensing agency.

(D)-(J) (No change.)

(b) (No change.)

§145.195. Sanitation.

(a) General.

(1)-(7) (No change.)

(8) There shall be complete and separate restroom facilities for men and women. Toilets shall be provided as necessary to meet the needs of the clients; however, there shall be not less than one toilet and one lavatory for every 15 clients or fraction thereof. Multiple toilets shall be compartmented. All toilets shall be equipped with grab bars. Lavatories shall be provided with hot and cold water, soap, and individual towels. A

minimum of one bathing unit shall be provided. In an existing facility operating as an adult day care facility or an adult day health care facility at time of initial licensure and which does not have a bathing unit, means acceptable to the licensing agency shall be provided for assuring necessary personal hygiene of the clients.

(9) All bathrooms, toilet rooms, and other odor-producing rooms or areas for soiled and insanitary operations shall be ventilated to the exterior for odor control; the use of windows is not permissible. In existing facilities operating as adult day care facilities or adult day health care facilities at time of initial licensure, the requirements for ventilation shall be considered per individual facility.

(10) (No change.)

(b) Kitchen.

(1) (No change.)

(2) Food preparation kitchens serving 10 or more clients shall have separate handwashing fixtures including hot and cold water, soap, and individual towels, preferably paper towels, in accordance with the rules on food service sanitation of the Texas Department of Health.

(3) Where kitchen provisions consist of serving kitchens only, and cooking equipment is used only to warm food, prepare hot drinks, or provide similar food service, the kitchen need not have separate handwashing fixtures.

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

Issued in Austin, Texas, on May 7, 1982.

TRD-823858 Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of Health

Effective date: May 28, 1982

Proposal publication date: February 26, 1982

For further information, please call (512) 458-7706.

## Chapter 289. Occupational Health and Radiation Control Control of Radiation

### 25 TAC §289.1

The Texas Department of Health adopts amendments to §289.1 with changes to the proposed text published in the February 23, 1982, issue of the *Texas Register* (7 TexReg 730).

The amendment adds a new Part 36 in subsection (a)(9) of §289.1. Part 36, entitled, "Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies," which will formalize existing radiation control policy, procedures, and currently used license conditions for wireline operations and tracer studies. Part 36 will also add uniformity to administration and enforcement of the requirements.

The new Part 36 establishes radiation safety requirements for persons using sources of radiation for wireline service operations, including radioactive markers, mineral exploration, oil and gas well logging,

and subsurface tracer studies. Part 36 includes requirements for equipment control, personnel safety, precautionary procedures during operations, surveys and records, and required notifications of incidents and lost sources.

#### Summary of Comments.

It was suggested that for purposes of clarification, §289.1 be broken down into its parts and each part identified with its date of adoption or amendment. This has been done.

Numerous comments were received on the proposed new Part 12 and the amendments to existing Parts 11, 41, 42, and 43 which proposed Part 12 would produce. As a result of these numerous comments, the department is not ready to submit the adoption of Part 12 and its amendments to the *Register* at this time.

Several comments were received on the proposed new Part 36. They generally supported Part 36 but recommended some minor changes as follows:

(1) §36.3, definitions. A definition for "logging supervisor" should be added.

(2) §36.201, training requirements. The term "Part 12" should be changed to "Part 21" because of a typing error.

(3) §36.303, tracer studies. The term "potable aquifers" should be changed to "usable quality groundwater (3,000 parts per million (ppm) total dissolved solids or less)."

(4) §36.501, notification of incidents and lost sources. The department should omit the phrase "and request approval of the abandonment procedures" from subsection (c)(2) of this section due to the overlap with Railroad Commission rules.

(5) Some who commented expressed concern that small low-activity radioactive sources used in logging operations would have to meet the same labeling and pressure testing requirements as the larger sources used in deeper wells and asked for changes to §36.108.

(6) The comment was made that the abandonment of sources downhole should be documented in the county deed records.

(7) Several who commented were concerned that the requirements for plaques covering abandoned sources lost downhole, as described in §36.501, would be unnecessarily redundant and would potentially conflict with the Railroad Commission's 16 TAC §3.35.

Most of the comments were not totally for or against the proposed amendments; instead these comments consisted of questions, concerns, and recommendations. George O'Banion of Schlumberger Well Services submitted comments totally favoring the rule as proposed.

As regards the concern expressed in comment number (5), the agency has determined that exemptions to specific rules could be issued for those sources upon application therefor.

As regards the concern expressed in number (6), the

agency has determined that this was not a function of the agency. If notification were required, it should be the responsibility of the Railroad Commission.

The concerns expressed in number (7) were discussed with the Railroad Commission. The commission saw no potential conflicts with the plaque requirement as stated in the agency's proposed rules.

The amendments are adopted under Texas Civil Statutes, Article 4590f, §4(d)(3), which provides the Texas Department of Health with the authority to adopt rules on the licensing and registration related to control and transport of sources of radiation in the State of Texas.

§289.1. Control of Radiation Generally.

(a) The Texas Department of Health adopts by reference the rules contained in the department's document entitled "Texas Regulations for the Control of Radiation," which consists of the following parts and the dates they have been amended:

- (1) Part 11, "General Provisions," as amended in May 1977.
- (2) Part 21, "Standards for Protection Against Radiation," as amended in October 1981.
- (3) Part 22, "Notices, Instructions, and Reports to Workers; Inspections," as amended in May 1977.
- (4) Part 31, "Radiation Safety Requirements for Industrial Radiographic Operations," as amended in May 1977.
- (5) Part 32, "Use of X-rays in the Healing Arts and Veterinary Medicine," added in May 1977.
- (6) Part 33, "Use of Sealed Radioactive Sources in the Healing Arts," as amended in May 1977.
- (7) Part 34, "Radiation Safety Requirements for Analytical X-ray Equipment," as amended in May 1977.
- (8) Part 35, "Radiation Safety Requirements for Particle Accelerators," as amended in May 1977.
- (9) Part 36, "Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies," added in May 1982.
- (10) Part 41, "Licensing of Radioactive Material," as amended in October 1981.
- (11) Part 42, "Registration of Radiation Machines and Services," added in May 1977.
- (12) Part 43, "Licensing of Uranium Recovery Facilities," added in October 1981.

