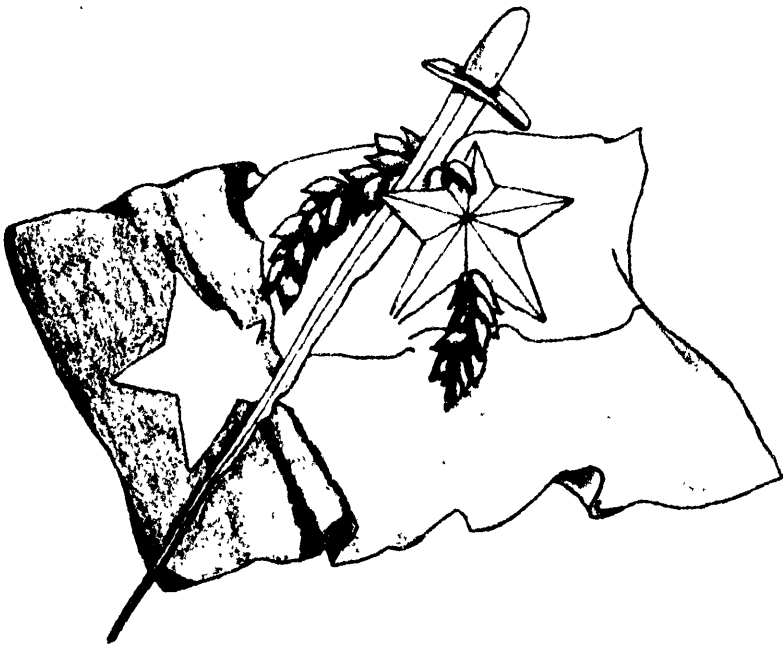


5500-6
R263
8-76

Texas Register

OCT 20 1983



Highlights

- ★ The Banking Department of Texas proposes new rules to a chapter concerning prepaid funeral contracts; earliest possible date of adoption - November 14 page 4161
- ★ The Texas Department of Health proposes new rules to a chapter concerning food and drug; proposed date of adoption - December 10 page 4165
- ★ The Texas Cosmetology Commission adopts a new rule to a chapter concerning general provisions; effective date - October 27 page 4181

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 1983 with the exception of January 25, March 8, April 26, and November 29, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas, and additional entry offices.

POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824.

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Legislature—Bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- 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: "8 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 8 TexReg 3"

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

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 10, December 1982

Table of TAC Titles

- TITLE 1. ADMINISTRATION
- TITLE 4. AGRICULTURE
- TITLE 7. BANKING AND SECURITIES
- TITLE 10. COMMUNITY DEVELOPMENT
- TITLE 13. CULTURAL RESOURCES
- TITLE 16. 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
- TITLE 43. TRANSPORTATION



John W. Fainter, Jr.
Secretary of State

Texas Register Staff Charlotte Scroggins, Director

Dee Wright	Mary Ford
Virginia Gregory	Julie Peters
Dave Harrell	Richard Salinas
Sue Bumpous	Cathy Powell
Donna Peacock	Kristine Hopkins Mohajer
Roberta Knight	Richard Kallus
Tony Black	Cynthia Cooke
Jane Hooks	

Contents

Proposed Rules

Banking Department of Texas

4161 Prepaid Funeral Contracts

Texas Department of Health

4164 Chronic Diseases

4165 Food and Drug

4171 General Sanitation

State Board of Insurance

4172 Powers and Duties

Texas Commission on Jail Standards

4173 Life Safety

4174 Supervision of Inmates

Texas Department of Human Resources

4175 AFDC

4175 Intermediate Care Facility for Mentally Retarded

Withdrawn Rules

State Securities Board

4177 Transactions Exempt from Registration

Adopted Rules

State Securities Board

4178 Securities Exempt from Registration

4178 Administrative Guidelines for Registration of Open-End Investment Companies

4179 Administrative Guidelines for Minimum Standards in Tender Offers

Texas Education Agency

4179 Instructional Resources

Texas Cosmetology Commission

4180 Sanitary Rulings

4181 General Provisions

Texas Department of Health

4183 Laboratories

4183 Communicable Diseases

State Board of Insurance

4185 Taxes and Fees

4186 Rating and Policy Forms

4188 Fire and Marine Companies

Texas Department of Human Resources

4188 Primary Home Care

4189 CCAD

4190 Purchased Services

Open Meetings

4192 Texas Board of Architectural Examiners

4192 State Commission for the Blind

4192 Texas Coastal and Marine Council

4192 Texas School for the Deaf

4193 Texas Employment Commission

4193 Good Neighbor Commission

4193 Texas Department of Health

4193 State Board of Insurance

4193 Texas State Board of Medical Examiners

4193 Board of Pardons and Paroles

4194 Texas State Board of Public Accountancy

4194 Public Utility Commission of Texas

4194 Railroad Commission of Texas

4195 State Rural Medical Education Board

4195 School Land Board

4195 The University of Texas System

4195 Texas A&M University System

4195 Texas Water Commission

4196 Texas Department of Water Resources

4196 Regional Agencies

In Addition

Texas Department of Agriculture

4198 Consultant Contract Award

Banking Department of Texas

4198 Applications To Acquire Control of State Banks

4199 Prepaid Funeral Contracts

Texas Health Facilities Commission

4199 Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

4200 Application before the Texas Health Facilities Commission for Petition for Reissuance of Certificate of Need

House Ethics Committee

4200 Request for Advisory Opinion 68-4

Texas Department of Human Resources

4201 Request for Proposals

Texas State Treasury Department

4201 Withdrawal of Consultant Proposal Request

Publication Schedule for the *Texas Register*

FOR ISSUE

PUBLISHED ON

Tuesday, October 4
Friday, October 7
Tuesday, October 11
★ Friday, October 14
Tuesday, October 18
Friday, October 21
Tuesday, October 25
Friday, October 28

ALL COPY EXCEPT NOTICES
OF OPEN MEETINGS BY 10 A.M.

Wednesday, September 28
Monday, October 3
Wednesday, October 5
Friday, October 7
Wednesday, October 12
Monday, October 17
Wednesday, October 19
Monday, October 24

ALL NOTICES OF OPEN
MEETINGS BY 10 A.M.

Thursday, September 29
Tuesday, October 4
Thursday, October 6
Tuesday, October 11
Thursday, October 13
Tuesday, October 18
Thursday, October 20
Tuesday, October 25

Tuesday, November 1

Friday, November 4

Tuesday, November 8

★ Friday, November 11

Tuesday, November 15

Friday, November 18

Tuesday, November 22

Friday, November 25

Tuesday, November 29

3RD QUARTERLY INDEX

Monday, October 31

Wednesday, November 2

Friday, November 4

Wednesday, November 9

Monday, November 14

Wednesday, November 16

Monday, November 21

Tuesday, November 1

Thursday, November 3

Monday, November 7

Thursday, November 10

Tuesday, November 15

Thursday, November 17

Tuesday, November 22

NO ISSUE PUBLISHED

Friday, December 2

Tuesday, December 6

Friday, December 9

Tuesday, December 13

Friday, December 16

Tuesday, December 20

Friday, December 23

Tuesday, December 27

★ Friday, December 30

Monday, November 28

Wednesday, November 30

Monday, December 5

Wednesday, December 7

Monday, December 12

Wednesday, December 14

Monday, December 19

Wednesday, December 21

Friday, December 23

Tuesday, November 29

Thursday, December 1

Tuesday, December 6

Thursday, December 8

Tuesday, December 13

Thursday, December 15

Tuesday, December 20

Thursday, December 22

Tuesday, December 27

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. 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.

The proposal, 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 statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority); the text of the proposed action; and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or 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 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 25. Prepaid Funeral Contracts

Subchapter A. Application for License 7 TAC §25.1, §25.2

The Banking Department of Texas proposes new §25.1 and §25.2, concerning the application for license to sell prepaid funeral contracts. The new rules reflect the procedures which are followed by the department in processing an application for a license. The rules will fall under proposed new Subchapter A, titled "Application for License."

Archie Clayton, general counsel, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

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

Comments on the proposal may be submitted to Archie Clayton, General Counsel, Banking Department

of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new rules are proposed under Texas Civil Statutes, Article 548b(2), which provide the Banking Department of Texas with the authority to prescribe rules concerning the keeping and inspection of records, the filing of contracts and reports, and all other matters incidental to the orderly administration of the law dealing with prepaid funeral contracts.

§25.1. *Application for License.* Each seller, as defined in Texas Civil Statutes, Article 548b, of prepaid funeral services or funeral benefits must complete and file an application as provided by the department.

§25.2. *Contract Approval Requirements.*

(a) Each contract submitted to the department for approval must contain the following:

- (1) a place for the contract number.
- (2) a place for the seller's name and place for an authorized representative of the seller to sign.
- (3) a place for the purchaser's name and a place for the purchaser's signature.
- (4) a place to set forth the particulars of the funeral merchandise, including a description of the casket and specification of the material used and including the specifications of the grave vault used.
- (5) a place to set forth the particulars of the professional services to be performed and the funeral home facilities to be provided.
- (6) terms of payment.
- (7) a statement that the seller will deposit funds collected within 30 days to a depository within this state

that has been approved by the Banking Department of Texas.

(8) a statement that the seller plans to retain one-half of the funds collected, not exceeding 10% of the total amount of the contract, if the seller intends to do so.

(9) a statement that no withdrawal of the deposits or earnings shall be made except in a manner provided in the contract, or in accordance with the rules and regulations of the Banking Department of Texas.

(10) a statement that the seller agrees to furnish the described funeral merchandise and services or their equivalent in quality, for the exact amounts stated in the contract at an undetermined future date dependent on the death of the purchaser, beneficiary, or other designated persons.

(11) a provision for the seller's rights if the contract is not paid in accordance with the terms of the contract.

(12) a statement that the date of death of the purchaser, beneficiary, or other designated person is the maturity date, and that soon after the maturity date, the Banking Department of Texas will receive a copy of the death certificate, a copy of the contract, and affidavits to release the funds from the depository to the seller in fulfillment of the contract.

(13) a statement that all sums paid under the contract, when delivered to the seller, shall be used exclusively for funeral benefits to be rendered by the seller to the purchaser or his appointee in accordance with the contract, except in the event the seller should be prevented from rendering such funeral service solely by act of God, the public enemy, strikes, riots, or insurrection; then the amount paid by the purchaser shall be delivered to his heirs.

(14) a provision for cancellation with wording substantially the same as in Texas Civil Statutes, Article 548b.

(15) a statement that purchaser will notify the seller of any change of address and that the seller will notify the purchaser of any change of address.

(16) a statement that the contract is binding when accepted by a duly authorized representative of the seller, that the contract contains the entire agreement and cannot be modified except by written agreement, and the contract shall be binding upon the successors, beneficiaries, and heirs.

(17) a statement that the distribution of the executed copies of the contract will be as follows:

- (A) original—seller,
- (B) copy—purchaser,
- (C) copy—Banking Department of Texas (at maturity).

(18) a place for the name of the funeral home or other organization primarily responsible for providing the funeral service or merchandise in the contract.

(19) a statement, if the seller of the contract is not the funeral home designated to provide the funeral services or merchandise, as to who will provide the funeral services or merchandise specified in the contract.

(b) In addition, each contract submitted for approval by the department that is funded by a contract of insurance as provided in Texas Civil Statutes, Article 548b, must:

(1) contain the following statement: "This contract shall be funded with a policy of insurance, a copy of which shall be furnished to purchaser upon his or her request.";

(2) be submitted with a copy of the insurance policy showing the State Board of Insurance's order number it was approved by;

(3) define which benefits the purchaser shall be entitled to in case of default or cancellation;

(4) disclose any benefits the purchaser is entitled to by the insurance policy if they are specifically mentioned in the preneed contract; and

(5) provide a copy to be distributed to the insurance company.

(c) Each contract submitted to the department for approval may only contain items that are provided for in Texas Civil Statutes, Article 548b. No contract submitted to the department for approval shall provide for more than one purchaser.

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

Issued in Austin, Texas, on October 5, 1983.

TRD-837967 Archie Clayton
General Counsel
Banking Department of Texas

Earliest possible date of adoption:
November 14, 1983

For further information, please call (512) 475-4451.

Subchapter B. Regulation of Licensees 7 TAC §25.11, §25.12

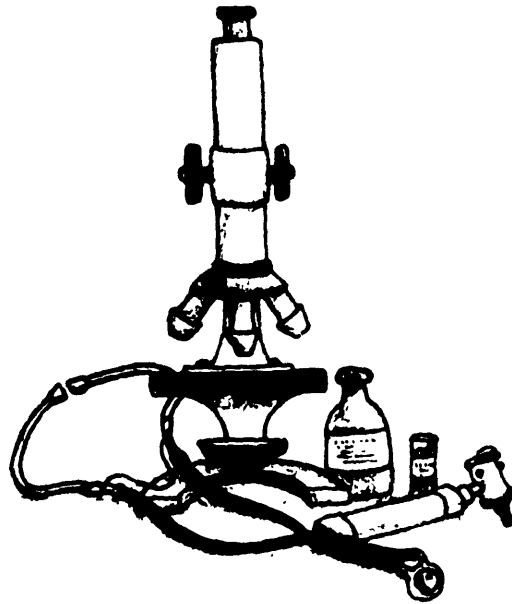
The Banking Department of Texas proposes new §25.11 and §25.12, concerning the regulation of persons who sell prepaid funeral contracts. The new rules reflect the procedures which are followed by the Banking Department of Texas in regulating licensees. The new rules will fall under proposed new Subchapter B, titled "Regulation of Licensees".

Archie Clayton, general counsel, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

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

Comments on the proposal may be submitted to Archie Clayton, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new rules are proposed under Texas Civil Statutes, Article 548b(2), which provide the Banking Department of Texas with the authority to prescribe rules



TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 61. Chronic Diseases
Kidney Health Care Program Benefits
25 TAC §§61.1-61.4

The Texas Department of Health proposes amendments to §§61.1-61.4, concerning Kidney Health Care Program benefits. An amendment to §61.1(b) will remove redundant language; amendments to §§61.1(b), 61.2(a)(3), and 61.4 will allow applicants to submit applications for benefits through the United States Veterans' Administration hospitals located in Texas; and an amendment to §61.3(b) will delegate to the commissioner of health the authority to waive the "last pay" requirements established by the Texas Kidney Health Care Act, Texas Civil Statutes, Article 4477-20, §9.1.

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 rule.

The effect on state government will be an estimated cost of \$158,441 for 1984 and \$6,690 each year from 1985-1988. There is no anticipated effect on local government.

Mr. Seale has also determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the addition of one more point through which persons may apply for program benefits thus increasing the convenience to the persons affected and an increase in program efficiency by delegating the waiver authority to the commissioner of health. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Manuel Zapata, Director, Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of these changes in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4477-20, §3(13), which provide the Texas Department of Health with the authority to adopt rules to provide adequate kidney care and treatment for the citizens of the State of Texas and to carry out the purposes and intent of the Texas Kidney Health Care Act.

§61.1. Introduction and Brief Description of Program Operation

(a) (No change.)

(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] end stage renal disease facility that has received program approval or interim approval, a Medicare approved hospital licensed in Texas, a Veterans' Administration hospital located in Texas, or a board certified nephrologist licensed to practice in Texas. Benefits are available for dialysis treatments, hospitalization, laboratory charges, physician charges, home dialysis supplies, drugs, and transportation.

§61.2. Eligibility Requirements.

(a) A person initially is eligible to receive program benefits when he/she meets all of the following requirements:

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

(3) makes application through a program approved facility, Medicare approved hospital licensed in Texas, Veterans' Administration hospital located in Texas, or board certified nephrologist licensed to practice in Texas;

(4) (No change.)

(b) (No change.)

§61.3. Payment of Program Benefits.

(a) (No change.)

(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. The Texas Board of Health delegates to the commissioner of health the authority to waive this requirement in individually considered cases where its enforcement will deny services to a class of end-stage renal disease patients because of conflicting state or federal laws or regulations.

(c)-(o) (No change.)

§61.4. Applications. Patients meeting the eligibility requirements set forth in subsection (a)(1), (2), and (4)[, and (5)] of §61.2 of this title (relating to Eligibility Requirements) must make application for benefits through an end-stage renal disease facility that has received program approval or interim approval, a Medicare-approved hospital licensed in Texas, Veterans' Administration hospital

located in Texas, or board certified nephrologist licensed to practice in Texas.

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

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

Issued in Austin, Texas, on October 6, 1983

TRD-837993 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
December 10, 1983

For further information, please call (512) 458-7338.

Chapter 229. Food and Drug Regulation of Food, Drug, Device, and Cosmetic Salvage Establishments and Brokers

25 TAC §§229.191-229.208

The Texas Department of Health proposes new §§229.191-§§229.208, concerning the regulation of food, drug, device, and cosmetic salvage establishments and brokers conducting business in the State of Texas.

