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TEXAS REGISTER

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TEXAS DOCUMENTS

In This Issue...

Employees Retirement System of Texas proposes an amendment to clarify the rights to insurance coverage of former members of the legislature; proposed date of adoption—June 16 1884

Texas Youth Council proposes to adopt, amend, and repeal sections concerning residential service contracts, parole services, Halfway House Program, Interstate Compact on Juveniles, and student remedies (final installment in series); proposed date of adoption—June 2 1884

Texas Department of Human Resources proposes to amend and repeal its medical assistance programs rules; to repeal and adopt new rules concerning intake and eligibility; and to adopt new rules about administrative hearings for contractors in its legal services rules; proposed date of adoption—June 16 1900

Texas Department of Health adopts new rules concerning screening of children for visual handicaps; effective date—May 29 1914



Office of the Secretary of State

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 1, Oct. 79

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 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.

TEXAS REGISTER

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except January 4, May 30, September 5, December 2, and December 30, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711, telephone (512) 475-7886. The *Register* contains executive orders of the governor; summaries of attorney general's opinions and summaries of requests for opinions; emergency rules, proposed rules, and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas. Subscriptions are \$40 for units of Texas state government and nonprofit schools and libraries in Texas, and \$60 for all others. Six-month subscriptions are also available for \$30 and \$45, respectively. Back issues, when available, are \$1.50 each.

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George W. Strake, Jr.
Secretary of State

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

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The Governor

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- 1932 *Correction of Error*

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- 1933 *TAC Titles Affected in This Issue (Conversion Table)*
- 1933 *Table of TAC Titles*

Appointments

Hospital Licensing Advisory Council

For a six-year term to expire December 7, 1983:

Jo Cherry Collins
3641 Stratford
Dallas, Texas 75205 (public member)

Ms. Collins is filling the unexpired term of Sid Wieser of Lampasas, Lampasas County, who resigned.

Texas Judicial Council

For a six-year term to expire July 1, 1985:

Robert Owen Smith, Associate Justice
Third Court of Civil Appeals
P.O. Box 12547
Austin, Texas 78711

Judge Smith will be replacing Judge Joe Ned Dean of Groveton, Trinity County, whose term expired.

Issued in Austin, Texas, on May 6, 1980.

Doc. No. 803503 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in **bold italics**. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 31. NATURAL RESOURCES and CONSERVATION

Part VI. Texas Conservation Foundation

Chapter 221. Procedures of the Board

The Texas Conservation Foundation is proposing to amend §§221.1 and 221.2 (138.01.00.001 and .002), relating to procedures of the board. Actions of the 66th Legislature and the employment of a full-time staff to handle the business of the foundation necessitate these amendments.

The amendments to §221.1 (.001) recognize the new statutory responsibility of the Governor to appoint the chairman of the board and extend the terms of the chairman and the vice chairman correspondingly. Other amendments remove reference to a fixed place of meeting for the board and prescribe a method of recognizing resignations from the board.

The amendments to §221.2 (.002) give the executive director and secretary of the board responsibility for business operations, but reserve to the board decisions which may commit the foundation to future programs. Policies on bonds and patents are introduced. A final amendment removes reference to the use of a private auditor since the foundation uses the services of the state auditor.

The foundation staff has determined that the adoption of the proposed amendments will have no fiscal implications for state government or for units of local government.

Public comment on the proposed amendments to §§221.1 and 221.2 (.001 and .002) is invited. Persons should submit their comments in writing to John Hamilton, P.O. Box 12845, Austin, Texas 78711. Comments must be received within 30 days of the publication of the proposed amendments in the *Texas Register*.

These amendments are proposed under authority of Title 8, Section 181.052, Texas Natural Resources Code.

§221.1 (138.01.00.001). Board of Directors.

(a) A chairman shall be elected from the membership of the Board of Directors, and he shall serve for a term of one year following the date of his election. He shall be eligible for re-election.]

(a) (b) A vice chairman shall be elected from the membership of the Board of Directors, and he shall serve [for one year] concurrently with the chairman. The vice chairman shall assume the duties of the chairman in the event of the absence, death, or disability of that officer.

(b) (c) The Board of Directors shall hold its annual meeting *during the first month of each fiscal year* [at 9 a.m. on the first Tuesday in September of each year, in the offices of the Texas Parks and Wildlife Department, John H. Reagan Building, Austin, Texas, or such other place as may be designated]. Other meetings necessary for the conduct of business shall be held at the call of the chairman, or upon the written request of not less than four members of the Board of Directors, at a time and place to be designated in the call.

(c) (d) The chairman may appoint such general and special committees as he may deem necessary to achieve the purposes of the foundation.

(d) *Resignation of any member of the board shall be effective upon receipt by the chairman or vice chairman of written notice from the member.*

§221.2 (138.01.00.002). Operations.

(a) The Board of Directors of the foundation may employ an executive director, whose function shall be to carry out the directives of the board, and to manage the day-to-day activities of the foundation. The executive director shall have the authority to hire and fire any employees necessary to carry out his functions. *The executive director and any employees with financial or property management responsibilities shall be bonded in conformance with the state employees bonding act.* [The executive director shall be covered by a surety bond of not less than \$50,000, the premium of such bond to be paid from the funds of the foundation.]

(b) All checks *and vouchers* issued by the foundation shall be signed by the *executive director* [secretary] and countersigned by *the secretary* [a member] of the Board of Directors [designated for that purpose].

(c) The Board of Directors shall annually select a firm or an individual to carry out an independent audit of the books and records of the foundation.]

(c) *No donations of real property, nor any donations of cash or personal property requiring performance by the foundation as a condition of gift, shall be accepted other than by vote of the board of the foundation.*

(d) The Texas Conservation Foundation expressly retains the right to patent any product, process, or idea which results from research sponsored by the foundation. The income from the exercise of such patents shall be used by the foundation for the purposes established in law.

Issued in Austin, Texas, on April 8, 1980.

Doc. No. 803506 John Hamilton
Executive Director
Texas Conservation Foundation

Proposed Date of Adoption: June 16, 1980
For further information, please call (512) 475-4941.

TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System of Texas

Chapter 83. Uniform Group Insurance Program

The Board of Trustees of the Employees Retirement System of Texas is proposing an amendment to §83.11 (335.80.00.114).

The purpose of this amendment is to clarify the rights to insurance coverage of former members of the legislature.

Comments are invited and should be sent to the executive director, Employees Retirement System of Texas, Box 133207, Austin, Texas 78711. The staff of the system has determined that amendment of this rule has no fiscal implications.

This amendment is proposed pursuant to authority of the Texas Insurance Code, Article 3.50-2, Section 13(d).

§83.11 (335.80.00.114). Terminating Officers and Employees.

(a) Every terminating officer or employee, other than a member of the legislature whose rights are determined by subsection (b) of this section shall be covered for the pay period for which that officer or employee pays premiums or has premiums paid on (that employees) his behalf.

(b) Continuation of coverage.

(1) In order to continue coverage, an eligible member of the legislature must, within thirty days of leaving office, notify the system of his desire to continue membership in the state uniform group insurance program authorized by Article 3.50-2 of Vernon's Texas Insurance Code. The right to remain in the group shall exist for so long thereafter as the former member continues to make all required premium payments as they come due.

(2) Such former members shall be entitled to the same rights to coverage as active members of the legislature, except that they will not be eligible for disability insurance coverage.

(3) Former members of the legislature who are neither active or retired officers or employees, will not be entitled to the benefit of any state contribution on behalf of covered employees and retirees.

(4) In order to be eligible to participate in this program, a former member of the legislature must have held such office on or after May 17, 1979, and, on ending service as a member of the legislature, have established

the minimum amount of creditable service required of an elective official for eligibility for service retirement benefits at 60 years of age.

Issued in Austin, Texas, on May 8, 1980.

Doc. No. 803505 Joseph N. Murphy, Jr.
Executive Director
Employees Retirement System of Texas

Proposed Date of Adoption: June 16, 1980
For further information, please call (512) 476-6431.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Council

(Editor's note: Proposals by the Texas Youth Council, including new sections, as well as amendments and repeals of existing sections, are being published serially beginning in the May 2 issue. The chapters, subchapters, and sections affected by the proposal are listed at 5 TexReg 1639. All sections included in each issue which are proposed for repeal will appear at the beginning of the applicable chapter. The proposed date of adoption for all the proposals being serialized is June 2, 1980. The fifth and final installment of the proposals appears in this issue and includes the chapters on residential contract service, parole services, the Halfway House Program, the Interstate Compact on Juveniles, and student remedies.)

The Texas Youth Council is in the process of a major restructuring and updating of its rules. In this issue of the *Register*, the council is proposing to adopt new sections and amend and repeal existing sections in Chapter 95. Residential Contract Service; Chapter 97. Parole Services; Chapter 99. Halfway House Program; Chapter 101. Interstate Compact on Juveniles; and Chapter 103. Student Remedies.

The agency has determined that the proposals have no fiscal implications for units of state or local government unless otherwise indicated below.

Written comments and suggestions are invited and may be sent to Ron Allen, executive assistant, Texas Youth Council, P.O. Box 9999, Austin, Texas 78766, telephone (512) 452-8111, within 30 days from this publication.

Residential Service Contract

(Editor's note: The texts of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Youth Council, 8900 Shoal Creek Boulevard, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

Program Classification According to Characteristics

The council proposes to repeal the following sections because there are no private agencies available to provide boarding home services to TYC students. The section on special placements is unnecessary because the kinds of programs described are included in the preceding sections for residential treatment facilities, group homes, or foster homes.

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§95.15 (203.41.02.005). *Boarding Homes.*

§95.16 (203.41.02.006). *Special Placements.*

Doc. No. 803147

Securing and Evaluating Contract Placements

The council proposes to repeal the following section because the proposed six-month monitoring visits, §95.37 (203.41.03.008), serve the same function as the yearly program evaluation.

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§95.38 (203.41.03.009). *Program Evaluation.*

Doc. No. 803149

Standards Relating to Records and Reporting

The council proposes to repeal the following sections because the professional staff determine the advisability of placing a student in a particular program based on far greater analysis and professional assessment than these two sections indicate.

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§95.112 (203.41.07.002). *Benefit.*

§95.113 (203.41.07.003). *Suitability of Rehabilitation.*

Doc. No. 803153

Standards on Physical Care

The council proposes to repeal the following sections on visitation, correspondence, community involvement, and education since they do not pertain to the subject of this chapter, physical care. These topics are covered in the appropriate sections of the official rules. See the subchapters entitled Standards for Service Delivery, §81.21-81.37 (203.01.03.002-.018), and Student Rights, §81.11 (203.01.02.001). Section 95.162 (203.41.09.012) is unnecessary. The content of §95.164 (.014) is included in the proposed amendment to §95.163 (.013).

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§95.156 (203.41.09.006). *Visitation, Correspondence.*

§95.157 (203.41.09.007). *Community Involvement.*

§95.158 (203.41.09.008). *Education.*

§95.162 (203.41.09.012). *Rights, Privileges, Responsibilities.*

§95.164 (203.41.09.014). *Seclusion.*

Doc. No. 803157

Philosophy and Purpose

The council proposes to amend these sections to reflect current terminology. The Community Resource Placement Program has been renamed the Residential Contract Program; the term treatment is used in place of rehabilitation; and TYC wards are referred to as students.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.1 (203.41.01.001). *Philosophy.* The philosophy of the **Residential Contract** (Community Resources Placement) Program is to **use** [utilize] residential community-based programs **for alternative** [to provide alternatives to] placement [in TYC facilities] for **students** [children] placed in the care, custody, **and control** of the Texas Youth Council by the court.

§95.2 (203.41.01.002). *Purpose.* The purpose of the **Residential Contract** Program shall be the [creation, recruitment, and] development of responsive and effective **residential** [rehabilitation] programs [at the community level] for **students** [youth] who normally would have been placed in Texas Youth Council-operated facilities. It shall provide program services and/or **treatment** [rehabilitation] and training which will facilitate adolescent growth [and prevent the child from continued delinquent activities]. These services shall be provided as geographically close to the **student's** [youth's] home as possible. Contract placement programs shall provide **both short- and long-term** [semi-permanent] placement for **student's lacking** [youth without adequate] familial structure and support for reintegration into the community [in independent or semi-independent status].

Doc. No. 803145

Program Classification According to Characteristics

The council proposes to amend these sections to reflect current terminology and meaning. The term treatment replaces rehabilitation; TYC wards are referred to as students; and private agencies serving TYC are referred to as contracting agencies, programs, or facilities. Also, these sections are amended to reflect adherence to TYC's case management system and to DHR standards.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.11 (203.41.02.001). *Residential Treatment [Rehabilitation] Facilities.*

(a) **These are programs** designed primarily for intensive and specialized rehabilitation of emotionally disturbed, intellectually limited, and habitually aggressive **students who** [or acting out youth that] may need **either short- or long-term care.**

(b) **Students** [Individuals] placed in these programs are felt to need a highly structured environment judged to be necessary for successful **reintegration** [rehabilitation].

(c) **When feasible,** location of facilities should be within or near the **student's** community to afford maximum resource involvement [when feasible].

(d) **The ratio of treatment** [Rehabilitation] staff to **students** [student ratio] will be **in accordance with DHR standards** [small].

(e) Professional psychological, psychiatric, and social work consultation will be available.

(f) **Only** [These] facilities [are] designed to deal with specific emotional and/or behavioral problems **shall be used.**

(g) Age limitations and facility capacity **will be determined by the contract agency** [may be open and flexible].

§95.12 (203.41.02.002). Contract Halfway Houses.

(a) These facilities may be similar to residential *treatment* [rehabilitation] programs in that they do provide a structured program with counseling services, yet they may lack the intensity of psychiatric programming orientation.

(b) The emphasis is on the short-term *treatment* [rehabilitation] within a community setting while drawing upon available community resources.

(c) The halfway house may include career and/or vocational orientation and assessment.

(d) *Students* [Individuals] placed in these programs *are determined* [have functional interpersonal relationship skills and are felt] to be responsible and mature enough to function with limited supervision in the community.

(e) *The ratio of treatment* [Rehabilitation] staff to *students* [student ratio] will be *in accordance with DHR standards* [approximately one to 10].

(f) Multiple professional consultation may be utilized when necessary.

(g) Halfway house programs are designed for the rehabilitation of specific behavioral problems.]

(h) [No] Age limitations are *set by the contract agencies* [required] but the halfway house is normally designed for older adolescents in the 16 year old and above age range].

(i) Capacity of the *facilities* [facility] may *vary from* [fluctuate between] 12 to [and] 24 students *in accordance with DHR standards*.

§95.13 (203.41.02.003). Group Homes.

(a) *The* [Group homes are similar to halfway houses in that the] emphasis of *group home* programming *is reintegration* [and rehabilitation is specifically] within a neighborhood community setting.

(b) Length of stay *shall be determined by TYC's case management system* [normally on a short-term basis from three to six months].

(c) The group home *usually provides* [may provide] a flexible structure, *which* [it] may *include* [provide] *treatment*, [a sophisticated mode of rehabilitation such as the therapeutic community, or it may be limited to] supervision, and guidance [within a group-work atmosphere].

(d) *Psychological, psychiatric, and educational consultation shall be used as needed.* [Professional and educational consultation may be utilized where necessary.]

(e) *Age limitations are determined by the contract agencies.* [There may or may not be age limitations.]

(f) Capacity *shall vary from* [is between] six to [and] 12 students *in accordance with DHR standards*.

(g) *All group homes must be licensed by DHR.*

§95.14 (203.41.02.004). Foster Homes (TYC certified).

(a) Foster homes *will provide a* [attempts to replicate a normal] family setting and home environment.

(a) The foster home may be similar to the small group home yet it normally does not have structure rehabilitation modality.]

(d) Capacity of foster homes is up to six *students* [children].

(c) *Age limitations are determined by existing agency.*

(c) Children placed in foster homes normally need the caring and supportive family-type atmosphere.]

(d) *All foster homes are certified by TYC in accordance with agency foster home standards.*

Doc. No. 803146

Securing and Evaluating Contract Placements

The council proposes to amend these sections. Many of the changes are editorial ones needed to clarify or specify the agency's intent in these sections. Revisions that lead to changes in meaning include identifying TYC community resource specialists as the major contacts between TYC and contracting agencies; incorporating DHR and TYC standards as requirements for contracting agencies; adopting the use of a TYC fee scale to determine contract terms; and changing monitoring visits from once every three months to once every six months.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.31 (203.41.03.001). Identification and Contract.

(a) *When* [In the event that] inquiries are received *from private agencies* about TYC contract services, *an* [some initial] investigation *will* [may] be conducted by [the] *TYC staff* [person contacted] *to determine the agency's suitability for serving TYC students.*

(b) Recruitment is encouraged as is some initial screening.]

(c) Should the organization or agency appear to *meet DHR and TYC standards* [have the necessary potential they], *it will* [should] be provided with a copy of the application for contractual services.

§95.32 (203.41.03.002). Application for Contractual Services.

(a) This may be obtained from the area supervisor, the community placement specialist, or from the central office.

(b) The application asks for basic identifying and descriptive information about the existing or proposed program.]

(c) *The* [its] purpose *of the application* is to [better organize and systematically review programs which may eventually contract with Texas Youth Council] *provide basic identifying and descriptive information about the existing or proposed program.*

(d) Its completion by the applicant agency should provide the Youth Council with sufficient information to determine whether services are needed, whether they are needed in that particular area, and whether it does appear to have the potential of meeting basic standards.] The completed application should be submitted to the *community resource specialist in the agency's area* [Central Office Community Services Division for its review and consideration]. Following [its] approval, an on-site visit will be scheduled by a community resource specialist to complete the survey profile.

§95.33 (203.41.03.003). Standards and Guidelines Certification.

To ensure that the Texas Youth Council contracts only with acceptable programs [provided by service agencies], minimum standards and guidelines for placement resource programs have been developed]. The standards and guidelines for placement resource programs have been developed] *by DHR and TYC.* *They* [The standards and guidelines] address such issues as *treatment* [rehabilitation] programs, staffing patterns, administrative *structure* [make-up], *child care services*, [basic physical care.] and physical facilities. The survey profile questionnaire has been developed and will be applied to service agency programs to determine systematically whether the service does meet Texas Youth Council standards and guidelines. All residential care programs must be licensed by the Department of *Human Resources or certified by the TYC in accordance with established DHR standards for licensing* [Public

Welfare, or the licensing process underway prior to consideration for Texas Youth Council contractual use).

§95.34 (203.41.03.004). Fee Structure and Classification. Following completion of the survey profile and development of the program classification, an equitable fee *will* [in comparison to other like programs can] be established *in accordance with the existing TYC fee scale*. The fee *scale* [structure] will help to eliminate confusion and differential application of payments to different service agencies. Funding rate is subject to Texas Youth Council board approval.

§95.35 (203.41.03.005). Contract Priorities and Terms [Criteria for Fee Classification].

(a) **Types** [Type] of *students* [youth] served. Priority is given to programs *which provide services to students* [working not only with youth] in need of *community* [alternate] placement. *The hard-to-place student is a priority client*. [to the institution, but also with youth classified as hard to place. (Those programs designed to work with more difficult youth receive additional consideration.)]

(b) **Utility of program.** Priority is given to the small capacity program offering more individualized programming. [(As much of a noninstitutional atmosphere as possible is desirable.)]

(c) **Program excellence (and objectives).** Priority is assigned to those programs that have demonstrated effectiveness in *servicing and treating* [program rehabilitation for] Texas Youth Council *students* [youth]. [(This includes major thrust of program—socialization and community reintegration skills and/or preindependence training. Methods and techniques used, i.e., formal and information counseling and training, hours per week offered, degree of family involvement, methods of supervision and staff resident ratio, as well as the resident's assessment of the program.)]

(d) **Location/community-based setting.** Priority will be given to those programs located within the major metropolitan areas *from which* [near where] the majority of committed *students* [youths'] families reside. [(Neighborhood location, use, and accessibility of community resources, i.e., Texas Rehabilitation Commission, schools, mental health/mental retardation services, recreation, transportation, employment, and volunteer services are of utmost importance.)]

(e) **Admission restrictions.** High priority is given to those agencies with established admission policies which tend to limit intake to the surrounding geographic area (another factor of great consideration is the ease or expeditious handling of referrals and admissions.)]

(f) **Actual cost.** The actual cost of services rendered to Texas Youth Council *student* [youth] is *considered when the per diem rate is determined for the contract agency* [weighed]. [(The intent is to reimburse at a rate not in excess of the agency's actual cost.)] **Agencies offering** [Those programs offering] *specialized* [a broader and more intensive spectrum of] services will be eligible for *a higher per diem rate to offset the* [more compensation to aid in offsetting] expenses incurred [so long as the services are deemed relevant and necessary to the needs of Texas Youth Council youth].

(g) **Community support.** Priority is given to those programs having a board of directors which is representative of the general citizenry *in* [with] the community. [(This *reflects* [also includes] the overall degree of community ac-

ceptance and involvement [of the citizenry] in volunteer and other support activities with the agency program.)]

(h) **The contract ensures that the service agency will provide room, board, supervision, casework services, and an individualized program plan for each Texas Youth Council *student* [youth] admitted.** The contract does ensure that the service agency has authority to screen all referrals made by Texas Youth Council. It establishes the fee and method of payment; it ensures that Texas Youth Council personnel will review each *student's* [client's] progress at reasonable intervals; and that Texas Youth Council will have the authority for monitoring and evaluation.

(i) **Each contract must be signed by the director of the service agency, the Texas Youth Council *assistant executive director for support services* [director of finance], Residential Contract Program administrator, and TYC legal counsel.**

§95.36 (203.41.03.007). Specialized Residential Services. Specialized services for *students* [youth] may be contracted for in addition to the *basic child* [residential] care contract. The following conditions apply.

(1) The specialized service must be recommended to the [contract] administrator *of Residential Contract Programs* of the Texas Youth Council by the Texas Youth Council *community resource specialist* [field service counselor] with approval of his *parole* [area] supervisor [or the Texas Youth Council institutional caseworker in concern with the institutional psychologist].

(2) The *specialized* service [recommended] must be *one needed for a student as shown* [included] in the individualized program plan *before TYC can contract for services*. [of the youth and must be accompanied by] *Progress reports and recommendations must be provided by the contracted agency once service begins*.

(3) Specialized residential services will be *defined as* [considered] only those services limited by law to be administered by an individual licensed or certified for that professional service (such as psychiatric or psychological services or social psychotherapy). [Rationale for this limitation on defining specialized services is the inclusion of casework and counseling services and "a program meeting individual needs" in the contract for placement in the residential program. Therefore, additional payment for "specialized treatment" will be limited to those services which state law recognizes and offers some degree of protection for the consumer.]

(4) Final authorization for the specialized residential service shall be the responsibility of the *residential* contract administrator.

(5) Payment for the service will be determined by the *residential* contract administrator *in accordance with the residential contract fee scale* [with the type and frequency of the service provided].

§95.37 (203.41.03.008). Monitoring. Community resource specialists are required to monitor each contracted service agency program at least once *every six* [each three] months. The purpose of the monitoring activity is to ensure that the service agency is providing the *contracted services and maintaining its* [as contracted for and that each will maintain their responsibility for] adherence to Texas Youth Council standards and guidelines. [(The monitoring function is not intended to be a casework evaluation of each youth placed there; its purpose is to maintain agency relations and facili-

tate continued positive working relationships with the service agency].