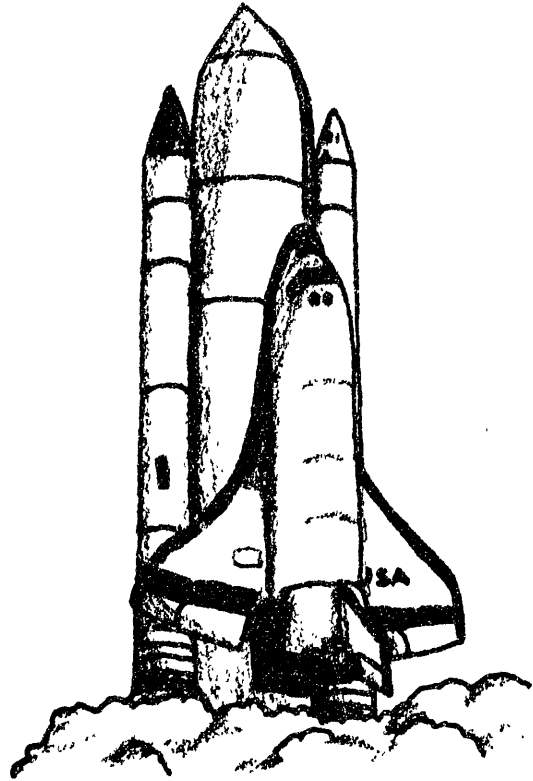
(b) The documents adopted by reference in this section are indexed and filed in the Bureau of Radiation Control, Texas Department of Health office, located at 1212 East Anderson Lane, Austin, Texas 78752, and are available for public inspection during regular working hours.

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

Issued in Austin, Texas, on May 7, 1982.

TRD-823859      Robert A. MacLean, M.D.  
 Deputy Commissioner for  
 Professional Services  
 Texas Department of Health

Effective date: May 28, 1982  
 Proposal publication date: February 23, 1982  
 For further information, please call (512) 835-7000.



## TITLE 28. INSURANCE

### Part I. State Board of Insurance

*(Editor's note: Because the State Board of Insurance rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register Division numbers. However, the rules will be published under the agency's correct TAC title and part.)*

#### Life, Health, and Accident Insurance Policy Form Approval

059.03.42.003

The State Board of Insurance adopts the repeal of Rule 059.03.42.003, without changes to the proposed notice of repeal published in the January 15, 1982, issue of the *Texas Register* (7 TexReg 188).

This rule has been superseded by Rules 059.37.01.001-.111, the rules for minimum standards and benefits and readability for accident and health insurance policies.

No comments were received regarding adoption of the repeal.

This repeal is adopted pursuant to Texas Insurance Code, Article 3.42, 3.70-1, 3.70-3, 3.70-5, 21.18, 21.18, and 21.21, which deal with required and prohibited policy provisions, standards for review of policy provisions, standards for application forms, standards for policyholder statements or representations in application forms, and general requirements that forms conform to law. The repeal is also adopted



pursuant to the board's authority under Texas Civil Statutes, Article 6252-13a, §4, and elsewhere to promulgate procedural rules necessary for the board to exercise its statutory authority and responsibility under existing law, and under the board's authority to repeal a promulgated rule.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823953 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: January 15, 1982  
For further information, please call (512) 475-2950.

**059.03.42.004, .005, .006, and .008**

The State Board of Insurance adopts the repeal of Rules 059.03.42.004, .005, .006, and .008, without changes to the proposed notice of repeal in the January 15, 1982, issue of the *Texas Register* (7 Tex-Reg 188).

Rule 059.03.42.004 exempted certain forms under certain circumstances from review under Texas Insurance Code, Article 3.42, at or about the time Article 3.42 was enacted. Rule 059.03.42.005 was an amendment to Rule 059.03.42.004. Rule 059.03.42.006 deals with the withdrawal of the exemptions specified in Rules 059.03.42.004-.005. Rule 059.03.42.008 deals with the withdrawal of the exemptions specified in Rules 059.03.42.004-.005 and supersedes Rule 059.03.42.006. Rule 059.03.42.008 is obsolete and is no longer in use or necessary.

No comments were received regarding adoption of the repeals.

These repeals are adopted pursuant to Texas Insurance Code, Article 3.42(e), which gives the State Board of Insurance authority under certain circumstances, to exempt insurance documents or forms for a time from the requirements of Article 3.42, and pursuant to the board's authority to repeal any rule it has previously promulgated.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823948 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: January 15, 1982  
For further information, please call (512) 475-2950.

**059.03.42.009**

The State Board of Insurance adopts the repeal of Rule 059.03.42.009 dealing with the preparation and submission of individual life and annuity forms, without changes to the proposed notice of repeal published in the January 15, 1982, issue of the *Texas Register* (7 TexReg 189).

Rule 059.03.42.009 is substantially a duplication of Rules 059.03.43.001-.008 and is therefore unnecessary.

No comments were received regarding adoption of the repeal.

This repeal is adopted under authority of Texas Insurance Code, Article 3.42, pursuant to which the board reviews policy forms with which the rule deals; pursuant to the board's authority under Texas Civil Statutes, Article 6252-13a, §4, and elsewhere, to promulgate procedural rules necessary for the board to exercise its statutory authority under Article 3.42; and pursuant to the board's authority to repeal any rule previously adopted.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823944 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: January 15, 1982  
For further information, please call (512) 475-2950.

**059.03.42.010**

The State Board of Insurance adopts the repeal of Rule 059.03.42.010, which deals with the approval, disapproval, and withdrawal of approval of certain participating policy forms, without changes to the proposed notice of repeal published in the January 15, 1982, issue of the *Texas Register* (7 TexReg 190).

The rule is, except for one provision, a substantial duplication of Rules 059.03.44.001-.004. The single provision, which is not a duplication of Rules 059.03.44.001-.004, is a restatement of the law and is being adopted as new Rule 059.03.44.005.

No comments were received regarding adoption of the repeal.

This repeal is adopted under authority of Texas Insurance Code, Article 3.42, which specifies standards pursuant to which the State Board of Insurance reviews the policy forms with which the rule deals; Texas Insurance Code, Article 21.21, which prohibits deceptive, misleading, and untrue acts and practices in the insurance business, and states the board's authority to repeal any rule it has previously adopted.

## Preparation and Submission of Individual Life Insurance and Annuity Forms

059.03.43

The State Board of Insurance adopts amendments to Rules 059.03.43.001-.008, which are rules for the preparation and submission of individual life insurance and annuity forms pursuant to Texas Insurance Code, Article 3.42, without changes to the proposed text published in the February 2, 1982, issue of the *Texas Register* (7 TexReg 417).

The amendments delete surplus and unnecessary language, make minor editing changes, update and delete certain requirements no longer deemed necessary. A second paragraph has been added to Rule 059.03.43.001 which is supplemental to and explanatory of the rule.