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 increase in cost of \$20,000 per year for the first five years. These costs will be offset by an increase in revenue due to fee collections in the same amount. There is no anticipated effect on local government.

Mr. Seale also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be uniformity of inspections of salvage establishments and brokers, and protection of the health of consumers by preventing the sale or distribution of foods, drugs, devices, and cosmetics which have become adulterated or misbranded, until such time as that portion of such food, drug, device, and cosmetic which can be reconditioned or reclaimed for sale and distribution has been placed in a condition which satisfies all requirements of these rules.

The anticipated economic cost to individuals who are required to comply with the rules as proposed will be \$100 each year from 1984-1988 for a license fee. A delinquent fee for renewal of an expired license will be \$25 each year from 1985-1988.

Comments on the proposal may be submitted to Robert L. Henna, R.Ph., Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th

Street, Austin, Texas 78756, for 30 days after publication of these rules in the *Texas Register*. In addition, a public hearing will be held at 9 a.m., November 1, 1983, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin

The new sections are proposed under House Bill 1685, §5(a), 68th Legislature, 1983, which provides the Texas Board of Health with the authority to adopt rules to implement the Texas Food, Drug, Device, and Cosmetic Salvage Act

§229.191 *Intent and Scope*

(a) The Texas Food, Drug, Device, and Cosmetic Salvage Act, House Bill 1685, 68th Legislature, 1983, requires the Texas Department of Health to adopt rules regulating salvage establishments and brokers conducting business within the State of Texas

(b) These rules are intended to provide for uniformity of inspections of such establishments, and to protect the health of consumers by preventing the sale or distribution of foods, drugs, devices, or cosmetics which have become adulterated or misbranded, until such time as that portion of such food, drug, device, or cosmetic as can be reconditioned or reclaimed for sale and distribution has been placed in a condition which satisfies all requirements of these rules

(c) The requirements of these rules are in addition to the current good manufacturing practices defined in 21 Code of Federal Regulations Part 110.

(d) These rules shall also apply to those situations in which the courts have decided that detained or embargoed articles found to be adulterated or misbranded can be corrected by proper labeling or processing.

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

Act—The Texas Food, Drug, Device, and Cosmetic Salvage Act, House Bill 1685, 68th Legislature, 1983.

Cosmetic—Any article or substance intended to be rubbed, poured, sprinkled, or sprayed on or introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness or altering appearances; or an article or substance for use as a component of such an article, except that the term does not include soap.

Department—The Texas Department of Health.

Device—An instrument, apparatus, or contrivance, including any components, parts, and accessories, designed or intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or to affect the structure or any function of the body of man or other animals.

Distressed merchandise—Any food, drug, device, or cosmetic that has been subjected to prolonged or improper storage, loss of label or identity, or abnormal environmental conditions such as extremes in temperature, humidity, smoke, water, fumes, pressure, or radiation that are due to natural disasters or otherwise or that may have been rendered unsafe or unsuitable for human consumption or use for any other reason.

Drug—

(A) an article or substance recognized in the official *United States Pharmacopoeia*, the official *Homeopathic Pharmacopoeia of the United States*, the official *National Formulary*, or any supplement of them,

(B) an article or substance designed or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(C) an article or substance, other than food, intended to affect the structure or any function of the body of man or other animals; or

(D) an article or substance intended for use as a component of any article or substance specified in this definition.

(E) The term does not include devices or their components, parts, or accessories.

Food—

(A) any article of food or drink for man;

(B) chewing gum, or

(C) an article used for components of any such article.

Nonprofit organization—An organization which has received an exemption from federal taxation under 26 United States Code §501(c)(3)

Non salvageable merchandise—Distressed merchandise, as defined in this section, which cannot be safely or practically reconditioned

Perishable—Capable of spoilage or deterioration due to improper refrigeration or handling

Person—An individual, corporation, business trust, estate, trust, partnership, association, or any other public or private legal entity

Personnel—Any person employed by a salvage establishment or salvage broker who does or may in any manner handle or come in contact with the handling, storing, transporting, or selling and distributing of salvageable or salvaged merchandise.

Potentially hazardous food—Any perishable food which consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of pathogenic or toxigenic microorganisms.

Reconditioning—Any appropriate process or procedure by which distressed merchandise can be brought into compliance with the standards of the department for consumption or use by the public. In addition, all reconditioned merchandise must be in compliance with the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5.

Sale or distribution—The act of selling or distributing, whether for compensation or not, and includes delivery, holding or offering for sale, transfer, auction, storage, or other means of handling or trafficking.

Salvage broker—A person who engages in the business of selling, distributing, or otherwise trafficking in any distressed or salvaged merchandise who does not operate a salvage establishment.

Salvage establishment—Any place of business engaged in reconditioning or by other means salvaging distressed merchandise or that sells, buys, or distributes for human use any salvaged merchandise.

Salvage operator—A person who is engaged in the business of operating a salvage establishment.

Salvage warehouse—A separate storage facility used by a salvage broker or salvage establishment for the purpose of holding distressed or salvaged merchandise. A salvage warehouse may not be used for the purpose of reconditioning or selling to consumers.

Salvageable merchandise—Any distressed merchandise, as defined in this section, which can be reconditioned to the satisfaction of the department.

Salvaged merchandise—Any distressed merchandise that has been reconditioned.

Sanitize—Adequate treatment of surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance and in substantially reducing numbers of other microorganisms. Such treatments shall not adversely affect the product and shall be safe to the consumer.

Vehicles—Any truck, car, bus, or other means by which distressed, salvageable, or salvaged merchandise is transported from one location to another.

§229.193 Personnel

(a) Employee health requirements. No person known to be or suspected of being affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or respiratory infection, shall work in an area of a salvage establishment or for a salvage broker in any capacity in which there is any possibility of such person contaminating salvageable or salvaged merchandise with pathogenic organisms, or transmitting disease to other individuals.

(b) Personal cleanliness

(1) All personnel while working in direct contact with salvagable products or while engaged in reprocessing, repacking, or otherwise handling product ingredients shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(2) The personnel shall wash their hands thoroughly in a department approved hand-washing facility before starting work, and as often as may be necessary to remove soil and contamination.

(3) No person shall resume work after visiting the toilet room without first washing his hands.

§229.194. Protection of Salvageable and Salvaged Merchandise.

(a) Contamination protection.

(1) All salvageable and salvaged merchandise, while being stored or processed at a salvage establishment, salvage warehouse, or during transportation, shall be protected from contamination.

(2) All perishable foods shall be kept at a temperature that will provide protection against spoilage.

(3) All potentially hazardous foods shall be maintained at a safe temperature, 45°F (7.2°C) or below; 140°F (60°C) or above.

(4) Poisonous and toxic materials shall be identified and handled under such conditions as will not contaminate other salvageable or salvaged merchandise, or constitute a hazard to personnel.

(b) Segregation of merchandise. All salvageable merchandise shall be promptly sorted and segregated from non salvageable merchandise to prevent further contam-

ination of the distressed merchandise to be salvaged or offered for sale or distribution

§229.195. Equipment and Utensils Design and Fabrication

(a) Design and fabrication. All equipment, utensils, and other food contact surfaces used in a salvage establishment shall be so designed and of such material and workmanship as to be smooth and easily cleanable. Utensils coming in contact with salvageable or salvaged merchandise shall be in good repair.

(b) Installation and maintenance. All equipment shall be so installed and maintained as to facilitate the cleaning thereof, and of all adjacent areas. Equipment in use at the time of adoption of these rules, which does not meet fully the requirements of subsection (a) of this section may be continued in use if it is in good repair, capable of being maintained in a sanitary condition, and its surfaces that come in contact with salvageable or salvaged merchandise are nontoxic.

§229.196. Cleaning, Sanitization, and Storage of Equipment and Utensils.

(a) Equipment and utensil cleaning and sanitization.

(1) All utensils and surfaces of equipment coming into contact with salvageable or salvaged merchandise in a salvage establishment shall be thoroughly cleaned, and, if necessary, sanitized prior to use.

(2) All other surfaces or equipment shall be cleaned at such intervals as necessary to keep them in a clean and sanitary condition.

(b) Equipment and utensil handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination.

(c) Storage. Cleaned and sanitized utensils and equipment shall be stored in a way that protects them from contamination.

§229.197. Sanitary Facilities and Controls.

(a) Water supply.

(1) The water supply shall be adequate, of a safe, sanitary quality, and from a source constructed and operated in accordance with the Texas Sanitation and Health Protection Law, Texas Civil Statutes, Article 4477-1 and department rules promulgated under this law.

(2) Water under pressure at the required temperatures shall be provided in all areas where foods are processed, or equipment, utensils, or containers are washed.

(b) Sewage. All sewage, including liquid waste, shall be disposed of in a public sewerage system or, in the absence thereof, in a manner applicable with the Texas Sanitation and Health Protection Law, Texas Civil Statutes, Article 4477-1, and Texas Department of Water Resources rules promulgated under this law.

(c) Plumbing. Plumbing shall be sized, installed, and maintained in accordance with applicable state and local plumbing codes.

(d) Toilet facilities.

(1) Each salvage establishment shall provide its employees with adequate and conveniently located toilet facilities.

(2) Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair at all times.

(3) The doors of all toilet rooms shall be self-closing.

(4) Toilet tissue shall be provided.

(5) Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered.

(6) Where the use of non-water-carried sewage disposal facilities are approved by the department, they shall be located at least 100 linear feet from the salvage establishment and from any well or stream.

(e) Handwashing facilities. Each salvage establishment shall be provided with adequate, conveniently located hand-washing facilities for its personnel, including a lavatory or lavatories equipped with hot and cold or tempered running water, hand-cleansing soap or detergent, and approved sanitary towels or other approved hand-drying devices. Such facilities shall be kept clean and in good repair.

(f) Garbage and refuse.

(1) All refuse shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use; provided that such containers need not be covered when stored in a special vermin-proofed room or enclosure, or in a waste refrigerator. All other refuse shall be stored in containers, rooms, or areas in an approved manner.

(2) Adequate cleaning facilities shall be provided, and each container, room, or area shall be thoroughly cleaned after the emptying or removal of refuse.

(3) All refuse shall be disposed of with sufficient frequency and in such a manner as to prevent contamination.

(g) Insect and rodent control. Effective measures shall be taken to protect against the entrance into the salvage establishment or salvage warehouse and the breeding or presence on the premises of rodents, insects, and other vermin.

§229.198. Construction and Maintenance of Physical Facilities.

(a) Floor construction.

(1) The floor surfaces in all rooms and areas in which salvageable or salvaged merchandise is stored or processed and in which utensils are washed, and walk-in refrigerators, dressing or locker rooms, and toilet rooms, shall be of smooth, nonabsorbent materials, and so constructed as to be easily cleanable. Floors of nonrefrigerated, dry storage areas need not be nonabsorbent.

(2) All floors shall be kept clean and in good repair.

(3) Floor drains shall be provided in all rooms where floors are subjected to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(b) Walls and ceilings. Walls and ceilings of all rooms shall be clean, smooth, and in good repair.

(c) Lighting.

(1) Artificial light sources shall be installed to provide at least 50-foot candles of light on all working surfaces and at least 30-foot candles on all other surfaces and equipment, in food preparation and storage areas, utensil-washing and hand-washing areas, and toilet rooms. At least 20 foot-candles of light at a distance of

30 inches from the floor shall be required in all other areas during cleaning operations.

(2) Sources of artificial light shall be provided and used to the extent necessary to provide the required amounts of light on all surfaces when in use and when being cleaned.

(3) Protective shielding to protect against broken glass falling onto unpackaged food shall be provided for all artificial lighting fixtures located over or within food storage, food preparation, and food display areas. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(d) Ventilation.

(1) All rooms, in which salvageable or salvaged merchandise is processed or utensils are washed, dressing or locker rooms, toilet rooms, and garbage and rubbish storage areas shall be well ventilated.

(2) Ventilation hoods and devices when used shall be designed to prevent condensation from dripping into foods or onto preparation surfaces.

(3) Filters, when used, shall be readily removable for cleaning or replacement.

(4) Ventilation systems shall comply with applicable federal, state, and local fire prevention and air pollution requirements.

(e) Locker area. Adequate facilities shall be provided for the orderly storage of personnel clothing and personal belongings.

(f) Cleanliness of facilities.

(1) All parts of the salvage establishment or salvage warehouse and its premises shall be kept neat, clean, and free of litter and rubbish.

(2) Cleaning operations shall be conducted in such a manner as to prevent contamination of salvageable and salvaged merchandise.

(3) None of the operations connected with a salvage establishment or salvage warehouse shall be conducted in any room used as an employee lounge or toilet facility, or living or sleeping quarters.

(4) Soiled coats and aprons shall be kept in suitable containers until removed for laundering.

(5) No birds or animals shall be allowed in any areas used for the conduct of salvage establishment operations or the storage of salvageable and salvaged merchandise.

(g) Vehicles. Vehicles used to transport distressed, salvageable, or salvaged merchandise shall be maintained in a clean and sanitary condition to protect the product from contamination.

§229.199. *Handling of Distressed Merchandise.*

(a) Distressed drugs.

(1) A salvage broker or salvage operator must comply with the wholesale drug distribution requirements of the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5, §23, prior to taking possession of distressed drugs whose labels bear the legend "CAUTION: Federal law prohibits dispensing without prescription."

(2) A salvage broker or salvage operator may not sell or transfer distressed drugs whose labels bear the legend "CAUTION: Federal law prohibits dispensing

without prescription" to any person unless that person is authorized to possess such drugs in compliance with the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5, §23, and/or the Texas Dangerous Drug Act, Texas Civil Statutes, Article 4476-14.

(b) Transporting of distressed merchandise.

(1) Distressed merchandise shall be moved from the site of a fire, flood, sewer backup, wreck, or other cause as expeditiously as possible after compliance with subsection (a)(1) of this section so as not to become putrid, rodent, or insect defiled or otherwise hazardous to public health.

(2) All distressed and salvageable merchandise of a perishable nature shall, prior to reconditioning, be transported only in vehicles provided with adequate refrigeration, if necessary, for product maintenance.

(3) No interstate movement of distressed and salvageable merchandise shall be made without the prior approval of the department's Division of Food and Drugs and the responsible state agency in the state to receive the merchandise. Concurrence shall also be obtained from the U.S. Food and Drug Administration, or U.S. Department of Agriculture, Food Safety, and Quality Service, prior to interstate movement.

(c) Handling of distressed articles other than foods, drugs, devices, or cosmetics. If distressed articles other than foods, drugs, devices, or cosmetics are also salvaged, they shall be handled in a separate room or rooms.

(d) Cross-contamination protection. Sufficient precautions shall be taken to prevent cross-contamination (animal feed to human food, etc.) among the various types of merchandise which are salvageable or salvaged.

§229.200. *Reconditioning and Labeling of Distressed Merchandise.*

(a) Salvageable merchandise. All salvageable merchandise shall be reconditioned prior to sale or distribution except for such sale or distribution to a person holding a valid license to engage in a salvage operation.

(b) Distressed or nonsalvageable merchandise.

(1) All metal cans of food offered for sale or distribution shall be essentially free from rust (pitting) and dents (especially at rim, end double seams, and/or side seams).

(2) Leakers, springers, flippers, and swells shall be deemed unfit for sale or distribution.

(3) Containers, including metal and glass containers with press caps, screw caps, pull rings, or other types of openings which have been in contact with water, liquid foam, or other deleterious substances, as a result of fire fighting efforts, flood, sewer backups, or similar mishaps, shall be deemed unfit for sale or distribution, i.e., nonsalvageable merchandise as defined in §229.192 of this title (relating to Definitions).

(c) Metal containers of food. All metal containers of food, other than those mentioned in subsection (b) of this section, whose integrity has not been compromised and whose integrity would not be compromised by the reconditioning, and which have been partially or totally submerged in water, liquid foam, or other deleterious substance as the result of flood, sewer backup, or other reasons shall, after thorough cleaning, be subjected to sanitizing rinse of a concentration of 100 ppm available chlorine for a minimum period of one minute, or shall

be sanitized by another method approved by the department. They shall subsequently be treated to inhibit rust formation.

(d) Label removal.

(1) Any cans or tins showing surface rust shall have labels removed, the outer surface cleaned by buffing, a protective coating applied where necessary, and shall be relabeled.

(2) Relabeling of other salvageable nonmetal (glass, plastic, etc.) containers shall be required when original labels are missing or illegible.

(e) Relabeling.