Doc. No. 803148

Standards Relating to Management and Administration

The council proposes to amend these sections. The sections have been edited because the present format is unclear on what TYC expects agencies to include in their policy statement and what is expected for administrative structure.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.51 (203.41.04.001). Governing Body. A **contracted agency** [placement facility] should have a governing body [constituted] of representatives from the local community; [and] its purpose, philosophy, and plan of operation should be set forth as matter of official record in its charter, constitution, or other appropriate official document.

§95.52 (203.41.04.002). Philosophy and Policy.

(a) The governing body of a facility has the overall responsibility for the operation of the facility and shares with the administrative and **treatment** [clinical] staff the responsibility for the implementation of philosophy and policy. The policy statement should include:

(1) **The** philosophy, [under which facility was established and its] purpose, and goals [should be set forth in written policy statement on whose basis the facility is to operate] **for which the agency was established and for which it shall operate.**

(2) **Specific procedures for meeting** [Purpose and goals should be clearly defined in measurable terms to include the specific] needs of the youth served. [Written policy statement should be a matter of official documentation.]

(b)(3) The governing body shall appoint a chief administrative officer or director to assure that policy is translated into administrative action.

(c)(4) The administrative body shall endeavor to integrate the placement facility and its residents into the community and to develop community interest in the placement.

(d)(5) The administrative body **shall ensure that all Department of Human Resources and Texas Youth Council standards are met** [, namely the director of placement facility, shall be licensed administrator as such placement shall also be licensed as a child-caring institution under the Department of Public Welfare].

Doc. No. 803150

Personnel and Staffing

The council proposes to amend these sections to reflect adherence with DHR standards for personnel and staffing patterns.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.63 (203.41.05.003). Changes in Policies. Procedure shall be established for notifying staff, residents, and Texas Youth Council **staff** of changes in established policies.

§95.64 (203.41.05.004). Orientation, In-Service Training. **The contracting** [Placement resource] facility shall have an orientation and an ongoing in-service training regarding program, personnel policies, procedures, and their respective duties **as required by DHR standards.**

§95.65 (203.41.05.005). Progress Reports. **The contracting** [Placement resource] facility must keep accurate, current, and complete progress reports on **students** [youth] **in accordance with DHR and TYC standards.**

§95.66 (203.41.05.006). Hiring Regulations. **The contracting** [Placement resource] facility shall follow all federal, state, and local laws and regulations regarding recruiting and hiring.

§95.67 (203.41.05.007). Qualifications for Staff Composition. Staff composition shall be consistent and determined by the facility in accordance with an assessment of [the child's] needs **of its students**, program goals, and all appropriate federal, state, and local laws and regulations. Appropriate qualifications to provide [good] basic child care should reflect the following staff consideration.

(1) **There** should be a direct relationship between the size and **scope** [nature] of the program [being offered] and the number and types of staff members **as specified by DHR standards.**

(2) Staffing patterns shall provide for **adequate staff** coverage with special consideration addressed, e.g. upon awaking in the morning, during meals, late evenings, special activities, and bedtime.

(3) Basic requirements for staff should reflect a combination of special personality characteristics supplemented by specialized training.]

(2) Staff should have specialized knowledge and skills necessary to apply particular program methods specified in **the** treatment plan.

(3) Staff should be capable of providing a safe and secure group living atmosphere so that a **student** [child] can live, grow, **and** develop **appropriate** [needed] social skills, and help resolve interpersonal conflicts].

(4) Staff should promote individuality and independence of **the students** [youth].

(5) All staff shall possess a willingness and ability to **facilitate the** [collaborate with the others involved in the resident's care,] growth and development **of the students.**

(6) Staff behavior should demonstrate respect for **the** [worth and] dignity of each **student** [individual youth].

(7) Staff should work harmoniously with **the sponsoring agency to locate and use** [utilize] needed community resources.

(8) The ratio of total staff carrying responsibilities for the supervision of **students** [residents] shall be in **accordance with the Department of Human Resources standards** [conjunction with Department of Public Welfare standards].

(9) A staff training program used by the placement facility shall have well-defined objectives. [in order that specific needs of staff may be met to provide maximum services as follows:

[(A) Red Cross first aid training;

[(B) volunteers shall have qualifications appropriate to services they render:

(C) if student interns are utilized in the program, they shall be assigned to a staff member for planned supervision.]

Doc. No. 803151

Standards Relating to Treatment

The council proposes to amend these sections to denote current terminology and meaning. Youths committed to TYC shall be referred to as "students" and "rehabilitation" shall be changed to "treatment."

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.81 (203.41.06.001). *Acceptance of a Student [Child] into a Residential Contract [Rehabilitation] Program.*

(a) Acceptance of a *student* [child or adolescent] for placement and *treatment* [rehabilitation] shall be based on the assessment of the *student* [resident and shall be arrived at] by clinical staff with appropriate participation of the *student and* [resident,] family[, and Texas Youth Council personnel].

(b) Facility staff in conjunction with Texas Youth Council personnel shall assess the rationale for placement and *treatment* [rehabilitation] in relation to *student's* [resident's] needs, facility services, and family and community resources [and other forms of therapeutic intervention].

(c) Facilities shall accept only those *students* [children] who meet the conditions outlined in the program's admission policies and for whom the facility has an operating program.

(d) Acceptance of a *student* [child or adolescent] for placement and rehabilitation shall be based upon the determinations outlined in §§83.52-83.67 (203.02.06.002-.017).

§95.84 (203.41.06.004). *Explanation to Student [Child] and Family.* Facility staff shall explain to the *student* [child] and his family the nature and goals of the program and their expected participation and responsibilities [of each].

§95.85 (203.41.06.005). *Participation of Student [Child].* The *student will* [child should] participate [in the intake process and] in the decision that this *treatment* [rehabilitation] program is appropriate.

§95.86 (203.41.06.006). *Goals.* Placement facility shall provide a plan of service denoted through a *treatment* [rehabilitation] plan focusing on short- and long-term goals.

§95.87 (203.41.06.007). *Review of Student [Resident] Adjustment.* Placement facility *will* [shall] allow the *student* [resident], family, and the Texas Youth Council *personnel* [and interested others] to be involved in periodic reviews of the *student's* [resident's] adjustment to program.

§95.88 (203.41.06.008). *Individualized Treatment [Rehabilitation].* Each *student* [resident] shall be provided an *individual program plan* [individualized rehabilitation designed] to enable him/her to make positive [and purposeful] movement toward personal and social growth [and self-direction].

§95.89 (203.41.06.009). *Program Content.* Program content shall include but shall not be limited to the following:

- (1) [provision for] individual counseling services;
- (2) [provision for] group counseling services;

- (3) [provision for] family counseling services;
- (4) [provision for] utilization of community resources;
- (5) [provision for] consultative services;
- (6) [provision for] education and/or vocational services;
- (7) [provision for] recreation services [(camping, cultural, organized sports)]; and
- (8) [provision for] follow-up of post-placement adjustment.

§95.90 (203.41.06.010). *Program Profile.* Placement facility shall provide a program profile denoting population to be served, including:

- (1) age and sex;
- (2) types of behavior or problems for which *students* [youths] will be accepted;
- (3) number of *students* [youths] the program will serve at any one time;
- (4) special requirements, such as legal status, health, school attendance, medical, psychological testing, etc.

§95.91 (203.41.06.011). *Treatment [Rehabilitation] Approach.* Statement of *treatment* [program rehabilitation] methods, techniques, and services to be used must exist with specification of intensity, frequency, and duration of these methods. [Rehabilitation approach shall be elaborated in detail; the anticipated length of stay should be estimated.]

§95.92 (203.41.06.012). *Explanation of Rights and Responsibilities.* [Admissions made on court order,] *The rights and responsibilities of the student* [child] and family shall be explained to them and documented in the *student's* [child's] records.

§95.93 (203.41.06.013). *Ramifications of Placement.* All ramifications of placement in the facility will be discussed with the *student* [child] and family such as:

- (1) legal custody;
- (2) continued role and responsibility;
- (3) continued parental involvement and responsibility;
- (4) confidentiality;
- (5) visitation;
- (6) *average length of stay* [effect placement may have on individual; and];
- (7) short- and long-term goals of placements.

§95.94 (203.41.06.014). *Discharge.* Facility shall have a written plan delineating the criteria for discharge. *The family and Texas Youth Council personnel will aid* [shall help] in preparing *the student for the* [for] termination and transition experience.

§95.95 (203.41.06.015). *Pre-release Report.* Prior to release, the *student's* [resident's] primary counselor shall prepare a *progress* [written] report outlining the essential elements in the resident's adjustment and the plan for continuity under Texas Youth Council supervision.

§95.96 (203.41.06.016). *Statement of Facility Regulations.* Each *student* [resident] and his family shall be given a written statement of the placement facility's rules and regulations.

§95.97 (203.41.06.017). *Plan of Orientation.* Each **student** [resident] shall receive a written plan of orientation to the placement facility. **This will be documented in the youth's file.**

Doc. No. 803152

Standards Relating to Records and Reporting

The council proposes to amend these sections to reflect compliance with DHR and internal standards; to refer to "students" rather than "residents" or "children;" and to increase from one year to three years the length of time a student's records must be maintained.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.115 (203.41.07.005). *Notification of Emergency Situations.* Placement facility shall provide procedure for notifying authorities, family, and Texas Youth Council in case of an emergency **in compliance with DHR and TYC standards.**

§95.116 (203.41.07.006). *Discharge Planning.* Placement facility shall provide written outline of appropriate discharge planning and recorded in **the student's** [resident's] folder.

§95.117 (203.41.07.007). *Retaining Records.* Placement facility shall maintain **youth's** [resident's] case file for at least **three years** [one year] following release.

Doc. No. 803154

Physical Facility

The council proposes to amend these sections so that its wards are referred to as "students" and unnecessary words are eliminated.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.131 (203.41.08.001). *Structure and Maintenance.* Facilities serving **students** [children and adolescents] shall be structurally constituted and maintained in a manner that protects the lives and enhances the physical safety of its residents, staff, and visitors.

§95.132 (203.41.08.002). *Applicable Laws and Requirements.* **The facility shall comply** [Facility compliance] with all applicable federal, state, and local construction, fire health laws, and requirements [shall be adhered to].

§95.134 (203.41.08.004). *Availability, Accessibility.* Facility should be available, accessible, and appropriately planned to give care to the **students** [children] and families it serves.

§93.135 (203.41.08.005). *Location.* Facility should be conveniently located to enhance integration with other community institutions, such as schools, and [near outdoor] recreation facilities, such as parks and playgrounds.

Doc. No. 803155

Standards on Physical Care

The council proposes to amend these sections. Many of the changes are in editing so that current terminology or clarification is added. Changes in meaning include reflecting

the use of DHR standards for privacy, leisure time, meals, snacks, and physical restraint. The sections on punishment and seclusion have been combined under the section on discipline, and a prohibition against the use of corporal punishment has been added so that the information on this topic can be presented in a more unified way.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.151 (203.41.09.001). *Responsibility.* Placement **facilities** [resource facility] shall **acknowledge and assume** [complete legal] responsibility **for meeting the** [for the dignity,] basic human needs, physical care, and well-being of each resident.

§95.152 (203.41.09.002). *Medical and Dental Care.* Medical and dental care procedures shall be established and maintained to ensure medical and health needs of youth in residence. Provision for regular health maintenance and medical and dental services, as well as emergency services, shall be documented. [A regular relationship with a nearby hospital or clinic and doctor should be established.]

§95.153 (203.41.09.003). *Privacy, Leisure Time.* Privacy and/or leisure time shall be basic rights as well as therapeutic aspects for [each] youths in residence. **This is in accordance with DHR standards.**

§95.154 (203.41.09.004). *Meals.* Food services shall be nutritional, varied, appetizing, and provide a pleasant [group] experience. At least three meals should be provided daily at regular times with not more than 14 hours between the evening meal and breakfast. Menus should take into consideration the ages, dietary needs, and **youth** preferences. **This is in compliance with DHR standards.**

§95.155 (203.41.09.005). *Snacks.* Along with the well-balanced meals, there should be provisions for snacks [which can add much to the creation of a relaxed and welcome home environment]. In **certain** [some] cases, it **is** [would be] desirable that preparation of meals be linked to the **youth's** program [in the sense that residents should be involved in it in a positive manner]. **Youth involvement would include** [Involvement could indicate] planning, shopping, cooking, and clean-up.

§95.159 (203.41.09.009). *Clothing.* Youth in residence shall be provided with adequate clothing [of their own choosing,] and shall be allowed to bring their own appropriate personal clothing and property [when placed in resource facility].

§95.160 (203.41.09.010). *Money.* **Facility** policy provisions shall **permit the residents to receive allowances when appropriate** [denote allowances of some type so that youth has spending money available for his or her own use]. Allowances for youth **may** [should] come from parent contributions **or from the contract facility** [and out of the fee stipulated in the contract]. **If the student is employed,** budget and banking assistance should be offered.

§95.161 (203.41.09.011). *Physical Restraint.* Physical restraint shall require special justification and shall be employed only to protect a resident from injury to himself or to others and shall not be employed as punishment. **This must be in compliance with DHR standards.**

§95.163 (203.41.09.013). Discipline (Restricted Forms of Punishment).

(a) Placement facility shall not punish residents by manipulation of their rights to meals, mail, and/or family visits.

(b) *When seclusion or confinement is used as discipline, the facility must have written policy for its use that delineates authorized staff, conditions for its use, and conditions for the youth's release.*

(c) *Corporal punishment is not allowed.*

Doc. No. 803156

Resident's Rights

The council proposes to amend these sections to provide editorial clarity and reflect current terminology. Youths, children, or residents are called "students;" the proposed student rights are referenced; "rehabilitation" is changed to "treatment;" and TYC and DHR standards are reflected.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§95.171 (203.41.10.001). Written Acknowledgement of Rights. The program [serving children and adolescents] will acknowledge the dignity and protect the rights of all its *students* [residents] and their families. [To this end] The principles [outlined] in §§95.172-95.179 (.002-.009) shall be acknowledged in written policy.

§95.172 (203.41.10.002). Program Goals and Planning. Program goals and planning for *students* will [children and adolescents must] take into account the [central] nature of their relationship to their families, parents [or parent substitutes], and significant others.

§95.173 (203.41.10.003). Legal and Civil Rights. Every effort shall be made to safeguard the legal and civil rights of *students* [residents] and to make certain that they are kept informed of their rights [including right to counsel and all other requirements of due process, including Texas Youth Council client appeal procedures]. *These rights are outlined in the Student Rights, General Provisions, §81.11 (203.01.02.001).*

§95.174 (203.41.10.004). Privacy. Individual arrangements regarding a *student's* [resident's] privacy shall be made explicit to the resident and *his* family.

§95.175 (203.41.10.005). Family Involvement. Opportunities for family involvement *if feasible* shall be *frequent* [frequency] and flexible in order to meet the *needs* [need] of *students* [residents] and their families. *This* [but] shall not conflict with *the* ongoing functioning of the placement facility.

§95.176 (203.41.10.006). Participation of the Student (Resident) and Family in Planning. *The student* [As appropriate, the resident] and family shall be allowed to participate in plans for *treatment* [rehabilitation].

§95.177 (203.41.10.007). Confidentiality. To enhance the well-being and protect the self-esteem and dignity of *the students* [residents] and families, the facility shall [take steps to] *avoid* [disseminate only appropriate information within the community avoiding] the release of confidential information *in accordance with DHR and TYC standards.*

§95.178 (203.41.10.008). Visitors, Mail, Telephone Calls. *Each facility* [facility] shall have policies regarding visitors, mail, and telephone calls which are consistent with practical and clinical considerations and the rights or privacy of all *students* [residents of the facility].

§95.179 (203.41.10.009). Discipline. *Each facility* shall have written policies regarding methods used for control and discipline of *students* [residents, and to the resident,]. *These shall be available to appropriate staff, the students, their families,* [resident's family,] and *Texas Youth Council staff* [significant others (Texas Youth Council)]. *Discipline must be in compliance the DHR and TYC standards.*

Doc. No. 803158

Parole Services

(Editor's note: The texts of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Youth Council, 8900 Shoal Creek Boulevard, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

Philosophy and Purpose

The council proposes to repeal these sections because their content is contained in the proposed amendment to §97.1 (203.42.01.001).

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§97.2 (203.42.01.002). Purpose.

§97.3 (203.42.01.003). Objectives.

Doc. No. 803160

Transfer between Field Placements

The council proposes to repeal these sections since these procedures are addressed in the proposed revision of §97.65 (203.42.06.005).

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§97.62 (203.42.06.002). Approval of Request.

§97.63 (203.42.06.003). Directing the Request.

Doc. No. 803165

Field Services to Dependent and Neglected Children

The council proposes to repeal this section since the agency is managing this program with a more centralized approach and the responsibility in this section is no longer an institution responsibility.

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§97.81 (203.42.07.001). Original Placement Agency.

Doc. No. 803166

Philosophy and Purpose

The council proposes to amend this section to elaborate on its philosophy and purpose for parole services.

This amendment is proposed under the provisions of Chapter 61, Human Resource Code.

§97.1 (203.42.01.001). Philosophy and Purpose. The Texas Youth Council shall provide quality care and effective individualized parole planning for children under its jurisdiction to facilitate their re-entry into the community. The parole staff is responsible for:

- (1) *serving as advocate for each child;*
- (2) *protecting his interests through supervision, guidance and support;*
- (3) *providing resource brokerage for the child and his family from the time of his discharge, and public protection, care, supervision, and treatment as described in the case management system and child care program requirements.*

[Youth under the jurisdiction of Texas Youth Council can most successfully be reintegrated into the communities through supervisory, referral, and guidance services.]

Doc. No. 803159

Procedure for Release to Field Placement

The council proposes to amend these sections so that field service counselors are again titled parole officer; to delineate staff and program responsibilities in the areas of prerelease, placement, planning, and family involvement; and to revise the conditions of parole by retitling them.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§97.11 (203.42.02.001). Home [Thirty-Day] Evaluation. When a student is committed to TYC [Within 30 days of a youth's commitment], the parole staff [field service counselor] shall evaluate his [the] home situation to determine the potential for successful reintegration into the home community upon release; and shall begin a program to strengthen the potential for return to the natural home. The frequency and intensity of further contact with the family shall be determined by the individual needs of the family and the student.

§97.12 (203.42.02.002). Prerelease Evaluation. When the TYC program notifies the parole officer [Upon notification from the institution] that the student [youth] is ready for parole to a community placement, the parole officer [field service counselor] shall evaluate the home and family to determine whether the home is suitable for placement, based on evaluation criteria.

§97.13 (203.42.02.003). Seeking Alternate Placement. If placement in the home is not possible, an alternate community placement that will meet the treatment and supervisory needs of the youth shall be located.

§97.14 (203.42.02.004). Individual Program Plan. A program plan designed to meet [meeting] individual needs shall be developed for each student [youth] released to field placement, based on information [input] from the student [youth], the family institutional staff, [professional staff,] and Texas Youth Council parole [field] staff.

§97.15 (203.42.02.005). Parole Agreement/Release Plan. [Conditions of Placement.] Prior to release, the student [youth] and his [or her] parent or guardian must sign [the following conditions of placement] a parole agreement/release plan. That plan will contain the following:

I know that I am being released on condition that I act as a responsible citizen and follow the rules below. I also know that if I violate these rules, my placement may be modified and I may be returned to an institution or I may be detained temporarily up to 30 days.

(1) I agree to follow all instructions of my parole officer [supervisor] and will not change my residence[,] or leave the county of placement for more than 24 hours, or leave the State of Texas without my parole officer's [supervisor's] permission.

(2) I agree to obey all rules established by my parents and report to my parole officer [supervisor] anything that they may request of me which I feel is unfair or not in my best interest.

(3) I agree to make use of my time by being involved in an education, employment, or training program as directed by my parole officer [supervisor].

(4) I agree to submit to medical and [or] psychiatric examinations or treatment [treatments] as the Texas Youth Council directs.

(5) I agree to abide by the laws of the state and locale in which I reside and not violate the rights of any other individual [in any way].

(6) I agree not to own, use, possess, or sell any illegal narcotic, dangerous, or hypnotic drug, dangerous inhalant, or any paraphernalia used in administering such drugs; and further agree to participate in a drug-treatment program as deemed necessary by my parole officer [supervisor].

(7) I agree not to own, possess, use, sell, or have in my control any deadly weapon or firearm.

(8) I agree to abstain from the use of alcoholic beverages.

(9) Special conditions: _____

[I also know that I can be under the control of the Texas Youth Council, under my current commitment, until my 18th birthday. I have read, or have had read to me, the above conditions of placement, and agree to follow them.

Caseworker

Date

Signature

TYC No.

[Parent or Guardian

[I have read the conditions of placement and will do all in my power to help him or her keep its rules. I will report promptly to the supervisor any unnecessary absence from school or work, drinking, late hours, or bad companions.

Date

Signed

Relationship

Doc. No. 803161

Placement Criteria

The council proposes to amend these sections to change the concept of "field placement" to "parole" and to add the necessary criterion that parents have custody of their child before they are placed with them.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§97.21 (203.42.03.001). *Individual Needs. Parole* [Field] placement is made **based on** [in regard to] individual **treatment** needs of the **student as determined by** [youth, based on a] professional diagnosis [setting forth the dynamics of the youth's behavior].

§97.22 (203.42.03.002). *Professional Recommendations. Parole* [Field] placement **shall comply** [must be in accordance] with [the professional recommendations as to] the **youth's individual** [rehabilitation] program **plan written by TYC professional staff** [outlined for the youth].

§97.23 (203.42.03.003). *General Criteria for Placement in Home.*

(a) **Parents must have legal custody of the youth.**

(b)(1) Parents must want and agree to accept the youth.

(c)(2) Parents must agree to provide supervision.

(d)(3) The youth must desire to be placed with his family and agree to accept parental supervision.

(e)(4) Parents must have a clear understanding of the youth's needs and agree to meet these needs to the best of their ability.

(f)(5) The parent or parents and youth must be involved in the establishment of a program plan, commit their support to the program, and indicate a willingness to support necessary program changes that may arise.

(6) There should be no severe community opposition to the youth's return to the community based on the severity or magnitude of the offense(s) which precipitated his commitment or return to a Texas Youth Council facility.

§97.24 (203.42.03.004). *Criteria for Placement in Alternate Care (Situation).* It may be necessary to seek an alternate placement:

(1) if further **treatment needs** [rehabilitation programming which] cannot be immediately and adequately provided in the youth's home [is required];

(2) if parents or guardian do not for any reason want their child returned to the home;

(3) if the youth does not wish to be placed with parents or guardian;

(4) if the youth demonstrates greater potential for adjustment if temporarily placed elsewhere for rehabilitative purposes (emphasis will be placed on youth returning home at a later date);

(5) if parents or guardian demonstrate an unwillingness or inability to provide love, discipline, guidance, supervision, proper shelter, security, understanding, parental involvement, fair rehabilitation, or acceptance;

(6) if alternate placement is specifically recommended by institutional caseworker or psychologist;

(4)(7) if parents of youth will not agree to support the program plan recommended by professional staff to meet the youth's needs in his or her own home;

(5)(8) if child and/or parent will not agree to the **conditions of** placement rules [and/or individualized parole contract in home setting].