One comment was received respecting these rules. Donald Y. Edde, assistant vice president of Guarantee Trust Life Insurance Company, objected to the requirement in subsection (b) of Rule 059.03.43.001 that "The policy form to which a nonseverable rider, endorsement or other supplementary form is attached must be filed under an adjusted form number if the policy form has been previously approved without the nonseverable form." The writer is concerned that the rule prohibits the refiling of policy forms with new form numbers on the specification and valuation pages. Through the use of computers, many types of life insurance policies may have many of the same basic pages with differences reflected only on specifications or valuations pages.

The State Board of Insurance has recognized this problem and permits identifying form numbers to be shown on the specifications page. The writer also objects to changing the policy form number when a rider is filed with a modified incontestable clause or other required policy provision. His comment is if the amendment has

an identification number of its own, a modification of the policy form number seems superfluous. However, the board believes that a nonseverable rider, endorsement, or other supplementary form creates an entirely new contract which should be treated as such. Accordingly, the entire form should reflect a new form number.

The amendments are adopted pursuant to Texas Insurance Code, Article 3.42, pursuant to which the board reviews the policy forms with which the rules deal; pursuant to the board's authority under Texas Civil Statutes, Article 6252-13a, 54, and elsewhere, to promulgate procedural rules necessary for the board to exercise its statutory authority and responsibilities under Article 3.42 of the Texas Insurance Code; and pursuant to the board's authority to make nonsubstantive editorial changes and clarifications to existing rules.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823946

James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: February 2, 1982  
For further information, please call (512) 475-2950.

## Policy Form Approval

059.03.44.005

The State Board of Insurance adopts new Rule 059.03.44.005, which is an addition to Rules 059.03.44.001-.004, without changes to the proposed text published in the January 26, 1982, issue of the *Texas Register* (7 TexReg 340).



**New Rule 059.03.44.005** adds a portion of **Board Order 18418** which was inadvertently omitted from the referenced rules when they were filed with the *Texas Register* as existing rules in 1976. Rule 059.03.44.005 simply tracks the law by providing that the rules will not be construed to prohibit the use of any provision otherwise authorized by statutory law.

No comments were received regarding adoption of the new rule.

The rule is adopted under authority of Texas Insurance Code, Articles 3.42 and 21.21. Article 3.42 specifies standards pursuant to which the State Board of Insurance reviews the policy forms with which the rule deals; Article 21.21 prohibits deceptive, misleading, and untrue acts and practices in the insurance business.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823947      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: January 26, 1982  
For further information, please call (512) 475-2950.

## Policy Approval

### 059.03.69.001-.003

The State Board of Insurance adopts amendments to Rules 059.03.69.001-.003, without changes to the proposed text published in the March 19, 1982, issue of the *Texas Register* (7 TexReg 1149).

The amendments are for the purpose of deleting superfluous and unnecessary language, minor editing, updating, and incorporating Rule 059.03.70.202 into these rules. Rule 059.03.70.202 is an amendment to these rules which was sent to the Texas Register Division of the Office of the Secretary of State under a different rule number and therefore never incorporated into the original rules. The incorporation of Rule 059.03.70.202 is shown as new and deleted language as required by the Texas Register Division. However, this process results in no change in the effective law.

One comment was received. Joseph L. Somelofske, vice-president and counsel of Equitable Life Assurance Society of the United States, comments that proposed Rule 059.03.69.003(d) prohibits the exclusion of normal or routine charges from coverage of newborn children.

It is the board's opinion that nothing in the rule requires coverage for routine nursing and well baby care. The rules only require benefits for coverage for injury or sickness of a newborn child, including the necessary

care and treatment of medically diagnosed congenital defects and birth abnormalities. This provision has been in effect for several years.

These amendments are adopted under authority of Texas Insurance Code, Article 3.70-2(G), which relates to requirements for accident and sickness coverage for newborn children in policies which provide for accident and sickness coverage for newborn children or maternity benefits, and pursuant to the board's authority to clarify existing rules.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823949      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: March 19, 1982  
For further information, please call (512) 475-2950.

## Policy Approval

### 059.03.70.202

The State Board of Insurance adopts the repeal of Rule 059.03.70.202, without changes to the proposed notice of repeal published in the March 19, 1982, issue of the *Texas Register* (7 TexReg 1151).

Rule 059.03.70.202 is an amendment to the board's rules and regulations for newborn children coverage which was filed with the Texas Register Division of the Office of the Secretary of State under a separate rule number and therefore never incorporated into the original body of rules. Simultaneously with this repeal, the provisions of this rule are being incorporated by amendment into the rules and regulations for newborn children coverage. This process of amendment and repeal is required by the Texas Register Division but results in no change in the effective law.

No comments were received regarding adoption of the repeal.

This repeal is adopted under Texas Insurance Code, Article 3.70-2(E), which relates to requirements for accident and sickness coverage for newborn children under policies which provide coverage for newborn children or maternity benefits, and pursuant to the board's authority to repeal any rule it has adopted.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823950      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: March 19, 1982  
For further information, please call (512) 475-2950.

## Texas 65 Health Insurance Plans, Forms, etc.

059.03.71.001 and .002

The State Board of Insurance adopts the repeal of Rules 059.03.71.001 and .002 entitled Texas 65 Health Insurance Plans, without changes to the notice of repeal published in the February 2, 1982, issue of the *Texas Register* (7 TexReg 418).

These rules embody board Orders 5589 and 6772 which approved the Articles of Association, the forms of applications, certificates and policies, schedule of premium rates, and the plan for operating and marketing hospital, surgical, and medical expense plans by the Texas "65" Health Insurance Association, pursuant to Texas Insurance Code, Article 3.71. The rules are no longer in use because the institution of federal insurance programs connected with Medicare have superseded the Texas "65" Health Insurance Plans set up under Article 3.71. The Texas "65" Health Insurance Association has been dissolved and all of its business has been concluded.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Insurance Code, Article 3.71, pursuant to which the Texas "65" health insurance plan was created.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823951      James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: February 2, 1982  
For further information, please call (512) 475-2950.

## Trade Practices Life Insurance Plans to College Students Which Involve the Use of Promissory Notes to Pay Premiums

059 21.25.001, .004, .005, .007-.016

The State Board of Insurance adopts amendments to Rules 059.21.25.001, .004, .005, .007-.016, without changes to the proposed text published in the February 19, 1982, issue of the *Texas Register* (7 TexReg 685).

The amendments primarily involve nonsubstantive editorial changes; however, new provisions are added in Rules .008(b) and (c) and Rule .009. The new provisions reflect portions of board Order 21359, from which these rules were taken, which were inadvertently omitted when the rules were filed with the *Texas Register* at the time the Administrative Procedure and Texas Register Act became effective.