(1) All salvaged merchandise in containers is to be provided with labels meeting the requirements of the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5; the Federal Food, Drug, and Cosmetic Act, Public Law 75-717; the Fair Packaging and Labeling Act, Public Law 89-755; and federal regulations promulgated under those Acts for products in interstate commerce.

(2) Where original labels are removed from containers which are to be resold or redistributed, the replacement labels must show the name and address of the salvage establishment.

§229.201. Handling of Nonsalvageable Merchandise.

(a) Nonsalvageable merchandise. Foods, drugs, devices, and cosmetics deemed to be nonsalvageable merchandise, as defined in §229.192 of this title (relating to Definitions), are:

(1) foods, drugs, devices and cosmetics contaminated and/or adulterated by pesticides or other chemicals;

(2) potentially hazardous foods (frozen or those requiring refrigeration) which have been exposed to a temperature above 45°F (7.2°C) for a period exceeding four hours;

(3) foods, drugs, devices, and cosmetics found unfit for salvage on examination; and

(4) foods, drugs, devices, and cosmetics packaged in paper or other porous materials which have been subjected to contamination.

(5) prescription drugs which have been opened or the manufacturer's seal broken.

(6) drugs in a state of deterioration such as discoloration, melted or leaking capsules, broken tablets, uncharacteristic odor, or viscosity.

(7) drugs requiring refrigeration which have been subjected to abnormally high temperatures.

(b) Distribution of nonsalvageable merchandise. Nonsalvageable merchandise shall not be sold or distributed as foods, drugs, devices, and cosmetics but shall be disposed of in a manner approved by and under the supervision of the department.

§229.202. Record Keeping.

(a) Inspection by the department. A written record or receipt of distressed, salvageable, and salvaged merchandise shall be kept by the salvage establishment or salvage broker for inspection by the department during business hours.

(b) Content of records. Except as required by subsection (c) of this section, the records shall include a general description of distressed merchandise received,

source of the distressed merchandise, the date received and the type of damage (fire, flood, etc.).

(c) Records required for legend drugs. All salvage brokers and salvage operators shall keep accurate records of all distressed drugs whose labels bear the legend "CAUTION: Federal law prohibits dispensing without prescription." Such records shall include date of purchase or possession, source, names and quantities of the drugs, and accurate records of the sale and distribution of such drugs.

(d) Retention of records. These records shall be kept on the premises of the salvage establishment or salvage broker for a period of one year following the completion of transactions involving a lot of merchandise.

§229.203. License.

(a) Basic requirements.

(1) It shall be unlawful for any person to operate a salvage establishment or operate as a salvage broker within the State of Texas who does not possess a valid license issued annually by the department.

(2) Only a person who complies with the requirements of the Act, these rules, and the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5, shall be entitled to receive and retain such a license.

(3) Licenses shall not be transferable from one person to another person or place.

(4) A separate license is required for each salvage establishment.

(5) A valid license shall be posted in every salvage establishment, and each salvage operator shall have a copy of a valid license in each vehicle which he operates.

(6) The name and address of the salvage establishment or broker and the license number must be conspicuously displayed on the outside of all vehicles being used for salvage operations. The numbers and letters must be a minimum of three inches in height and be legible. If vehicles having trailers are used the above information must be displayed on the trailer.

(b) Application for an issuance of license.

(1) Any person desiring to operate a salvage establishment or act as a salvage broker shall make written application for a license on forms provided by the department. A separate application is required for each salvage establishment to be licensed. Forms may be obtained from the Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(2) The application shall include:

(A) the full name of the salvage establishment or salvage broker.

(B) the address of the place of business to be licensed and the mailing address if different.

(C) the address of a salvage warehouse or warehouses if any are used by a salvage establishment or salvage broker.

(D) if a sole proprietorship, the name of the proprietor; if a partnership, the names of all the partners; if a corporation, the officers; in any other association, those in a managerial capacity.

(E) the signature of the applicant or applicants.

(F) a nonrefundable license fee of \$100.

(G) a nonprofit organization is exempt from payment of the \$100 license fee.

(3) Upon receipt of an application, the department's Division of Food and Drugs shall make such inspections of the salvage establishment or brokers operations as may be necessary to determine compliance with the provisions of these rules.

(4) When inspection reveals that the applicable requirements have been met, the department shall issue the applicant a license.

(c) Annual renewal of license.

(1) A person who holds a license issued under the Act may renew the license by filing an application for renewal on a form prescribed by the department accompanied by a nonrefundable renewal fee of \$100. A licensee must file for renewal before the expiration date of the current license.

(2) A person who files a renewal application after the expiration date must pay an additional \$25 as a delinquency fee.

(3) The department shall renew the license of a licensee who submits a renewal application and pays the renewal fee after an inspection to determine the licensee's compliance with the rules adopted by the board.

(d) Exemptions from obtaining a license.

(1) A manufacturer, distributor, or processor of a food, drug, device, or cosmetic who in the normal course of business of manufacturing, distributing, or processing foods, drugs, devices, or cosmetics engages in the activities of reconditioning the items manufactured, distributed, or processed by or for him and not purchased by him solely for the purpose of reconditioning and sale;

(2) a common carrier or his agent who disposes of or otherwise transfers undamaged foods, drugs, devices, or cosmetics or distressed foods, drugs, devices, or cosmetics to a person exempt under this section or to a licensed salvage broker or salvage operator;

(3) a person who transfers distressed merchandise to a licensed salvage broker or salvage operator; or

(4) a nonprofit organization that distributes food to the needy under the provisions of the Good Faith Donor Act, Texas Civil Statutes, Article 4476-5c, but does not recondition such food.

§229.204. Denial, Suspension and Revocation of Licenses.

(a) Generally. The department may deny, suspend, or revoke the license of an applicant who fails to comply with the Act or these rules.

(b) Denials.

(1) The department may deny an application for a license if the applicant fails to meet the standards or requirements of the Act or these rules.

(2) The department shall give the applicant written notice of the denial, the reasons for the denial, and opportunity for a hearing.

(c) Emergency suspensions.

(1) The department may suspend a license without notice when there is an imminent threat to the health and safety of the public caused by the licensee.

(2) Within 10 days after the emergency suspension, the licensee may request a hearing on the emergency suspension.

(d) Nonemergency suspensions.

(1) The department may suspend a license on a nonemergency basis when there is no imminent threat to public health and safety and when the licensee violates any one of the following requirements:

(A) failure to comply with the Act or these rules.

(B) falsification of the application for a license.

(2) Prior to suspending the license, the department shall give the licensee written notice of the violation and opportunity to correct the violations within a specified period of time.

(3) If the licensee does not correct the violations during the specified period of time, the department shall give the licensee written notice of the proposed suspension, including the reasons and an opportunity for a hearing.

(e) Revocations.

(1) The department may revoke a license when the licensee:

(A) repeatedly violates the provisions of the Act or these rules;

(B) refuses to allow the department to conduct an inspection or collect samples.

(C) interferes with the department in the performance of its duties; or

(D) removes or disposes of a detained article in violation of the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5, §6.

(2) Prior to revoking the license, the department shall give the licensee written notice of the violation and opportunity to correct the violations within a specified period of time.

(3) If the licensee does not correct the violations during the specified period of time, the department shall give the licensee written notice of the proposed revocation, including the reasons and an opportunity for a hearing.

(f) Hearings.

(1) All hearings shall be in accordance with the formal hearing procedures of the department in §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(2) Within 10 days after an emergency suspension or within 10 days after the postmark date of the department's written notice of proposed denial, nonemergency suspension, or revocation, the applicant or licensee may request in writing a hearing from the department's Division of Food and Drugs. If the applicant or licensee does not request a hearing during this time period, he/she is deemed to have waived their right to a hearing.

(3) If the applicant or licensee requests a hearing during the 10-day time period, the department's Division of Food and Drugs, upon receiving the request, shall promptly request the department's Office of General Counsel to initiate hearing procedures.

(g) Reinstatement of license.

(1) A person whose application for a license has been denied or whose license has been placed under an emergency suspension may request a reinspection for the purpose of granting or reinstating a license not later than

the 30th day after the denial or emergency suspension. Not later than the 10th day after the receipt of a written request from the applicant or licensee, the department shall make a reinspection.

(2) As regards a nonemergency suspension or a revocation, the licensee may request at any time, an inspection for reinstating the license or for issuing a new license.

(3) If, after inspection, the department determines that the applicant or licensee meets the requirements of the Act or these rules, the department shall reinstate the license or issue a new license, as appropriate.

§229.205. Inspections

(a) Number and time of inspection. The department shall inspect each salvage establishment and salvage warehouse operation at least once every 12 months and shall make as many additional inspections and reinspections as are necessary for the enforcement of the Act or these rules.

(b) Access to salvage establishment, salvage warehouse, and vehicles.

(1) Authorized representatives of the department, after proper identification, shall be permitted to enter at any reasonable time any salvage establishment, salvage warehouse, or vehicle for the purpose of making inspections to determine compliance with the Act or these rules.

(2) The department's designated representatives shall be permitted to examine the records of the salvage establishment or broker to obtain pertinent information pertaining to distressed salvageable and salvaged merchandise purchased, received, used, sold, or distributed, and personnel employed.

§229.206. Penalties

(a) Class A misdemeanor. Any person who operates a salvage establishment or acts as a salvage broker without a license issued under the Act commits a criminal offense of a Class A misdemeanor under §14 of the Act.

(b) Injunctions. In addition to the criminal penalty in subsection (a) of this section, the department may seek to enjoin violators of these rules through court injunction.

§229.207. Salvage Establishments and Brokers Outside Jurisdiction of the Department.

(a) License required. A person who operates a salvage establishment or acts as a salvage broker outside this state may sell, distribute, or otherwise traffic in distressed or salvaged merchandise within this state if the person holds a license from the department.

(b) License requirements. The department may accept reports from authorities in other jurisdictions to determine the extent of compliance with the minimum standards adopted under the Act.

§229.208. Temporary permits. An applicant for a license for a salvage establishment or as a salvage broker prior to October 1, 1984, shall be granted a temporary permit to continue operation until the department per-

forms the inspections required by these rules for license applications.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-837999 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
December 10, 1983

For further information, please call (512) 468-7248.

**Chapter 265. General Sanitation
Migrant Labor Camps**

25 TAC §265.35

The Texas Department of Health proposes amendments to §265.35, concerning application fees for migrant labor housing facilities.

The amendments will change the existing fee schedule ranging from \$20-\$50 to a flat rate of \$50 per application. In addition, these amendments will replace existing emergency rules which will expire on December 30, 1983.

Jimmie D. Dickens, R.S., General Sanitation Division director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications on state or local governments as a result of enforcing or administering the rule.

Mr. Dickens 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 a reduction in cost to the general public by requiring that migrant labor housing facilities themselves pay for the rising costs associated with the annual licensing of the facilities. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be an initial \$50 application fee for migrant labor housing facilities.

Comments on the proposal may be submitted to Jimmie D. Dickens, R.S., Director, General Sanitation Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Written comments will be accepted for 30 days after publication of this proposal in the *Texas Register*. In addition, a public hearing will be held on Thursday, October 27, 1983, at 10 a.m., in Room T-406, Texas Department of Health, 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 5221e-1, §6, which provides the Texas Board of Health with the authority to adopt rules covering fees for migrant labor housing facilities.

§265.35. Procedures for Application for Migrant Labor Camps.

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

(d) The application form must be accompanied by a fee of \$50 per application (as determined by number of housing units) and an informational sheet. [The fee should be based on the following schedule:

[Family type housing (both sexes)]	
Two to 10 dwelling units	\$20
11 to 30 dwelling units	\$35
31 or more dwelling units	\$50
[Dormitory type housing (single sexes)]	
24 beds or less	\$15
25 beds or more	\$20]
(e)-(j) (No change.)	

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

Issued in Austin, Texas, on October 6, 1983.

TRD-838000 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption.
December 10, 1983

For further information, please call (512) 458-7521.

TITLE 28. INSURANCE Part I. State Board of Insurance

(Editor's note Because the State Board of Insurance's rule 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 numbers. However, the rules will be published under the agency's correct TAC title and part. The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

Powers and Duties Examination of Carriers

059.01.15.219

The State Board of Insurance proposes the repeal of Rule 059.01.15.219, concerning a requirement that the president or chief executive officer of an insurer furnish certain information to the board respecting stock investments or stock held as collateral for a loan which was acquired as a "private offering" as described in the Federal Securities Act of 1933, where the collateral or stock either bears a legend concerning the resale of the stock or management has issued an investment letter which cites the intention not to offer the shares of stock for resale. The provisions of this rule are a part of the annual statement blanks adopted under Rule 059.01.15.224; therefore, it is

not needed, and its repeal will not change any present practice or requirement of the board.

R. B. Ashworth, deputy insurance commissioner, financial monitoring group, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal. There is no anticipated additional cost of compliance for small businesses from this repeal, since the repeal will not change any present practice or requirement of the board.

Mr. Ashworth also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be the elimination of an unnecessary rule from the board's rules on file with the secretary of state. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to R. B. Ashworth, Deputy Insurance Commissioner, Financial Monitoring Group, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under authority of the Texas Insurance Code, Article 1 24, pursuant to which the board is authorized to address any inquiries to any insurance company in relation to its business and condition or any matter connected with its transactions which the board deems necessary for the public good or the proper discharge of its duties, and pursuant to the board's authority to repeal any rule it has previously promulgated.

.219. Shares of Stock Held as Investments or as Securities or Collateral Acquired under the "Private Offerings" Provision of the Securities Act of 1933

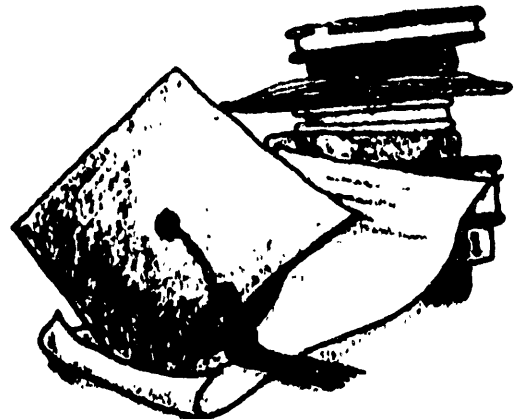
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 5, 1983

TRD 838001 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption
November 14, 1983

For further information, please call (512) 475 2950.



TITLE 37. PUBLIC SAFETY AND
CORRECTIONS

Part IX. Texas Commission on Jail
Standards

Chapter 263. Life Safety
Detection and Alarm Systems

37 TAC §263.31

The Texas Commission on Jail Standards proposes an amendment to §263.31, concerning smoke detection in county jails.

Robert O. Viterna, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Viterna also has 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 a clarification to existing standards permitting the use of photoelectric detectors as well as the ionization type. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Robert O. Viterna, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

§263.31. *Alarm Initiation.* In addition to voice communication alarm initiation, each area of a jail shall be provided with at least one (but preferably all) of the following means of alarm initiation (to be used for fire and other emergency protection only and not for drills):

- (1) (No change.)
- (2) **photoelectric or ionization smoke detectors** [automatic smoke/ionization alarm].
- (3) (No change.)

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

Issued in Austin, Texas, on September 29, 1983.

TRD-838018 Amber Cree
 Chairman
 Texas Commission on Jail
 Standards

Earliest possible date of adoption:
November 14, 1983

For further information, please call (512) 475-2716.

Life Safety and Emergency Equipment

37 TAC §263.53

The Texas Commission on Jail Standards proposes an amendment to §263.53, concerning smoke and fume removal.

Robert O. Viterna, executive director, 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 anticipated effect on state government. The estimated additional cost to local government will be \$10,000 for 1984 and \$5,000 each year from 1985-1988.

Mr. Viterna also has 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 a more secure and safe jail system by requiring smoke and fume removal in all cases, providing an automatic system as well as testing procedures. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Robert O. Viterna, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

§263.53. *Smoke and Fume Removal.* [In jails and in areas of jails not equipped with automatic sprinkler system protection.] High velocity smoke and fume removal equipment (having a capacity of 15 air exchanges per hour) sufficient to accommodate the degree of hazards present considering the removal facilities available (ductwork, plenums, vents, windows, other air-handling equipment or outside openings), shall be provided. **In new construction, equipment shall be activated automatically by the smoke detector system; however, in all jails a manual override capability shall be included in the event of detection failure and for testing purposes.** Use of the equipment shall be planned in such a manner that the exhausting of smoke from one area shall not pose a threat to the health or well-being of persons in another area of the facility. Strategically located electrical outlets shall be provided to permit such equipment to be operated in all jail areas, and all custodial personnel shall be trained and periodic drills conducted in its use.

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 September 29, 1983.

TRD-838019 Amber Cree
 Chairman
 Texas Commission on Jail
 Standards

Earliest possible date of adoption:
November 14, 1983

For further information, please call (512) 475-2716.