Doc. No. 803162

Community Residential Facility Placements

The council proposes to amend these sections for clarification and inclusion of the subchapter entitled Standards for Service Delivery, §§81.21-81.37 (203.01.03.002-.018) being proposed at this time.

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§97.31 (203.42.04.001). *Evaluating and Securing Community Residential Placement.*

(a) Prior to placement of a youth in any **community residential** facility, an evaluation of the program services, personnel, and physical plant shall be made **in accordance with TYC standards for service delivery and** [with regard to] the specific **treatment** [rehabilitation] needs of the youth being placed in that facility. An individualized program plan and all appropriate referral information shall be submitted to the service agency and **TYC parole officer or community resource specialist serving the area where the agency is located** [field service counselor for consideration and review].

(b) The **accepting parole officer/community resource specialist** [referring field service counselor] shall meet with the service agency's **placement committee** [screening committee] to evaluate the child's suitability for acceptance in **their program** [the residential facility].

(c) If the **student is already on** [youth is being placed from] parole, [the referring] **parole officer** [field service counselor] shall [personally] interview the parents and the child, **to explain** [explaining] the program completely **and involve them in planning for the student** [ascertaining their feelings and desires about the program].

(d) If the **student is not currently on parole, his** [youth is being referred by the] institutional caseworker[, he] shall complete the individualized program plan and the appropriate referral information. The **receiving parole officer** [field service counselor] and/or **the caseworker** shall interview the **student** [child] and explain the program and the purpose for the alternate placement. The **parole officer** [field service counselor] with the original responsibility for placement shall interview the parents explaining the purpose of the alternate placement and program.

(e) Effective dates and arrangements shall be finalized and included in the Placement Plan.

(f) Visiting privileges of the natural parents or guardian shall be confirmed with all parties primarily concerned if [the merits of the case circumstances indicate the advisability of] such visits *are appropriate*.

§97.32 (203.42.04.002). *Supervision of Community Residential Facility Youths*. The responsibility for supervision of any youth placed in a *non-TYC* residential facility rests with the *parole staff* [field service counselor to whom the case has been] assigned to *the area where the facility is located* [by the area supervisor]. During the period of placement, services to the natural parents or guardian shall be continued by *the parole officer for the area where they reside* [whenever the return of the child to his own home is indicated].

§97.33 (203.42.04.003). *Termination of Community Residential Placements*. All placements shall be regularly evaluated to determine the *student's* [child's rehabilitative] progress and to *ensure* [ascertain] that *continued* [the] placement is *appropriate* [not being continued inappropriately or unnecessarily]. Placement shall not be continued beyond the point that *treatment is necessary and/or the home situation stabilized* [a child may be returned to his own home].

Doc. No. 803163

Purchase of Nonresidential Services

The council proposes to amend this section to clarify the agency's medical responsibilities for medical situations where services cannot otherwise be secured or long-term treatment is involved.

This amendment is proposed under the provisions of Chapter 61, Human Resource Code.

§97.43 (203.42.05.003). *Medical Responsibility*. **The Texas Youth Council will be financially responsible in medical situations when services cannot be secured otherwise. Responsibility for long-term treatment shall be assessed on an individual basis.** [The Texas Youth Council shall not be held financially responsible in medical situations where prognosis is poor, or where long-term treatment (more than seven days inpatient care) is indicated.]

Doc. No. 803164

Field Services to Dependent and Neglected Children

The council proposes to amend these sections to emphasize the cooperative nature of field supervision arrangements TYC has with other agencies which place dependent and neglected children in TYC facilities and to change references from "field staff" to "parole staff."

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§97.82 (203.42.07.002). *Parole Supervision of D&N Children*. [Courtesy Supervision. If all efforts to arouse contacts with original placement contacts with original placement agency fail,] Texas Youth Council *parole staff shall* [field staff may be requested to] *provide a placement* [do the home] study and [provide courtesy] placement supervision

for D&N children if requested to do so. TYC parole will coordinate supervision and placement with referring agency.

§97.83 (203.42.07.003). *Texas Youth Council Parole [Field Staff] Services to Dependent and Neglected Youth*. Services to dependent and neglected youth supervised by Texas Youth Council *parole staff* [field staff] may include:

- (1) referral to resources;
- (2) evaluation and progress reports regarding placements;
- (3) facilitation of community support;
- (4) liaison between child and Texas Youth Council children's home staff.

Doc. No. 803167

Discharge

The Texas Youth Council proposes to amend these sections. Most of the changes are editorial to provide greater clarity. Changes which affect the meanings of the sections include eliminating job opportunities as a special condition for discharge. In most cases, continued parole supervision does not interfere with a job the youth may obtain; there must be other circumstances to justify the discharge. In §97.93 (203.42.08.003), paragraph (3) is added because a new petition for commitment requires that TYC first discharge the student from the original commitment. A statement of policy on temporary transfer to MH/MR was added to §97.95 (.005) to clarify that this does not require discharge. Finally, procedural steps for handling death of a parolee was added to §97.98 (.008).

These amendments are proposed under the provisions of Chapter 61, Human Resource Code.

§97.91 (203.42.08.001). *Authority*. The Texas Youth Council *shall* [may] discharge a *student* [child] when it is satisfied that such discharge *shall* [will] best serve his welfare and the protection of the public [(Article 5143d, Section 17e)].

§97.92 (203.42.08.002). *Age, Satisfactory Adjustment*. Discharge from *parole* [field placement] may be considered when a youth reaches the age of 17 years and has been under supervision for at least one year with a satisfactory adjustment. [(Those youth under 17 years of age that have been under supervision for one year, with satisfactory results, may be placed on inactive status.)]

§97.93 (203.42.08.003). *Special Conditions*. [Under certain conditions,] A youth may be discharged prior to *his 18th birthday under the following conditions*: [one year's supervision. These include:]

- (1) enlistment *in* [into] the military;
- (2) job opportunities;
- (2)(3) *transfer to* [residing in] another state;
- (3) *recommitment/administrative discharge*;
- (4) a special plan submitted by his field service.]

§97.94 (203.42.08.004). *Adult Criminal Charges*. **A student may be discharged when he is** [Discharge may occur resulting from a child being] placed on adult probation or sentenced to the Texas Department of Corrections.

§97.95 (203.42.08.005). *Transfer to Mental Health and Mental Retardation Facility*. **A student who** [When a child] has been committed to the State School for the Mentally Retarded on

an indefinite commitment *may be discharged*, a discharge may be in order. *A student who has been transferred for observations, temporary evaluation, or care shall not be discharged.*

§97.96 (203.42.08.006). *Absconders.* Youth who are absconders from *parole* [field placement] and under the age of 18 shall not be discharged. The file shall remain *active* [open] until the youth reaches age 18. [Should a youth be found, after a three-month period and before age 18, a determination should be made on whether to request a hearing for possible modification of placement, placement in a residential community facility, or continue him in his original placement.]

§97.97 (203.42.08.007). *Death.* When a *parole officer* [field service counselor] receives information that a *student* [child] has died from natural causes, he shall immediately verify the information and advise central office on the appropriate form. When death is by other than natural causes, a thorough investigation shall be made and a special incident report sent to the central office immediately.

§97.98 (203.42.08.008). *Requests for Discharge.* The *parole officer* [field service counselor] shall submit all requests for discharges [on the discharge report] *to the parole supervisor for approval prior to submission to central office for final approval.*

Doc. No. 803168

Chapter 99. Halfway House Program

(Editor's note: The texts of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Youth Council, 8900 Shoal Creek Boulevard, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

Resident's Rights

The council proposes to repeal the following sections. They are included in the subchapter entitled General Provisions, §81.11 (203.01.02.001).

This repeal is proposed under the provisions of Chapter 61, Human Resource Code.

§99.22 (203.43.03.002). *Privacy.*

§99.23 (203.43.03.003). *Dependency, Destitution, or Neglect.*

§99.24 (203.43.03.004). *Public Statements.*

Doc. No. 803172

Discipline

The council proposes to repeal these sections. The sections are replaced by the subchapters entitled General Provisions, Children's Rights, §81.11 (203.01.02.001); Standards for Service Delivery, §§81.29-81.31 (203.01.03.010-.012); and Control of Youth, §81.112 (203.01.13.002), which are being proposed at this time.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

§99.41 (203.43.04.001). *Availability of Policies.*

§99.42 (203.43.04.002). *Limits.*

§99.43 (203.43.04.003). *Group Involvement.*

§99.44 (203.43.04.004). *Authority of Staff.*

§99.45 (203.43.04.005). *Range of Measures.*

§99.46 (203.43.04.006). *Violations of Law.*

§99.47 (203.43.04.007). *Natural Consequences.*

§99.48 (203.43.04.008). *Physical Restraint.*

Doc. No. 803173

Rehabilitation

The council proposes to repeal these sections. These sections are replaced by the general provisions contained in the subchapters entitled Standards for Service Delivery, §§81.21-81.37 (203.01.03.002-.018), and Case Management System for Delinquent Youth, §§81.111-81.121 (203.01.10.001-.011), which are being proposed at this time.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

§99.61 (203.43.05.001). *Individualized Program Plan.*

§99.62 (203.43.05.002). *Periodic Review.*

§99.63 (203.43.05.003). *Group Meetings.*

§99.64 (203.43.05.004). *Reality Therapy.*

§99.65 (203.43.05.005). *Resident Responsibility.*

§99.66 (203.43.05.006). *Confrontation.*

§99.67 (203.43.05.007). *Rehabilitation Team.*

§99.68 (203.43.05.008). *Professional Consultation.*

Doc. No. 803174

Education, Work, and Training

The council proposes to repeal these sections. These sections are no longer relevant because of the expanded requirements in the subchapter entitled Standards for Service Delivery, §§81.22-81.24 (203.01.03.003-.005), which is being proposed at this time.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

§99.81 (203.43.06.001). *Responsibility for Educational and/or Vocational Program.*

§99.82 (203.43.06.002). *Appraisal of Progress.*

§99.83 (203.43.06.003). *Statement of Plans.*

Doc. No. 803175

Daily Living

The council proposes to repeal these sections. These sections are replaced by the sections in the subchapter entitled Standards for Service Delivery, §§81.21-81.37 (203.01.03.002-.017), which are being proposed at this time.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

§99.91 (203.43.07.001). *Clothing.*

§99.92 (203.43.07.002). *Hygiene.*

§99.93 (203.43.07.003). *Recreation.*

§99.94 (203.43.07.004). *Physical Development.*

§99.95 (203.43.07.005). *Money.*

§99.96 (203.43.07.006). *Community Relationships.*

Doc. No. 803176

Medical and Dental Care

The council proposes to repeal these sections. These sections will no longer be relevant because of the adoption of the subchapter entitled General Provision, Medical and Dental Services, §81.36 (203.01.03.017), which is being proposed at this time.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

- §99.111 (203.43.08.001). *Written Statements.*
- §99.112 (203.43.08.002). *Dental Examination.*
- §99.113 (203.43.08.003). *Medical Isolation.*
- §99.114 (203.43.08.004). *Storage of Medications.*
- §99.115 (203.43.08.005). *Medical Record.*

Doc. No. 803177

Nutrition

These sections are replaced by the subchapter entitled General Provisions, Nutrition, §81.33 (203.01.03.014), which is being proposed at this time.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

- §99.121 (203.43.09.001). *Standards.*
- §99.122 (203.43.09.002). *Minimum Number of Meals.*
- §99.123 (203.43.09.003). *Retaining Menus.*
- §99.124 (203.43.09.004). *Milk.*
- §99.125 (203.43.09.005). *Hours between Meals.*
- §99.126 (203.43.09.006). *Responsibility for Procedures.*

Doc. No. 803178

Release or Transfer of Residents

The council proposes to repeal these sections. These sections are replaced by the subchapter entitled Case Management System for Delinquent Youth, §§81.111-81.121 (203.01.10.001-.011), which was adopted and became effective January 9, 1980.

This repeal is proposed under the authority of Chapter 61, Human Resource Code.

- §99.141 (203.43.10.001). *Release Planning.*
- §99.142 (203.43.10.002). *Final Summary.*
- §99.143 (203.43.10.003). *Placement with Field Services.*
- §99.144 (203.43.10.004). *Transfers.*

Doc. No. 803179

Philosophy and Purpose

The council proposes to amend the following section to eliminate reality therapy as a specific element of the treatment program and to add the agency's skills-based treatment program which will constitute the defined treatment program in the halfway houses. Other minor changes are proposed to clarify terms or intent.

This amendment is proposed under authority of Chapter 61, Human Resource Code.

§99.3 (203.43.01.003). *Objectives. The Halfway House Program [Residential Rehabilitation Program] shall provide the following specific services to accomplish its objectives.*

(1) The *child care* [rehabilitation] staff [with the help of the Texas Youth Council's Human Resource Development Training Division] will conduct individualized and group counseling in the context of [reality therapy and guided group interaction] *the Skills-Based Treatment Program of the Texas Youth Council.*

(2) The staff, in cooperation with the Texas Rehabilitation Commission, will provide vocational counseling to the residents. Those youth who qualify will be afforded the opportunity to work in the community.

(3) Professional psychological and psychiatric counseling shall be made available to the residents *as needed.*

(4) A recreation and physical education program will be an integral part of the rehabilitation.

(5) In the area of education, some residents will be attending public schools while others will be involved in the General Equivalency Diploma (GED) Program *or other appropriate educational programs.* In *these* [both] instances, the residents will have the benefit of a specialized tutoring program.

Doc. No. 803169

Placement Qualifications

The council proposes to amend the following sections. The Halfway House Program (previously called community residential rehabilitative facilities) is revising its qualifications for placement into the program in compliance with the subchapter entitled Case Management System for Delinquent Youth, §§81.111-81.121 (203.01.10.001-.011). The revisions proposed also change the minimum age for placement from 14 years of age to 15. The agency has found older youth are more able to benefit from the program. Minor changes are made to achieve consistency in the program's name.

These amendments are proposed under authority of Chapter 61, Human Resource Code.

§99.11 (203.43.02.001). *Eligibility [Hard-to-Place Youth].* Eligibility for placement in a *halfway house* [residential rehabilitation] facility will be limited to youths committed to the care and custody of the Texas Youth Council. [who meet the definition of a "hard-to-place" child. Specifically, a hard-to-place youth is defined as:

- (1) a child who has no family or home to return to;
- (2) one whose family or home has been rejected as a suitable placement;
- (3) one who has been rejected for placement by existing private community programs.]

§99.12 (203.43.02.002). *Criteria. A student must meet the following criteria to be accepted* [shall be used to determine the acceptance of a child] into a *Halfway House* [Residential Rehabilitative] Program:

- (1) [assume] potential for responsible community living;
- (2) ability and motivation for school and/or work;
- (3) recognition of his own needs and desire to change behavior;
- (4) concern for others;
- (5) ability to communicate.

§99.13 (203.43.02.003). *Age Limitations.* All youth accepted for placement in a [residential rehabilitative] halfway house shall be no younger than 15 [14] and no older than 17.

§99.14 (203.43.02.004). *Emergency Placements.* There shall be no emergency placements in any *halfway house* [residential rehabilitative] facility [unless written approval for such placement has been given by the administrator of Residential Rehabilitative Program].

Doc. No. 803170

Student's Rights

The council proposes to amend the following section to change the term "children" to "students." This change is necessary to achieve consistency in terminology.

This amendment is proposed under the authority of Chapter 61, Human Resource Code.

§99.21 (203.43.03.001). *Student's [Children's] Rights.* Resident's rights listed in this section are in addition to those outlined in "Student's [Children's] Rights," §81.11 (203.01.02.001).

Doc. No. 803171

Chapter 101. Interstate Compact on Juveniles

Forms

The council proposes the following section and related form. The Interstate Compact on Juveniles is that agreement among the several states that governs how the participating states shall transfer responsibilities for parolees, return absconders and escapees, authorize agreements for cooperative care of special types of juveniles, and to provide for return to their home of runaways who have not yet been adjudged delinquent. The proposed section authorizes the use of a form that seeks from a youth transferring to another state the parole services in that state. The essence of the application is that the youth wants the parole services of the other state, understands that parole supervision in that state may be somewhat different but will abide by those provisions.

This section is proposed under the provisions of Chapter 61, Human Resource Code.

§101.68 (203.50.05.008). *Application for Compact Services.* The form, ICJ Form IA, entitled Application for Compact Services, shall be used by each youth who seeks parole or probation services in another state. The youth shall read or have had the form read and explained to him to his understanding. The Texas Youth Council adopts ICJ Form IA by reference. Copies of this form are available from the Texas Youth Council, P.O. Box 9999, Austin, Texas 78766, or from local probation departments.

Doc. No. 803180

Chapter 103. Student Remedies

General Policy and Procedures

The council is proposing the following chapter entitled Student Remedies. Student remedies represent those recourses

and processes a youth has available to him if he feels he has been in some way unfairly, abusively, or neglectfully treated or has had one or more of his basic rights violated. The purpose of these sections is to define those recourses and processes for the benefit of youth, TYC personnel, and third parties. They represent the completion of extensive study and development in policies and procedures that are implied elsewhere in the rules of the agency but need to be concisely stated to ensure the protection of rights and due process for the youth. Sections 103.1 and 103.2 (203.03.01.001 and .002) state the general policy and procedures for student remedies and the general issues to which they apply.

These sections are proposed under authority of Chapter 61, Human Resource Code.

§103.1 (203.03.01.001). *Policy.* If a student feels that the Texas Youth Council, in the administration of its programs, has violated one or more of his basic rights (see §81.11 (203.01.02.001)) or in some way has treated him unfairly, abusively, or neglectfully, he may initiate action to remedy his situation, and may expect staff assistance in doing so.

§103.2 (203.03.01.002). *Procedures.*

(a) Remedy procedures available to TYC students are:

- (1) A student may file an appeal about a specific administrative decision affecting him individually.
- (2) A student may file a complaint alleging abuse or neglect by his peers, TYC staff, or contract agency staff.
- (3) A student may file a grievance about conditions, policies, and procedures which affect him and his peers collectively. Examples of conditions, policies, and procedures about which grievances may be filed are medical care, food services, rules regarding dress and appearance, or disciplinary procedures.

The three student remedy procedures identified above are contained in §§103.2 and 103.22 (203.03.02.001 and .002) through §§103.61 and 103.62 (203.03.04.001 and .002).

(b) Common to all three procedures is an opportunity for the student to appeal to the executive director (Chapter 83 (203.02)). In each instance, an appeal to the executive director exhausts a student's administrative remedies.

Doc. No. 803058

Appeal of Administrative Decision

The council is proposing the chapter entitled Student Remedies. The following sections are those which describe the several procedures to be followed for the different types of administrative decisions that can affect a youth. They further describe the administrative flow of the appeal process and the corresponding time frame that will apply.

These sections are proposed under authority of Chapter 61, Human Resource Code.

§103.21 (203.03.02.001). *Policy.* A student may file an appeal regarding a specific administrative decision affecting him individually.

§103.22 (203.03.02.002). *Procedure.*

(a) Submission of appeal. Except in cases where direct appeal to the executive director is available (program assignment, transfers, reclassification, parole release, and parole revocation), all administrative decisions may be appealed to the student's institutional/halfway house superintendent or

area parole supervisor. The student's caseworker, parole officer, or other designated staff will assist the student in completing the Grievance Resolution form indicating the reasons for the student's appeal. The student's appeal will be forwarded directly to the institutional/halfway house superintendent or area parole supervisor.

(b) Decision of superintendent or area supervisor regarding appeal. Within one week of receipt of the student's appeal, the institutional/halfway house superintendent or area parole supervisor will review the student's appeal and make a decision regarding the student's contentions. The decision on the appeal will be indicated on the same Grievance Resolution form utilized by the student in submitting his appeal. The institutional/halfway house superintendent's or area parole supervisor's decision will include reasons for the decision and will indicate actions directed.

(c) Distribution of decision. The student will receive a copy of the decision.

(d) Appeal to the executive director. The institutional/halfway house superintendent's or area parole supervisor's decision regarding a student's appeal will include notice to the student of his right to subsequent appeal to the executive director. In the event the student indicates his dissatisfaction with the institutional/halfway house superintendent's or area parole supervisor's decision on his appeal, the student's caseworker, parole officer, or other designated staff will assist the student in filing his subsequent appeal in accordance with the procedure for appeals to the executive director, Chapter 83 (203.02). The Grievance Resolution form indicating the institutional/halfway house superintendent's or area parole supervisor's reasons for the decision will be included with the material submitted for the executive director's consideration.

Doc. No. 803059

Complaints Regarding Abuse or Neglect

The council is proposing the chapter entitled Student Remedies. The following section describes those procedures which are to apply when a youth seeks remedy for alleged abuse or neglect. The proposed section describes the process for submission of a complaint, the conduct of its investigation, and subsequent actions to be taken given the findings of the investigation.

This section is proposed under authority of Chapter 61, Human Resource Code.

§103.41 (203.03.03.001). Procedure.

(a) Submission of complaint. Any person receiving information related to the suspected mistreatment of a student—the suspected abuse or serious neglect of a student by another student, TYC staff, or contract staff—will promptly report that information to the student's caseworker, parole officer, or other designated staff. In addition to other incident reporting requirements, within three days of receipt of that information, the student's caseworker, parole officer, or other designated staff will complete and distribute the Notification of Suspected Mistreatment form.

(b) Investigation of complaint. Promptly following initial receipt of information regarding the suspected mistreatment of a student, the student's caseworker, parole officer, or other designated staff will notify the student's institutional/halfway house superintendent or area parole super-

visor of the alleged incident. Promptly upon receipt of that notice, the institutional/halfway house superintendent or area parole supervisor will appoint TYC staff members to initiate an investigation of the allegation. Staff members appointed to conduct the investigation will continue to do so unless and until the Hearings Department assumes responsibility for its further conduct at the direction of the executive director, deputy executive director, assistant executive director for child care, or at its own motion.

(c) Conclusion of investigation. Within three days of conclusion of an investigation, staff members conducting the investigation will report and distribute their conclusions in accordance with procedures outlined in the TYC manuals system.

(d) Final action. Within three days of receipt of the student's appealed decision, the institutional/halfway house superintendent or area parole supervisor will take whatever remedial action he determines appropriate in light of the conclusions of the investigation. Report of final action taken will be distributed in accordance with the TYC central office alleged abuse or neglected investigation procedure. The student will be notified of the results of the investigation.

(e) Appeal to the executive director. The student will be notified of his right to appeal any matter pertaining to the conduct or outcome of the investigation regarding his complaint. In the event the student indicates his desire to do so, the student's caseworker, parole officer, or other designated staff will assist the student in filing his appeal to the executive director in accordance with the appeals to the executive director, Chapter 83 (203.02).

Doc. No. 803060

Grievances Regarding Conditions, Policies, or Procedures

The council is proposing the chapter entitled Student Remedies. The following sections pertain to the policy and procedures which apply to grievances which youth may initiate regarding conditions, policies, and procedures which affect them. Section 103.61 (203.03.04.001) provides the policy of the agency which is to ensure a youth may file a grievance, that youth will be involved in the development of the grievance procedures, and that each program will have its own individualized procedures. Section 103.62 (.002) provides the requirements the grievance procedure must meet.

These sections are proposed under authority of Chapter 61, Human Resource Code.