No comments were received regarding adoption of the amendments.

The amendments are adopted under authority of Texas Insurance Code, Articles 21.20 and 21.21, 513, pursuant to which the State Board of Insurance is authorized to promulgate rules to regulate the sale of insurance and to prohibit unfair and deceptive acts and practices in the business of insurance, and pursuant to the board's authority to clarify existing rules.

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

Issued in Austin, Texas, on May 10, 1982.

TRD-823952      James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 2, 1982  
Proposal publication date: February 14, 1982  
For further information, please call (512) 475-2950.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE Part I. Texas Department of Human Resources

*(Editor's note: Because the Texas Department of Human Resources' rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register Division numbers. However, the rules will appear under the agency's correct title and part.)*

### Medicaid Eligibility Resources for Individuals Related to the SSI Program

326.25.33.006

The Texas Department of Human Resources adopts Rule 326.25.33.006 concerning the home as a resource in determining Medicaid eligibility, without changes to the proposed text published in the February 5, 1982, issue of the *Texas Register* (7 TexReg 506). The amendment is adopted to include policy changes received from the Social Security Administration.

This policy should prevent some individuals from being denied Medicaid eligibility for having excess resources. Formerly, a recipient's homestead could be excluded as a resource after a six month's absence only if a spouse or dependent relative still lived there, or if a physician stated that a recipient would be returning home during a specified time period. Under the revised rule, a statement of intent to return home can also be accepted from the recipient, a relative close to the case, legal guardian, or representative payee. Unless a physician strongly disagrees with the intent to return home, the statement of the recipient or other involved party can be accepted at face value.

No comments were received on the amendments; therefore, they are adopted without changes to the proposed text.

The amendments are adopted under Human Resources Code, Title 2, Chapter 32, which authorizes the department to administer medical assistance.

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 authority.

Issued in Austin, Texas, on May 10, 1982.

TRD-823904      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Effective date: June 14, 1982  
Proposal publication date: February 5, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.



# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or 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. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

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. These notices may contain more detailed agendas than space allows to be published in the *Register*.

## Texas Alcoholic Beverage Commission

**Monday, May 24, 1982, 10:30 a.m.** The Texas Alcoholic Beverage Commission will meet in Suite 210, Jefferson Building, 1600 West 38th, Austin. Items on the agenda include: approve minutes of April 1982, meeting; consider administrator's and staff's report of agency activity; approve affidavit of destruction of tested alcoholic beverages; consider TABC budget submission (fiscal year 1984-1985); and receive report from the Arthur Anderson Company concerning long-range systems plan.

**Contact:** W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** May 11, 1982, 1:17 p.m.  
TRD-823929

## Texas Commission on the Arts

**Wednesday, May 19, 1982, 7 p.m.** The Assistance Review Committee of the Texas Commission on the Arts will meet in the E. O. Thompson Building, 5th Floor, Austin. According to the agenda, the committee will consider the block grant program.

**Contact:** Margaret L. Dahl, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

**Filed:** May 11, 1982, 2:11 p.m.  
TRD-823927

**Thursday, May 20, 1982, 9 a.m.** The Texas Commission on the Arts will meet in Room 103, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the commission will consider the appropriations request for the fiscal year 1984-1985 biennium.

**Contact:** Margaret L. Dahl, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

**Filed:** May 12, 1982, 4:24 p.m.  
TRD-823974

## Office of the Governor

**Friday, May 21, 1982, 9 a.m.** The Governor's Task Force on State Personnel Management of the Office of the Governor will meet in Room 206-207, 1414 Colorado Street, Austin. According to the agenda, the task force will hear opening remarks by Mark Rigg, chairman; consider structure format for presentation of final report to the governor; and conduct a work session.

**Contact:** Mark Rigg, 2828 North Haskell Avenue, Dallas, Texas 75204, (214) 828-7191.

**Filed:** May 11, 1982, 3:41 p.m.  
TRD-823930

**Thursday, May 27, 1982, 9:30 a.m.** The Governor's Task Force on Intellectually Handicapped Citizens and the Criminal Justice System will meet in the Criminal Justice Conference Room, third floor, Sam Houston Building, 201 East 14th Street, Austin. Items on the agenda include open remarks by Jon Newton, chairman; review of subcommittee written comments: sentencing practices by Judge Roy Barrera, problems in prisons by Harry Whittington, identification by Dr. Dee Koch, and transition into society, by Reverend Freddie Dickson; recommendations of subcommittees; and other business.

**Contact:** Jon Newton, P.O. Box 1148, Austin, Texas, (512) 472-8387.

**Filed:** May 12, 1982, 4:07 p.m.  
TRD-823973

## Statewide Health Coordinating Council

**Friday, May 21, 1982, 8 a.m.** The Application, Budget, and Project Review Committee of the Statewide Health Coordinating Council will meet in Room T-407, Texas Department of Health, 1100 West 49th Street, Austin. Items on the agenda summary include review of Health Systems Agency (HSA) 1 continuation of grant ap-

plication (Panhandle Health Systems Agency, Amarillo); review of HSA 3 continuation of grant application (Health Systems Agency of West Texas, El Paso); review of HSA 6 continuation of grant application (Central Texas Health Systems, Inc., Austin); review of HSA 7 continuation of grant application (Northeast Texas Health Systems Agency, Inc., Marshall); review of HSA 9 continuation of grant application (Camino Real Health Systems Agency, Inc., San Antonio); improved pregnancy outcome project (Texas Department of Health); improved child health projects—northeast and central Texas (Texas Department of Health); a plan for integrated family planning services in Texas (Texas Department of Human Resources); state coordinated family planning project (Texas Department of Health); Texas family planning project (South Texas Family Planning and Health Corporation, Corpus Christi); and selection of next meeting date.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** May 12, 1982, 9:24 a.m.  
TRD-823955

**Friday, May 21, 1982, 1 p.m.** The Statewide Health Coordinating Council will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. Items on the agenda summary include minutes of March 26, 1982, meeting; Monitoring and Assessment Committee Report; State Health Plan Development Committee Report; Resource Development and Implementation Committee Report; Application, Budget, and Project Review Committee Report; and selection of next meeting date.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** May 12, 1982, 9:24 a.m.  
TRD-823956

### Texas Health Facilities Commission

**Friday, May 21, 1982, 9:30 a.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider application for a Declaratory Ruling (AH82-0406-022, Swiss Avenue Hospital, Dallas).