Chapter 275. Supervision of Inmates

37 TAC §275.2

The Texas Commission on Jail Standards proposes amendments to §275.2, concerning corrections officer training.

Robert O. Viterna, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Viterna also has determined that for each year of the first five years the rule as proposed is in effect there is no public benefit anticipated as a result of enforcing the rule as proposed. This is an administrative change affecting wording only. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Robert O. Viterna, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Title 18, Article 5115 1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails

§275.2. Corrections Officer Appointment and Training [and Certification]. Personnel employed or appointed as jailers or guards of county jails shall meet the requirements of the Texas Commission on Law Enforcement Office Standards and Education under the provisions of Texas Civil Statutes, Article 4413(29aa), §§7A, 7B, and 8A.

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 September 29, 1983

TRD-838020 Amber Cree
Chairman
Texas Commission on Jail Standards

Earliest possible date of adoption
November 14, 1983

For further information, please call (512) 475-2716.

37 TAC §275.4

The Texas Commission on Jail Standards proposes an amendment to §275.4, concerning number of supervisory personnel for county jails.

Robert O. Viterna, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Viterna also has 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 reduction of the staff to inmate ratio which should financially benefit counties as well as providing more consistency with other jail rules concerning number of water closets, showers, etc. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Robert O. Viterna, Executive Director, Texas Commission on Jail Standards, P. O. Box 12985, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 18, Article 5115 1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

§275.4. Supervisory Personnel Inmates shall be supervised by an adequate number of corrections officers to comply with [the requirements of] state law and these standards [and to carry out the facility plans established pursuant to these standards] [In no event shall this be fewer than] One corrections officer shall be provided on each floor of the facility where [on which] 10 or more inmates are housed, with no [not] less than one corrections officer per 48 [45] inmates or increment thereof for direct inmate supervision in the inmate living area. This officer shall provide visual inmate supervision not less than hourly. Sufficient additional corrections officers shall be provided to perform functions required by minimum jail standards such as booking, classification, discipline and grievance, education and rehabilitation, inmate movement, library, privileges (i.e. visitation, correspondence, telephone, commissary, and religious services) and recreation and exercise

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 September 29, 1983

TRD 838021 Amber Cree
Chairman
Texas Commission on Jail Standards

Earliest possible date of adoption
November 14, 1983

For further information, please call (512) 475-2716.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 3. AFDC

Child Support Program Requirements

40 TAC §3.6003

The Texas Department of Human Resources proposes the repeal of §3.6003 and new §3.6003, concerning the requirement for an aid to families with dependent children (AFDC) client to remit child support payments to the department.

The department is transferring from the AFDC unit to the attorney general's child support unit the responsibility for collecting AFDC overpayments resulting from the client retaining child support payments.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the repeal and new rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new rule.

Mr. Hawes has also determined that for each year of the first five years the repeal and new rule as proposed are in effect the public benefit will be more effective administration of both the AFDC and the Child Support Programs. There is no anticipated economic cost to individuals who are required to comply with the new rule as proposed.

Comments are invited and may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-511, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

(Editor's note. The text of the following rule proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

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

§3.6003. Requirement to Remit Any Child Support Payments Received by the Family.

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

Issued in Austin, Texas, on October 7, 1983.

TRD-838038 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:
November 14, 1983

For further information, please call (512) 441-3355,
ext. 2037.

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

§3.6003. Requirement to Remit Child Support Payments Received by an AFDC Client.

(a) After being certified for AFDC, the client is not legally entitled to keep future child support payments received from the absent parent. The client must remit these payments to the department.

(b) The attorney general's child support unit recovers child support payments erroneously kept by the client.

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

Issued in Austin, Texas, on October 7, 1983.

TRD-838037 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:
November 14, 1983

For further information, please call (512) 441-3355,
ext. 2037.

Chapter 27. Intermediate Care Facility for Mentally Retarded
Subchapter S. Utilization Review and Reevaluation

40 TAC §27.1803

The Texas Department of Human Resources proposes to amend §27.1803, concerning intermediate care facilities for the mentally retarded. Section 27.1803 is being amended to specify that the attending physician must recertify the resident's continued need for care within six months after initial admission and at least every 12 months thereafter. This amendment is necessary to comply with changes in federal regulations.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Mr. Hawes also has determined that for each year of the first five years the rule as proposed is in effect the public benefit will be consistency with federal regulations. There is no anticipated economic cost to individuals required to comply with the rule as proposed.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-437, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which

authorize the department to administer public assistance programs.

§27.1803. Medical Reviews.

(a) (No change.)

(b) The attending physician must: [will certify the resident's need for care initially and will recertify the resident's continued need for care at least once every 60 days.]

(1) **certify initially the resident's need for care,**

(2) **review and recertify the resident's continued need for care within six months after initial admission, and**

(3) **review and recertify the resident's continued need for care at least once every 12 months thereafter.**

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

Issued in Austin, Texas, on October 7, 1983.

TRD-838036

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:
November 14, 1983

For further information, please call (512) 441-3355,
ext. 2037.

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing with the *Register*.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register*. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal of an identical or similar rule following normal rulemaking procedures.

Withdrawn Rules

**TITLE 7. BANKING AND
SECURITIES**
Part VII. State Securities Board
**Chapter 109. Transactions Exempt
from Registration**

7 TAC §109.7

The State Securities Board has withdrawn from consideration for permanent adoption amendments to

§109.7, concerning transactions exempt from registration. The text of the amended section as proposed appeared in the July 19, 1983, issue of the *Texas Register* (8 TexReg 2679).

Issued in Austin, Texas, on October 5, 1983.

TRD-837956 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: October 5, 1983
For further information, please call (512) 474-2233.

Adopted Rules

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

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 7. BANKING AND SECURITIES Part VII. State Securities Board Chapter 111. Securities Exempt from Registration

7 TAC §111.2

The State Securities Board adopts amendments to §111.2, without changes to the proposed text published in the July 19, 1983, issue of the *Texas Register* (8 TexReg 2680).

The amendments are adopted to clarify the intent to exempt from registration requirements of The Securities Act warrants to purchase any securities which at the time the warrants are sold are exempt pursuant to the Act, §6.F.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581-28-1, which provide that the board

may make or adopt rules or regulations governing registration statements, application, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes

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

Issued in Austin, Texas, on October 5, 1983

TRD 837953 Richard D. Latham
 Commissioner
 State Securities Board

Effective date October 26, 1983
Proposal publication date July 19, 1983
For further information, please call (512) 474-2233.

Chapter 123. Administrative Guidelines for Registration of Open-End Investment Companies

7 TAC §123.2

The State Securities Board adopts amendments to §123.2, without changes to the proposed text published in the July 22, 1983, issue of the *Texas Register* (8 TexReg 2729).

The amendments are adopted to eliminate expense limitations on management fees of mutual funds and thereby encourage small mutual funds to register in Texas. The amendments eliminate the cap on ex-

penses which management companies may charge mutual funds registered in Texas

Comments favoring the amendments were received from Sandra Cohen Lieberman of the Investment Company Institute, headquartered in Washington D C , Robert Harris of Merrill Lynch Asset Management, Inc , headquartered in New York, New York, and Steven J Paggioli of J & W Seligman & Company, headquartered in New York, New York

The amendments are adopted under Texas Civil Statutes, Article 581 28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes

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

Issued in Austin, Texas, on October 5, 1983

TRD 837954 Richard D. Latham
 Commissioner
 State Securities Board

Effective date: October 26, 1983
Proposal publication date: July 22, 1983
For further information, please call (512) 474-2233.

Chapter 129. Administrative Guidelines for Minimum Standards in Tender Offers

7 TAC §§129.1-129.12

The State Securities Board adopts the repeal of §§129.1-129.12, without changes to the proposal published in the July 22, 1983, issue of the *Texas Register* (8 TexReg 2731)

The repeal is adopted to eliminate the need to comply with rules promulgated by the State Securities Board when entities make interstate or intrastate tender offers.

In *Edgar v Mite Corporation*, 457 U.S. 624 (1982), the United States Supreme Court held that the Illinois Business Takeover Act imposed a substantial burden on interstate commerce and is therefore invalid under the Commerce Clause and is pre-empted by the Williams Act, Public Law 90-439, 82 Statute 454, 15 United States Code, §78m(d)-(e) and §78n(d) (f) (1970). This decision brings into question the validity of the Texas guidelines. Also, a question exists regarding whether the board has the authority under the Texas Securities Act to regulate tender offers generally. Finally, this appears to be an area which is properly left to the legislature for its consideration

Robert A. Profusek of the firm of Jones, Day, Reavis, and Pogue, and John D. Curtis of the firm of Rain, Har-

rell, Emery, Young, and Doke, both of Dallas, wrote in opposition to a repeal of the rules in their entirety, but suggested that their application be narrowed to only cover tender offers for control of companies that would not be subject to the jurisdiction of the Securities and Exchange Commission. This would appear to be a decision which should be left to the legislature for its consideration

The repeal is adopted under Texas Civil Statutes, Article 581 28-1, which provide that the board may repeal prior rules or regulations

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

Issued in Austin, Texas, on October 5, 1983

TRD 837955 Richard D. Latham
 Commissioner
 State Securities Board

Effective date: October 26, 1983
Proposal publication date: July 22, 1983
For further information, please call (512) 474-2233.

TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 81. Instructional Resources Subchapter D. State Textbook Program Subjects in Which Textbooks Are Adopted and Provided

19 TAC §81.91

The Texas Education Agency adopts the repeal of §81.91, without changes to the proposal published in the April 29, 1983, issue of the *Texas Register* (8 TexReg 1379)

This section concerned the list of subjects in which textbooks were to be adopted. This rule was based upon the Texas Education Code, §12.14 and §12.15, both of which listed subjects for textbook adoption. The Texas Education Code, §12.15, has been repealed by the 68th Legislature, 1983, and §12.14 was amended to delete the list of subjects and refer instead to subjects and courses designated by the State Board of Education to implement the Texas Education Code, §21.101, concerning required curriculum. This section has, therefore, been repealed.

Information on the subjects in which textbooks are to be adopted is now found in §81.102 of this title, concerning the proclamation, public notice, and schedule for adoption of textbooks.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the authority of the Texas Education Code, §12.14, as amended by Senate Bill

27, 68th Legislature, 1983, which directs the State Board of Education to select and adopt a multiple list of textbooks consisting of not less than two nor more than five textbooks for each subject matter or course designated by the board to implement the Texas Education Code, §21.101.

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

Issued in Austin, Texas, on October 3, 1983.

TRD 837933 Raymon L. Bynum
Commissioner of Education

Effective date: October 26, 1983
Proposal publication date: April 29, 1983
For further information, please call (512) 475-7077.

Textbooks for Children Enrolled in Kindergarten Classes

19 TAC §§81.191-81.195

The Texas Education Agency adopts the repeal of §§81.191-81.195, without changes to the proposal published in the April 29, 1983 issue of the *Texas Register* (8 TexReg 1498).

These sections concerned textbooks for children enrolled in kindergarten classes. These sections implemented the Texas Education Code, §12.04, which was repealed by the 68th Legislature, 1983. Therefore, these sections have been repealed.

Textbooks for children in kindergarten will be purchased in accordance with the same rules governing other textbook purchases by the state.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the authority of the Texas Education Code, §12.14(a), as amended by Senate Bill 27, 68th Legislature, 1983, which directs the State Board of Education to select and adopt a multiple list of textbooks for use in the elementary grades, including kindergarten, and the secondary grades of the public schools of Texas, and Senate Bill 27, 68th Legislature, 1983, §15(1), which repealed the Texas Education Code, §12.04 (as added by Chapter 377, 62nd Legislature, 1971).

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

Issued in Austin, Texas, on October 3, 1983.

TRD-837934 Raymon L. Bynum
Commissioner of Education

Effective date: October 26, 1983
Proposal publication date: April 29, 1983
For further information, please call (512) 475-7077.

Textbooks for Children Enrolled in Bilingual Education Classes

19 TAC §81.201

The Texas Education Agency adopts the repeal of §81.201, without changes to the proposal published in the April 29, 1983 issue of the *Texas Register* (8 TexReg 1499).

This section concerning the term "textbooks" for children enrolled in bilingual education classes has been repealed because the information in the section has been moved to §81.177 concerning bilingual education textbook adoptions. Textbooks for bilingual education programs will be adopted in accordance with the rules governing other textbook purchases by the state.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the authority of the Texas Education Code, §12.04(d), as amended by Senate Bill 27, 68th Legislature, 1983, which authorizes the State Board of Education to select bids for and purchase or otherwise acquire textbooks and supporting media for students in bilingual education classes in public schools in accordance with the Texas Education Code, Chapter 12, Subchapter B, and any applicable rule adopted by the State Board of Education.

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

Issued in Austin, Texas, on October 3, 1983.

TRD 837935 Raymon L. Bynum
Commissioner of Education

Effective date: October 26, 1983
Proposal publication date: April 29, 1983
For further information, please call (512) 475-7077.

TITLE 22. EXAMINING BOARDS Part IV. Texas Cosmetology Commission

Chapter 83. Sanitary Rulings

22 TAC §83.1

The Texas Cosmetology Commission adopts amendments to §83.1, without changes to the proposed text published in the August 9, 1983, issue of the *Texas Register* (8 TexReg 3063).

In amending the statutes, the section numbers changed, and the rule is being updated so sections will apply properly. The rule will save confusion by giving correct section numbers.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 8451a, §4, which gives the commission the authority to amend this 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 October 5, 1983.

TRD-838002 Ron Resech
 Executive Director
 Texas Cosmetology Commission

Effective date: October 27, 1983
Proposal publication date: August 9, 1983
For further information, please call (512) 475-3304.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 8451a, §4, which give the Texas Cosmetology Commission the authority to adopt this 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 October 5, 1983.

TRD-838003 Ron Resech
 Executive Director
 Texas Cosmetology Commission

Effective date: October 27, 1983
Proposal publication date: August 9, 1983
For further information, please call (512) 475-3304.

Chapter 89. General Provisions

22 TAC §89.3, §89.9

The Texas Cosmetology Commission adopts amendments to §89.3 and §89.9, without changes to the proposed text published in the August 9, 1983, issue of the *Texas Register* (8 TexReg 3063).

The amendments were made in conjunction with legislative changes. School license renewals will be charged an additional \$50 fee, making the renewal fee \$200 as opposed to \$150.

No comments were received regarding adoption of the amendments.

Texas Civil Statutes, Article 8451a, were amended in the last legislative session to increase the fees. The amendments are adopted under Texas Civil Statutes, Article 8451a, §4, which gives the commission the authority to promulgate 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 October 5, 1983.

TRD-838005 Ron Resech
 Executive Director
 Texas Cosmetology Commission

Effective date: October 27, 1983
Proposal publication date: August 9, 1983
For further information, please call (512) 475-3304.

22 TAC §89.52

The Texas Cosmetology Commission adopts amendments to §89.52, without changes to the proposed text published in the July 19, 1983, issue of the *Texas Register* (8 TexReg 2862).

Field trips were being abused and misused. Therefore, that portion of the rule was dropped. The rule will define an hour of creditable time for cosmetology students.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 8451a, which give the Texas Cosmetology Commission authority to amend this 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 October 5, 1983.

TRD-838004 Ron Resech
 Executive Director
 Texas Cosmetology Commission

Effective date: October 27, 1983
Proposal publication date: July 19, 1983
For further information, please call (512) 475-3304.

22 TAC §89.29

The Texas Cosmetology Commission adopts new §89.29, without changes to the proposed text published in the August 9, 1983, issue of the *Texas Register* (8 TexReg 3064).

There was some confusion in the industry as to how schooling and work experience correlated, which this rule will clearly define. The rule will save confusion and permit student instructors to use work experience in conjunction with school training.

22 TAC §89.53

The Texas Cosmetology Commission adopts new §89.53, with changes to the proposed text published in the July 19, 1983, issue of the *Texas Register* (8 TexReg 2862).

The rule will set specific guidelines for private and public schools of cosmetology for minimum requirements to save confusion in the industry on minimum requirements. The rule was first submitted as §89.46.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 8451a, §4, which gives the Texas Cosmetology Commission the authority to adopt this rule.

§89.53. Minimum Requirements for Both Private and Public Beauty Culture Schools.

(a) The following are the requirements for a private beauty culture school as authorized by the Texas Cosmetology Commission and approved on October 3, 1983.

(1) A building to house a beauty culture school must be fireproof and of permanent type construction, contain a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students. The building must be divided into three separate areas: one for instruction of theory, one for practice work of seniors, and one for practice work of juniors.

(2) The classroom must be separate and apart from the junior and senior work rooms, must have walls extending to the ceiling, and must include:

- (A) 25 student desks with tablet arms,
- (B) one mannequin table (minimum eight feet long),
- (C) one chalkboard (minimum three feet by six feet).