§103.61 (203.03.04.001). Policy. A student may file a grievance regarding conditions, policies, and procedures which affect him and his peers collectively. To help ensure an effective student grievance system, participation is required of staff members and students on as equal a basis and at the most decentralized level reasonably possible and feasible in the design and operation of the system. The staff and students of each program unit are, therefore, to establish at their particular facility or area parole office a fair and simple procedure for the resolution of student grievances regarding programs, conditions, or practices which are not otherwise included within the preceding two categories of student concerns (see §§103:21 and 103.22 (203.03.02.001 and .002) and §103.41 (203.03.03.001)).

§103.62 (203.03.04.002). Grievance Procedures. The established procedure should ensure the following:

(a) **Access to system.** The grievance procedures established at each program unit must provide for reasonable, but sure, access to the grievance system by all students at all times and ensure the priority processing of grievances which are of an emergency nature. The means selected for submission of grievances must include provision for prompt reporting of the grievance on Grievance Resolution form in accordance with the procedures.

(b) **Determining "appeal" or "grievance."** The grievance procedure established at each program unit must provide a method, within the grievance procedure itself, for determining whether to proceed with a grievance which might otherwise arguably constitute an appeal of an individual case decision. In the event it is determined that the grievance does concern only an administrative decision affecting a single student, the Grievance Resolution form will be forwarded immediately to the institutional/halfway house superintendent or area parole supervisor in accordance with the procedure for appeals or administrative decisions (see §§103.21 and 103.22 (203.03.02.001 and .002)).

(c) **Informal resolution.** The grievance procedure established at each program unit should encourage prompt and informal resolution of student grievances, particularly in cases where the need for immediate corrective action is apparent and readily possible to meet.

(d) **Opportunity for hearing.** When informal resolution of a grievance cannot be achieved to the satisfaction of all parties, the grievance procedure established at each program unit must provide the opportunity for a hearing of the grievance at which all parties have the opportunity to be present and to present their contentions and suggestions for resolving the grievance.

(e) **Review by institutional/halfway house superintendent or area parole supervisor.** The grievance procedure established at each program unit must provide for a written report of recommendations or of progress being made toward resolution of a student's grievance. The results of informal consideration or hearing on the grievance must be reported on Grievance Resolution form and must be submitted to the student's institutional/halfway house superintendent or area parole supervisor within 10 days of the initial submission of the student's grievance. Within three days, the institutional/halfway house superintendent or area parole supervisor will review the report and indicate on the prescribed form whether he adopts the recommendations or approves of the steps being taken to resolve the grievance and the reasons therefor. The institutional/halfway house superintendent or area parole supervisor will then immediately distribute copies of the Grievance Resolution form (CCIS Form 038) in accordance with the provisions prescribed by the agency.

(f) **Appeal to the executive director.** The student will be notified of his right to appeal the institutional/halfway house superintendent's or area parole supervisor's decision regarding the adoption of recommendations or the approval of steps being taken to resolve his grievance. In the event the student indicates his dissatisfaction with the decision, the student's caseworker, parole officer, or other designated staff will assist the student in filing his appeal to the executive director in accordance with appeals to the executive director (see Chapter 83 (203.02)). Appeal to the executive director is required whenever the institutional/halfway house superin-

tendent or area parole supervisor determines that satisfactory resolution of a grievance requires consideration of a policy, procedural, or budgetary amendment which is beyond the institutional/halfway house superintendent's or area parole supervisor's authority to effect. The institutional/halfway house superintendent or area parole supervisor will file such appeal on the student's behalf in accordance with the TYC procedure for appeals to the executive director. The Grievance Resolution form indicating recommendations resulting from consideration of the grievance at the student's program unit will be included with the material submitted for the executive director's consideration.

(g) **Safeguards against reprisals.** The grievance procedure established at each program unit must provide for safeguards to prevent reprisals against any grievant or participant in the resolution or investigation of a grievance. The fact that a student may have filed a grievance shall not be considered in any administrative decision made concerning him, nor shall a copy of the Grievance Resolution form be included in his case folder unless it pertains to his appeal of an administrative decision. However, where there is clear and convincing proof that a student utilized the grievance system with the clear intent and sole purpose to cause harm to another student or staff member through deceit, disciplinary action against the student may be taken.

(h) **Monthly evaluation.** The grievance procedure established at each program unit must provide specific measures by which the system's effectiveness at that program unit may be assessed on a monthly basis by a representative group of staff and students, participating in equal numbers, and chaired by the grievance coordinator or other staff member of the Hearings Department. The grievance coordinator will prepare a monthly report of the assessment including a report of the steps being taken at that program unit to correct any assessed deficiencies. The report will be distributed to the institutional/halfway house superintendent or area parole supervisor, the directors of institutions and community services, the assistant executive director for child care, the deputy executive director, and the executive director.

Issued in Austin, Texas, on April 25, 1980.

Doc. No. 803061 Ron Jackson
Executive Director
Texas Youth Council

Proposed Date of Adoption: June 2, 1980
For further information, please call (512) 452-8111.



NONCODIFIED

Texas Department of Human Resources

(Editor's note: Proposals by the Texas Department of Human Resources, including new rules, as well as amendments and repeals of existing rules, are being published serially beginning in this issue. The chapters, subchapters, and rules affected by the proposal are listed below. The proposed date of adoption for the rules listed in the chapters entitled Medical Assistance Programs, Intake and Eligibility, and Legal Services is June 16, 1980. The proposed date of adoption for the rules listed in the chapter entitled 24-Hour Care Licensing is July 15, 1980. The chapters entitled Medical Assistance Programs, Intake and Eligibility, and Legal Services appear in this issue.)

Medical Assistance Programs

Physician and Professional Services

326.46.03.001, .002

Medicaid Procedures

326.46.04.005, .008

Benefits under Title XIX

326.46.05.002

General Policies

326.46.06.001, .002

Support Documents

326.46.99.400

326.46.99.600

Intake and Eligibility

Eligibility

326.52.22.003-.010, .012-.016, .018, .022-.024

326.52.22.025-.046

Legal Services

Contract Appeals

326.79.17.002-.014

24-Hour Care Licensing

Minimum Standards for Juvenile Correctional Institutions

326.91.13.001-.028

Minimum Standards for Juvenile Correctional Camps

326.91.14.001-.025

Minimum Standards for Juvenile Reception Centers

326.91.15.001-.025

Medical Assistance Programs

The Texas Department of Human Resources is proposing to repeal and amend various rules in the chapter of rules concerning medical assistance programs.

The department has determined that the proposed repeals and amendments will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—050, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

Physician and Professional Services 326.46.03

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, Long Building, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The department proposes to repeal its rules on definition of physician and physician's services from Chapter 46 as part of an effort to delete duplicate material. These two definitions are adequately covered in Chapter 36, Rules 326.36.11.001(e) and 326.36.06.002.

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

.001. *Definition of Physician.*

.002. *Physician's Services.*

Doc. No. 803517

Medicaid Procedures 326.46.04

The department proposes to amend its rules on the medical care identification card and recipients with no current card by updating a reference to the department and removing obsolete material. The purposes of the ID form are being deleted since they represent data elements on the form which have been changed.

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.005. *Medical Care Identification Card.*

(a) Medical assistance benefits are available to a person only during his period of eligibility which is certified on a month-to-month basis. However, some recipients may qualify for Title XIX coverage for the three months prior to their SSI application or their application for AFDC or medical assistance only benefits from the Department of *Human Resources* (Public Welfare). The medical care identification card for these recipients will indicate the effective period in which their eligibility exists and may reflect certification for a period of up to four months. At the beginning of each month, the department issues new identification cards to replace the cards which expired at the end of the previous month. The medical care identification card certifies eligibility for medical benefits for only the period issued.

(b) The purposes of the medical care identification card are:

(1) to serve as a monthly notice of Title XIX eligibility to AFDC recipients and recipients of medical assistance;

(2) to identify eligible recipients to providers of medical care services (Title XIX);

(3) to provide pharmacists a method of indicating usage for up to and including three prescriptions per recipient per month (the current maximum);

(4) to provide doctors a method of indicating up to and including five doctor's office visits per recipient;

however, this does not impose a limit of five doctor's office visits per recipient per month;

[(5) to provide action codes and service dates (month and year) for eye glasses, hearing aid, and dentures providers;

[(6) to notify providers delivering family planning services of the most recent annual physical examination (month and year);

[(7) to notify EPSDT providers to the most recent medical screening and dental treatment dates (month and year);

[(8) to provide the department a message capability for informing or notifying recipients of benefits or instructions.]

.008. Recipients with No Current Card.

(a) If a person insists he is eligible for the programs but can produce no current Medicaid eligibility card, the provider should check with the local *DHR* [DPW] office.

(b) (No change.)

Doc. No. 803518

Benefits under Title XIX 326.46.05

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, Long Building, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The department proposes to repeal its rule on the Medical Facility Referral form as part of an effort to delete duplicative and obsolete material. This rule covers a procedural matter which is adequately discussed in the department's Medicaid Eligibility Handbook.

The repeal of the following rule is proposed under the authority of the Human Resources Code, Title II.

.002. Medical Facility Referral Form.

Doc. No. 803519

General Policies 326.46.06

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, Long Building, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The department proposes to repeal its rules on Part B benefits under Title XVIII and procedures to secure a social security claim number as part of an effort to delete duplicative and obsolete material. These rules are adequately covered under the department's Medicaid eligibility rules (326.25.23.002 and .003).

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

.001. Part B Benefits under Title XVIII.

.002. Procedure To Secure Social Security Claim Number.

Doc. No. 803520

Support Documents 326.46.99.400

The department proposes to amend Rule 326.46.99.400 about contract provisions in its Medical Assistance Programs chapter in order to update certain references and to clarify some statements. There is no change to the policies involved.

The following amendment is proposed under the authority of the Human Resources Code, Title II.

.400. Contract Provisions. The *Texas* [State] Department of *Human Resources* [Public Welfare] may enter into contracts with Intermediate Care II facilities, Intermediate Care III facilities, or skilled nursing facilities for *medical* [custodial] care of *Title XIX recipients* under the Texas Medical Assistance Program. Any such contract shall meet the following criteria:

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

(6) The contract must be signed by the commissioner of the Department of *Human Resources* [Public Welfare] and by an authorized representative of the facility.

Doc. No. 803521

326.46.99.600

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, Long Building, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The department proposes to repeal its rule on information needed to process an inquiry on a Title XIX claim. This procedural material is adequately covered in the National Heritage Insurance Company Medicaid Providers Procedures Manual and does not properly belong in agency rules.

The repeal of the following rule is proposed under the authority of the Human Resources Code, Title II.

.600. Information Needed To Process an Inquiry on a Title XIX Claim.

Doc. No. 803522

Intake and Eligibility

The Department of Human Resources proposes new rules and repeals of its rules regarding case management roles for its Alternate Care For Aged, Blind, and Disabled Adults Program, its Work Incentive Program (separate administrative unit), and DHR-Vocational Rehabilitation staff. These rule changes reflect clarification of federal policy regarding income considered for Title XX eligibility and reinstatement policies regarding family planning services. The repeal of certain rules and their concurrent proposal with new rule numbers does not represent new policy. These changes are being made at this time to comply with *Register* format requirements.

The department has determined that the proposed rule changes will have no fiscal implications for the state or for units of local government in that they clarify certain items which have recently received federal interpretation. In addition, the case management changes in WIN-DHR-VR represent only changes in paper flow.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—005, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

Eligibility 326.52.22.003-.010, .012-.016, .018, .022-.024

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, Long Building, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The following rules are repealed under the authority of Title 2 of the Human Resources Code.

- .003. *Rights and Responsibilities of Individuals Applying for Services.*
- .004. *Initial Determination of Eligibility for Information and Referral Services.*
- .005. *Initial Determination of Eligibility for Protective Services.*
- .006. *Authorization.*
- .007. *Redetermination.*
- .008. *Determination of Eligibility for AFDC, SSI, or Income-Eligible Individuals.*
- .009. *Application for Social Services.*
- .010. *Eligibility Verification for AFDC and SSI Recipients.*
- .012. *Eligibility Verification for Income-Eligible Individuals.*
- .013. *Definition of a Family.*
- .014. *Determination of Monthly Gross Income.*
- .015. *Redetermination of Eligibility.*
- .016. *Notification of Eligibility Status.*
- .018. *Limitations on Services to Eligible Individuals.*
- .022. *Eligibility for Social Services.*
- .023. *Individuals Eligible for Social Services.*
- .024. *Continuation of Eligibility for Social Services.*

Doc. No. 803523

326.52.22.025-.046

The following rules are proposed under the authority of Title 2 of the Human Resources Code.

.025. *Eligibility for Social Services Provided under Title XX.* Social services allowable under Title XX of the federal Social Security Act and included in the Comprehensive Annual Services Program Plan for Texas (CASPP) are available to individuals provided that:

- (1) the individual who receives the service is a member of one of the categories covered by the CASPP for that service; or
- (2) the individual who receives the service is eligible under the refugee assistance program; and
- (3) such individual is determined to be eligible under the provisions of this section at the time of receipt of the service.

.026. *Individuals Eligible for Social Services.*

(a) Individuals eligible by income maintenance status. The following individuals are eligible for social services on the basis of their income maintenance status:

- (1) a recipient of AFDC;
- (2) a recipient of SSI benefits;
- (3) an individual who is a participant in the Refugee Assistance Program.

(b) Individuals eligible by income status. An individual is eligible for social services if the individual's family monthly gross income is equal to or less than a prescribed percentage of the state's median income for a family of four adjusted for family size. The prescribed percentage is published annually in the CASPP. Individuals who meet these guidelines are referred to as income eligibles or as MAO income eligibles.

(c) Individuals eligible without regard to income. All individuals who need information and referral services or protective services for children or adults may receive such services without regard to income.

.027. *Limitations on Services to Eligible Individuals.*

(a) An individual's eligibility for social services is not a guarantee that a particular requested service will be received by that individual. Delivery of some social services is limited by the extent to which funds or service delivery resources are available.

(b) Because of these limitations, some specific services are provided to eligible persons according to established priorities based on the categories of persons needing services and the purposes to be achieved by the services. The priorities established for particular services are listed in the individual service sections in this handbook and are published yearly in the CASPP.

.028. *Application for Social Services.*

(a) Each individual wishing to apply for social services is assured the opportunity to do so without delay. An application may be made directly to the department or to an agency providing social services funded under Title XX through contract with the department.

(b) Contract provider agencies or department staff may not place individuals on waiting lists to make application. Contract provider agencies or department staff may assist individuals who ask for help in determining whether they should apply but must tell them of their right to apply regardless of the contract provider agencies' or department's advice.

(c) In the Alternate Care for Aged, Blind, and Disabled Adults (ACABD) Program, when a request for ACABD services is received by a contract provider agency, the agency must refer the applicant to the local DHR office for further intake steps, including eligibility determination. However, at the discretion of DHR regional staff, procedures such as eligibility determination for out-of-home services may be performed by a contract agency for a limited period of time on a contract-by-contract basis. This exception may be justified where DHR staff time is limited, and will not be allowed beyond the date of conversion to family care service contracts. Other state agencies, such as TDMH/MR, TRC, and TCB, are not covered by this provision and they must determine the eligibility of the individuals served.

(d) In the Department of Human Resources-Vocational Rehabilitation Program (DHR-VR) and in the Work Incentive Program (WIN), establishing initial eligibility for day care services for DHR-VR or WIN participants is the responsibility of the DHR-VR or WIN staffs. Application for these services must always be made to a DHR-VR or WIN worker.

(e) For clients receiving mental health services purchased through interagency agreements, eligibility determination will be performed by the provider and/or department staff as specified in the contract.

.029. Rights and Responsibilities of Individuals Applying for Services. At the time of application for services, staff of the department or the contract provider agency shall inform applicants of eligibility requirements and their rights and obligations under the program. Applicants shall be informed of the following.

(1) **Right to fair hearing.** Applicants for or recipients of services or individuals acting on behalf of applicants or recipients may appeal denial, reduction, or termination of services, or failure to act upon requests for services with reasonable promptness. The individual shall be informed of the procedure for requesting fair hearings.

(2) **Nondiscrimination.** There shall be no discrimination on the basis of race, color, national origin, or handicap in regard to receiving social services.

(3) **Provision of information.** Applicants for or recipients of services or individuals acting on their behalf are obligated to provide all information necessary to establish eligibility. The individual providing information shall be informed that falsification of such information may be subject to penalty for theft or welfare fraud.

(4) **Reporting changes.** Applicants for or recipients of services are obligated to report promptly any changes in income or size of family, loss of assistance grant or Medicaid benefits, or any other changes in circumstances which may affect eligibility for social services. Failure to report changes which result in the continuation of services for which the individual is no longer eligible may constitute fraud.

(5) **Confidential nature of client information.** Information collected in determining initial or continuing eligibility for services, whether collected by department staff or contract provider agencies, is considered confidential.

(6) **Citizenship and residency.** An individual who resides in Texas may qualify to receive services regardless of citizenship or duration of residency.

(7) **Freedom to reject services.** An individual is free to reject offers of services except protective services for children. Rejection of certain services required for mandatory participants in the Work Incentive Program may result in a reduction in the amount of the individual's AFDC grant.

.030. Documentation of Application for Social Services.

(a) No written application is necessary for an individual requesting or in need of information and referral services or protective services for children or adults.

(b) Request for DHR-VR and WIN day care shall be made on the Application and Eligibility Certification for Social Services form. The form will be completed by the DHR-VR or WIN worker and the applicant and mailed to the contract agency at the time day care services are arranged for the participant's child.

(c) Request for all other services shall be made by a written signed application on the Application and Eligibility Certification for Social Services form. This form must be completed in a face-to-face interview with the applicant. The form may not be completed by the applicant and returned to the department or the contract provider agency.

(d) In the ACABD Program, the department is responsible for the determination, notification, and redetermination of eligibility.

(e) When application is made for family planning services, only the applicant may sign the application form. Minors applying for family planning services must sign the form and under no circumstances may parental consent be required. For all other services, the application may be signed by the applicant or recipient of services, an authorized representative or, when the applicant/recipient is incompetent or incapacitated, someone acting responsibly for the applicant/recipient. In emergency situations, except for family planning services, the application may be signed by a department or contract provider agency staff member since the application for services must always be signed prior to receipt of services.

(f) An authorized representative is anyone whom the applicant/recipient designates, either verbally or in writing. A person acting responsibly for an incompetent or incapacitated applicant/recipient may be anyone interested in the well-being of the individual. For children in the conservatorship of the department, the child's department worker may routinely sign the application form except when application is for family planning services.

.031. Signing and Retention of Application.

(a) The Application and Eligibility Certification form must be signed and dated by the applicant/recipient, an authorized representative, or a responsible person before services can be delivered. Refusal of the applicant/recipient or a representative to sign this form shall result in denial of Title XX services. The date the applicant/recipient signs the form is the date of application.

(b) Each application and Eligibility Certification for Social Service form must be retained by the department or the contract provider agency for at least three years following completion of the period of service delivery covered by this form.

.032. Prompt Decision on Application. A decision shall be made on all applications within 30 calendar days following the date on which the application is signed. Services should not be provided prior to the date on which eligibility is certified unless a signed and dated application has been received for the individual and it is reasonably certain that the individual will be determined to have been eligible when services were initiated. If a contract provider agency initiates service delivery prior to eligibility certification, the department will pay only for those services to persons subsequently found to have been eligible when services were initiated and only if such determination is made within 30 calendar days after application is made. The department will not pay contract provider agencies for services delivered prior to the application date. If an eligibility certification is made more than 30 days after completion of the signed application, no reimbursement will be made for purchased services provided prior to the date of eligibility certification.

.033. Notification of Eligibility Status.

(a) Applicants or recipients shall be notified of their eligibility status within 15 calendar days after the department or contract provider agency makes a decision.

(b) Individuals found to be eligible may be notified orally and the date of notification shall be documented. Applicants who are found to be ineligible or recipients who become ineligible at the time of redetermination must be notified in writing on the Notification of Denial, Reduction, or Termination of Social Services form. Applicants or reci-

ipients who are determined to be eligible for Title XX services but who will not be provided services for reasons other than eligibility must be notified. If the requested services will be provided through a funding source other than Title XX to an individual by the same contract provider agency to which the individual made application or from which the individual has received that service, written notification is not necessary. The date the notice is mailed to the applicant or recipient must be documented.

(c) Arrangements should be made with the applicant or recipient as to how to provide information about his or her eligibility status. In the case of individuals found to be ineligible, the Notification of Denial, Reduction, or Termination of Social Services form should be given to the individual in person if possible, but in no case may the department or the contract provider agency send this form or other information about service eligibility to any address without the prior approval of the applicant or recipient.

.034. Initial Determination of Eligibility for Services Delivered without Regard to Income.

(a) In making a determination of eligibility for information and referral services without regard to income, no documentation of the individual's need for services is required prior to service delivery.

(b) For protective services to children delivered directly by department staff (including services delivered through an individual provider agreement), and for services provided to children's protective services clients without regard to income through contract provider agencies, the need for protection is initially documented by department staff at intake. This constitutes certification of eligibility. For youth in need of services for juveniles or services to unmarried or school-age parents provided by contract provider agencies, eligibility will be certified by use of an appropriate form. The contract provider agency staff will complete the form. For services delivered without regard to income through interagency agreements with state agencies, specialized forms may be used to certify eligibility by staff of that state agency.

(c) For all adult protective services, eligibility will be initially certified on the Eligibility for Services without Regard to Income form or on other appropriate documents whether the applicant/recipient is to receive services directly from the department or through a contract provider agency. Specialized forms may be used by the contract provider agency staff to certify eligibility without regard to income when services are provided through interagency agreements with state agencies.

.035. Authorization. For a child protective services client whose need for protective services has been documented by department staff, authorization for contract services without regard to income must be made on the Eligibility for Services without Regard to Income form. This form is completed by the child protective services worker who gives the form to the contract provider agency. Services without regard to income delivered to child protective services clients by contract provider agencies may not be initiated prior to receipt of this authorization. Reauthorization by completion of a new form must take place at intervals appropriate for the particular service authorized if services are to continue.

.036. Redetermination.

(a) For children receiving protective services without regard to income directly from the department or through an individual provider agreement, eligibility must be redetermined every six months. Case dictation is completed monthly and should state the continued purpose and need for protective services. When these recording policies are met, determination of eligibility is thereby automatically met and does not have to be separately documented each six months.

(b) Eligibility for services to juveniles or services to unmarried or school-age parents delivered by a contract provider agency will be recertified on a six-month basis by contract provider agency staff.

(c) For adult protective services, the direct delivery staff redetermines eligibility on a six-month basis.

(d) Six-month redetermination may be certified on a specialized form for children or adult clients receiving services without regard to income through an interagency agreement with state agencies.

.037. Determination of Eligibility for Income Maintenance or Income-Eligible Individuals.

(a) For services other than information and referral services or protective services for children or adults, the determination of eligibility requires a decision based on a dated and signed application containing sufficient information to lead a reasonable person to conclude that the applicant or recipient is eligible for social services.

(b) Such eligibility determination shall be made by department social services staff for individuals receiving Title XX services directly from the department (including services delivered under individual provider agreement), for individuals receiving ACABD services from a contract provider agency, and for DHR-VR or WIN participants receiving day care services from a contract provider agency or under an individual provider agreement. Contract provider agency staff determine eligibility for all individuals receiving services, other than ACABD or DHR-VR or WIN day care, purchased by the department under a purchase of services contract. When an individual is receiving services from both the department and one or more contract provider agencies (other than ACABD or DHR-VR or WIN day care), the eligibility determination must be made individually by the department and each agency.