**Contact:** John L. Darrouzet, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

**Filed:** May 12, 1982, 9:17 a.m.  
TRD-823960

### Texas Housing Agency

**Wednesday, May 19, 1982, 10 a.m.** The Committee on Programs and Legislation of the Texas Housing Agency will meet in the conference room, 411 West 13th Street, Austin. According to the agenda, the committee will consider and take action on presentations based on selected unsolicited proposals for multifamily construction loan, multifamily permanent financing, and single family mortgage purchase programs.

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

**Filed:** May 11, 1982, 1:48 p.m.  
TRD-823926

### State Board of Insurance

**Thursday, May 20, 1982, 2 p.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. Items on the agenda include adoption of amendments to Rules 059.50.01.001-.005 to make non-substantive editorial changes and to correct typographical errors; consideration of the form of the biographical data to be required of company officials for companies applying for authorization as prepaid legal service corporations; proposed amendments to Rule 059.03.28.001 concerning maximum interest rates for annuities, pure endowment contracts, and miscellaneous funds; amendments are for the purpose of deleting surplus and unnecessary language, clarification, correction of typographical errors, renumbering rules and the following: deleting a requirement that sales material be submitted for review with policy forms; modifying the rule so that the interest rate used to calculate guaranteed cash values is considered variable material; deleting requirements for reserving methods since the same is now clearly specified in Article 3.28 of the Code; modifying the requirement that early warning data may be requested if certain contracts guarantee interest in excess of six percent; adoption of amendments to Rules 059.21.23.001-.008, the Life Insurance Surrender Comparison Index, as published at 7 TexReg 1235, and also changing the interest rate from 4.0% to 5.0%; consideration of the repeal of Rule 059.05.55.002 which specifies standards for the interstate writing of workers' compensation and employers' liability insurance since the rule is out-of-date; proposed amendments to Rule 059.05.62.001 concerning certification by the Industrial Accident Board to the commissioner of insurance pursuant to Texas Civil Statutes, Articles 8306, §18, and 8307, §5; the

changes are nonsubstantive and editorial or to conform the rule to existing statutory law; consideration of possible changes to 1 TAC §91.11 of the rules of the Texas Register Division of the Secretary of State's Office which will modify the duties of the agency liaison.

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas, (512) 475-2950.

**Filed:** May 12, 1982, 1:21 p.m.  
TRD-823968

**Thursday, May 27, 1982, 10 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. Items on the agenda include a decision on appeal of council of co-owners of Saida Towers II Condominium Association from action of Texas Catastrophe Property Insurance Association; and decision on request of the Texas Medical Liability Insurance Underwriting Association (JUA) to exclude certain categories of health care providers from eligibility (hearing held April 13, 1982).

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas (512) 475-2950.

**Filed:** May 13, 1982, 9:04 a.m.  
TRD-823977

**Thursday, May 27, 1982, 2 p.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. According to the agenda, the board will consider interpretation of Texas Insurance Code, Article 21.07-2.

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas, (512) 475-2950.

**Filed:** May 13, 1982, 9:04 a.m.  
TRD-823978

**Thursday, June 17, 1982, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance has rescheduled a meeting to be held in Room 342, 1110 San Jacinto Street, Austin. The public hearing in Docket 6800, protest of proposed corporate name—Trans-Pacific Insurance Company, Santa Monica, California, was originally scheduled for May 17, 1982 (7 TexReg 1770).

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** May 12, 1982, 3:31 p.m.  
TRD-823973

### Commission on Jail Standards

**Friday, May 28, 1982, 8:30 a.m.** The Commission on Jail Standards will meet in

Room 103, 1414 Colorado, Austin. Items on the agenda summary include reading and approval of minutes of last meeting, April 28, 1982; old business: Dallas County and Reeves County; new business: potential overcrowding—Texas Department of Corrections and Midland County; applications for variance for Aransas, Callahan, Donley, Jefferson, Martin, Nolan, and San Saba Counties. The commission will also meet in executive session.

**Contact:** Robert O. Viterna, P.O. Box 12985, Austin, Texas, (512) 475-2716.

**Filed:** May 12, 1982, 9:28 a.m.  
TRD—823957

### **Texas Department of Mental Health and Mental Retardation**

**Friday, May 14, 1982, 9 a.m.** The Texas Board of Mental Health and Mental Retardation made an emergency addition to a meeting held in the chapel, Richmond State School, Richmond, concerning a board policy resolution. The emergency addition was necessary because urgent public necessity required that the board of MHMR consider a board policy resolution to ensure progress regarding the department's reorganization plans.

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

**Filed:** May 11, 1982, 4:22 p.m.  
TRD-823935

**Board of Pardons and Paroles**  
**Monday-Friday, May 24-28, 1982, 9 a.m. daily.** The Board of Pardons and Paroles will meet at 711 Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

**Contact:** John W. Byrd, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

**Filed:** May 11, 1982, 1:48 p.m.  
TRD-823928

### **Parks and Wildlife Department**

**Thursday, May 13, 1982, 9 a.m.** The Texas Parks and Wildlife Commission of the Parks and Wildlife Department made an emergency addition to the agenda of a meeting held at Parks and Wildlife Headquarters Complex, Building "B", 4200 Smith School Road, Austin. According to the revised agenda, the commission also considered the 1983 operating budget. This emergency addition was necessary to meet the urgent public necessity of funding the operation of the department for the benefit of the public.

**Contact:** Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4806.

**Filed:** May 12, 1982, 9:44 a.m.  
TRD—823959

### **Texas Department of Public Safety**

**Friday, May 21, 1982, 3 p.m.** The Public Safety Commission of the Texas Department of Public Safety will meet in the DPS Regional Office, 1617 East Crest Drive, Waco. Items on the agenda include approval of minutes, budget matters, personnel matters, and other unfinished business.

**Contact:** James B. Adams, 5805 North Lamar, Austin, Texas, (512) 465-2000, ext. 3700.

**Filed:** May 12, 1982, 9:29 a.m.  
TRD—823958

### **Public Utility Commission of Texas**

**Monday May 24, 1982, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will hold a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4481—application of Deaf Smith Electric Cooperative, Inc., for a rate increase.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 12, 1982, 9:25 a.m.  
TRD-823962

**Friday, May 28, 1982, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4345—application of J&R Water Supply, Inc., for a rate increase within Bell County.