(3) The following equipment list is not designated to one particular part of the school, but could be used by all students:

- (A) eight shampoo bowls,
- (B) eight shampoo chairs,
- (C) one heat cap,
- (D) 24 dozen cold wave rods,
- (E) three electric irons or three marcel irons with stove (professional salon type),
- (F) one pair hair clippers (professional),
- (G) three hand dryers (professional),
- (H) one electric time clock,
- (I) four manicure hand bowls,
- (J) 12 mannequins,
- (K) one closed container for soiled towels,
- (L) one closed cabinet for clean towels,
- (M) visual aid equipment (projector and screen),

(N) lockers for each student (minimum 25).

(4) The junior department must contain the following:

- (A) 10 all-purpose chairs (swivel or hydraulic),
- (B) 10 styling stations with mirrors (28 inches by 28 inches minimum),
- (C) one mannequin table (size to accommodate minimum of 10 students),
- (D) two hair dryers with chairs (chairs specifically made for professional salon type hair dryers),
- (E) two manicure tables,
- (F) two manicure stools,
- (G) four covered trash cans,
- (H) one wet sterilizer.

(5) The senior department must contain the following:

- (A) 25 hair styling stations with mirrors (28 inches by 28 inches minimum),
- (B) 25 styling chairs (swivel or hydraulic),
- (C) 10 hair dryers with chairs (chairs specifically made for professional salon type hair dryers),

- (D) two manicure tables,
- (E) two manicure stools,
- (F) six covered trash cans,
- (G) 12 hand mirrors,
- (H) one facial area (semi-private) with two facial chairs,
- (I) sufficient wet sterilizers.

(6) The dispensary must contain adequate space (minimum 50 square feet) with a double sink with hot and cold running water and space for storage and dispensing of supplies and some school equipment.

(7) The school shall have one dry sterilizer (large enough to accommodate junior and senior departments).

(8) All top surfaces such as hairdressing stations, dispensary shelves, etc., must be covered with formica or a similar material. All buildings approved for schools must be adequately heated and air conditioned.

(9) The equipment in a beauty culture school shall not be changed after approval without notifying the Texas Cosmetology Commission.

(10) Owners of private beauty culture schools must maintain a surety bond in the amount of \$5,000.

(11) All equipment in a beauty culture school shall be of professional type in new or excellent condition.

(12) Original license fee for a private beauty culture school is \$500, renewal fees, \$200.

(13) All facilities must be inspected and approved prior to a student's hours being accepted for credit.

(14) A textbook for each student enrolled must be furnished.

(15) As enrollment increases, required equipment is subject to increase.

(b) The following are the requirements for a public school cosmetology program.

(1) A vocational cosmetology department is required to have an area of not less than 2,200 square feet, including office, dispensary, locker room, rest rooms, and with an adjacent classroom. At least 1,200 square feet shall be laboratory space.

(2) The classroom must be separated from the laboratory area and equipped with the following:

- (A) chalkboard,
- (B) minimum of 25 arm rest chairs,
- (C) textbook for each student enrolled,
- (D) charts covering bones, muscles, nerves, skin, and nails,
- (E) medical dictionary.

(3) The dispensary must be equipped with large wet and dry sterilizers and a double sink. Dispensary shelves must be covered with formica or similar material.

(4) Lockers and dressing rooms are to be provided.

(5) The school equipment list shall contain:

- (A) six shampoo bowls and six shampoo chairs,
- (B) eight hairdryers with chairs,
- (C) two steam caps,
- (D) therapeutic light,
- (E) eight dozen cold wave rods,
- (F) three electric irons, or three marcel stoves and irons,

(G) 16 styling stations covered with formica or similar material with mirror at least 28 inches by 28 inches,

(H) 16 styling chairs which are swivel or hydraulic,

(I) 12 mannequins with table or attached to styling stations (if table is used it should be a minimum of four feet by eight feet),

(J) eight canvas head blocks,

(K) one electric time clock,

(L) 12 hand mirrors,

(M) one pair of professional hand clippers,

(N) three professional hand-held hair dryers,

(O) four manicure tables and four stools,

(P) closed cabinet for towels,

(Q) sufficient covered trash cans in all departments.

(6) As enrollment increases, required equipment is subject to increase; all equipment must be new or in excellent condition.

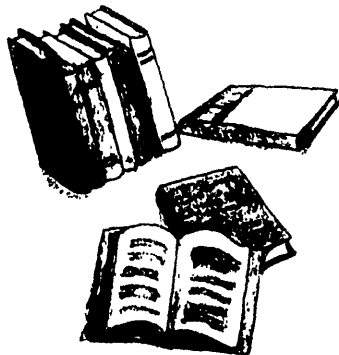
(7) No student may receive credit hours prior to approval by the Texas Cosmetology Commission.

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

Issued in Austin, Texas, on October 5, 1983.

TRD-838006 Ron Resech
Executive Director
Texas Cosmetology Commission

Effective date: October 27, 1983
Proposal publication date: July 19, 1983
For further information, please call (512) 475-3304.



TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 73. Laboratories
Approved Laboratories Performing
Premarital and Prenatal Syphilis
Serology

25 TAC §§73.1-73.6

The Texas Department of Health adopts the repeal of §§73.1-73.6, concerning approved laboratories performing premarital and prenatal syphilis serology, without changes to the proposed text published in the August 5, 1983, issue of the *Texas Register* (8 Tex-Reg 3000).

Senate Bill 258, 68th Legislature, 1983, repeals Texas Civil Statutes, Article 4445c, effective August 29, 1983. Since Article 4445c is the statutory authority for §§73.1-73.6, the department has repealed §§73.1-73.6.

Even though §§73.1-73.6 are being repealed, the content of these rules concerning approved laboratories performing premarital and prenatal syphilis serology has been incorporated with modifications into new §§97.131-97.136.

No public comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4445d, §4.02 and §4.05, which authorize the Texas Board of Health to adopt rules covering approved laboratories performing premarital and prenatal syphilis serology.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-837994 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: December 27, 1983
Proposal publication date: August 5, 1983
For further information, please call (512) 458-7455.

Chapter 97. Communicable Diseases
Control of Communicable Diseases

25 TAC §§97.1-97.9

The Texas Department of Health adopts the repeal of §§97.1-97.9 and new §§97.1-97.9, concerning communicable diseases, with minor changes to the proposed text published in the August 5, 1983, issue of the *Texas Register* (8 TexReg 3000). New §97.5 is adopted with changes, and new §§97.1-97.4 and 97.6-97.9 are adopted without changes from the proposed text. The sections adopted without changes will not be republished.

The new rules provide measures to control the spread of communicable diseases. As a result, the incidence of communicable diseases should be reduced and the public health improved.

The rules cover the prevention, reporting, and control of communicable diseases.

The Texas Nurses Association submitted two comments to the proposed rules. The department made two minor changes as a result of these comments as follows.

The association recommended that §97.5(a) be modified to cover children "having or suspected of hav-

ing" a reportable disease. The reason for this recommendation is that the wording change would make §97.5(a) follow more closely the specific requirements of Senate Bill 1064, §3.03(b). The department agrees and has changed §97.5(a) to comply with the recommendation.

The association also recommended that §97.5(c)(1) be more specific in stating that the certificate of the attending physician attest also to a child who does not have a communicable disease. This modification also would be more in line with the specific statutory requirements of Senate Bill 1064, §3.03(b). The department agrees and has changed §97.5(c)(1) to comply with the recommendation.

The repeal is adopted under the new Communicable Disease and Prevention Control Act, Senate Bill 1064, 68th Legislature, 1983, §2.02, which authorizes the Texas Board of Health to adopt rules to implement the new 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 October 6, 1983.

TRD-837995 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: December 30, 1983
Proposal publication date: August 3, 1983
For further information, please call (512) 458-7207.

25 TAC §§97.1-97.9

The new rules are adopted under the new Communicable Disease and Prevention Control Act, Senate Bill 1064, 68th Legislature, 1983, §2.02, which authorizes the Texas Board of Health to adopt rules to implement the new Act.

§97.5. *Diseases Requiring Exclusion from Child-Care Centers and Schools.*

(a) It shall be the duty of the owner or operator of a child-care center, or the school administrator, to exclude from attendance any child having or suspected of having a reportable disease until one of the criteria listed in subsection (c) of this section is fulfilled.

(b) In addition to reportable diseases, the operator of a child-care center or the school administrator may exclude children suffering from scabies, *impetigo contagiosa*, ringworm of the scalp, influenza, common cold, infectious forms of conjunctivitis and pediculosis.

(c) All children excluded for reason of communicable disease may be readmitted by one of the following methods, as determined by the local health authority:

(1) a certificate of the attending physician attesting to their not having a communicable disease or to their recovery or noninfectiousness.

(2) a permit for readmission issued by a local health authority.

(3) after a period of time corresponding to the duration of the communicability of the disease, as established by the commissioner of health.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-837996 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: December 30, 1983
Proposal publication date: August 3, 1983
For further information, please call (512) 458-7207.

Protecting Eyes of Newborn

25 TAC §97.111

The Texas Department of Health adopts the repeal of §97.111, concerning protection of the eyes of newborns, without changes to the proposed text published in the August 5, 1983, issue of the *Texas Register* (8 TexReg 3003).

Senate Bill 258, 68th Legislature, 1983, repeals Texas Civil Statutes, Article 4445c. Since Article 4445c is the statutory authority for §97.111, the department has repealed §97.111.

Even though §97.111 is being repealed, the content of this rule concerning protection of the eyes of newborns has been incorporated with modifications into new §§97.131-97.136.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4445d, §3.02, which authorizes the Texas Board of Health to adopt rules on the prophylactic treatment of newborns.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-837997 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: December 27, 1983
Proposal publication date: August 5, 1983
For further information, please call (512) 458-7455.

Venereal Disease

25 TAC §§97.131-97.136

The Texas Department of Health adopts new §§97.131-97.136, concerning venereal disease, without changes to the proposed text published in the

August 5, 1983, issue of the *Texas Register* (8 Tex-Reg 3004).

These rules will protect the confidentiality of venereal disease records, codify the various existing venereal disease related rules into one set of rules, simplify the rule language for purposes of understandability, and delete obsolete portions of the existing rules which are being repealed.

The rules cover definitions, reporting of venereal disease, serologic testing during pregnancy and at delivery, certification of laboratories performing standard serologic tests, reporting of laboratory tests for syphilis and gonorrhea, and prophylaxis treatment of newborns.

No comments were received regarding adoption of the new rules.

The new rules are adopted under Texas Civil Statutes, Article 4445d, §§ 1.03, 2.01, 2.02, 3.02, 4.02, and 4.05, which authorize the Texas Board of Health to adopt rules concerning venereal disease.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-837998 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: December 27, 1983
Proposal publication date: August 5, 1983
For further information, please call (512) 458-7455.



TITLE 28. INSURANCE

Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's 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 numbers. However, the rules will be published under the agency's correct TAC title and part.)

Taxes and Fees

Fees of the State Board of Insurance

059.04.07.001, .003

The State Board of Insurance adopts the repeals of Rules 059.04.07.001 and .003, without changes to

the proposal published in the June 28, 1983, issue of the *Texas Register* (8 TexReg 2249).

These rules specify charges for various publications by the State Board of Insurance under authority of the Texas Insurance Code, Article 4.07. Rule 059.04.07.001 also provides for distribution of certain material without charge. These rules are not up-to-date; some of their provisions have been superceded by later rules. Up-to-date rules are being adopted as Rules 059.04.07.011-.016 simultaneously with this repeal.

No comments were received regarding adoption of the repeal.

The repeal is adopted under authority of the Texas Insurance Code, Article 4.07, pursuant to which the board may set and collect a sales charge for making copies of various material deemed sufficient to reimburse the state for its actual expense and also make provisions to provide certain rating information free of charge; pursuant to the board's authority to make certain charges as provided in Texas Civil Statutes, Article 6252-17a, §9; and pursuant to the board's authority to repeal any rule it has 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 October 6, 1983.

TRD-838022 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: June 28, 1983
For further information, please call (512) 475-2950.

059.04.07.002, .004

The State Board of Insurance adopts the repeal of Rules 059.04.07.002 and .004, without changes to the proposal published in the June 28, 1983, issue of the *Texas Register* (8 TexReg 2249).

These rules specify certain fees and charges for the use of computer and other business machine equipment for copying agency records and photostatic records. Portions of these rules are out-of-date; other portions are current. All the rules are being replaced and updated in new Rules 059.04.07.011-.016, which are adopted simultaneously with this repeal.

No comments were received regarding adoption of the repeal.

The repeal is adopted under authority of the Texas Insurance Code, Article 4.07, pursuant to which the board may set and collect a sales charge for making copies of various items deemed sufficient to reimburse the state for its actual expense and pursuant to which the board may provide certain rating information free of charge; pursuant to the board's authority to make certain charges as provided in Texas Civil Statutes, Article 6252-17a, §9; and pursuant to the board's au-

thority to repeal any rule it has previously promulgated.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-838023 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: June 28, 1983
For further information, please call (512) 475-2950.

Fees, Charges, and Costs

059.04.07.011-.016

The State Board of Insurance adopts new Rules 059.04.07.011, with changes to the proposed text published in the June 28, 1983, issue, of the *Texas Register* (8 TexReg 2250). Rules 059.04.07.012-.016 are adopted without changes and will not be republished.

These rules specify the costs for copies of public records, charges for access to public records, charges for publications, and also specify certain publications distributed by the board without charge. There is one change from the rules as proposed. In Rule 059.04.07.011(b), the word "photographic" is removed from the second sentence because the reproduction process addressed is not accurately described as photographic.

No comments were received regarding adoption of the new rules.

The new rules are adopted under authority of the Texas Insurance Code, Articles 4.07 and 5.29, and Texas Civil Statutes, Article 6252-17a, which authorize the State Board of Insurance to charge for copies of public records, to charge for access to public records, to charge for board publications, and to make provision for the distribution of certain board publications without charge.

.011. Cost of Copies of and Access to Public Records.

(a) The following are charges for office machine copies of public records up to legal size:

(1) \$.55 per request. This charge is established for machine setup and records preparation. This charge is assessed one time per request, regardless of the number of documents or format and includes the first copy of the first page. The cost for a single copy of a single page may not exceed \$.55 exclusive of mailing costs.

(2) \$.15 per page copied. The charge for additional copies or pages is \$.15 per page copied.

(b) There is no charge for the time spent by agency personnel in providing access to public records under Texas Civil Statutes, Article 6252-17a, §9(a). Section 9(a) applies to noncertified reproduction comprised of pages up to legal size.

(c) All requests for single copies of public records are excluded from sales tax charges. Additional copies shall be taxed. The amount of sales tax will depend on the rate set by the applicable taxing jurisdiction. Regular publications prepared specifically for sale and distribution to the general public are subject to sales tax.

(d) Although the State Board of Insurance is not obligated to mail documents to a requesting party, it may charge for the actual postage involved.

(e) Charges for access to public records in computer record banks, microfilm records, or other similar record keeping is as follows:

(1) for computer time, \$60 per hour; for less than 30 minutes there is a minimum charge of \$30; and

(2) for programming, if necessary, \$20 per hour;

(f) The charge for photostatic records is \$2.10 per page. Photostatic records are not available in sizes larger than 11 inches by 18 inches.

(g) The charge for microfilm copies is \$11.50 per roll of film, \$3.10 per diazo copy, and \$3.25 per photocopy.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-838024 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: June 28, 1983
For further information, please call (512) 475-2950.

Rating and Policy Forms Miscellaneous Rules, Motor Vehicle Insurance

059.05.03.011-.013

The State Board of Insurance adopts new Rules 059.05.03.011-.013, without changes to the proposed text published in the April 5, 1983, issue of the *Texas Register* (8 TexReg 1115).

These rules embody miscellaneous requirements and interpretations respecting motor vehicle insurance regulation. Rules 059.05.03.011 and .012 are interpretations of rating laws. Rule 059.05.03.013 requires that if a certification of an insured's insurance coverage is given to a party other than the insured, it must contain language stating that the certification does not have the effect of altering the policy. These rules embody long-standing interpretations and requirements and do not change any board requirement or procedure.

No comments were received regarding the adoption of the new rules.

These new rules are adopted under authority of the Texas Insurance Code, Articles 5.01 and 5.03, which provide the State Board of Insurance with authority

to promulgate rates for motor vehicle insurance, and provide that no insurer, except as authorized by statute, issue or renew such insurance at premium rates greater or less than those promulgated by the board; under authority of the Texas Insurance Code, Article 5.06, pursuant to which the board may prescribe insurance forms; and under authority of the Texas Insurance Code, Article 5.10, which authorizes the board to make and enforce such rules as are necessary to carry out the provisions of the Texas Insurance Code, Chapter 5, Subchapter A.