(c) For clients receiving mental health services purchased through interagency agreements, eligibility determination will be performed by the provider and/or department staff as specified in the contract.

.038. Eligibility Verification for Income Maintenance Individuals.

(a) When the correct public assistance status of the applicant has been verified, social services eligibility may be certified on this basis. The correct status for current recipients of AFDC or SSI or participants in the Refugee Assistance Program must be verified through one of the following procedures:

(1) viewing a current medical care identification card, with the appropriate type program codes for AFDC or SSI recipients or participants in the Refugee Assistance Program or the Medicaid verification letter;

(2) checking the individual's status on the department's telecommunication terminals for the appropriate type program codes for AFDC or SSI recipients;

(3) viewing the individual's assistance check;

(4) through a telephone conversation or conference with a Social Security Administration representative or department financial services representative, or, for participants in the Refugee Assistance Program, a Refugee Assistance Program representative in State Office;

(5) through a SSI Referral form, Case Information form, or information in the AFDC case folder;

(6) through computer tape matches, for specified agencies.

(b) Contract provider agencies are to see a current medical care identification card as proof of eligibility for current recipients. Some applicants know or believe themselves to be current recipients, but, for various reasons cannot produce a current medical care identification card. Department terminal inquiry capabilities are made available to contract provider agencies in these instances. Contract provider agencies who must call a department terminal by long distance will bear the expense of the long distance call to the nearest terminal.

(c) The information items which may be used to make an inquiry are:

- (1) client name;
- (2) category-case number or individual client number;
- (3) social security number;
- (4) birth date and sex;
- (5) county code.

(d) The contract provider agency should provide the terminal operator with as much of this information as is known by the applicant. Terminal operators may give out the above information (except social security numbers) to contract provider agency staff. They may also supply the individual's category and type program codes and dates for certification and denial of grant and Medicaid eligibility.

(e) Each contract provider agency has a unique identifying number. The person calling on behalf of the contract provider agency is expected to provide this number on request. A list of names of authorized staff in each contract provider agency is provided to the data transmission specialist. Persons calling must identify themselves by name. Program directors for purchased social services, with the aid of contract managers, will be expected to keep these lists up to date at all times for the data transmission specialists and the contract provider agencies.

(f) For contract provider agencies within local call distance of a terminal, a written list of possible current recipients may be taken by an authorized contract provider agency staff member to the terminal operators for processing.

.039. Eligibility Verification for Income-Eligible Individuals.

(a) When social services are requested by individuals on the basis of having a gross monthly income equal to or less than the prescribed percentage of the state's median income as adjusted for family size, eligibility is based upon the number of family members and their income.

(b) Income eligibility is certified based on information provided by the applicant regarding family size and monthly gross income. The applicant signs and dates the application with the understanding of the penalties for fraud which may ensue if misinformation is deliberately provided. Nevertheless, prudent judgment must be exercised in certification of eligibility based on applicant-provided information. If such information is inconsistent or contradictory or in conflict

with facts already known by the staff certifying eligibility, documentation of the applicant's income may be sought. At the discretion of the contract provider agency, documentation may be routinely requested on all applicants being certified in the contract provider agency. Documentation may include viewing proof of the applicant's income including but not limited to check stubs, award letters, and bank statements. With the applicant's permission, collateral contacts may also be employed to document information given by the applicant.

(c) When, in determining eligibility, the contract provider agency deems it necessary to contact outside sources to verify information given by the applicant, the applicant must be informed of the right to request that such contacts be made by the department. The contract provider agency will send such requests to the regional program director for purchased social services and upon notification of such requests, the department will make the outside contacts and relay the information to the contract provider agency.

(d) If it is deemed necessary by department or contract provider agency staff to seek a collateral contact and the applicant/recipient refuses to sign a Collateral Contact Authorization form, services must be denied since the applicant/recipient has not given all information necessary to make an eligibility determination.

(e) In completing the Application and Eligibility Certification for Social Services form, every effort should be made to secure the name of each family group member. However, due to the sensitive nature of some services (services to alcoholics, drug abusers, recipients of family planning services), if the applicant/recipient does not wish to reveal the names of other family members, only the applicant/recipient's name need appear on the form. In such instances, relationship and birthdate (may be approximate) must be shown on the form in order to establish the number of persons in the family and the family configuration.

(f) There may be situations in which a minor applicant/recipient for family planning services does not know the exact amount or source of family income and does not have access to documentation. In order to protect the applicant/recipient's right to confidentiality, staff of the contract provider agency or the department may help the minor estimate the amount of income. Discretion must be exercised in applying this policy and it must not be interpreted as an intention to serve applicants/recipients without regard to income. Such factors as the resident address, family members' occupations, and prevailing community wages should be considered in arriving at the estimated income. The "Additional Information" section of the Application and Eligibility Certification for Social Services form must contain a clear statement that the income is an estimate and is consistent with all known facts.

(g) Contract provider agencies will not be held responsible if it is discovered that the applicant/recipient has falsified eligibility information, if the contract provider agency has exercised appropriate discretion in the certification and has promptly notified the regional program director for purchased social services when incongruities regarding applicant-supplied information are discovered. Appropriate discretion has been exercised if the contract provider agency has carefully conducted the eligibility interview, adequately explained and elicited all information on family size and income, and when inconsistencies arise, has probed further and required documentation.

(h) In order to certify medical assistance only (MAO) income-eligible individuals, MAO status must be verified and a determination of income and family size must be made. MAO status is verified by one of the following methods:

- (1) viewing a current medical care identification card, with the appropriate type program codes;
- (2) checking the applicant's status on the department's telecommunication terminals for the appropriate type program codes or checking with a Refugee Assistance Program representative for participation in the Refugee Assistance Program;
- (3) computer tape matches, for specified agencies.

.040. Definition of a Family.

(a) The following persons shall be included when making a determination of the family size of a potential income-eligible individual (in every instance include only those persons actually residing in the same household):

- (1) an adult and spouse, if married (including by common law);
- (2) any natural or adopted minor children of the adult or of either one of the adults if a married couple;
- (3) if the potential income-eligible individual is a minor child and both natural parents of the child reside in the same household, both parents must be included when determining family size whether or not they are married;
- (4) any other minor for whom the adult or couple is legally responsible;
- (5) if a minor described in (2), (3), or (4) above is a parent, also include his or her child.

(b) If a minor is living with a nonlegally responsible person or is an emancipated minor, he or she is considered as a one-person family. Where adults, other than an adult and spouse, reside together, each is considered separately. The married couple residing together may never be considered as separate individuals. Minor siblings residing together may never be considered as separate individuals.

(c) For the purposes of determining family size, the following definitions shall apply.

(1) **Minor.** A person who has not reached his 18th birthday, who has not had the disabilities of minority removed in a court, and who is not or never has been married.

(2) **Adult.** A person who does not fit the description of minor given above. An emancipated minor (a person under 18 years of age who has had the disabilities of minority removed by a court or who is or has been married) is an adult.

(3) **Legally responsible person.** A parent or another person who has been given the legal responsibility of a minor in a court. Stepparents, grandparents, adult siblings, or aunts and uncles are not legally responsible for minor relatives unless so designated by a court.

(4) **Common-law marriage.** A couple who has made a declaration of their marriage under Section 1.92 of the Texas Family Code, on a form prescribed by the Bureau of Vital Statistics, or had agreed to be married, and after the agreement, lived together as husband and wife and represented to others that they were married. Agreement to be married may be inferred from the fact that the couple lived together as husband and wife and represented to others that they were married.

(5) **Residing in the same household.** A person who meets the other definitions of a family group member is considered as residing in the same household if all of the following conditions exist.

(A) The absence is of a temporary nature (not to exceed six months).

(B) The family group members still consider the household to be the principal domicile of the absent member.

(C) The absent member continues to exercise customary familial responsibilities. For example, the parent does not relinquish residence in the household if his absence does not prevent his functioning as a provider of maintenance, physical care, or guidance for the child, and his absence does not preclude the performance of his function of planning for the present support or care of the child.

(d) At the time of application, if in the opinion of the applicant a family group member has been or will be absent from the household for a period of time to exceed six calendar months, then he will not be considered as a part of the family group.

.041. Determination of Monthly Gross Income.

(a) For persons making application as income-eligible individuals (including MAO income eligibles), monthly gross income must be determined. Monthly gross income means the monthly sum of all income received by an individual from the following sources that are identified by the U.S. Census Bureau in computing the state's median income.

(1) Money, wages, or salary include total money earnings received for work performed as an employee. Armed forces pay includes base pay plus cash housing and/or subsistence allowances, but does not include the value of rent-free quarters.

(2) Net income from nonfarm self-employment.

(3) Net income from farm self-employment. The value of fuel, food, or other farm products used for family living is not included as a part of net income. For both nonfarm and farm self-employment, any deficit income must be treated as a negative number and must be included when computing the sum of all applicable income sources. In computing the family's monthly gross income, the sum of the deficit income plus the money, wages, or salary from employment plus any other applicable sources of income must be computed. The most recent IRS tax filing form must be used as documentation for deficit income.

(4) Social security benefit includes social security pensions and survivors' benefits and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance and railroad retirement insurance checks from the U.S. Government.

(5) Dividends and interest.

(6) Public assistance or welfare payments.

(7) Pensions and annuities.

(8) Unemployment compensation.

(9) Worker's compensation.

(10) Alimony.

(11) Child support.

(12) Veteran's pensions.

(13) Educational loans and grants. Only that part actually used for current living costs is included. Include any maintenance or allowance used for current living costs provided by parents to a legal dependent over 18 who is a student.

(b) Income excluded from computation of the monthly gross income is as follows:

(1) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the court of claims;

(2) payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the act;

(3) money received from the sale of property, such as stocks, bonds, a house, or a car unless the person is engaged in the business of selling such property in which case the net proceeds would be counted as income from self-employment;

(4) withdrawals of bank deposits;

(5) money borrowed;

(6) tax refunds;

(7) gifts;

(8) lump sum inheritances or insurance payments;

(9) capital gains (profits from the sale of capital resources);

(10) the value of the coupon allotment under the Food Stamp Act of 1964, as amended;

(11) the value of USDA-donated foods;

(12) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;

(13) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(14) earnings of a child under 14 years of age (no inquiry shall be made);

(15) loans and grants such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(16) any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the commissioner of education under the Higher Education Act;

(17) home produce used for household consumption;

(18) payments to VISTA volunteers pursuant to Section 404(g) of the Domestic Assistance Act of 1973;

(19) earnings received by any youth under the "Youth Employment Demonstration Program" of the Comprehensive Employment and Training Act of 1973 (CETA);

(20) any payments to vendors by the state including foster care payments; however, if the vendor is related to the service recipient and resides in the same household, the amount of payment will be taken into consideration to determine the family's gross monthly income;

(21) payments made to an institution by a relative of a recipient or other person for the costs of institutionalization of that recipient are not considered as components of monthly gross income for that recipient;

(22) for Refugee Assistance Program participants, the income and resources of sponsors and the in-kind services and shelter they may provide are excluded.

(c) When income is received more frequently than monthly, such income should be computed in the following manner for determination of gross monthly income:

(1) weekly income—multiply by 4.33;

(2) bi-weekly income—divide by two and multiply by 4.33;

(3) twice monthly income—multiply by two.

(d) Income received less often than once a month may be averaged by dividing the total number of months covered by the income into the total amount of money received. Income averaging may be applied to income which should be received on a monthly basis, but which is received less often. In the case of sporadic child support, a referral should be

made to the Child Support Enforcement Branch except for refugee assistance cases. Staff determining eligibility will use prudent judgment in determining the number of months over which sporadic income should be averaged. In the case of seasonal employment such as agricultural or construction work, or in cases where income may fluctuate due to irregular but frequent overtime, it may be necessary to average employment income over a 12-month period.

(e) When a seasonal earned income results from a combination of seasonal jobs that occur at different time periods, the earned income from all sources is averaged on a 12-month basis.

(f) When an individual terminates regular employment to pursue seasonal employment and subsequently returns to his regular job, the income from the combined sources is averaged over 12 months.

.042. Redetermination of Eligibility for Income Maintenance and Income-Eligible Individuals. Except for situations covered below, redetermination of eligible for income maintenance and income-eligible individuals is made by staff of the department or a contract provider agency in compliance with the following.

(1) At any time the department or a contract provider agency receives information about changes in an individual's circumstances that may make the individual ineligible or eligible under another category, redetermination must be made within 30-day period following receipt of such information. Contract provider agencies are not held responsible for unreported changes.

(2) Periodically, but not less frequently than every 12 months for individuals whose family gross monthly income at the time of the previous determination was derived exclusively from pensions, or social security benefits, or SSI, or a combination thereof.

(3) Periodically, but not less frequently than every six months for all individuals not subject to the circumstances described in (1) or (2) above.

.043. Definition of Redetermination. The steps and procedures required for a redetermination are exactly the same as those for an initial determination, except that the provision for a 30-day period between the date of application and the date of certification of eligibility or ineligibility does not apply. Both the application and certification operations must be completed before prescribed time limits.

.044. Redetermination of Eligibility for Registered Income Maintenance Recipients.

(a) If a current recipient is registered in the Social Services Management System through the use of a Client Registration form, continued documentation of eligibility is accomplished automatically by computer. A computer printout is sent to the appropriate department staff or contract provider agency or both indicating those current recipients of service who continue to be eligible. As long as the printout indicates continuing eligibility, no new Application and Eligibility for Social Services form is required.

(b) If a denied income maintenance recipient desires continued services as an income-eligible individual (including MAO income eligible), an eligibility determination must be made on the basis of a new, signed Application and Eligibility for Social Services form.

.045. Redetermination of Eligibility for Income-Eligible Individuals.

(a) For department direct delivery or contract provider agency services, the redetermination of eligibility for income-eligible individuals is done on the basis of a new, signed Application and Eligibility Certification for Social Services form at least every six or 12 months or more frequently if there are reported changes in the individual's circumstances that may make the individual ineligible for social services.

(b) A computer printout notifies department or contract provider agency staff of termination of medical assistance only benefits. At that time, the person must be redetermined eligible on the basis of income-eligible status only. The computer will automatically update eligibility status on the SSMS computer files for income-eligible individuals who become current recipients, and a notice of the change will be sent to appropriate staff. In such instances, a new application form must be completed.

.046. Continuation of Social Services. An individual determined to be eligible for Title XX services may continue to receive services until such time as one of the following situations occurs.

(1) When an individual properly determined to be eligible on the basis of information available to the department or a contract provider agency at the time of determination of eligibility is subsequently found ineligible, services may be continued until the end of the month in which the individual is determined ineligible.

(2) At the time of a decision to deny, reduce, or terminate services, the recipient must be notified 10 days in advance of action being taken on the decision via the Notification of Denial, Reduction, or Termination of Social Services form. No denial, reduction, or termination of services may occur during this 10-day notification period unless the recipient has waived, in writing, access to continued services.

(3) If during the 10-day notification period, the recipient expresses a desire for a fair hearing, no denial, reduction, or termination of services may occur until a decision is rendered at the fair hearing. The cost of providing services during that period is subject to recovery; however, the decision to seek recovery may be made only by the department. Recovery will be sought only in situations involving deliberate withholding of information on the part of the service recipient and only when there have been payments for services made to a contract provider agency or under an individual provider agreement. Contract provider agencies or individual providers may not initiate recovery procedures against a recipient of services.

Doc. No. 803524

Legal Services

Contract Appeals 326.79.17

The Department of Human Resources proposes Rules 326.79.17.002-.014 about administrative hearings for contractors in its legal services rules. The appeal procedures outlined in the proposed rules apply to contractors who have a contract which provides that the contracting parties are the contractor and the Texas Department of Human Resources. These appeal procedures do not apply to contracts that expire by their own terms, except as proved in Rule .003. Individual providers of social services do not have a right of appeal under these rules.

The appeal procedures as outlined in these rules are available when the department initiates or directs the cancellation or termination of a contract or payments to providers of medical services who are paid by the department's health-insuring agent, and subcontractors operating under a prime contract between the department and a contractor.

The department has determined that the state cost of implementing the proposed rules, as appropriated by the 66th Legislature will be approximately \$31.25 for fiscal year 1980. Budget recommendations for fiscal years 1981-84 are \$150.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—265, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

The following rules are proposed under the authority of the Human Resources Code, Title II.

.002. Preliminary Matters.

(a) These appeal procedures apply to contractors who have a contract which provides that the contracting parties are the contractor and the department.

(b) These appeal procedures do not apply to contracts that expire by their own terms, except as provided in Rule .003 with regard to nursing facilities.

(c) Individual providers of social services do not have a right of appeal under these rules.

(d) The appeal procedures are available when the department initiates or directs the cancellation or termination of a contract or payments to:

(1) providers of medical services who are paid by the department's health-insuring agent; and

(2) subcontractors operating under a prime contract between the department and a contractor.

(e) Department administrative staff and regional administrators have the responsibility for:

(1) making reasonable attempts to keep contractors informed of compliance issues;

(2) resolving, whenever possible, compliance issues before adverse action is necessary; and

(3) attempting to settle audit problems with the contractor even after adverse action occurs.

.003. Right to Appeal. A contractor has the right to appeal any action of the Texas Department of Human Resources which:

(1) cancels any contract;

(2) denies or suspends payments for any claim arising under a contract;

(3) requires the repayment or settlement of audit exceptions arising under a contract; or

(4) constitutes nonrenewal of a nursing facility contract.

.004. Definitions.

(a) Adverse action is any action in which:

(1) a contract between a person and the department has been cancelled by the department; or

(2) payment for any claim(s) accruing under a contract between a person and the department has been denied or suspended in whole or in part; or

(3) the department makes a request for reimbursement for settlement of audit exceptions accruing under a contract; or

(4) the department directs that one of its contractors terminate a subcontract with or without payments to any subcontractor or provider of medical services; or

(5) the department chooses not to renew a nursing facility contract.

(b) An appellant is any person who has filed a written appeal of adverse action.

(c) An appellee is the individual who made the initial decision to take the adverse action which is the subject of an appeal.

(d) The commissioner is the commissioner of the Texas Department of Human Resources.

(e) A contract is any written document (or series of documents) which obligates the department to pay to a person in exchange for goods or services from that person, or which obligates the department to provide goods or services to a person in exchange for money. Contract does not mean any agreement with an individual provider of social services.

(f) A contractor is any person with whom the department has a contract, except an individual provider of social services.

(g) A person in this context means an individual, partnership, corporation, association, governmental subdivision or agency, or a public or private organization of any character.

.005. Notice of Adverse Action.

(a) The commissioner or designee is authorized to make decisions concerning adverse action.

(b) The commissioner or his designee will send the contractor a letter notifying him or her of any adverse action. The letter will be sent by certified mail, return receipt requested. The letter must include the details of the contractor's noncompliance with the provisions of the contract or other basis for the action. If previous efforts to obtain contract compliance have been made, these should be summarized in the letter. The letter must also inform the contractor that he or she has the right to appeal the adverse action within 10 days after the receipt of the notice of the adverse action by sending a written notice to the chief counsel, Legal Division. Letters notifying contractors of contract cancellations must specify whether the contract will remain in force pending completion of the appeal process, if an appeal is requested.

(c) If the department is unable to state the matters in detail at the time the initial notice of adverse action is served, the initial notice may be limited to a statement of the issues involved. Later, and with a timely written application from the appellant, a more definite and detailed statement must be furnished by the department's legal representative to the appellant not less than three days prior to the date set for the hearing.

.006. Request for Appeal.

(a) A contractor may appeal an adverse action by filing a written request within 10 days after receipt of the official notice of the action from the department. The request for an appeal hearing must be addressed to the chief counsel, Legal Division. The request for the hearing may be in the form of a formal petition or a letter setting forth the reasons why the contractor considers he or she was not in violation of the contract provisions as alleged by the department.

(b) If the contractor files a written request for a hearing which is postmarked within the 10-day period, the matter will be referred to the Contract Appeals Committee for a hearing to be set.

.007. Effective Dates of Contract Cancellations.

(a) When the department proposes to cancel a Title XIX contract with a provider of medical assistance and the contractor has asked for a hearing, the department may not carry out its proposed action before the completion of a hearing. This is true except when federal matching funds for continued contract payments are no longer available or when the contract expires by its own terms. If a nursing facility contract is to be denied, terminated, or not renewed before a requested hearing is completed, a designee of the deputy commissioner for medical programs must offer the facility an informal reconsideration of the action before the effective date of the action and attempt to resolve the dispute. Payment may be withheld pending the hearing, but must be reinstated retroactively if the hearing decision is favorable to the contractor.

(b) Contracts with contractors other than Title XIX providers may be cancelled prior to the completion of the hearing process as indicated in Rule .005, Notice of Adverse Action.

.008. Contract Appeals Committee

(a) A Contract Appeals Committee has been established to hear appeals by contractors. It is composed of:

(1) A chairman without vote. This is to be the chief counsel of the department or his or her designee.

(2) The deputy commissioner for financial and social programs or his or her designee with one vote.

(3) The deputy commissioner for medical administration or his or her designee with one vote.

(4) The deputy commissioner for management or his or her designee with one vote.

(b) All three voting members of the committee, or their designees, are required for a quorum. A majority vote is required to make a finding, conclusion, or determination.

(c) A member of the committee or a designee sitting in a particular case will not later review any decision actually made by himself or herself. Neither will a designee review a decision made by his or her immediate supervisor.

.009. Hearing Guidelines.

(a) Preparation for the hearing. State Office Legal Division will designate a staff attorney or an attorney from the region to represent the department. The designated attorney has authority over the manner and substance of the presentation.

(b) Notice of hearing. Within 30 days after the department's receipt of an appellant's request for a hearing, the chairman of the committee will select a date for a hearing. The appellant must be notified of the hearing date set, at least 10 days before the date of the hearing.

(c) Written notice. The chairman must provide the appellant with a written notice which includes:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) a concise statement of the matters asserted by the department.

(d) **Representation for appellant.** Any appellant may appear and be represented by an attorney at law authorized to practice law before the highest court of any state. The appellant may appear on his or her own behalf or appearance may be made by a bona fide employee. If the appellant is a corporation or an association, appearance may be made by an officer, board member, or bona fide employee of such appellant upon presentation of written authority.

.010. Withdrawal of Hearing Request and Informal Disposition.

(a) At any time prior to the conclusion of the hearing, the appellant may submit written notification to the department of withdrawal of the hearing request.

(b) Informal disposition may be made of any case by written stipulation, agreed settlement, consent order, or default.

(c) Department employees who are not the members of the committee or a designee may confer with any person dissatisfied with a department decision affecting a contract.

(d) On motion of the appellant, the department, or on his or her own motion, the chairman may direct the parties and their attorneys or representatives to appear before the chairman at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

(1) the possibility of making admissions of certain averments of facts or stipulations to avoid the unnecessary introduction of proof;

(2) the simplification of issues;

(3) the procedure at the hearing;

(4) the limitation, when possible, of the number of witnesses; and

(5) such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy, including settlement of such issues as are in dispute.