**Contact:** Carolyn E. Shellman, 7800 Shoal

Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 12, 1982, 1:52 p.m.  
TRD-823970

**Thursday, June 17, 1982, 2 p.m.** The Hearings Division of the Public Utility Commission of Texas will hold a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4253—petition of El Jardin Water Company, Inc., to cease operations.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 12, 1982, 9:27 a.m.  
TRD-823963

**Monday, July 19, 1982, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4405—application of Sam Houston Electric Cooperative, Inc., for a certificate of convenience and necessity for a proposed transmission line and associated switching and distribution stations in Walker County.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 12, 1982, 9:27 a.m.  
TRD-823964

### **Texas Real Estate Research Center**

**Monday, June 7, 1982, 1 p.m.** The Advisory Committee of the Texas Real Estate Research Center will meet in the Red Oak Room, Americana Hotel, Fort Worth. Items on the agenda include opening remarks by the chairman; approval of minutes; division reports—communications, research, education; sub-committee reports—licensees, educators, general public; TRERC budget report; real estate professorships; and other business.

**Contact:** Richard L. Floyd, Texas Real Estate Research Center, Texas A&M University, College Station, Texas (713) 845-2031.

**Filed:** May 12, 1982, 10:03 a.m.  
TRD-823966

### **School Land Board**

**Tuesday, May 18, 1982, 10 a.m.** The School Land Board made an emergency addition to a meeting to be held in Room 831,



Stephen F. Austin Building, 1700 North Congress Avenue, Austin, concerning a good faith claimant application. The emergency addition was made on less than seven days notice since litigation was pending and no action could be taken until the School Land Board approves the application.

**Contact:** Linda K. Fisher, Room 835, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-2071.

**Filed:** May 11, 1982, 3:59 p.m.  
TRD-823934

**Texas Water Commission**

**Thursday, June 17, 1982, 10 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following agenda items:

hearing on Application 4212 of Capitol Aggregates, Inc., for a permit to maintain a 70 acre-foot capacity reservoir on Middle Fork San Gabriel River, tributary of San Gabriel River, tributary of Little River, tributary of Brazos River, Brazos River Basin, for mining purposes in Williamson County;

hearing on Application 4213 of John C. Isaacs, II, David Q. Isaacs, Sr., David Q. Isaacs, Jr., Dr. William C. Isaacs, and Amarillo National Bank, receiver, for a permit to directly divert not to exceed 991 acre-feet of water per annum from the Brazos River, Brazos River Basin, for irrigation purposes in Robertson County;

hearing on application 4214 of John C. Isaacs, III, David Q. Issacs, Sr., David Q. Isaacs, Jr., Dr. William C. Isaacs, and Amarillo National Bank, receiver, for a permit to directly divert not to exceed 991 acre-feet of water per annum from the Brazos River, Brazos River Basin, for irrigation purposes in Falls County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1982, 11:08 a.m.  
TRD-823921, 823920, 823919

**Friday, June 18, 1982, 10 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following agenda items:

hearing on Application 4208 of Texas

Industries, Inc., for a permit to maintain a 29 acre-foot reservoir in Jack County on an unnamed tributary of Boons Creek, in the Trinity River Basin; and to maintain a diversion dam on Boons Creek, tributary of West Fork Trinity River, tributary of Trinity River, in the Trinity River Basin, for mining purposes in Jack County;

hearing on Application 4209 of Landrum L. Hicks and Ronld B. Hicks for a permit to divert 200 acre-feet of water per annum directly from an unnamed tributary of Red River and Red River, Red River Basin, to irrigate 200 acres of land in Lamar County.

hearing on Application 4210 of Paul L. Rains, Laramie E. McEntire, and Dennis L. Shelton for a permit to divert a maximum of 60 acre-feet of state water per year from an existing 25 acre-foot capacity reservoir on Jimmys Creek, tributary of Sweetwater Creek, tributary of Copperas Creek (Rush Creek), tributary of the Leon River, tributary of the Little River, tributary of the Brazos River, in the Brazos River Basin. The water will be used for irrigation purposes in Comanche County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1982, 11:10 a.m.  
TRD-823924, 823922, 823923

**Thursday, July 15, 1982, 10 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will hold a hearing on Application 4211 of Smith Investment Company, a general partnership doing business as Tapatio Springs, for a permit to maintain several existing dams and reservoirs in Kendall County and use the water for recreational purposes in Kendall County. The reservoirs are located on Frederick Creek, tributary of Cibolo Creek, tributary of San Antonio River, San Antonio River Basin.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1982, 11:11 a.m.  
TRD-823925

**West Texas State University**

**Tuesday, May 25, 1982, 10 a.m.** The West Texas State University Board of Regents

will meet in Room 211, Activities Center, West Texas State University, Canyon. Items on the agenda summary include approval of minutes; president's report; report on Governor's Task Force on Higher Education; approval of statement of the Athletic Advisory Committee of Board of Regents, West Texas State University; business and finance items: contracts, budget changes, authority to amend permanent improvement contract procedure, approval of annual operating budget, information; proposed bylaws for board of regents; election of officers; and faculty, staff, and curriculum items: retirements, termination, employment, approval to merge three departments in College of Arts and Sciences into one unit, approval of recommendations for promotion and tenure, approval of recommendations for development leave, 12th class day report, faculty workload report, and information. The board will also meet in executive session.

**Contact:** Texas Smith, Box 997, Canyon, Texas 79016, (806) 656-3562.

**Filed:** May 12, 1982, 9:26 a.m.  
TRD-823954

**Regional Agencies Meetings Filed May 11**

**The Central Counties Center for MHMR Services, Board of Trustees, will meet at 302 South 22nd, Temple, on May 20, 1982, at 7:45 p.m.** Information may be obtained from Steven B. Schnee, Ph.D., P.O. Box 518, Temple, Texas 76503-0518.

**The Education Service Center, Region XIV, Board of Directors, will meet at 1149 East North 10th Street, Abilene, on May 20, 1982, at noon.** Information may be obtained from Dr. Thomas Lawrence, Route 1, Box 70A, Abilene, Texas 79601, (915) 676-8201.

**The Lampasas County Appraisal District, Board of Directors, met in emergency session at 403 East Second Street, Lampasas, on May 14, 1982, at 3 p.m.** Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

**The South Texas Health Systems Agency, Lower Rio Grande Valley Subarea Advisory Council, will meet at KRGV-TV Offices, 900 East Expressway, Weslaco, on May 19, 1982, at 6 p.m.** Information may be obtained from Mario L. Vasquez, P.O. Box 2378, Kingsville, Texas 78363.  
TRD-823910

**Meetings Filed May 12**

**The Austin-Travis County MHMR Center, Board of Trustees Personnel Committee,** met in emergency session in the board room, 1430 Collier Street, Austin, on May 12, 1982, at 11:30 a.m. Information may be obtained from Cynthia C. Garcia, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 50.