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

Issued in Austin, Texas, on October 5, 1983.

TRD-837978 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 26, 1983
Proposal publication date: April 5, 1983
For further information, please call (512) 475-2950.

Miscellaneous Casualty Lines, Dividend Classes, General Casualty Law

059.05.20.001

The State Board of Insurance adopts the repeal of Rule 059.05.20.001, without changes to the proposal published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2197).

This rule regulates the distribution of dividends under the Texas Insurance Code, Chapter 5, Subchapter B. The rule is out-of-date. New Rule 059.05.20.011 is being adopted simultaneously with this repeal to update classifications for general casualty insurance and fidelity, guaranty, and surety bonds.

No comments were received regarding the adoption of the repeal.

This repeal is adopted under authority of the Texas Insurance Code, Article 5.20, which specifies requirements and prohibitions for, among other things, the payment of dividends on the lines of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B; the Texas Insurance Code, Article 21.31, which requires dividends to be paid from the surplus profits of a company; and under the board's authority to repeal any rule it has previously promulgated.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-838025 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: June 24, 1983
For further information, please call (512) 475-2950.

Dividends, Under Texas Insurance Code, Chapter 5, Subchapter B

059.05.20.011-.013

The State Board of Insurance adopts new Rules 059.05.20.011-.013, without changes to the proposed text published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2198). These rules specify appropriate dividend classes and requirements under the Texas Insurance Code, Chapter 5, Subchapter B.

Rule 059.05.20.011 specifies appropriate dividend classes for the lines of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B; it replaces Rule 059.05.20.001, which is being repealed simultaneously with this adoption. Rule 059.05.20.012 specifies certain procedures and limitations in connection with the payment of dividends. Rule 059.05.20.013 adopts by reference an application form to be completed by insurers making applications to pay dividends. The form is attached.

No comments were received regarding adoption of the new rules.

The new rules are adopted under authority of the Texas Insurance Code, Article 5.20, which specifies requirements and prohibitions for, among other things, the payment of dividends on the lines of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B, and the Texas Insurance Code, Article 21.31, which requires dividends to be paid from the surplus profits of a company.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-838026 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: June 24, 1983
For further information, please call (512) 475-2950.

Duty of Fire Marshal

059.05.43.004, .006, .007

The State Board of Insurance adopts the repeal of Rules 059.05.43.004, .006, and .007, without changes to the proposal published in the July 15, 1983, issue of the *Texas Register* (8 TexReg 2631).

Rule 059.05.43.004 specifies standards and requirements in nursing and convalescent homes in Texas. Rule 059.05.43.006 specifies standards and requirements for minimum fire safety for child-care facilities in Texas. Rule 059.05.43.007 adopts the *Fire Protection Handbook*. These rules were erroneously filed with the *Texas Register* at or about the inception of

the Administrative Procedure and Texas Register Act. The board's regulatory authority over the matters contained in the rules is not as broad as the rules themselves.

No comments were received regarding adoption of the repeal.

The repeal is adopted under authority of the Texas Insurance Code, Article 1.09A, pursuant to which the State Board of Insurance supervises the state fire marshal; and the Texas Insurance Code, Article 5.44, pursuant to which the state fire marshal examines public buildings for hazards; and pursuant to the board's authority to repeal any rule it has 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 October 6, 1983.

TRD-838027 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: July 15, 1983
For further information, please call (512) 475-2950.

Fire Detection and Alarm Devices and Systems

059.05.43.201

The State Board of Insurance adopts the repeal of Rule 059.05.43.201, without changes to the proposal published in the July 15, 1983, issue of the *Texas Register* (8 TexReg 2631).

This rule adopts by reference several Fire Protection Association pamphlets dealing with fire detection and fire alarm devices and systems. The rule has been superceded by Rules 059.41.43.200-.244 which deal with the same subject matter. The repeal will not affect any present practice or requirement of the board.

No comments were received regarding adoption of the repeal.

The repeal is adopted under authority of the Texas Insurance Code, Article 5.43-2, which provides the board with authority to regulate sales, servicing, installation, and maintenance of fire detection and fire alarm devices and systems, and pursuant to the board's authority to repeal any rule it has previously promulgated.

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

Issued in Austin, Texas, on October 6, 1983.

TRD-838028 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: July 15, 1983
For further information, please call (512) 475-2950.

Fire and Marine Companies Details of Annual Statement, Admitted Assets

059.06.12.001

The State Board of Insurance adopts the repeal of Rule 059.06.12.001, without changes to the proposal published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2199).

This rule specifies requirements for electronic machine, data processing system, or other office equipment or labor saving devices to qualify as an admitted asset of a property and casualty insurance company. This rule is substantially a duplicate of Rule 059.01.15.225. No agency procedure or requirement is changed as a result of this repeal.

No comments were received regarding adoption of the repeal.

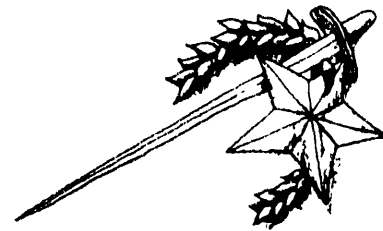
The repeal is adopted under authority of the Texas Insurance Code, Articles 6.12 and 8.07, pursuant to which office equipment systems, machines, and other labor saving devices may qualify as admitted assets of property and casualty insurance companies, and pursuant to the board's authority to repeal any rule it has 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 October 6, 1983.

TRD-838029 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 28, 1983
Proposal publication date: June 24, 1983
For further information, please call (512) 475-2950.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 47. Primary Home Care Claims Payment

40 TAC §47.3903

The Texas Department of Human Resources adopts an amendment to §47.3903, concerning records, in

its Primary Home Care Program rules, with a change to the proposed text published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2214).

The amendment to §47.3903 ensures that provider agency records are available to state and federal agencies responsible for the administration and fiscal control of the Primary Home Care Program.

Section 47.3903 is amended to specify that provider agencies must make records available to personnel of the Texas attorney general's Medicaid Fraud Control Unit.

Comments were received from the Texas attorney general's office. The comments were not clearly for or against the proposed amendment. The Texas attorney general's office recommended that subsection (d)(2) be reworded to limit access of records to personnel of the Texas attorney general's Medicaid Fraud Control Unit.

The department agrees with this comment and the text of subsection (d)(2) is reworded.

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

§47.3903. Records.

(a) The provider agency must keep records related to the filing of a claim. These include:

- (1) the client intake form,
- (2)-(10) (No change.)

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

(d) The provider agency must make these records available, upon request, during regular business hours, to the:

- (1) department's personnel and representatives,
- (2) Texas attorney general's Medicaid Fraud Control Unit personnel, and
- (3) Department of Health and Human Services' personnel.

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

Issued in Austin, Texas, on October 5, 1983.

TRD-837965 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: December 2, 1983
Proposal publication date: June 24, 1983
For further information, please call (512) 441-3355,
ext. 2037.

Chapter 48. CCAD

The Texas Department of Human Resources adopts amendments to §48.1201 and §48.2916, concerning adult protective services in its Community Care

for Aged and Disabled (CCAD) Program rules, with changes to the proposed text of §48.1201, and without changes to the proposed text of §48.2916, published in the August 12, 1983, issue of the *Texas Register* (8 TexReg 3140).

The rules are amended to ensure the department's compliance with the requirements of Senate Bill 861. The bill amends the Human Resources Code to include disabled persons 18-64 years old in its mandate to investigate reports of abuse, neglect, or exploitation. Disabled persons are eligible for the same CCAD protective services provided to persons 65 years old and older.

Section 48.1201 is amended to add a definition of "disabled person." Section 48.2916 is amended to include disabled persons in all adult protective services priority groups.

Advocacy, Inc., and the Texas Association for Retarded Citizens (ARC) commented on the proposal. Neither association commented for or against the rules; the comments consisted primarily of concerns and recommendations about specific portions of the rules.

Advocacy, Inc. requested that the department reword the definition of disabled person in §48.1201 to read exactly as the definition in Senate Bill 861, which defines disabled person as "a person with a mental, physical, or developmental disability between the ages of 18 and 65 years of age."

The Texas Association for Retarded Citizens also commented on the definition of disabled person. The ARC—Texas recommended rewording the definition to read:

A person who, because of physical, mental, or developmental impairment, is limited in his capacity to adequately perform one or more essential activities of daily living. Activities of daily living include, but are not limited to, personal and health care, mobility, communication, and management of money and property.

The department agrees with both comments and has reworded the definition as recommended by the ARC—Texas.

The ARC—Texas commented that the bracketed words in §48.2916 were misplaced. The commenter said the brackets imply that reports of a disabled person under 65 years old do not fall into priorities one, two, or three. The department's response is that in the *Texas Register* brackets are used to identify words that are deleted from a rule as a result of the amendment. Brackets are not used to set off parenthetical phrases. No change is made to the rule based on the comment.

Definitions

40 TAC §48.1201

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

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

Disabled person—A person who, because of physical, mental, or developmental impairment, is limited in his capacity to adequately perform one or more essential activities of daily living. Activities of daily living include, but are not limited to, personal and health care, mobility, communication, and management of money and property.

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

Involuntary protective services—Arrangement for the emergency removal of a person from life-threatening situations if directed by court order, as authorized by the Human Resources Code, Chapter 48.

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

Issued in Austin, Texas, on October 5, 1983

TRD-837963 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: October 26, 1983
Proposal publication date: August 12, 1983
For further information, please call (512) 441-3355,
ext. 2037.

Eligibility

40 TAC §48.2916

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

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

Issued in Austin, Texas, on October 5, 1983

TRD-837964 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: October 26, 1983
Proposal publication date: August 12, 1983
For further information, please call (512) 441-3355,
ext. 2037

Chapter 69. Purchased Services Subchapter K. Equipment

40 TAC §69.221

The Texas Department of Human Resources adopts amendments to §69.221, concerning accounting for

equipment in purchase of service contracts, with changes to the proposed text published in the July 5, 1983, issue of the *Texas Register* (8 TexReg 2473).

Changes to the proposed amendments include changing the title of §69.221 from "Budgeting Equipment in Purchase of Service Contracts" to "Accounting for Equipment in Purchase of Service Contracts." In subsection (a), references to equipment "costing \$1,000" are changed to equipment "having an acquisition cost of \$1,000." This change more accurately reflects the definition of acquisition cost in subsection (b). Subsections (b) and (c) are being retained to fully explain the purchasing process. The department originally proposed to delete these subsections. Minor editorial changes are also made to subsection (c).

The amendments to §69.221 are necessary to reflect recent changes in federal regulations. These regulations allow a higher amount for the cost of equipment to be charged directly to cost reimbursement contracts in the period purchased. Allowing a higher amount to be billed should decrease the need for more expensive leased equipment

The amendments to §69.221 allow the department to bill equipment having an acquisition cost of \$1,000 or less to a cost reimbursement contract in the period acquired.

No public comments were received regarding adoption of the amendments

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

§69.221. Accounting for Equipment in Purchase of Service Contracts.

(a) Equipment having an acquisition cost of \$1,000 or less may be billed directly to the cost reimbursement contract in the period acquired. Equipment having an acquisition cost of more than \$1,000 must be "capitalized" (not billed in the period acquired) and a depreciation or use charge billed to the cost reimbursement contract. If tangible personal property has been paid for through a cost reimbursement contract, no additional charges (depreciation or use charge) may be billed to the contract. The disposition of equipment is made according to appropriate regulations and department policies

(b) Acquisition cost is defined as the amount expended for the property, plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of trade-in) of the property traded in. Property which was expensed when acquired has a book value of zero when traded in.

(c) Depreciation expense for any time period is the portion of the acquisition cost of property which is assignable to that time period. The acquisition cost of the property is divided by the number of years of estimated useful service life of the property to arrive at the depreciation expense per year (straight line method with no salvage value). The number of years of estimated useful service life of property is based on the Department

of the Treasury, Internal Revenue Service, policies on depreciation for tax purposes.

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

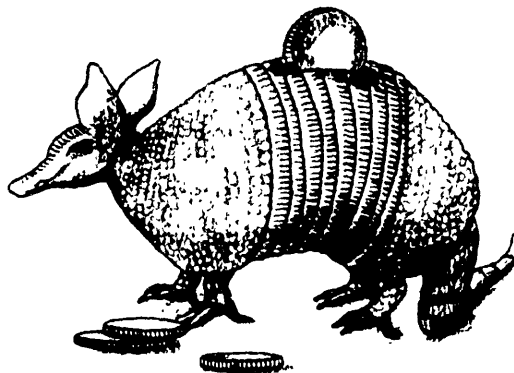
Issued in Austin, Texas, on October 6, 1983

TRD-838016 Marlin W. Johnston
 Commissioner
 Texas Department of Human
 Resources

Effective date: October 27, 1983

Proposal publication date: July 5, 1983

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 Board of Architectural Examiners

Monday, October 24, 1983, 9 a.m. The Texas Board of Architectural Examiners will meet in Salon G, Wyndham Hotel, 2222 Stemmons Freeway, Dallas. Items on the agenda summary include approval of the minutes, renewals, 1984 appropriations, the Intern Development Program, reinstatements, reciprocal licensing, examinations, alleged violations, registration law, rules and regulations, and a joint statement.

Contact: Philip D. Creer, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363

Filed: October 6, 1983, 2:47 p.m.
TRD-838007

State Commission for the Blind

Friday, October 21, 1983, 11 a.m. The Board of the State Commission for the Blind will meet in the Fluvanna Room, Kiva Inn, 5403 South First Street, Abilene. According to the agenda, the board will approve the July 12, 1983, minutes, capital purchases, endowment funds usage, and personnel for 1984, hear the executive di-

rector's report and a report on the preliminary 1984 operating budget; present employer of the year awards, and act on grants to lighthouses for the blind. The board also will meet in executive session to discuss personnel matters pursuant to Texas Civil Statutes, Article 6252-2(g).

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

Filed: October 7, 1983, 2:19 p.m.
TRD-838075

Texas Coastal and Marine Council

Friday, October 21, 1983, 8:30 a.m. The Texas Coastal and Marine Council (TCMC) will meet at the Brazosport Hilton Inn, 925 Highway 332, Lake Jackson. Items on the agenda include an environmental plan for the Brazos River Harbor District; the status of the Texas gulf shrimp industry, waste water guidelines for the seafood industry; the Texas Coastal Emergency Preparedness Program, emergency communications, hurricane and evacuation planning; toxic waste incineration in the Gulf of Mexico; approval of the July 17, 1983, minutes; the

fiscal year 1984-1985 work program, committee reports, public testimony, and the location of the December 16, 1983, meeting.

Contact: Charles F. Branton, P.O. Box 13407, Austin, Texas 78711-4407, (512) 475-5849

Filed: October 6, 1983, 11:33 a.m.
TRD-837987

Texas School for the Deaf

Saturday, October 15, 1983, 9:30 a.m. The Governing Board of the Texas School for the Deaf will meet in the board room, 1102 South Congress Avenue, Austin. Items on the agenda summary include approval of the August 27, 1983, minutes, action concerning consultant contracts, long-range, five-year goal setting, reports concerning health services, enrollment, homecoming, inservice training, admission criteria progress, food service, and staff appointments; and reports from the audience and board members.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303

Filed: October 7, 1983, 3:49 p.m.
TRD-838081

Texas Employment Commission

Tuesday, October 18, 1983, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider and act on higher level appeals in unemployment compensation cases listed on Docket 42 and set a date for the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, Austin, Texas, (512) 397-4415

Filed: October 7, 1983, 3:15 p.m.
TRD-838079

Good Neighbor Commission

Friday, October 14, 1983. A committee of the Good Neighbor Commission (GNC) and the full commission will meet in Parlor D, Sheraton Crest Inn, Austin. The times and agendas follow.

8 a.m. The Administrative Committee will review a letter from the state auditor's office dated July 15, 1983.

9 a.m. The commission will approve minutes of the third quarter meeting, hear remarks from special guests, hear committee, commissioner, staff, and chairman reports, and will select the next meeting date and site. The commission also will meet in executive session to discuss personnel matters.

Contact: Bob Watson, P.O. Box 12007, Austin, Texas 78711, (512) 475-3581.

Filed: October 6, 1983, 1:47 p.m.
TRD-837990, 837991

Texas Department of Health

Thursday, October 20, 1983, 10 a.m. The Advisory Committee on Nursing Home Affairs of the Texas Department of Health will meet at the Rail Cars Meeting Space, Texas Crushed Stone Company, (Westinghouse), IH 35, Exit 257, West Frontage Road, Georgetown. According to the agenda summary, the committee will consider the July 21, 1983, and September 8, 1983, minutes, rules on the Medication Aide Training Program, issuing permits to administer medications, procedures on long-term care facilities, architectural planning and construction manual for nursing homes, and procedures on appeals under decertification and sanc-

tion provisions of the department, and set the next meeting date.