.011. General Requirements for Hearings. The chairman of the committee is in charge of proceedings. The chairman has authority to administer oaths, examine witnesses, and to rule on admissibility of evidence and amendments to pleadings. He or she also may establish reasonable time limits for conducting individual hearings, request additional information, and issue intermediate orders.

(1) Opportunity must be given to all parties to respond to and present evidence and argument on all issues involved.

(2) The appellant and the department will have an opportunity to call any witnesses or representatives desired.

(3) If the appellant does not appear for the hearing, a default decision may be entered.

(4) Postponement or continuance of hearings may be granted by the chairman for just cause.

(5) A record must be made of the proceedings. The record in the case includes:

(A) all pleadings, motions, and intermediate rulings;

(B) evidence received or considered;

(C) a statement of matters officially noticed;

(D) questions and offers of proof, and objections

and rulings on them;

(E) proposed findings and exceptions;

(F) any decision, opinion, or report by the committee; and

(G) all staff memoranda or data submitted to or considered by the committee in making its decision.

(6) A tape recording or stenographic record of the hearing must be made. The proceedings, or any part of them, must be transcribed on written request of any party. The department may assess the cost of transcribing the record to those parties requesting the transcript.

(7) The parties to the hearing may conduct cross-examinations required for a full and true disclosure of the facts.

(8) Unless required for the disposition of ex parte matters authorized by law or as otherwise authorized under Texas Revised Civil Statutes, Article 6252-13a, the Administrative Procedure and Texas Register Act, members or employees of the department assigned to render a decision or make findings of fact and conclusions of law concerning an adverse action appeal may not communicate, directly or indirectly, in connection with any issue of fact or law with any party or their representative, except on notice and opportunity for all parties to participate. A department member may communicate ex parte with other members of the department, and members or employees of the department assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with employees of the department who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the agency and its staff in evaluating the evidence.

(9) Records of the hearing will be kept in department files for four years after a final decision is rendered or until any subsequent litigation arising from the hearing has been resolved.

.012. Rules of Evidence.

(a) In hearings before the committee, irrelevant, immaterial, or unduly repetitious evidence will be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of the state must be followed. When necessary to determine facts not reasonably susceptible of proof under those rules, evidence not admissible under those rules may be admitted. This is true except when precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The rules of privilege recognized by law are in effect. Objections to evidentiary offers may be made and must be noted in the record. Subject to these requirements, any part of the evidence may be received in written form if a hearing will be expedited and the interests of the parties will not be substantially prejudiced.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. On request, parties can compare the copy with the original.

(c) Official notice may be taken of all facts judicially known. In addition, notice may be taken of generally recognized facts within the area of the department's specialized knowledge. Parties must be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data. Parties must be given an opportunity to contest the material so noticed. The special skills or knowledge of the department and its staff may be used in evaluating the evidence.

(d) On its own motion or on the written request of any party, on a showing of good cause, and on deposit of sums that will reasonable ensure payment of the amounts estimated to accrue under this rule, the department may issue a subpoena addressed to the sheriff or any constable to require the atten-

dance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purposes of the proceedings. Such subpoena must be issued by the commissioner of the Texas Department of Human Resources or designee.

(e) On its own motion or on the written request of any party, on a showing of good cause, and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under this rule, the department may issue a commission, addressed to the several officers authorized by statute to take depositions, to require that the deposition of a witness be taken. The commission authorizes the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects as may be necessary and proper for the purposes of the proceeding. The commission must be issued by the commissioner of the Texas Department of Human Resources or designee. The deposition of a member of an agency board may not be taken after a date has been set for hearing. The deposition will be taken in accordance with the requirements set out in Texas Revised Civil Statutes, Article 6252-13a, the Administrative Procedure and Texas Register Act.

(f) A deposition may be returned to the department either by mail, by a party interested in taking the deposition, or by any other person. If returned by mail, the department must endorse the deposition to show that it was received from the post office. The department employee receiving the deposition must sign it. If not sent by mail, the person delivering it to the department must make an affidavit before a representative of the department:

(1) that he or she received it from the hands of the officer before whom it was taken;

(2) that it has not been out of his or her possession since; and

(3) that it has undergone no alteration. After being filed with the department, a deposition may be opened by any department employee at the request of either party or his or her counsel. The employee must endorse the deposition by entering the date and who requested it be opened. The employee then signs the deposition. The deposition must remain on file with the department and may be inspected by any party.

(g) A witness or deponent who is not a party and who is subpoenaed or compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that are necessary for the proceeding is entitled to receive:

(1) Reimbursement for travel expenses in amounts generally applicable to state employees for traveling to and from the place of the hearing or the place where the deposition is taken. This is true if the place is more than 25 miles from the person's place of residence; and

(2) A fee in an amount equal to the rate of per diem generally applicable to state employees or \$10 a day, whichever is greater, for each day or part of a day the person must be present as a witness or deponent.

(h) If a person fails to comply with a subpoena or commission, the department, acting through the attorney general, or the party requesting the subpoena or commission may bring suit to enforce the subpoena or commission in a district court in Travis County.

(i) Inspection, measurement, or survey.

(1) Upon motion of any party showing good cause therefore and upon notice to all other parties, and subject to such limitations of the kind provided in Rule 186b of the Rules of Civil Procedure as the commissioner or designee may impose, the commissioner or designee may order any party:

(A) to produce and permit the inspection and copying or photographing by or on behalf of the moving party any of the following which are in his possession, custody, or control: any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain, or are reasonable calculated to lead to the discovery of, evidence material to any matter involved in the action; and

(B) to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon which may be material to any matter involved in the action.

(2) The order shall specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe such terms and conditions as are just.

(3) The identity and location of any potential party or witness may be obtained from any communication or other paper in the possession, custody, or control of a party, and any party may be required to produce and permit the inspection and copying of the reports, including factual observations and opinions, of an expert who will be called as a witness. Provided, that the rights herein granted shall not extend to other written statements of witnesses or other written communications passing between agents or representatives or the employees of any party to the suit or to other communications between any party and his agents, representatives, or other employees, where made subsequent to the occurrence or transaction upon which the suit is based, and made in connection with the prosecution, investigation, or defense of such claim or the circumstances out of which same has arisen.

(4) Any person, whether or not a party, shall be entitled to obtain, upon request, a copy of any statement he has previously made concerning the action or its subject matter and which is in the possession, custody, or control of any party. If the request is refused, the person may move for an agency order under this rule. For the purpose of this paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

.013. *Deliberation.* After all evidence has been heard, the committee adjourns the hearing to enter a closed session for deliberation. Within 60 days from the date of adjournment, the committee must make a final decision upon the appeal.

.014. *Decisions.*

(a) The final decision will be based solely upon the record of the individual case.

(b) The final decision will be in writing and will include the findings of fact and conclusions of law separately stated.

(c) Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(d) Findings of fact must be based exclusively on the evidence and on matters officially noticed. If a party submitted proposed findings of fact, the decision will include a ruling on each proposed finding.

(e) If the committee finds that the adverse action was not justified:

(1) in the case of a contract cancellation, it will recommend to the commissioner or contractor that such contract be reinstated or a new contract be entered into;

(2) in all other cases, it will direct the appropriate department staff to carry out its decision.

(f) If the committee finds that the adverse action was justified, it will sustain the action. The committee may also make such other recommendations as it considers appropriate.

(g) The decision will be mailed via certified mail, return receipt requested, or personally delivered to the appellant or his or her attorney of record.

(h) Either party may file a written motion for rehearing. The written motion for rehearing must be filed within 15 days after the date of rendition of the final decision. This motion must be addressed to the chairman. The committee will take action to either grant or deny the motion for rehearing within 45 days after the date of rendition of the final decision.

Issued in Austin, Texas, on May 9, 1980.

Doc. No. 803525 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: June 16, 1980

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

Railroad Commission of Texas

Oil and Gas Division

General Statewide Application to Oil, Gas, or Geothermal Resource Operations within the State of Texas 051.02.02

The Railroad Commission of Texas is proposing to amend Rule 051.02.02.041 which pertains to applications for new oil and gas field designation and/or allowable. This amendment is proposed to (1) update, clarify, and consolidate application requirements, (2) provide for administrative approval or denial of applications under certain conditions, and (3) resolve potential notice problems.

It is the opinion of the division's staff that this proposed amendment has no fiscal implications for any unit of state or local government.

Public comment on the proposed amendment is invited. The commission is particularly interested in receiving comments on the feasibility of fulfilling the notice requirements and welcomes constructive suggestions for alternatives. Comments will be accepted for 30 days following publication of this proposed amendment in the *Texas Register* and should be submitted to John G. Soule, general counsel, Oil and Gas, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

This amendment to statewide Rule 051.02.02.041 is proposed under the authority of Title 3, Oil and Gas, Texas Natural Resources Code.

.041. Application for New Oil or Gas Field Designation and/or Allowable.

(a) Evidence proving that a well is a discovery must be received in the commission's Austin office prior to the assignment of a new field designation and/or discovery allowable. Evidence other than horizontal distance is required. An application must include the following:

(1) A legible area map, drawn to scale, preferably on white paper, which shows the following:

(A) all oil, gas, and abandoned wells within at least a 2-1/2 mile radius of the well claimed to be a discovery well;

(B) the producing intervals of all pertinent oil and gas wells identified in subparagraph (A) above;

(C) all nearby fields that are presently active or were active in the past, identified by commission-assigned field names, names of the producing formations, and average depth of the producing interval;

(D) the total depth of all wells identified in subparagraph (A) above;

(E) scale, legend, and name of person who prepared the map.

(2) A complete, legible electric log of the well. If an electric log was not run, a similar log such as gamma ray, thermal decay time (TDT), or logging-industry equivalent, may be acceptable. A six-month delay may be granted in the required filing of a log for good cause shown, provided that all other required data is submitted and satisfactorily proves discovery of a new reservoir.

(3) If separation is based on structural differences, including faulting and pinch-outs, submit a subsurface structure map and cross section(s). The structure map should show the contour of the top of the producing formation and the line(s) of cross section. The cross section(s) must be prepared from comparable electric logs (not tracings) with the wells, producing formation, and hydrocarbon reservoir identified. Both the map and cross section must be signed by engineer or geologist who prepared it.

(4) If separation is based on pressure differentials, submit reservoir pressure measurements or calculations.

(5) If separation is based on differences in fluid levels, submit core data, drill-stem test data, cross sections of nearby wells, or production data estimating the fluid level. Fluid level data should be recently dated.

(6) Notice.

(A) Certification that actual notice has been given to offset operators and unleased mineral owners, and that effective notice by publication or some other acceptable means has been given to other possibly affected operators and unleased mineral owners.

(B) A list of persons actually notified.

(C) If effective notice is given by publication, a copy of the published notice.

(D) If effective notice is by some other acceptable means, a description of that means.

(b) The examiner may require additional data deemed necessary to make a determination. Deviation from the requirements of subsection (a) may be allowed at the examiner's discretion.

(c) The director, oil and gas, may administratively grant an application if all required data is submitted with the form prescribed, and the evidence proves that the

new reservoir is effectively separated from any other reservoir previously shown to be productive.

(d) If the director, oil and gas, declines administratively to grant an application, the operator may request a hearing. If an application is protested within 10 days of notice, it will be set for hearing. After hearing, the examiner shall recommend final commission action.

(a) Evidence proving that a well is a discovery must be received in the commission's Austin office prior to the assignment of a new field designation and/or a designation allowable. The evidence must prove that the new reservoir is effectively separated from any other reservoir previously shown to be productive. Evidence other than horizontal distance is required. An application must include the following:

(1) An area map, scale one inch equal 1,000 feet, showing all oil, gas, and/or abandoned wells within at least 2-1/2 miles in each direction from the well claimed to be a discovery well; the producing interval of surrounding oil and/or gas wells; all nearby fields, past or present, should be identified with correct field names, the producing formations, and average depth of the producing interval; also, the total depth of all dry holes that are used as evidence of separation. The map must be on white paper, with all data shown legibly.

(2) (Reference Order 20-58, 241, effective January 30, 1968). Full-scale electrical log of the well with the subject formation and all nearby producing formations identified clearly; however, a temporary delay may be granted to the required filing of an electric log without delay of discovery allowable for good cause shown, provided that other data submitted to the commission satisfactorily proves discovery of a new reservoir.

(3) If application is based on structural differences, attach a subsurface structure map contoured on top of the producing formation. The map must be signed by the engineer or geologist who prepared it.

(4) If the application is based on faulting, pinchouts or vertical separation of small magnitude, attach a geological cross-section prepared from electrical logs (not tracing).

(5) If application is based on reservoir pressure differentials, submit reservoir pressure measurements or calculations other than drill-stem pressures.

(6) If application is based on differences in fluid levels, submit detailed core data or drill-stem test data from comparable formations. Fluid level data should be of recent date.]

Issued in Austin, Texas, on May 5, 1980.

Doc. No. 803542

John G. Soule, General Counsel
Oil and Gas Division
Railroad Commission of Texas

Proposed Date of Adoption: June 28, 1980

For further information, please call (512) 445-1285.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

CODIFIED

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 9. Floral and Nursery

Nursery Regulation

The Texas Department of Agriculture adopts the repeal of §§9.1-9.3 (176.24.10.101-.103), Nursery Regulation. The proposed repeal was published in the July 3, 1979, issue of the *Texas Register* (4 TexReg 2368). The repeal of §§9.1-9.3 (.101-.103) is adopted because new sections are being promulgated and adopted which clarify the enforcement of Articles 119-135-1, inclusive, Texas Civil Statutes.

Pursuant to the authority of Texas Civil Statutes, Articles 119-135-1, inclusive, the Texas Department of Agriculture has repealed §§9.1-9.3 (.101-.103), Nursery Regulation.

Issued in Austin, Texas, on May 5, 1980.

Doc. No. 803516 Reagan V. Brown
 Commissioner
 Texas Department of Agriculture

Effective Date: May 29, 1980

Proposal Publication Date: July 3, 1979

For further information, please call (512) 475-4457.

NONCODIFIED

Texas Department of Health

Maternal and Child Health Division

Screening of Children for Visual Handicaps

301.33.10

The Texas Department of Health adopts these new rules with several changes made as a result of comments sent directly to the department as well as comments received at a public hearing. The changes are:

- (1) The wording of Rule .004 (d) and (e) has been changed to reflect the active intent of official statements of the Advisory Committee on Children's Vision.
- (2) In Rule .010(a), clarification is made of the school official who may sign the vision screening annual report form and the time period covered in the report.
- (3) A part of the vision screening and/or eye examination certificate has been given more precise terminology to obviate potential conflict with other Texas statutes. Changes to the eye specialist report portion of the certificate more correctly describe the functions of the professional eye examiner and permit utilization of the form by both physicians and optometrists.
- (4) The Vision Screening Annual Report form reflects the changes made in Rule .010(a).

These rules are adopted under authority of Articles 4418a, 4419f, and 6252-13a, Texas Revised Civil Statutes.

.001. Purpose. The purpose of these rules is to implement the requirements of Article 4419f, Texas Revised Civil Statutes, relating to the eye examination or vision screening test of preschool and school-age children.

.002. Effective Dates. Rules .004, .005, .007, .008, and .010 are effective as of September 1, 1980.

.003. Definitions.

- (a) "Board" means the Texas Board of Health.
- (b) "Department" means the Texas Department of Health.
- (c) "Vision screening" means a nondiagnostic test or battery of tests for rapid determination of the need for a more complete visual examination by an eye specialist.
- (d) "Vision screeners" means health personnel, volunteers, school nurses or aides, or other school personnel authorized to sign the vision screening certificate as a qualified vision tester.

.004. Children Requiring Examination or Vision Screening.

- (a) All children enrolling in any public, private, parochial, or denominational school for the first time, shall have either been examined by a physician licensed to practice medicine in the United States or an optometrist licensed to practice in the United States, or undergone a board-approved vision screening test with the results of the examination or test disclosed.

(b) An affidavit, signed by the parent, managing conservator, or person having a legal responsibility for the child's support, stating that the child will undergo the required vision screening test or examination as rapidly as is feasible may be submitted to the admitting officer of the school to provisionally admit the child to a kindergarten, elementary, or secondary school.

(c) An affidavit, signed by the parent, managing conservator, or person having a legal responsibility for the child's support, stating that the visual screening test conflicts with the tenets or practices of a recognized church or religious denomination of which the affiant is an adherent or member may be submitted to the school authorities in lieu of the required certificate.

(d) Additional periodic examination or screening of children beyond the level of minimum visual acuity testing, as determined by the Advisory Committee on Children's Vision, will be promulgated by agency rule.

(e) Until more comprehensive vision screening procedures are recommended by the advisory committee, and published, all vision screeners providing testing above the minimum visual acuity requirements are urged to continue such testing, and for other than visual acuity, to continue using current referral criteria.

.005. Required Certificate of Examination or Screening.

(a) The form of the required certificate of examination or screening shall be developed and revised as deemed necessary by the board; substantially as shown in the accompanying example, containing the signature(s) of the person(s) authorized to sign the certificate, and showing the results of the eye examination and/or vision screening test.

(b) The requirement of Rule .004 may be met by an entry made in the official school record of the child which states that the child has undergone a vision screening test which meets the standards set by the board, that the test was administered by a person authorized to sign the required certificate, and which discloses the results of the test.

(c) The requirement of Rule .004(a) may be met by a certificate of examination or vision screening performed within the year immediately preceding the child's first entry into school.

.006. Authorized Signatures.

(a) The required certificate may be signed by a physician licensed to practice in the United States or an optometrist licensed to practice in the United States who performed the eye examination or personally supervised the vision screening test.

(b) The required certificate may be signed by designated personnel qualified as vision screeners under Rule .009(b).

.007. Closing Dates for Submitting Certificates. The closing date for submitting the certificate of examination or screening test to the admitting officer of the school shall be no later than 90 calendar days after first admission of the child to the school.

.008. Transfer of Individual Certificates between Schools.

(a) An original or true and correct copy of the certificate shall be honored by the governing body of a school upon the transfer of a student from another Texas school.

(b) When the official school record of the child contains entries of eye examination or vision screening test results, an original or true and correct copy of that record may be transferred between schools.

.009. Standards for Vision Screening Tests and Screener Training Courses.

(a) The basic visual acuity screening test and referral criteria approved by the department is illustrated in the attached sample.

(b) Health personnel, volunteers, school nurses or aides, or other school personnel who have completed a special vision screener training course approved by the department or conducted by representatives of the department shall be deemed qualified as vision screeners.

.010. Reporting of Results and Referrals to the Department.

(a) The results of eye examinations and vision screening tests shall be reported annually on a form approved by the department (sample attached) by the governing body of each school, over the signature of the superintendent, or other appropriate administrator of the school, not later than 30 days after the close of each school year.

(b) Referral results shall be reported on standard forms developed, and revised as deemed necessary, by the board.

(Editor's note: see forms, pages 1916-1918.)

Issued in Austin, Texas, on May 7, 1980.

Doc. No. 803515 A. M. Donnell, Jr., M.D.
Deputy Commissioner
Texas Department of Health

Effective Date: May 29, 1980
Proposal Publication Date: March 4, 1980
For further information, please call (512) 458-7534.

**TEXAS DEPARTMENT OF HEALTH
BASIC VISUAL ACUITY TESTS AND REFERRAL CRITERIA**

IMPORTANT INFORMATION: The preferred distance visual acuity test is given with a Snellen Chart at 20 feet, using the linear test method. Below are criteria for various age groups as approved by the Advisory Committee on Children's Vision. When a child cannot be tested by the preferred method, test according to the sequence shown below, for the appropriate age, before considering the child not testable. In limited space, a 10-foot chart may be used; however, care should be taken that screeners never use a 20-foot chart at a distance of 10 feet. When using HOTV matching symbols, only the 10-foot HOTV is approved. If stereoscopic instruments are used to test visual acuity, use the same referral standards as shown below; however, children failing such testing should be re-screened with an approved chart, at distance, before being referred. REGARDLESS OF THE RESULTS OF ANY SCREENING TEST, OBSERVATION OF OBVIOUS SIGNS OF EYE PROBLEMS WOULD BE THE BASIS FOR REFERRAL FOR A PROFESSIONAL EYE EXAMINATION.

Tests for Ages 3 & 4

"Tumbling E"

H:O:T:V Test

Referral Standards

All children should be screened thru the 20/20 line. Must read a majority (one more than half) of the 20/40 line, or 4 out of 6 HOTV symbols (of 20/40 size). Children with a two-line difference between the two eyes should be referred.

Tests for Age 5

(SAME AS: Ages 3 & 4.)

Referral Standards

Must read majority of 20/30 line, or 4 out of 6 HOTV symbols of that size.

Tests for Ages 6 & Up

Letter Chart

"Tumbling E"

H:O:T:V Test

Referral Standards

Must read majority of 20/30 line, or 4 out of 6 HOTV symbols of that size.

REFER AFTER SECOND SCREENING

1980

TEXAS DEPARTMENT OF HEALTH

VISION SCREENING and/or EYE EXAMINATION

ATTENTION PARENT: Please present this certificate when enrolling your child in school for the first time. Article 4419f, Texas Revised Civil Statutes, requires that every child have an eye examination or approved vision screening test prior to, or within 90 days after, entry into a Texas school.

SCHOOL CITY COUNTY
Child's Name Birth Date Age Sex
Parent's Name Telephone Number
Address Zip Code

VISION SCREENER REPORT

Visual acuity screening is only a check of the sharpness of a child's vision and should not be interpreted as a substitute for a complete vision examination. A child who fails this screening should be referred to an eye specialist for a complete visual examination.

VISUAL ACUITY First test Second test
Screened with glasses? Yes No
SCREENING RESULTS PASSED FAILED
Right Eye Left Eye Snellen Chart Other (instrument)
Right Eye Left Eye Snellen Chart Other
Observable Signs
Other Test(s)
Reason for referral to Eye Specialist

DATE VISION SCREENER ORGANIZATION RESPONSIBLE FOR SCREENING

EYE SPECIALIST REPORT (Ophthalmologist or Optometrist)

Table with 3 columns: VISUAL ACUITY, Without correction, With correction. Rows for RIGHT EYE and LEFT EYE.

Problem(s) noted:

PLEASE CHECK IF APPROPRIATE:
Recommendations: Medical evaluation, Glasses, Contact Lenses, Other
Re-examination advised: Six months, Twelve months, Other
Corrective Lens prescribed: Constant Wear, Near Vision only, Far Vision only, May be removed for physical education
Doctors Name, Address, City
Present Date, Date of last examination, DOCTOR'S SIGNATURE

Please retain this certificate with other health records of the child.

Texas Department of Human Resources

Medicaid Eligibility

A notice of proposed rulemaking was published in the January 18, 1980, issue of the *Texas Register* (5 TexReg 189) regarding the continuation of eligibility under Type Program 51 of individuals whose income exceeds the department's income maximum due to a cost-of-living increase in social security benefits received in July 1979.

One comment was received regarding Rule 326.25.53.016 from West Texas Legal Services. The commentator objected to the rule on two points: (1) that the rule change failed to implement the intent of the Texas Legislature by limiting the income exclusion provision to social security benefit increases only and (2) that Rule .016(b)(1) would disadvantage clients by denying benefits if an individual was hospitalized in excess of three days.

In response to the first comment, the exclusion of the cost-of-living increase in social security benefits received in July 1979 was the result of action taken by the Texas Board of Human Resources on June 4, 1979, in response to the intent of Rider 51 of the General Appropriations Act. This action clearly benefits some individuals while disadvantaging none. Further expansion of these income exclusion provisions to other federal benefits has not been authorized by the Texas Board of Human Resources.