**The Bosque County Appraisal Board** will meet in the Bosque County Courthouse, Meridian, on May 25, 1982, at 7 p.m. Information may be obtained from Ralph Roberts, Box 393, Meridian, Texas 76665, (817) 435-2019.

**The Cherokee County Appraisal District, Board of Directors,** will meet at 527 North Main Street, Rusk, on May 20, 1982, at 2:30 p.m. Information may be obtained from S. R. Danner, P.O. Box 494, Rusk, Texas 75785.

**The Guadalupe-Blanco River Authority, Board of Directors,** will meet at the authority's Coletto Creek Project Headquarters, approximately two miles west of Coletto creek at Highway 59 and north approximate one-half mile adjacent to a county road in Goliad County, on May 20, 1982, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

**The San Jacinto River Authority, Board of Directors,** will meet in the MND Building, 2001 Timberloch Place, The Woodlands, on May 19, 1982, at 2 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas, (713) 588-1111  
TRD-823967

**Meetings Filed May 13**

**The Dallas County Appraisal District, Board of Directors,** will meet in the board room, 2601 Live Oak, Dallas, on May 19, 1982, at 7:30 a.m. Information may be obtained from Jerry Yeatts, 2601 Live Oak, Dallas, Texas, (214) 826-0030.  
TRD-823979

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

# In Addition

## Texas Air Control Board Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the period of May 3-7, 1982.

Information relative to the applications listed below, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the address stated above, and at the regional office for the Air Quality Control Region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

CDC Company, Channelview; mechanical plating service; 14820 Talcott Street; 9086; new source

Green Manufacturing Company, Inc., Terrell; battery manufacturing plant; Temtex Boulevard; 9087; new source

Issued in Austin, Texas, on May 10, 1982.

TRD-823943      Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: May 12, 1982, 9:26 a.m.  
For further information, please call (512) 451-5711,  
ext. 354.

## Banking Department of Texas Notice of Applications to Purchase Control of State Banks

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On May 3, 1982, the banking commissioner received an application to acquire control of North State Bank of Amarillo, Amarillo, by Ronald J. Grubb of Clinton, Oklahoma.

On May 6, 1982, the banking commissioner received an application to acquire control of Houston Southeast Bank, Houston, by W. E. Dinerstein, T. H. Dinerstein, Jack Dinerstein, Vincent T. Caltagirone, and Jack Price, all of Houston.

Additional information may be obtained from: Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705 (512) 475-4451.

Issued in Austin, Texas, on May 10, 1982.

TRD-823931,      O. A. Cassity III  
TRD-823932      Assistant General Counsel  
Banking Department of Texas

Filed: May 11, 1982, 3:40 p.m.  
For further information, please call (512) 475-4451.

## State Banking Board Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m., Monday, May 24, 1982, at 2601 North Lamar, Austin, on the charter application for the

Unitedbank-Northwest, to be located in Houston, Harris County.

Additional information may be obtained from O. A. Cassity III, assistant general counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on May 10, 1982.

TRD-823881 O. A. Cassity III  
Assistant General Counsel  
Banking Department of Texas

Filed: May 10, 1982, 11:26 a.m.  
For further information, please call: (512) 475-4451.

## **Texas Energy and Natural Resources Advisory Council Advisory Committee Meeting**

The Gasoline Rationing and Emergency Energy Planning Advisory Committee of the Texas Energy and Natural Resources Advisory Council will meet at 10 a.m., Thursday, May 20, 1982, in Room 403 (conference room) in the Employees Retirement System Building located at 200 East 18th Street.

The agenda will be as follows. John Gooding will give an overview of contingency plan development, implementation authorities, and federal emergency preparedness planning. Mr. Gooding will also summarize comments received on contingency plan. Ed Vetter will discuss draft state petroleum contingency plan. The committee will also act on contingency plan and legislative recommendations.

For further information contact John Gooding at (512) 475-0414.

Issued in Austin, Texas, on May 10, 1982.

TRD-823905 Bill Carter  
Deputy Director  
Texas Energy and Natural  
Resources Advisory Council

Filed: May 10, 1982, 3:40 p.m.  
For further information, please call (512) 475-0414.

## **Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent**

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued

commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; and NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Wood Convalescent Center, Wichita Falls  
AN82-0506-001

DR—Request for a declaratory ruling that a certificate of need is not required for American Medical Management Corporation to lease, relicense, and operate the Wood Convalescent Center, a 100-bed ICF nursing home that has not offered health care services since September 21, 1980, and whose license to operate expired on December 21, 1980.

North Central Texas Medical Foundation/Wichita Falls Family Practice Residency Program, Wichita Falls  
AO82-0507-018

DR—Request for a declaratory ruling that a certificate of need is not required to construct a health science center to house its family practice residency program, clinic, offices, library, and other functions of the foundation.

Spohn Hospital, Corpus Christi  
AH81-0430-033A(050782)

CN/AMD—Request to extend the completion deadline in Certificate of Need AH81-0430-033 which authorized Spohn Hospital to renovate existing operating room area and respiratory therapy area to provide additional space for physicians' lounge, physicians' locker area, patient holding room, anesthesia offices, and social services.

Hillcrest Baptist Hospital, Waco  
AH79-1129-040A(050782)

CN/AMD—Request to increase the project cost from \$5,757,500 to \$7,832,000 in Certificate of Need AH79-1129-040 which authorized Hillcrest Baptist Hospital to construct a six level, 80,000

square foot building contiguous to present facilities to house various administration and educational departments.

Issued in Austin, Texas, on May 12, 1982.

TRD-823961 John L. Darrouzet  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: May 12, 1982, 9:16 a.m.  
For further information, please call (512) 475-6940.

**Contact person.** Prospective offerors should contact Kathy Sandusky, executive director, Texas Developmental Disabilities Program, P.O. Box 12668, Austin, Texas 78711, (512)465-4659.

Issued in Austin, Texas, on May 11, 1982.

TRD-823942 Kathy Sandusky  
Executive Director  
Texas Developmental Disabilities  
Program  
Texas Department of Mental  
Health and Mental Retardation

Filed: May 11, 1982, 4:22 p.m.  
For further information, please call (512) 465-4691.

## Texas Department of Mental Health and Mental Retardation Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Governor's Developmental Disabilities Planning Council, hereafter referred to as the DD Council, serves notice of invitation for offers on the project described below.

This invitation for offers is for a continuation of services currently performed by Coleen Beck. The Governor's Planning Council intends to award the contract to the present contractor unless a better offer is submitted.