Contact: Howard C. Allen, 1100 West 49th Street, Austin, Texas, (512) 458-7706.

Filed: October 7, 1983, 4:22 p.m.
TRD-838086

Saturday, October 29, 1983, 9:30 a.m. The Hospital Licensing Advisory Council of the Texas Department of Health will meet in the auditorium, 1100 West 49th Street, Austin. According to the agenda summary, the council will hear the chairman's comments in general and on the task force, consider approval of the April 15, 1983, minutes, hear reports of the secretary and the Nominating Committee, and elect officers.

Contact: Walter L. Dick, 1100 West 49th Street, Austin, Texas, (512) 458-7531

Filed: October 7, 1983, 4:21 p.m.
TRD-838087

State Board of Insurance

Tuesday, October 18, 1983, 1 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a hearing on appeal of Commissioner's Order 83-2856 by General Life & Accident Insurance Company.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: October 7, 1983, 4:16 p.m.
TRD-838084

Monday, October 24, 1983. The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Times and dockets follow.

9 a.m. Docket 7408—whether the certificate of authority of American Motorists Insurance Company, Long Grove, Illinois, should be revoked.

9:30 a.m. Docket 7409—whether the certificate of authority of American Manufacturers Mutual Insurance Company, Long Grove, Illinois, should be revoked.

10 a.m. Docket 7410—whether the certificate of authority of American Manufacturers Mutual Insurance Company, Long Grove, Illinois, should be revoked.

1:30 p.m. Docket 7413—whether the certificate of authority of Gulf Group Floods, Dallas, should be revoked.

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

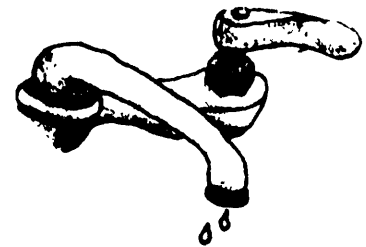
Filed: October 7, 1983, 10:52 a.m.
TRD-838040, 838041, 838043,
838044

Texas State Board of Medical Examiners

Friday, October 21, 1983, 2 p.m. The Ad Hoc Committee to Study Operation of the Board and Central Office of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will update recommendations regarding the role of officers, administration, and set up of office, board efficiency, funding, legal services, and hearing and examination procedures. The committee also may meet in executive session as related to Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d) and §5.06(e)(1), and Attorney General Opinion H-484-1974.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas, (512) 475-0741.

Filed: October 7, 1983, 9:29 a.m.
TRD-838031



Board of Pardons and Paroles

Monday-Friday, October 24-28, 1983, 9 a.m., daily. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, 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

Texas Register

the agency, and take action upon gubernatorial directives

Contact: John W. Byrd, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2716.

Filed: October 7, 1983, 2:16 p.m.
TRD-838078

Texas State Board of Public Accountancy

Tuesday, October 11, 1983, 8:30 a.m. The Texas State Board of Public Accountancy made an emergency addition to the agenda of a meeting held in Suite 340, 1033 La Posada, Austin. The addition concerned a review of a motion for rehearing in regard to Complaint 80-12-221 of Cornell & Company, et al., and other miscellaneous items. The emergency status was necessary because the motion for rehearing was received after the submission deadline, but required prompt board action.

Contact: Bob L. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241

Filed: October 7, 1983, 9:29 a.m.
TRD-838030

Public Utility Commission of Texas

Friday, November 4, 1983, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing in Docket 5296 - application of Walter T. Sauder, doing business as San Miguel Springs Water Company, for a certificate of convenience and necessity within Guadalupe County.

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

Filed: October 7, 1983, 2:55 p.m.
TRD-838080

Railroad Commission of Texas

Monday, October 17, 1983, 9 a.m. Divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. Divisions, meeting rooms, and agendas follow.

The Administrative Services Division will meet in the first floor auditorium to con-

sider and act on the division director's report on division administration, budget, procedures, personnel matters, and an interagency contract between the commission's Texas Petroleum Research Committee and Texas A&M University for wireline services.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: October 7, 1983, 11:38 a.m.
TRD-838046

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: October 7, 1983, 11:37 a.m.
TRD-838047

The Flight Division will meet in Room 107 to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: October 7, 1983, 11:35 a.m.
TRD-838048

The Gas Utilities Division will meet in Room 107 to consider gas utilities Dockets 4107 consolidated, 4133-4137, 4185-4192, 4209, and the director's report.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: October 7, 1983, 11:41 a.m.
TRD-838049

The Office of Information Services will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711

Filed: October 7, 1983, 11:36 a.m.
TRD-838050

The LP-Gas Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711.

Filed: October 7, 1983, 11:42 a.m.
TRD-838051

The Oil and Gas Division will meet in the first floor auditorium to consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Contact: Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: October 7, 1983, 11:37 a.m.
TRD-838053

Additions to the above agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273

Filed: October 7, 1983, 11:36 a.m.
TRD-838052

Consideration of whether or not to initiate rulemaking proceedings to adopt statewide Rule 76, concerning commission approval of plats for mineral development.

Contact: Patrick J. Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

Filed: October 7, 1983, 11:37 a.m.
TRD-838054

Consideration of whether or not to institute legal action against Karl G. Arnold and Hale Supply Company.

Contact: Glenn Jordan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1229.

Filed: October 7, 1983, 11:42 a.m.
TRD-838055

The Personnel Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: October 7, 1983, 11:38 a.m.
TRD-838056

The Office of the Special Counsel will meet in the third floor conference room to consider and act on the division director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Eile, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186

Filed: October 7, 1983, 11:35 a.m.
TRD-838057

The Surface Mining and Reclamation Division will meet in the first floor auditorium

to consider proposed rulemaking regarding the coal mining regulations, .051.07.04 .219(a)(2) (adopted by reference in 16 TAC §11 221, relating to state program regulations), and the requirements for permit terms in excess of five years, acceptance of the bond of Northwestern Resources Company, the issuance of Permit 15 and incremental bonds for the operations of the Sabine Mining Company under Permit 13; and to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: October 7, 1983, 11:40 a.m.
TRD-838058

The Transportation Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the commission's transportation regulatory jurisdiction

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: October 7, 1983, 11:22 a.m.
TRD-838059

State Rural Medical Education Board

Saturday, October 22, 1983, 8 a.m. The State Rural Medical Education Board will meet in Room 406, Southwest Tower, 211 East Seventh Street, Austin. Items on the agenda include review of statistical and financial reports and potential default cases; discussion of new legislation, students who have not declared guaranteed student loans, a program to attract and qualify rural students, and office procedures; approval of medical residencies; interviewing new applicants; and the granting of new and supplemental loans.

Contact: Duane Keeran, 211 East Seventh Street, Austin, Texas 78701, (512) 475-0801.

Filed: October 6, 1983, 2:46 p.m.
TRD-838008

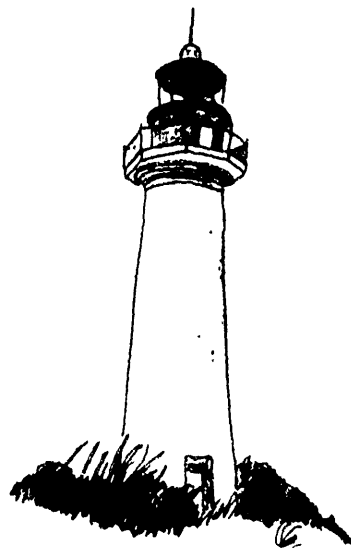
School Land Board

Tuesday, October 18, 1983, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous meeting minutes; pooling applications;

pooling agreement amendments; lease suspension applications; an application to lease vacant land for oil and gas, Young County; an excess acreage application; a good faith claimant application; consideration of an amendment to a resolution approving a Hidalgo County land trade adopted September 20, 1983; easement applications, a cabin permit rebuilding request, cabin permit transfer requests, and cabin permit rate reduction requests concerning coastal public lands; and an appeal by Rudolph R. Schott on the appraisal of excess acreage and a request for fees for payment for the excess acreage in Lander and Medina Counties (approved July 19, 1983).

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-4307.

Filed: October 7, 1983, 4:24 p.m.
TRD-838085



The University of Texas System

Wednesday-Friday, October 12-14, 1983, 3 p.m. Wednesday, 1:30 p.m. Thursday, and 9 a.m. Friday. The Board of Regents and standing committees of the University of Texas System met in the Caduceus Room, sixth floor, Administration Building, University of Texas Medical Branch, 301 University Boulevard, Galveston. According to the agenda summary, the board and committees considered the sale of permanent university fund bonds, new Series 1983-A; membership on development boards and advisory councils; amendments to rules and regulations; an insurance contract; buildings and grounds matters including autho-

rizations for projects, approval of preliminary and final plans, and award of contracts; budget amendments; the chancellor's docket (index submitted by system administration); the shuttle bus service contract, University of Texas at Austin; appointments to endowed positions; affiliation agreements; land and investment matters; acceptance of gifts, bequests and estates; establishment of endowed positions and funds; and leases, the sale of real estate, pending litigation, personnel matters, land acquisition, and negotiated contracts.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78712, (512) 471-1265.

Filed: October 7, 1983, 1:26 p.m.
TRD-838074

Texas A&M University System

Thursday, October 13, 1983. The Planning and Building Committee of the Board of Regents and the full board of the Texas A&M University System met in the MSC Annex, Texas A&M University, College Station. Times and agendas follow.

1 p.m. The Board of Regents considered the sale of permanent university fund bonds and appropriation of funds for the system.

2 p.m. The Planning and Building Committee received a report on traffic and parking of vehicles on the campus of Texas A&M University and took action as deemed necessary and authorized award of a contract for hurricane damage at Texas A&M University at Galveston.

Contact: Vickie E. Burt, Texas A&M University System, College Station, Texas 77843-1123, (409) 845-9600.

Filed: October 7, 1983, 2:54 p.m.
TRD-838076, 838077

Texas Water Commission

Monday, October 17, 1983, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda summary include applications for water district bond issues, release from escrow, use of surplus funds, water quality permits, amendments and renewals, water use permits, certificate of adjudication, and extension of time.

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

Filed: October 6, 1983, 11:22 a.m.
TRD-837988

Tuesday, October 25, 1983, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the following applications to the Texas Department of Water Resources.

Application of the City of Portland for a temporary order to authorize the discharge of sewage effluent at a volume not to exceed an average flow of 1.25 million gallons per day (2.5 million gallons per day maximum) from the activated sludge sewage treatment plant located at 900 Moore Avenue, FM Road 893, approximately 2,000 feet northwest of the intersection of FM Road 893 and U.S. Highway 181, in the City of Portland in San Patricio County. The applicant proposes to modify and expand its sewage treatment plant.

Application of the City of Harlingen for a temporary order to authorize the discharge of partially treated domestic wastewater effluent at a volume not to exceed an average flow of 3.1 million gallons per day (7.75 million gallons per day maximum) from Plant 1, Permit 10490-02; and a volume not to exceed an average flow of 3.5 million gallons per day (8.75 million gallons per day maximum) from Plant 2, Permit 10490-03. The municipal wastewater facility covered by Permit 10490-02 is located approximately 800 feet southwest of the intersection of 15th and Commerce Streets. The municipal wastewater facility covered by Permit 10490-03 is located approximately 2.5 miles east of 15th Street and East Harrison Avenue, and south of Harrison Avenue (FM Road 106) in Harlingen, Cameron County. The applicant proposes to perform needed modifications and repairs to the existing municipal wastewater facilities.

Application of Sigmor Refining Company, a subsidiary of Diamond Shamrock Corporation for a temporary order to authorize the discharge of treated process wastewater effluent at a volume not to exceed an average of 800,000 (1.6 million maximum) from the petroleum refinery located three blocks southwest of the intersection of U.S. Highway 281 and State Highway 72 in the City of Three Rivers, Live Oak County.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851.

Filed: October 6, 1983, 3:16 p.m.
TRD-838010-838012

Tuesday, November 15, 1983, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building,

1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing regarding a petition for creation of North Austin Municipal Utility District 1, containing 997 acres of land.

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

Filed: October 6, 1983, 3:15 p.m.
TRD-838009

Texas Department of Water Resources

Friday, October 14, 1983, 1:30 p.m. The Texas Water Development Board of the Texas Department of Water Resources will meet in Room 118, Stephen F. Austin Building, Austin. According to the agenda summary, the board will consider approval of minutes; the development fund manager's report; extensions of loan commitments to the Cities of Jacksboro, Huntington, Cisco, Granbury, Edgewood, Springtown, New Waverly, and Canton; an amendment to a definition of lending rate in 31 TAC §355.2; financial assistance to the City of Big Sandy; converting certain loan commitments from the water loan assistance fund to the water development fund; feasibility of the U.S. COE Lower Rio Grande Basin Texas flood control and major drainage project; draft a fiscal year 1984 project priority list for the Construction Grants Program; contract with the Bureau of Economic Geology to conduct a research project regarding disposal of chemical wastes in salt domes; and proposed new 31 TAC §§339.61-339.71, relating to discharges from surface coal mines. The board also will meet in executive session to consider appointment of board members to the San Jacinto River Authority and one to the Lower Neches Valley Authority to fill an unexpired term.

Contact: Charles E. Nemir, P.O. Box 13087, Austin, Texas 78711, (512) 475-3187.

Filed: October 6, 1983, 2:01 p.m.
TRD-837992

Regional Agencies

Meetings Filed October 6

The Deep East Texas Council of Governments. Area Agency on Aging, Regional Aging Advisory Council, will meet at the Angelina County Senior Citizens Center, 2801 Valley Avenue, Lufkin, on October

14, 1983, at 1:30 p.m. Information may be obtained from Martha Jones, P.O. Drawer 1170, Jasper, Texas 75951, (409) 384-5704.

The Region II Education Service Center. Board of Directors, will meet at 209 North Water, Corpus Christi, on October 18, 1983, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401-2599, (512) 883-9288.

The Ellis County Tax Appraisal District met at 406 Sycamore Street, Waxahachie, on October 11, 1983, at 7 p.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552

The Hockley County Appraisal District, Board of Directors, will meet at 913 Austin Street, Levelland, on October 17, 1983, at 7 p.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, met at the Brazos Center, 3232 Briarcrest Drive, Bryan, on October 13, 1983, at 3:30 p.m. Information may be obtained from Ann Pye-Shively, Ph.D., 707 South Texas Avenue, Suite 225C, College Station, Texas 77840.

The Taylor County Central Appraisal District, Board of Directors, met in the commissioners courtroom, second floor, county courthouse, Abilene, on October 12, 1983, at 10 a.m. Information may be obtained from Richard Petree, P.O. Box 3738, Abilene, Texas 79604.

TRD-838013

Meetings Filed October 7

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees Personnel Committee, met in the board room, 1430 Collier Street, Austin, on October 11, 1983, at 5:30 p.m. Information may be obtained from Cynthia C. Garcia, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 50.

The Fannin County Single Appraisal District, Board of Review, met in emergency session at 401 North Main, Bonham, on October 10, 1983, at 8:30 a.m. Information may be obtained from Joe Hart, 401 North Main, Bonham, Texas 75418, (214) 583-9546.

The Gray County Appraisal District, Board of Directors, met in Suite 196-A, Hughes Building, 400 West Kingsmill, Pampa, on October 13, 1983, at 5:30 p.m. Information may be obtained from Charles Buzzard, P.O. Box 836, Pampa, Texas 79065, (806) 665-0791.

The Leon County Central Appraisal District, Appraisal Review Board, will meet in the Leon County Courtroom, Centerville, on October 17, 1983, at 9 a.m. The Board of Directors also will meet at the same location on October 24, 1983, at 6:30 p.m. Information may be obtained from Mabel Watson, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Middle Rio Grande Development Council, Board of Directors, met in emergency session in the district courtroom, Carrizo Springs, on October 11, 1983, at 2 p.m. Information may be obtained from Paul A. Edwards, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The Middle Rio Grande Development Council, Private Industry Council, met in the district courtroom, Carrizo Springs, on October 11, 1983, at 4:30 p.m. Information may be obtained from Paul A. Edwards, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The Nolan County Central Appraisal District, Board of Directors, met in Suite 305B, Nolan County Courthouse, Sweetwater, on October 11, 1983, at 1:30 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

The Rusk County Appraisal District, Board of Directors, met in the administrative offices, 107 North Van Buren, Henderson, on October 13, 1983, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The Trinity River Authority of Texas, Utility Services Committee, will meet at 5300 South Collins, Arlington, on October 18, 1983, at 10 a.m. Information may be obtained from J. Greg Golder, P.O. Box 60, Arlington, Texas 76004-0060, (817) 467-4343.