In response to the second comment, the commentator has misunderstood the intent of the referenced rule. Rule .016(b)(1) means that continued eligibility under Type Program 51 is dependent upon the client's continued residence in a long-term care facility, and that such residence is considered to be continuous if the client is absent due to hospitalization or a visit of up to three days. No other comments were received.

Eligible Recipients for Title XIX (Medicaid) 326.25.21

The following amendments are adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.001. Categorically Needy. The Texas Medical Assistance Program, under the provision of Title XIX (Medicaid) of the Social Security Act, provides certain benefits to all individuals who meet the department's definition of categorically needy. The categorically needy are defined as:

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

(5) Individuals approved for vendor payments in a Title XIX-approved medical facility in June 1979 whose income exceeds the department's current income maximum due to the July 1979 RSDI cost-of-living increase continue to be eligible for Title XIX coverage under Type Program 51. To maintain eligibility under this program, these individuals must continue to reside in a Title XIX medical facility, to require long-term care, and to meet all SSI eligibility standards except income. Countable income, excluding the amount of the July 1979 RSDI cost-of-living increase, must be below the maximum established by the department.

(6) Individuals in a Title XIX-approved medical facility for whom vendor payments were made under Title XIX for the month of December 1973. These individuals re-

main eligible for Title XIX benefits under Type Program 02 subsequent to January 1, 1974, as long as they:

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

(7) Individuals who were receiving both public assistance and social security benefits in August 1972 continue to be eligible for Title XIX coverage under Type Program 03. These individuals must meet SSI eligibility criteria in the current month, with the exclusion of the amount of the October 1972 20% increase. However, subsequent increases in social security benefits are not exempt for this group of people.

(8) Individuals who were SSI recipients and were denied SSI cash benefits solely because of a cost-of-living increase in social security benefits may be eligible for continued Title XIX coverage under Type Program 03. These individuals must meet all current SSI eligibility criteria with the exclusion of the social security cost-of-living increase.

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

Doc. No. 803529

Individuals for Whom SSI Eligibility Criteria Are Used 326.25.31

The following amendments are adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.001. Types of Applicants. The eligibility criteria of the Federal Supplemental Security Income (SSI) Program are used in determining Medicaid eligibility for the following categories of assistance:

(1) (No change.)

(2) Rider 51 MAO (Type Program 51). Individuals in long-term care facilities who became ineligible for SSI-related MAO on July 1, 1979, due solely to the July 1979 cost-of-living increase in RSDI benefits may continue eligibility for assistance under the provisions of Rider 51 of the Texas Department of Human Resources' appropriation in the General Appropriations Act, 66th Legislature, Regular Session. To qualify, these individuals must continue to meet all SSI-related MAO eligibility requirements with an additional exclusion from income equal to the amount of the July 1979 RSDI cost-of-living increase.

(3) RSDI increase MAO (Type Program 03). Individuals who are entitled to the exclusion of a social security increase may qualify for Medicaid benefits under Type Program 03 even though their income exceeds the current income maximum. To qualify, these individuals must meet SSI eligibility criteria except for income. The amount of the appropriate RSDI increase is excluded before income is measured against the appropriate budgetary standard.

(4) Three months prior eligibility (Type Programs 03, 11, and 14). Individuals, under certain conditions, may be extended Medicaid eligibility during the three calendar months prior to the month of application for assistance. Any individual who applies for SSI or MAO is potentially eligible. In addition, the bona fide agent of a deceased individual may request application services. To qualify, the individual must:

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

Issued in Austin, Texas, on May 9, 1980.

Doc. No. 803530 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: May 30, 1980
Proposal Publication Date: January 18, 1980
For further information, please call (512) 441-3355.

The Department of Human Resources adopts Rule 326.25.33.024 and an amendment to Rule 326.25.34.011 concerning treatment of funds from a HUD settlement in its Medicaid eligibility rules, and as a result of a lawsuit known as *Underwood v. Harris*, the Department of Housing and Urban Development (HUD) has been directed to make one-time payments to certain eligible individuals as tenants of housing subsidized under Section 236 of the National Housing Act. These one-time payments are to receive special treatment for purposes of determining eligibility under Medicaid. HUD will begin distribution of these payments in the near future.

Resources for Individuals Related to the SSI Program 326.25.33

The following rule is adopted under the authority of the Human Resources Code, Title II, pursuant to *Underwood v. Harris*, effective February 28, 1980.

.024. *Treatment of Funds Received as a Result of HUD Settlement.*

(a) Any benefit accruing from the Department of Housing and Urban Development as a result of a settlement agreement in a lawsuit known as *Underwood v. Harris* is excluded as a resource in the Medicaid eligibility process. In order to exclude these payments as a resource, any of these payments retained by the individual must be kept separately. If such payments are combined with countable resources they lose their identity and would no longer be excluded.

(b) Any interest or dividend received from these payment funds is not excluded as a resource.

Doc. No. 803531

Income for Individuals Related to the SSI Program 326.25.34.011

The following amendment is adopted under the authority of the Human Resources Code, Title II, pursuant to *Underwood v. Harris*, effective February 28, 1980.

.011. *Special Income Exemptions.* Special income exemptions apply to income received from certain sources. These special exemptions are applied prior to the application of the general exclusions. These special income exemptions are applied to any income used in determining the individual's eligibility whether the income is the individual or that of a person from whom income is deemed.

(1)-(24) (No change.)

(25) Any benefit accruing from the Department of Housing and Urban Development as a result of a settlement agreement in a lawsuit known as *Underwood v. Harris* is excluded as income in the Medicaid eligibility process. Any interest or dividend income received from these payment funds

is not excluded from income. This interest or dividend income should be kept separate from excludable payment funds so that the payment fund may continue to be excluded.

Issued in Austin, Texas, on May 9, 1980.

Doc. No. 803532 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: February 28, 1980
Proposal Publication Date: N/A
For further information, please call (512) 441-3355.

A notice of proposed rulemaking was published in the January 18, 1980, issue of the *Texas Register* (5 TexReg 189) regarding the continuation of eligibility under Type Program 51 of individuals whose income exceeds the department's income maximum due to a cost-of-living increase in social security benefits received in July 1979.

One comment was received regarding Rule 326.25.53.016 from West Texas Legal Services. The commentor objected to the rule on two points: (1) that the rule change failed to implement the intent of the Texas Legislature by limiting the income exclusion provision to social security benefit increases only and (2) that Rule .016(b)(1) would disadvantage clients by denying benefits if an individual was hospitalized in excess of three days.

In response to the first comment, the exclusion of the cost-of-living increase in social security benefits received in July 1979 was the result of action taken by the Texas Board of Human Resources on June 4, 1979, in response to the intent of Rider 51 of the General Appropriations Act. This action clearly benefits some individuals while disadvantaging none. Further expansion of these income exclusions to other federal benefits has not been authorized by the Texas Board of Human Resources.

In response to the second comment, the commentor has misunderstood the intent of the referenced rule. Rule .016(b)(1) means that continued eligibility under Type Program 51 is dependent upon the client's continued residence in a long-term care facility, and that such residence is considered to be continuous if the client is absent due to hospitalization or a visit of up to three days. No other comments were received.

326.25.34.020

The following rule amendments are adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.020. *Special Income Exclusion for Type Program 51 Recipients.* Rider 51 of the General Appropriations Act, 66th Legislature, Regular Session, provides for the continued eligibility of SSI-related MAO recipients whose countable income exceeded the department's income maximum on July 1, 1979, due to the July 1979 cost-of-living increase in RSDI benefits. For individuals meeting this criterion, a deduction equal to the amount of the July 1979 RSDI cost-of-living increase is made prior to measuring income against the departmental maximum in determining eligibility for Type Program 51.

Doc. No. 803533

Budgeting for Individuals Related to the SSI Program 326.25.35

The following amendments are adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.011. Budget to Determine Eligibility.

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

(d) For individual and couple budgets, the following steps are used to determine eligibility:

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

(3) For Type Program 03 and Type Program 51 cases, determine the amount of the RSDI exclusion(s).

(4)-(5) (No change.)

(e) For a companion budget, the following steps are used to determine eligibility:

(1) For initial applications, if eligibility is to be determined for the calendar month of separation, available income must be deemed from the ineligible spouse to the applicant. Deemed income is considered as the individual's own unearned income and is included in (d)(1) through (5) above. If there is no unmet need, the individual is ineligible for the month of separation. If there is an unmet need, the individual is eligible for medical assistance only. Applied income is then computed.

(2) (No change.)

Doc. No. 803534

(b) All individuals eligible under these provisions were transferred to Type Program 51 in July 1979. In order to continue eligibility, they must:

(1) continue to reside in a Title XIX-certified long-term care facility (other than to enter a Title XIX hospital or for visits of up to three days); and

(2) continue to be determined in need of long-term care by the Texas Department of Health's Long-Term Care Unit; and

(3) continue to meet all SSI-related eligibility criteria; and

(4) have income, minus appropriate deductions including the exclusion of the July 1979 RSDI increase, less than the department MAO income maximum.

(c) If at any time any of the above conditions are not met, the individual is no longer eligible for Type Program 51 and the case must be denied. In order to re-establish eligibility for medical assistance only, the individual must be redetermined under Type Programs 14 or 03 criteria.

Issued in Austin, Texas, on May 9, 1980.

Doc No. 803535

Jerome Chapman
Commissioner

Texas Department of Human Resources

Effective Date: May 30, 1980

Proposal Publication Date: January 18, 1980

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

Procedures for Applications for Medical Assistance 326.25.53

The following rule is adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.016. Reapplication for Rider 51 MAO Cases (Type Program 51).

(a) Rider 51 of the General Appropriations Act, 66th Legislature, Regular Session, provided for continued Medicaid coverage for nursing home recipients whose income on July 1, 1979, exceeded the department's income maximum due to the July 1979 cost-of-living increase in RSDI benefits. Individuals who continue to be eligible under these provisions are referred to as "Rider 51" MAO cases and are certified under Type Program 51.



The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Governor's Committee on Aging

Friday, May 16, 1980, 10 a.m. The Governor's Committee on Aging will meet in the first floor conference room of the Texas Department of Community Affairs Building, 210 Barton Springs Road, Austin. According to the agenda, the committee will introduce a new member, James Roberts; approve minutes of February 22, 1980, meeting; hear the financial report; approve allocation of fiscal year 1980 supplemental funds; consider approval of eight proposed Advisory Committee members; review Harris County AAA conditional approval of plan; consider modification of interagency cooperative agreement with the Texas Department of Community Affairs; adopt preliminary state fiscal year 1982-83 budget; approve preliminary objectives of State Three Year Plan; approve of area aging services plans: East Texas AAA, Concho Valley AAA, North Texas AAA, Texoma AAA, Middle Rio Grande Valley AAA, South Texas AAA, Permian Basin AAA, and Golden Crescent AAA.

Additional information may be obtained from Chris Kyker, P.O. Box 12786, Austin, Texas 78711, telephone (512) 475-2717.

Filed: May 8, 1980, 3:20 p.m.
Doc. No. 803512

Texas Commission on the Arts

Wednesday, May 21, 1980, 1:30 p.m. The Executive Committee of the Texas Commission on the Arts will meet at 1801 Lavaca, Austin. According to the agenda summary, the committee will consider the TCA Education Position Statement, and 1982-83 appropriation request; and discuss the May 22, 1980, commission meeting.

Additional information may be obtained from Pat McCabe Leche, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

Filed: May 9, 1980, 10:38 a.m.
Doc. No. 803557

Thursday, May 22, 1980, 9 a.m. The members of the Texas Commission on the Arts will meet in the Colorado Room, 1801 Lavaca, Austin. According to the agenda summary, the commission will approve minutes of February 11, 1980, meeting; hear reports from the chairman and treasurer; and hold public discussion. The members will also consider the following: committee reports; adoption of changes in Texas Arts Plan and Guide to Assistance; TCA Education Position Statement; 1982-83 appropriation request; executive director's report; report of Advisory Panel Nominating Committee and appointment of panel members; report of Officers Nominating Committee and election of officers.

Additional information may be obtained from Pat McCabe Leche, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

Filed: May 9, 1980, 10:38 a.m.
Doc. No. 803558

Texas Health Facilities Commission

Friday, May 23, 1980, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

certificate of need

Retama Manor, Brownsville

AN79-1231-027

Live Oaks Convalescent Center, Clarksville

AN79-1015-027

St. John's Hospital, San Angelo

AH79-1203-025

Family and Individual Services Association of Tarrant County, Fort Worth

AS79-1022-030

Doctors Hospital, Houston

AH80-0121-003

Mercy Hospital of Jourdanton, Jourdanton

AH79-1011-022

Lubbock State School, Lubbock

AA79-1231-035

Psychiatric Pavilion UTMB, Galveston

AH79-1016-013

M.D. Anderson Hospital, Houston

AH79-1231-007

Saint Joseph Hospital, El Paso

AH79-1219-016

High Plains Memorial Home, Amarillo

AN79-1130-015

exemption certificate

Pregnancy Control, Inc., Fort Worth

AS80-0226-011

declaratory ruling

Rehabilitation Therapy, Inc., San Antonio

AS80-0303-010

exemption certificate nunc pro tunc

St. Luke's Episcopal Hospital, Houston

AH80-0312-014

St. Luke's Episcopal Hospital, Houston

AH80-0312-012

Texas Children's Hospital

AH80-0312-010

Texas Children's Hospital

AH80-0312-008

Further information may be obtained from O.A. Cassity III, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: May 9, 1980, 11:52 a.m.
Doc. No. 803541

Texas Housing Agency

Monday, May 12, 1980, 9 a.m. The Board of Directors of the Texas Housing Agency makes an emergency addition to the agenda of a meeting held in the Lieutenant Governor's Committee Room, at the State Capitol. According to the agenda, the board considered designation of liaison with the Office of the Secretary of State. The emergency addition of this item is necessitated by the requirements of Texas Revised Civil Statutes Annotated, Article 6252-13(a) and Texas Regulation Rule 004.65.02.002.

Additional information may be obtained from Sid Wieser, P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-2431.

Filed: May 9, 1980, 4:16 p.m.
Doc. No. 803581

Texas Department of Labor and Standards

Monday, June 2, 1980, 10 a.m. The Auctioneer Division of the Texas Department of Labor and Standards will meet in Room 503G at the Sam Houston Building, 14th and San Jacinto Streets, Austin. The department will conduct a general review with the Auctioneer Advisory Board concerning the rules and regulations promulgated pursuant to Article 8700, Revised Civil Statutes, the Texas Auctioneer Law.

Additional information may be obtained from Robert R. Busse, Box 12157, Austin, Texas 78711, telephone (512) 475-4229.

Filed: May 12, 1980, 10:10 a.m.
Doc. No. 803596

Lamar University

Thursday, May 15, 1980, 9 a.m. The Board of Regents of Lamar University met in the board room of the Plummer Administration Building, on the main campus, Beaumont. The regents considered the following: health science laboratory fees; approve properties acquisition; parking fees for university personnel; approval of staff awards; selection of dean for the college of education; approval of university budget; approval of food services bids; approval of construction contracts; approval of minutes of March 12, 1980; president's report; policy for additional employment; and approval of March financial statements.

Additional information may be obtained from Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, telephone (713) 838 7533.

Filed: May 9, 1980, 2:54 p.m.
Doc. No. 803571

Texas State Board of Medical Examiners

Thursday, May 15, 1980, 9:30-11:30 a.m. The Texas State Board of Medical Examiners met in emergency session in the Shamrock Hotel, Houston. According to the agenda, the board conducted seminar for jurisprudence instructors and other faculty involved with the subject of medical jurisprudence. The seminar was held as a follow-up to the November 1979, seminar, and also held for educational purposes.

Additional information may be obtained from Jean Davis, 211 East 7th Street, Austin, Texas, telephone (512) 475-0741.

Filed: May 9, 1980, 3:48 p.m.
Doc. No. 803576

Thursday, May 15, 1980, 12:30 p.m. The Foreign Medical School/Reciprocity Committees of the Texas State Board of Medical Examiners met in emergency session in the Shamrock Hotel, Houston, to discuss alternative documentation; pending applications; and related licensure matters. The committee also considered possible rule changes necessary for licensure.

Additional information may be obtained from Jean Davis, 211 East 7th Street, Austin, Texas, (512) 475-0741.

Filed: May 9, 1980, 3:48 p.m.
Doc. No. 803577

Friday-Saturday, May 16-17, 1980, 10 a.m. daily. The Executive Committee of the Texas State Board of Medical Examiners will meet in emergency session in the Shamrock Hotel, Houston. According to the agenda, the committee will meet in executive session to discuss the following personnel matters; proposed employment situations involving physicians' contracts with hospitals and budget discussion.

Additional information may be obtained from Jean Davis, 211 East 7th Street, Austin, Texas, telephone (512) 475-0741.

Filed: May 9, 1980, 3:48 p.m.
Doc. No. 803578

Midwestern State University

Thursday, May 15, 1980, 5 p.m. The Executive Committee of the Midwestern State University Board of Regents met in the board room of the Hardin Administration Building, Midwestern State University, Wichita Falls. The committee considered telephone system renovation; parking lot construction; cable TV studio; utility tunnels; Killingsworth Hall roof repairs; tornado damage repair and replacement; dental hygiene renovation; self-study purpose statement; and police officer commissioning.

Additional information may be obtained from John G. Barker, 3400 Taft Boulevard, Wichita Falls, Texas 76308, telephone (817) 692-6611, ext. 211.

Filed: May 9, 1980, 11 a.m.
Doc. No. 803554

Thursday, May 15, 1980, 5:30 p.m. The Finance Committee of the Midwestern State University Board of Regents met in the board room of the Hardin Administration Building, Midwestern State University, Wichita Falls. The committee considered financial reports; salary changes in 1979-80 budget; summer school teaching salary budget; president search committee; Pierce Hall; longevity pay reserve; president's office; student affairs; university affairs; history; physical education and recreation; continuing education; forensics; faculty travel; reserve; roof repairs on two classroom buildings; journalism; athletics transfers; and an artist-lecture series.

Additional information may be obtained from John G. Barker, 3400 Taft Boulevard, Wichita Falls, Texas 76308, telephone (817) 692-6611, ext. 211.

Filed: May 9, 1980, 11 a.m.
Doc. No. 803555

Thursday, May 15, 1980, 6 p.m. The Presidential Search Committee of the Board of Regents of Midwestern State University met in the board room of the Hardin Administration Building, Midwestern State University, Wichita Falls. The regents met in executive session to discuss personnel matters.

Additional information may be obtained from John G. Barker, 3400 Taft Boulevard, Wichita Falls, Texas 76308, telephone (817) 692-6611, ext. 211.

Filed: May 9, 1980, 11 a.m.
Doc. No. 803556

Friday, May 16, 1980, 9 a.m. The Midwestern State University Board of Regents will meet in the board room of the Hardin Administration Building, Midwestern State University, Wichita Falls. The board will read and approve minutes; consider committee appointments; discuss personnel—presidential search; review board committees and status of Pierce Hall construction; consider beer sales on MSU campus; and hear the following committee reports: Executive Committee, Finance Committee, Personnel and Curriculum Committee, Student Affairs Committee, Athletics Committee, and University Affairs Committee.

Additional information may be obtained from John G. Barker, 3400 Taft Boulevard, Wichita Falls, Texas 76308, telephone (817) 692-6611, ext. 211.

Filed: May 9, 1980, 11:02 a.m.
Doc. No. 803559

Texas Prosecutors Coordinating Council

Monday, May 12, 1980, 2 p.m. The Texas Prosecutors Coordinating Council met in emergency session in the Grand Jury Room, Bexar County Courthouse, San Antonio, to consider what action to take for failure of the comptroller to pay vouchers under Technical Assistance Contract 43-80-4.

Additional information may be obtained from Andy Shuval, 1414 Colorado, Suite 602, Austin, Texas, telephone (512) 475-6825.

Filed: May 12, 1980, 9:17 a.m.
Doc. No. 803594

Public Utility Commission of Texas

Monday, May 19, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3211—application of Home Telephone Company and Mid-Texas Telephone Company and Mid-Texas Telephone Company for approval of merger and transfer of certificates of convenience and necessity.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: May 8, 1980, 1:50 p.m.
Doc. No. 803509

Thursday, May 29, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The commission will conduct a prehearing in Docket 3218—application of Southwestern Water Company for a rate increase within Travis County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: May 12, 1980, 10:11 a.m.
Doc. No. 803595

Monday, June 2, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3206—application of Birch Creek Recreations, Inc., for a rate increase within Burleson County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: May 8, 1980, 1:49 p.m.
Doc. No. 803510

Railroad Commission of Texas

Monday, May 12, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas met in Room 107, 1124 South IH 35, Austin. According to the agenda, the division considered Gas Utilities Dockets 1913, 2618, 2619, 2621, 2622, 2625, 2626, and the director's report.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: May 9, 1980, 3:05 p.m.
Doc. No. 803572

Monday, May 12, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. The emergency addition concerned Gas Utilities Docket 2087—statement of intent filed by Lone Star

Gas Company to change the Intracompany City Gate rate. Consideration on less than seven days notice was required as a matter of urgent public necessity because the period for consideration of motions for rehearing expired on May 12.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: May 9, 1980, 3:05 p.m.
Doc. No. 803573

Monday, May 12, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerned consideration of the following dockets: 84906A73, 84348A73, 20-75159A83; 4-75136A82, 6-75132A62, 6-75139A62, 9-75060A62, 84405A73; 84597A73, 84615A73, 84623A73, 84650A73, 84687A73, 8A-75202A82, 5-71249A70, 84548A73, and 84700A73. These items were properly noticed for the conference of May 5, 1980, and were passed at that conference. Consideration on less than seven days notice was required as a matter of urgent public necessity.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1307.

Filed: May 9, 1980, 11:53 a.m.
Doc. No. 803544

Monday, May 12, 1980, 9 a.m. The members of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The commission added to the agenda consideration of an interagency contract with the Department of Water Resources for assistance in preparing the Oil and Gas Division annual report. This matter was considered on less than seven days notice as a matter of urgent public necessity because of the imminent report preparation deadline.

Additional information may be obtained from James P. Grove IV, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: May 9, 1980, 11:51 a.m.
Doc. No. 803543

Monday, May 12, 1980, 9 a.m. The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. The addition concerned consideration of Docket 023653ZZR, application of Missouri Pacific Railroad Company. This matter was properly noticed for consideration by the commission in open meeting on May 5, 1980, was passed at such meeting, and was being considered on less than seven days notice as a matter of urgent public necessity.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: May 9, 1980, 11:51 a.m.
Doc. No. 803545

Monday, May 12, 1980, 9 a.m. The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. The addition concerned consideration of application 8 of B.N.M., Inc., et al, Docket 023558ZZT, to amend Item 150 series in RCT Tariff 8-H by increasing the column 2 rates (applicable on rice), by 18.58%. This matter was properly noticed for consideration by the commission in open meeting on May 5, 1980, was passed at such meeting, and is now being considered on less than seven days notice as a matter of urgent public necessity.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: May 9, 1980, 11:52 a.m.
Doc. No. 803546

Monday, May 12, 1980, 4 p.m. The Gas Utilities Division of the Railroad Commission of Texas met in Room 107, 1124 South IH 35, in Austin, to consider Gas Utilities Docket 2087—statement of intent filed by Lone Star Gas Company to change the Intracompany City Gate Rate. Consideration on less than seven days notice was required as a matter of urgent public necessity because the period for consideration on motions for rehearing expires on May 12, 1980.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas, telephone (512) 445-1126.