**Description of Services.** Under the contract, the consultant will study, analyze, and monitor policies, programs, and activities of state agencies and consumer groups. All information will be compiled and submitted through the DD Council to the Coalition for Mental and Developmental Disabilities. Specific activities to be performed include:

- (1) Organizing and refining system of communication among consumer organizations.
- (2) Monitoring impact of block grants and federal deregulation on the role of state and local governments and developing tools to assist consumer organizations to participate in affecting decisions about block grants and state-funded services to the developmentally disabled population.
- (3) Planning and scheduling conference on legislation regarding the developmentally disabled.
- (4) Publishing and disseminating conference proceedings.

**Evaluation Criteria.** The contractor must have a minimum of a bachelor's degree and 10 years experience in a major human services organization. Experience should include the areas of long-range and operational planning, budgetary analysis on a comprehensive as well as programmatic basis, interagency contracting procedures, and knowledge of the structure of Texas state government and the major state agencies serving the developmentally disabled.

The consultant demonstrating the most relevant experience and background, and having the greatest and most expert knowledge of the service to be performed, will be awarded the contract.

**Closing Date for Offers.** The closing date for receipt of offers is June 21, 1982.

## North Texas Council of Governments Consultant Proposal Request

**Background.** The purpose of this study is to prepare a financial assessment of an approved set of transit alternatives in the Dallas North Central Subarea and develop a model to accomplish that assessment. Financial considerations include the examination of capital expenses, operating expenses, and operating revenues for five transit alternatives as defined in a preliminary draft environmental impact statement.

This study will produce a recommended financial strategy for each of the transit alternatives plus a finance model for future applications. The work for this project is to be accomplished by a consultant. The contract to be awarded will be for a sum of no more than \$75,000.

The work program for this study has been divided into six tasks as outlined below:

- (1) review the Dallas North Central Subarea transit alternatives analysis database and draft environmental impact statement,
- (2) evaluate potential revenue sources,
- (3) develop a financial model to assess the transit alternatives,
- (4) develop financial scenarios for evaluation,
- (5) evaluate financial scenarios,
- (6) recommend a finance strategy.

Copies of the request for proposal providing detailed information on this project are available on request from the contact person indicated.

**Contract Award Procedures.** The recommendation for the selection of a firm or agency for the Dallas North Central Subarea Financial Assessment of Transit Alternatives will be accomplished by a consultant selection committee. The contract award procedures which follow are not totally inclusive or mutually exclusive of other procedures which, in the opinion of the consultant selection committee, require inclusion in order to achieve the best results possible within the scope of services requested. If the recommendation by the consultant selection committee is approved by the North Central Texas Council of Governments Executive Board, the executive board of

NCTCOG will award a contract to the firm or agency which is considered to be best able to perform the work set forth in the said contract.

(A) Evaluation criteria. Objective measurement of the criteria will be conducted and the methodology for measurement will be determined depending on its suitability and relationship to the scope of services requested:

- (1) record of performance in related fields,
- (2) staff experience,
- (3) ability to meet specific time frames,
- (4) demonstrated knowledge of work to be performed,
- (5) project management,
- (6) firm's affirmative action policy and plan,
- (7) written proposal,
- (8) oral presentation (if requested).

(B) Evaluation methodology.

- (1) written proposal evaluated by consultant selection committee,
- (2) oral presentation (if requested) evaluated by consultant selection committee.

(C) Contract award.

- (1) review of consultant selection committee's recommendation by NCTCOG executive board to contract with consultant, and if approved,
- (2) award of contract by NCTCOG executive board.

The North Central Texas Council of Governments, in accordance with 42 United States Code 2000d to 2000d-4, Title VI of the Civil Rights Act of 1964, 78 Statute 252, and Code of Federal Regulations, Title 49, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration of an award.

Respondents must be willing to abide by all the applicable regulations of the Urban Mass Transportation Administration, U.S. Department of Transportation, including inspection and audit.

The ability of the North Central Texas Council of Governments to enter into a contract for performance of the proposed program will be dependent on the timely receipt of funds from the Urban Mass Transportation Administration.

The North Central Texas Council of Governments reserves the right to reject, in total or part, any and/or

all proposals should it be advantageous to do so.

Since the maximum amount available for this project is approximately \$75,000, projected cost will be an item of evaluation. An Office of Management and Budget Optional Form 60 Contract Pricing Proposal will be required for negotiation of reasonable costs.

Respondents should indicate proprietary interests where applicable.

The contractor will comply with all federal and state laws and regulations applicable to subcontractors, including but not limited to equal employment opportunity, Davis-Beacon Act, and records management.

**Due Date.** Replies must be received by the North Central Texas Council of Governments no later than 4:45 p.m., May 24, 1982, in the office of Shirley Henry, administrative secretary, North Central Texas Council of Governments, 1201 North Watson Road, Arlington, Texas 76011. The time of performance will be approximately two months.

**Contact Person.** Gordon A. Shunk, director of transportation and energy, North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76011.

Issued in Austin, Texas, on May 10, 1982.

TRD-823941      William J. Pitstick  
Executive Director  
North Central Texas Council of  
Governments

Filed: May 12, 1982, 9:23 a.m.  
For further information, please call (817) 640-3300.

## Railroad Commission of Texas Correction of Error

An emergency rule submitted by the Railroad Commission of Texas contained errors as published in the May 11, 1982, issue of the *Texas Register* (7 TexReg 1806).

Section 5.581(a)(27) should read as follows: "Other points east of Highway 281 which Red Ball served under Certificate 2002 but which no other regular route general commodity common carrier was authorized to serve."

Section 5.581(c)(2) should read as follows: "Other points, exclusive of Bryson, west of Highway 281 which were served by Red Ball under Certificate 2002 but which no other regular route general commodity common carrier was authorized to serve."

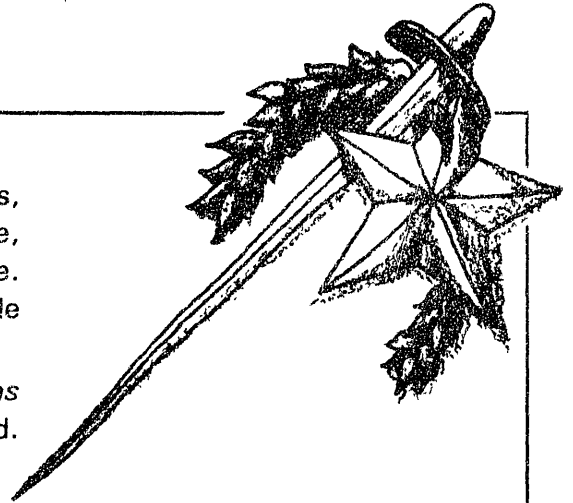
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