TRD-838032

Meetings Filed October 11

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on October 17-20, 1983, and October 24-28, 1983, at 8:30 a.m., daily. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Capital Area Planning Council, General Assembly, will meet at the Wyndham Hotel, 4140 Governor's Row, Austin, on October 18, 1983, at 11 a.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

The Edwards County Appraisal District, Appraisal Review Board, will meet at the new county building north of the courthouse, Rocksprings, on October 14, 1983, at 10:30 a.m. Information may be obtained from Jack Weldon, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-2337.

The Region III Education Service Center, Board of Directors, will meet at 1905 Leary Lane, Victoria, on October 17, 1983, at 1 p.m. Information may be obtained from Dr. Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, (512) 575-1471.

The Houston-Galveston Area Council, Board of Directors, will meet in the large conference room, Salon III, 2100 South Braeswood, Houston, on October 18, 1983, at 9:30 a.m. Information may be obtained from Charlene McCarthy, P.O. Box 22777,

Houston, Texas 77027, (713) 627-3200, ext. 335.

The Johnson County Central Appraisal District, Board of Directors, will meet at 109 North Main Street, Cleburne, on October 26, 1983, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986.

The Jones County Appraisal District, Board of Directors, will meet at 1137 East Court Plaza, Anson, on October 20, 1983, at 9 a.m. Information may be obtained from John Steele, (915) 823-2422.

The Leon County Central Appraisal District, Appraisal Review Board, will meet at Leon County Courtroom, Centerville, on October 24, 1983, at 1 p.m. Information may be obtained from Mabel Watson, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Nortex Regional Planning Commission, Executive Committee, will meet at McBride Seafood & Steak, 5400 Seymour Highway, Wichita Falls, on October 20, 1983, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281.

The Permian Basin Regional Planning Commission, Board of Directors, made an emergency addition to the agenda of a meeting held in the conference room, 2514 Pliska Drive, Midland, on October 12, 1983, at 1:30 p.m. Information may be obtained from Pam Hammit, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

The Wise County Appraisal District, Board of Directors, met in emergency session at 206 South State, Decatur, on October 13, 1983, at 9:30 a.m. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.

TRD-838093

In Addition

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.

Texas Department of Agriculture Consultant Contract Award

The Texas Department of Agriculture has awarded a consultant contract under Texas Civil Statutes, Article 6252-11c. Notice of the proposal request was published in the August 5, 1983, issue of the *Texas Register* (8 Tex-Reg 3039).

Description. A consultant has been selected to assist the department in the installation of microcomputers. Additionally, the consultant shall:

- (1) advise the department on the selection and implementation of microcomputer software;
- (2) assist in resolving microcomputer hardware or software problems;
- (3) coordinate with the data processing section in establishing communications between microcomputers in the field offices and computers in the central office;
- (4) design applications for the department microcomputers;
- (5) prepare a proposal for communications and interface between the Burroughs B1855 and the microcomputers;
- (6) design microcomputer training programs for department staff; and
- (7) answer questions and provide general consulting services to the department on microcomputer matters.

Consultant Name. The name and address of the private consultant is Warren D. Lincoln, Route 1, Box 276A, Clifton, Texas 76634. It is noted that Mr. Lincoln was employed by the Texas Department of Agriculture, administrative services, data processing section as a programmer. The period of employment extended from May 21-September 15, 1982; compensation was at an hourly rate in the amount of \$10 from May 21-August 31, 1982, at which time the rate increased to \$10.87 per hour and remained so until termination of the period of employment. Additionally, Mr. Lincoln was employed by the

Texas Department of Agriculture as a private consultant for the periods of March 1, 1981-May 14, 1982; and September 16, 1982-August 31, 1983. Total fees paid during the periods of employment as a private consultant were \$9,923.10 for March 1, 1981-May 14, 1982; and \$19,050 for September 16, 1982-August 31, 1983.

Terms. The maximum value of this contract is \$17,600, with the beginning date being September 23, 1983, and the ending date being August 31, 1984.

Report Dates. There is no due date specified for the completion of the proposal described in item five under "Description." Progress reports are to be submitted bi-monthly, and time sheets are to be submitted weekly.

Issued in Austin, Texas, on October 5, 1983.

TRD-837969 Jim Hightower
Commissioner
Texas Department of Agriculture

Filed: October 5, 1983

For further information, please call (512) 475-6346.

Banking Department of Texas Applications To Acquire 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 September 7, 1983, the banking commissioner received an application to acquire control of Equitable Bank, Dallas, by Robert H. Sewell, James E. Strode, Richard A. Gray, Jr., Don H. Hanvey, Harvey Cash, John T.

Byrne, and Jerry A. McCutchin, all of Dallas; David F. Motheral, Jr., of Fort Worth; and Donald D. Lee of Richardson.

On October 4, 1983, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on October 4, 1983.

TRD-836961 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed: October 5, 1983
For further information, please call (512) 475-4451.

On October 4, 1983, the banking commissioner received an application to acquire control of The First State Bank of Bryson, Bryson, by Billye M. Stamper, Stephen F. Stamper, and Willis G. Stamper, Jr., all of Jacksboro; and James Craig Stamper of Graham.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on October 4, 1983.

TRD-837962 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed: October 5, 1983
For further information, please call (512) 475-4451.

Prepaid Funeral Contracts

The Banking Department of Texas published proposed new rules for the conversion of trust funded contracts to insurance funded contracts (7 TAC §§25.1-25.8), in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1240). These new rules are being renumbered as 7 TAC §§25.21-25.28.

The Banking Department of Texas is proposing new rules for the application for license to sell prepaid funeral contracts which will be numbered 7 TAC §25.1 and §25.2. These are new rules. They are not in substitution of proposed new rules 7 TAC §§25.1-25.8 mentioned previously which are being renumbered.

Issued in Austin, Texas, on October 7, 1983

TRD-838015 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed: October 6, 1983
For further information, please call (512) 475-4451.

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; 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 50049, Austin, Texas 78763, 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.

Mercy Hospital of Jourdanton, a Texas nonprofit corporation, and the Atascosa Hospital Association, a Texas nonprofit corporation, Jourdanton

AH80-0627-007A(093083)

CN/AMD—Request for an amendment of Certificate of Need AH80-0627-007, which authorized the certificate holder to conduct a construction and renovation project at the existing hospital which will involve a number of new additions to the facility and substantial interior renovation. The certificate holder requests an increase in the project cost from \$3,542,850 to \$6,511,000; an extension of the completion deadline from October 30, 1983, to 27 months after the amendment is granted; and to change the name of the certificate holder from the Sisters of the Incarnate Word and Blessed Sacrament, doing business as Mercy Hospital of Jourdanton, to Mercy Hospital of Jourdanton, a Texas nonprofit corporation, and the Atascosa Hospital Association, a Texas nonprofit corporation.

Lake Forest Village, Inc. (formerly John Knox Village Med-Center), Denton
AN79-0426-015A(093083)
CN/AMD—Request for a fourth extension of the completion deadline from September 30, 1983, to July 31, 1984, in Certificate of Need AN79-0426-015, which authorized the certificate holder to construct a 60-bed skilled nursing facility to be part of a life-care retirement community being developed in Denton.

Hospital Corporation of America and its wholly-owned subsidiary, HCA Psychiatric Company, for Sun Valley Hospital, El Paso
AH82-0331-026A(093083)
CN/AMD—Request for an increase in the project cost from \$1.02 to \$1.6 million in Certificate of Need AH82-0331-026, which authorized the certificate holder to convert Highland Park Hospital, a 162-bed acute care facility in El Paso, into a 146-bed psychiatric hospital to be known as Sun Valley Hospital.

Issued in Austin, Texas, on October 7, 1983

TRD-838034 John R. Neel
 General Counsel
 Texas Health Facilities
 Commission

Filed: October 7, 1983
For further information, please call (512) 475-6940.

Application before the Texas Health Facilities Commission for Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of an application (including a general project description) for petition of reissuance of certificate of need which has been filed with the commission.

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 50049, Austin, Texas 78763, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3.13, and 25 TAC §§509.81-509.85 and §§513.51-513.53.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

First Nursing Corp., doing business as Holiday Nursing Home, Center
AN82-0818-054R(082983)
PFR—Petition for reissuance of Certificate of Need AN82-0818-054, which authorized the certificate holder to construct, equip, and operate an 11,362 square foot addition containing 54 ICF beds to an existing 137-bed nursing facility. Two semi-private rooms will be deleted as a result of renovation. The licensed and operational bed capacity will increase from 137 to 187.

Issued in Austin, Texas, on October 7, 1983

TRD-838035 John R. Neel
 General Counsel
 Texas Health Facilities
 Commission

Filed: October 7, 1983
For further information, please call (512) 475-6940.

House Ethics Committee Request for Advisory Opinion 68-4

The House Committee on Ethics chairman has received a written request for an advisory opinion in writing from a member of the house, pursuant to House Resolution 114, Rule 10

The committee shall provide an opportunity for any interested party to comment on a request for an advisory opinion pursuant to House Resolution 114, Rule 10, §3.

A notice of any request for an advisory opinion shall be published and distributed to the members of the House, and interested parties are asked to submit their comments, in writing, to Chairman Bill Hollowell, House Ethics Committee, P.O. Box 2910, Austin, Texas 78769-2910, within 10 days from the date of the publication of the notice (House Resolution 114, Rule 10, §3(b)).

All relevant comments received on a timely basis will be considered pursuant to House Resolution 114, Rule 10, §3(c).

House Resolution 114, Rule 13, provides that upon creation of a state body or commission having responsibility for interpreting or enforcing state ethics provisions, the House Ethics Committee shall refer advisory opinion requests to such body when the subject matter of the opinion request is within the jurisdiction of the body or commission. House Bill 2154 was enacted by the 68th legislature, 1983, and in §11 provides for a State Ethics Advisory Commission. The Act creating the commission was effective September 1, 1983, and while the State Ethics Advisory Commission is authorized, its members have not yet been appointed by the governor, the lieutenant governor, and the speaker of the house. The secretary of state and attorney general serve as nonvoting members.

One of the questions presented concerns a rule of the House, and thus the subject matter of that question is not within the jurisdiction of the State Ethics Advisory Commission. Because the State Ethics Advisory Commis-

sion has not been created by appointment of members by the appointing authorities, this committee retains jurisdiction over the remaining subject matter of the questions presented herein.

The facts of the questions presented are as follows: a member sponsored successful legislation during the recent 68th biennial session. In implementing rules to carry out such legislation, a state agency has proposed rules which are being challenged by a private party affected by the proposed rules. The private party, through its attorney, requests the member (who sponsored the bill) to testify at the state agency's administrative hearing as an expert witness in behalf of the private party.

The questions presented from these facts are as follows:

(1) If the private party wishes to remunerate the member by paying either travel expenses, a fee, or both, as is often the case with expert witnesses, may the member accept such remuneration?

(2) Must the member decline the offer and pay for these expenses from his office account as performance of official state duties?

Issued in Austin, Texas, on October 5, 1983.

TRD-838033 Jeannie Glaze
 Committee Clerk
 House Ethics Committee

Filed: October 7, 1983

For further information, please call (512) 475-5733.

Texas Department of Human Resources Request for Proposals

The Texas Department of Human Resources (TDHR) requests all interested parties to submit technical proposals to provide data collection services using voice response technology.

Description of Services. The purpose of the request for proposal (RFP) is to secure the services of a contractor who will provide an audio (voice) response system to collect status information for monthly and periodic reporting of income by clients of the department. The TDHR staff will batch and enter the required data from the department's field offices using touchtone telephones. The contractor will be required to collect and output daily the transactions to magnetic tape for processing on the department's mainframe computer system located in Austin. A complete description of the services required by the department is included in the RFP.

Closing Date. Closing date for offers to provide these services is November 10, 1983.

Effective Date. Data collection services are to begin in February 1984, and continue through January 31, 1985. The contract resulting from this RFP will include an option to renew for up to three one-year contract periods. The department retains the right not to exercise this option.

Procedure for Selecting Contractor. The TDHR shall select the contractor through recommendation of a review committee established for the purpose of evaluating the proposals. The evaluation will consist of two phases: technical evaluation and cost evaluation.

Contact Person. Any offeror interested in providing the described services may obtain the RFP by contacting Sheron Heinemann, 800-B, Texas Department of Human Resources, Office for Information Systems, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355, ext. 3022, or Peggy Garrison, 519-A, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, (512) 835-0440, ext. 2157.

Issued in Austin, Texas, on October 7, 1983.

TRD-838039 Marlin W. Johnston
 Commissioner
 Texas Department of Human Resources

Filed: October 7, 1983

For further information, please call (512) 441-3355, ext. 2037.

Texas State Treasury Department Withdrawal of Consultant Proposal Request

In the September 23, 1983, issue of the *Texas Register* (8 TexReg 3840), the Texas State Treasury Department filed a request for consulting services. This notice is to withdraw such request.

The Texas State Treasury Department requested bids to assist with the development of an integrated cash management system. It has been determined that the request which appeared in the September 23, 1983, issue of the *Texas Register* is untimely. So that this project will be coordinated with other automated systems projects at the treasury, it must be temporarily delayed. The Texas State Treasury Department will republish its request for bids at the time such request becomes timely.

Issued in Austin, Texas, on October 4, 1983.

TRD-837989 Jorge A. Gutierrez
 General Counsel
 Texas State Treasury Department

Filed: October 6, 1983

For further information, please call (512) 475-2591.

TEXAS REGISTER *AVAILABLE ON MICROFICHE*

All microfiche is 24 × reduction and negative polarity with eye-readable headers. To order your copies, please complete this form and send it with payment to:

Texas State Publications Clearinghouse
Room 307
Texas State Library
P.O. Box 12927, Capitol Station
Austin, TX 78711

TEXAS REGISTER ON MICROFICHE	Copies	Unit Cost	Total
1976. vol. 1, nos. 1-100, annual index	1	\$30.00	
1977. vol. 2, nos. 1-100, annual index	1	43.00	
1978. vol. 3, nos. 1-100, annual index	1	38.00	
1979. vol. 4, nos. 1-100, annual index	1	40.00	
1980. vol. 5, nos. 1-100, annual index	1	43.00	
1981. vol. 6, nos. 1-100, annual index	1	44.50	
HANDLING CHARGE			\$ 1.00
5% STATE SALES TAX*			
TOTAL PURCHASE PRICE			

Your Name _____

Agency or Firm _____

Mailing Address _____

Make check or money order payable to the TEXAS STATE LIBRARY.

* Private individuals and institutions in Texas who order more than one copy of a document on microfiche must add 5% sales tax to the cost of all additional copies.

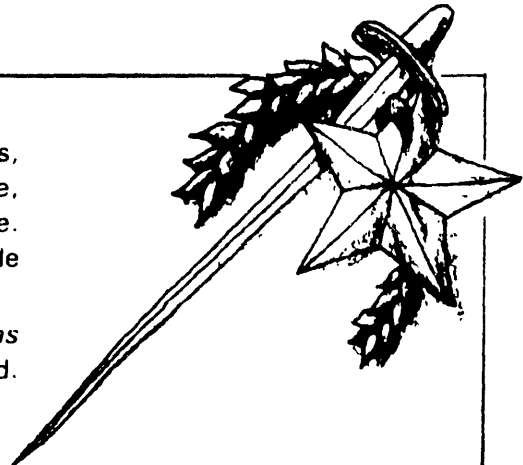
For further information about the *Texas Register* microfiche and other state documents on microfiche, please contact Sally Walton at 512-475-6725.

Second Class Postage
PAID

Austin, Texas
and additional entry offices

To order a new subscription, or to indicate a change of address, please use this form. When notifying us of an address change, please attach the mailing label from the back of a current issue. Questions concerning existing subscriptions should also include the subscription number from the mailing label.

You may also use this form to request back issues of the *Texas Register*. Please specify the exact dates of the issues requested. Each copy of a back issue is \$2.00.



**Please enter my subscription to the *Texas Register* as indicated below.
(I will look for my first issue in about two weeks.)**

1 year (100 issues) \$70

6 months (50 issues) \$50

(Please print or type)

Mr Miss

Ms. Mrs.

Name _____

Organization _____

Occupation _____ Telephone _____

Address _____

City _____ State _____ ZIP CODE _____

Payment Enclosed

Bill Me

Change of Address
(Please attach mailing label.)

Back issues requested
(Please specify dates)

Please make checks payable to the Secretary of State.
Subscription fees are not refundable.

For office use only

For information concerning the *Texas Register*,
please call (512) 475-7886,
or write P.O. Box 13824, Austin, Texas 78711-3824.