Filed: May 12, 1980, 11:06 a.m.
Doc. No. 803601

Monday, May 19, 1980, 9 a.m. The Liquefied-Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the division will consider the director's report.

Additional information may be obtained from Guy G. Mathews, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1189.

Filed: May 9, 1980, 11:53 a.m.
Doc. No. 803547

Monday, May 19, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1307.

Filed: May 9, 1980, 11:53 a.m.
Doc. No. 803549

Monday, May 19, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The added item concerns consideration of a final order concerning the name change of Gas Producing Enterprises to Coastal Oil and Gas Corporation.

Additional information may be obtained from Roland Childress, P.O. Box 12967, Austin, Texas 78711, telephone (512) 445-1207.

Filed: May 9, 1980, 11:53 a.m.
Doc. No. 803551

Monday, May 19, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns consideration of category determinations under Sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: May 9, 1980, 11:55 a.m.
Doc. No. 803552

Monday, May 19, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns Oil and Gas Docket 8-74765—application of the Three-B Oil Company to amend rules, Payton Field, Pecos and Ward Counties.

Additional information may be obtained from Ted J. Bond, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1293.

Filed: May 9, 1980, 11:54 a.m.
Doc. No. 803553

Monday, May 19, 1980, 9 a.m. The Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. According to the agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act, respectively.

Additional information may be obtained from Carla S. Doyne, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: May 9, 1980, 11:54 p.m.
Doc. No. 803548

Monday, May 19, 1980, 9 a.m. The Transportation Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: May 9, 1980, 11:54 a.m.
Doc. No. 803550

Texas Real Estate Commission

Monday, May 19, 1980, 9 a.m. The Texas Real Estate Commission will meet in Room 2-118 of the Thomson Conference Center, 26th and Red River Streets, Austin. According to the agenda, the commission will consider the following: minutes of the April 21, 1980, commission meeting with the Texas Real Estate Research Center; staff reports for March; proposed amendment to Rule 402.03.15.005 (licensee advertising own property; education and school matters; and budget request for next biennium. The commission also met in executive session to discuss pending litigation.

Additional information may be obtained from Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, telephone (512) 475-4250.

Filed: May 9, 1980, 9:32 a.m.
Doc. No. 803537

School Land Board

Tuesday, May 20, 1980, 10 a.m. The School Land Board of the General Land Office will meet in Conference Room 831 at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The board will consider four pooling applications; the schedule and procedures for the next oil, gas, and sulphur lease sale; an excess acreage application; easement applications (coastal public lands); cabin permit transfer requests; and the coastal public lands report on cabin permit renewals.

Additional information may be obtained from Linda Fisher, 1700 North Congress Avenue, Stephen F. Austin Building, Room 835, Austin, Texas 78701, telephone (512) 475-2071.

Filed: May 12, 1980, 11:24 a.m.
Doc. No. 803602

Statewide Health Coordinating Council

Friday, May 23, 1980, 1 p.m. Texas Statewide Health Coordinating Council will meet in Salons F, G, and H of the Marriott Hotel, Austin. According to the agenda summary, the council will hear a report by the chair; approve minutes of the previous meeting; and consider Application, Budget, and Project Review Committee reports on the following applications for continued designation from: Panhandle Health Systems Agency—HSA 1; West Texas Health Systems Agency—HSA 3; Tri-Region Health Systems Agency—HSA 4; Central Texas Health Systems Agency—HSA 6; Northeast Texas Health Systems Agency—HSA 7; Camino Real Health Systems Agency—HSA 9. The council will also hear reports from the following committees: Monitoring and Assessment; Resource Development and Implementation; and State Health Plan Development.

Additional information may be obtained from George R. Anderson, M.D. 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7261.

Filed: May 8, 1980, 4:19 p.m.
Doc. No. 803514

Texas State University System

Thursday, May 22, 1980. Committees of the Board of Regents of the Texas State University System will meet as indicated below in the Brazos Room at Lakeway Inn, 101 Lakeway Drive, Austin.

2 p.m.—Building Committee—review of construction projects and documents for the four universities in the system

3 p.m.—Curriculum Committee—review of curriculum needs and requests for the four universities in the system

3:30 p.m.—Finance Committee—review of financial matters for the system office and the four universities in the system

Additional information may be obtained from Lamar G. Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3876.

Filed: May 12, 1980, 10:50 a.m.
Doc. Nos. 803598-803600

Thursday and Friday, May 22 and 23, 1980, 4:30 p.m. and 9 a.m., respectively. The Board of Regents of the Texas State University System will meet in the Brazos Room at Lakeway Inn, 101 Lakeway Drive, Austin. A summary of the agenda includes review of matters of the board and the four universities in the system.

Additional information may be obtained from Lamar G. Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3876.

Filed: May 12, 1980, 10:50 a.m.
Doc. No. 803597

University Interscholastic League

Wednesday, May 21, 1980, 8:30 a.m. The Transfer Rule Study Committee of the University Interscholastic League will meet in the Castilian Room, Chariot Inn, 7300 North IH 35, Austin. The committee will introduce members; hear from the league staff on the history of the transfer rule (when and how it changed over years); hear from Dr. Rhea Williams and/or Rodney Kidd (reasons for rule and why it changed in the past); discuss current problems with the rule; consider suggestions from the public; and discuss alternatives.

Additional information may be obtained from Bailey Marshall, P.O. Box 8028, Austin, Texas 78712, telephone (512) 471-5883.

Filed: May 8, 1980, 3:41 p.m.
Doc. No. 803513

Veterans Land Board

Tuesday, May 20, 1980, 2 p.m. The Veterans Land Board will meet in the Stephen F. Austin Building, Austin, to approve minutes of the April 29, 1980 meeting; hear the executive secretary's report; and discuss board policy.

Additional information may be obtained from Richard Keahey, Stephen F. Austin Building, Room 738, Austin, Texas 78701.

Filed: May 8, 1980, 1:48 p.m.
Doc. No. 803511

Texas Water Commission

Monday, May 19, 1980, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin State Office Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider applications for bond issues; approval to use surplus funds; change orders; escrow releases; petition for creation hearing date setting; water quality amendments; permits; renewals; voluntary cancellation of water quality permit; final decisions on water rights applications; dismissal action on levee project applications; extension of time application; filing and setting of hearing dates and designation of cooperating local sponsors for Lake Texoma Project.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 9, 1980, 3:58 p.m.
Doc. No. 803579

Monday-Wednesday, May 19-21, 1980. The Texas Water Commission will conduct final evidentiary hearings in the Brazos I Segment, excluding the Salt Fork and Double Mountain Fork Watersheds adjudication, at the following times and locations:

May 19, 1980, 2 p.m., County Courtroom, Young County Courthouse, Graham

May 20, 1980, 9 a.m., County Courtroom, Young County Courthouse, Graham

May 21, 1980, 9 a.m., Headquarters, Brazos River Authority in Waco

Each claimant is required to appear at the time specified to present evidence to substantiate his claim for a water right in this segment.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 9, 1980, 3:58 p.m.
Doc. No. 803580

Wednesday, May 21, 1980, 10 a.m. The Texas Water Commission will meet in the Commissioners' Courtroom, Brazoria County Courthouse, Angleton. According to the summarized agendas, the commission will conduct hearings on the following:

application by Petroleum Equipment Tools Company, for a permit to authorize the discharge of 2,500 gallons per day average of treated wash water and hydrostatic testing fluid from its Alvin Plant which is located immediately south of State Highway 6 in Brazoria County

application by Browning-Ferris Industries, Inc., for a permit to drill and operate a commercial waste disposal well, located on FM 523 in Brazoria County

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: May 9, 1980, 3:57 p.m.
Doc. Nos. 803582-803583

Wednesday, May 28, 1980, 9 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the summarized agenda, the commission will conduct a hearing on an application by Lakeway Company (Hurst Creek Plant 1), for a permit to authorize a discharge of 650,000 gallons per day of treated domestic sewage from a plant which is located approximately 600 feet south of World of Tennis Boulevard in Travis County.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: May 9, 1980, 3:57 p.m.
Doc. No. 803584

Wednesday, May 28, 1980, 10 a.m. The Texas Water Commission will meet in the Houston-Galveston Area Council Annex 1, 3701 West Alabama, Houston. According to the summarized agendas, the commission will conduct hearings on the following:

application by International Business Machines Corporation, Real Estate and Construction Division (21-730), 1000 Westchester Avenue, White Plains, New York, for a permit to operate an industrial solid waste storage facility which is located in a commercial warehouse at 2121 Nance Street, Houston, Harris County

application by Rollins Environmental Services, Inc., Deer Park, for a permit to operate a commercial industrial solid waste management facility in La Porte, located west of and adjacent to Strang Road in Harris County

Additional information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: May 9, 1980, 3:57 p.m.
Doc. Nos. 803585-803586

Friday, May 30, 1980, 10 a.m. The Texas Water Commission will meet in Council Chambers, City Hall, 118 East Tyler, Harlingen. According to the agenda summary, the commission will consider an application by the City of San Benito for an amendment to Permit 10473-01, which authorizes a discharge of treated domestic sewage effluent at a volume not to exceed 2,160,000 gallons per day from the facilities located on the south side of the Arroyo Colorado near the northern termination of Mayfield Road in Cameron County.

Additional information may be obtained from Larry R. Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: May 9, 1980, 3:56 p.m.
Doc. No. 803587

Monday-Friday, June 2-6, 1980. The Texas Water Commission will conduct hearings on adjudication of water rights claims for the Brazos II Segment of the Brazos River Basin at the following times and locations:

June 2, 1980, 2 p.m., Law Enforcement Center, 1402 West Pearl, Granbury

June 3-6, 1980, 8:30 a.m., Council Chambers, City Hall, 211 Southwest 1st Avenue, Mineral Wells

All claimants are requested to attend the hearing to establish jurisdiction of the Texas Water Commission on June 2; thereafter, each claimant is required to attend on the date set aside for him to present evidence to support his claim.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 8, 1980, 2:58 p.m.
Doc. No. 803507

Wednesday, June 11, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118 of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will determine whether a temporary order, pursuant to Section 26.0191 of the Texas Water Code, should be issued to Texaco, Inc., P.O. Box 712, Port Arthur, concerning the brine reservoirs at the Sour Lake Salt Dome Storage caverns, located north of Highway 105 and west of Highway 326 near the City of Sour Lake in Hardin County.

Additional information may be obtained from Paul A. Seals, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-7841.

Filed: May 9, 1980, 3:58 p.m.
Doc. No. 803588

Friday, June 13, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in Room 618 of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Anna-Van Alstyne Water District for an extension of time for commencement and completion of a dam and reservoir under Permit 2602, Trinity River Basin, Collin and Grayson Counties.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 9, 1980, 3:59 p.m.
Doc No 803589

Wednesday, June 18, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in Room 124A of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application of Texas Utilities Generating Company (RE 0138) seeking approval of plans for the construction of certain improvements on an unnamed tributary of Rock Creek, a tributary of White Oak Bayou in Hopkins County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 9, 1980, 3:59 p.m.
Doc. No. 803590

Wednesday, June 18, 1980, 10 a.m. The Texas Water Commission will meet in Room 124A of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin, for a rescheduled hearing. According to the agenda summary, the commission will consider an application of Ingram Square Limited (RE-0125) for approval of preliminary plans for construction of certain improvements on Leon and Huebner Creeks, tributaries of the San Antonio River in Bexar County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 9, 1980, 3:59 p.m.
Doc. No. 803591

Monday-Friday, August 4-8, 1980. The Texas Water Commission will conduct hearings on adjudication of water rights claims for the Brazos II Segment of the Brazos River Basin at the following times and locations:

August 4, 1980, 2 p.m., Council Chambers, City Hall, 211 Southwest 1st Avenue, Mineral Wells

August 5-6, 1980, 8:30 a.m., Council Chambers, City Hall, 211 Southwest 1st Avenue, Mineral Wells

August 7-8, 1980, 8:30 a.m., City Council Chambers, 111 South Houston, Granbury

All claimants are requested to attend the hearing to establish jurisdiction of the Texas Water Commission on June 2; thereafter, each claimant is required to attend on the date set aside for him to present evidence to support his claim.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: May 8, 1980, 2:58 p.m.
Doc. No. 803508

West Texas State University

Wednesday, May 21, 1980, 10 a.m. The Board of Regents of West Texas State University will meet in Room 216 of the Activities Center at West Texas State University in Canyon. According to the agenda summary, the regents will consider

the following: business and financial items; budget changes; construction contracts; laboratory and incidental fee; travel reimbursement; student service fee; organized research report; appropriation request; authority for director of accounting to sign purchase and other vouchers; permission to close revenue and expenditure account balances; confirmation of sale of surplus and salvage property; room and board rates; annual operating budget. The board will also meet in executive session to consider faculty, staff, and curriculum items; retirement, resignations, leaves of absence, employment, promotion and tenure, and last class day report, spring semester 1980.

Additional information may be obtained from Texas Smith, P.O. Box 997, Canyon, Texas 79016, telephone (806) 656-3962.

Filed: May 9, 1980, 2:53 p.m.
Doc. No. 803574

Regional Agencies

Meetings Filed May 9, 1980

The Austin-Travis County MH/MR Center, Board of Trustees, Planning and Operations Committee, will meet in the Board Room, 1430 Collier Street, Austin, on May 15, 1980, at 5:15 p.m. Further information may be obtained from Becky Howard, 1430 Collier Street, Austin, Texas 78704, telephone (512) 447-4141.

The Capital Area Planning Council, Executive Committee, will meet in CAPCO Conference Room, 611 South Congress, Suite 400, Austin, on May 20, 1980, at 2 p.m. Further information may be obtained from Richard Bean, 611 South Congress, No. 400, Austin, Texas 78704, telephone (512) 443-7653.

The Education Service Center, Region III, Board of Directors, will meet at 1905 Leary Lane, Victoria, on May 15, 1980, at 1 p.m. Further information may be obtained from Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, telephone (512) 575-1471.

The Education Service Center, Region IX, Board of Directors, will meet at 301 Loop 11, Wichita Falls, on May 15, 1980, at 9:30 a.m. Further information may be obtained from H. M. Fullerton, 301 Loop 11, Wichita Falls, Texas 76305, telephone (817) 322-6928.

The West Texas Health System Agency, Governing Body, will meet in Durango Room, Granda Royale Homotel, 6100 Gateway East, El Paso, on May 15, 1980, at 7:30 p.m. Further information may be obtained from Cory Vaughan, 303 North Oregon, Suite 700, El Paso, Texas 79901, telephone (915) 532-2910.

Doc. No. 803538

Meetings Filed May 12, 1980

The Brazos Valley MH/MR Center, Executive Committee, will meet at 202 East 27th Street, in Bryan on May 16, 1980, at 2 p.m. Further information may be obtained from Linda S. Davis, 202 East 27th Street, Bryan, Texas 77801, telephone (713) 779-2000.

The Deep East Texas Council of Governments, Board of Directors, will meet at the Lufkin Civic Center, 601 North Second Street, Lufkin, on May 22, 1980, at 1:30 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The Houston-Galveston Area Council, Board of Directors, will meet at 3701 West Alabama, Houston, on May 20, 1980, at 9:30 a.m. Further information may be obtained from Jack Steele, P.O. Box 22777, Houston, Texas, telephone (713) 627-3200.

The Lower Rio Grande Valley Development Council, Board of Directors, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on May 22, 1980, at 2 p.m. Further information may be obtained from Robert A. Chandler, Suite 207, First National Bank Building, McAllen, Texas 78501, telephone (512) 682-3481.

The Nortex Regional Planning Commission, Executive Committee, will meet at the McBride Land and Cattle Company, 501 Scott Street, Wichita Falls, on May 22, 1980, at noon. Further information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, telephone (817) 322-5281.

The Panhandle Regional Planning Commission, Project Notification and Review System, will meet in Room 216, Amarillo Building, Third and Polk Streets, Amarillo, on May 15, 1980, at 1:30 p.m. Further information may be obtained from Tom Plumlee, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

The Permian Basin Health Systems Agency, Governing Body, will meet at the Permian Basin Regional Planning Commission Offices, Midland Air Terminal, on May 19, 1980, at 7:30 p.m. Further information may be obtained from Harley Reeves, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

The Permian Basin Regional Planning Commission, Board of Directors, will meet at the Permian Basin Regional Planning Commission Offices, Midland Air Terminal, on May 21, 1980, at 1:30 p.m. Further information may be obtained from Ernie Crawford, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

The San Antonio River Authority, Board of Directors, will meet in the conference room of their general offices at 100 Guenther Street, San Antonio, on May 21, 1980, at 2 p.m. Further information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, Guilbeau Station, San Antonio, Texas 78204, telephone (512) 227-1373.

Doc. No. 803593

Texas Energy and Natural Resources Advisory Council

Consultant Contract Award

The Texas Energy and Natural Resources Advisory Council has contracted with Planergy, Inc., to conduct 13 energy auditor training sessions through the state. The training sessions are to instruct personnel of public and private nonprofit schools, hospitals, local governmental units, and public care institutions to conduct an on-site energy audit of buildings in accordance with the National Energy Conservation Policy Act of 1978, Title III. The president of Planergy, Inc., is Wayne Brown, and his address is 901 West Martin Luther King Boulevard, Austin, Texas 78701.

The value of the contract was \$67,664, and the contract commenced on February 11, 1980, and terminated on April 30, 1980. The due date for energy auditor training manuals was prior to the first energy auditor training session scheduled for March 18, 1980.

Issued in Austin, Texas, on May 2, 1980.

Doc. No. 803536 David Schiller
Fiscal Officer
Texas Energy and Natural Resources
Advisory Council

Filed: May 9, 1980, 9:29 a.m.

For further information, please call (512) 475-8234.

Texas Health Facilities Commission

Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of May 7-8, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of 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 an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, Rules 315.17.05.010-.030, Rules 315.18.04.010-.030, and Rules 315.18.05.010-.030

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Angelo Community Hospital, San Angelo (5/7/80)
AH80-0505-035

EC—Remodel shelled space to add one emergency room treatment area and remodel additional space, for outpatient/ambulatory surgery holding area

Hendrick Medical Center, Abilene (5/7/80)
AH80-0505-015

EC—Construct a new building, to contain 3,000 square feet, to be used as a child care center for children of hospital employees; the center to be open seven days a week, 17 hours a day (day and evening shift)

Holiday Pines Lodge, Inc., Woodville (5/7/80)
AN80-0505-025

EC—Construction of two semi-private bedrooms, a chart room, an activities room, and a sun porch

Tyler County Hospital, Woodville (5/7/80)
AH80-0505-029

EC—Construct a 400 square foot addition to the existing laundry area

Harris Hospital-Meth. dist, Fort Worth (5/7/80)
AH79-0605-003A (050680)

AMD/EC—Request to change completion deadline from May 10, 1980, to July 1, 1980, in Exemption Certificate AH79-0605-003, which authorized addition of 300 square feet of space and one on-line hemodialysis machine

Johnson County Memorial Hospital, Cleburne
(5/7/80)

AH80-0506-006

EC—Purchase a general electric ultrasound system for the radiology department

Doc. No. 803539

Notice of Petition for Certificate of Need Reissuance

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petitions of reissuance of certificate of need which have 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 submit-

ted 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 15023, Austin, Texas 78761, 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 Section 3.13 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.18.02.010-.040 and 315.19.02.012-.020.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

Saint Luke's Episcopal Hospital and Texas Children's Hospital, Houston
AH79-0511-017R (050880)
Reissuance of CN—Petition for reissuance of CN AH79-0511-017 which authorized the renovation and expansion of the hospital's existing radiology department and acquisition of equipment

Issued in Austin, Texas, on May 9, 1980.

Doc. No. 803540 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: May 9, 1980, 11:51 a.m.
For further information, please call (512) 475-6940.

Texas Parks and Wildlife Department

Consultant Proposal Request

Description of Project. This project is published pursuant to Article 6252-11c, Vernon's Texas Civil Statutes, to solicit offers for consulting services. The Texas Parks and Wildlife Department (TPWD) will conduct a telephone survey of Texas citizens from June through August 1980 to collect recreation participation data for the 1985 Texas Outdoor Recreation Plan (TORP). At least 12,000 or more completed interviews will be needed. The survey will question respondents in each of the 24 state planning regions about their participation in outdoor recreation activities over the past year. The results will provide updated information for estimating Texas' recreation needs for the 1985 TORP.

Project Requirements. The contractor selected will be required to provide:

(1) Twenty trained, experienced interviewers including two interviewer/supervisors to make the calls and conduct the interviews from June through August. Interviews will be done at the TPWD headquarters building; 4200 Smith School Road, Austin, Texas. TPWD will furnish facilities and telephone equipment and will develop and print the questionnaire to be used.

(2) Random/systematically selected lists of telephone numbers to make the calls.

Contact. Inquiries should be directed to Joel S. Seffel or James A. Deloney, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4991.

Deadline. Closing date for receipt of offers is June 18, 1980. This deadline may be extended at the discretion of the Texas Parks and Wildlife Department.

Selection Criteria. The selection of the consultant will be based upon offeror's demonstrated competence, including record of past performance, knowledge, qualifications, reasonableness of the fee for the services, and capacity to perform the work within the time limitations. When other considerations are equal, preference will be given to consultants whose principal place of business is within the state or who will manage the consulting engagement wholly from one of its offices within the state. Any offeror who has been employed by this agency or by another state agency at any time during the two years preceding the making of the offer shall disclose in the offer the nature of the previous employment with the agency or the other state agency, the date of termination of the employment, and the annual rate of compensation for the employment at the time of termination.

Issued in Austin, Texas, on May 7, 1980.

Doc. No. 803504 Charles D. Travis
Executive Director
Texas Parks and Wildlife Department

Filed: May 8, 1980, 1:50 p.m.
For further information, please call (512) 475-4991.

Texas Structural Pest Control Board

Notice of Public Hearing

Notice is given that a public hearing to consider proposed changes to the regulations under the provisions of the Texas Structural Pest Control Act, Article 135b-6 as amended, will be held at 9 a.m. on May 21, 1980, in Room 100B at the John H. Reagan Building, 101 West 15th Street, Austin.

All interested persons are encouraged to submit written comments and/or give oral testimony during the public hearing. Written testimony for the record concerning this hearing should be addressed to Charlie Chapman, executive director of the Texas Structural Pest Control Board, 5555 North Lamar, Building H, Suite 123, Austin, Texas 78751.

Issued in Austin, Texas, on May 9, 1980.

Doc. No. 803501 Charlie Chapman
Executive Director
Texas Structural Pest Control Board

Filed: May 8, 1980, 9:52 a.m.
For further information, please call (512) 454-3617.

Texas Register

Correction of Error

The First Quarterly Index to the *Texas Register* for 1980, dated April 29, 1980, contained an error in the section of the index entitled "TAC Titles Affected." Under Title 25—Health Services, Part I—Texas Department of Health, the rule numbers listed in Chapter .50.01 should read 301.50.01.001-.016.

TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §§9.1-9.3 (176.24.10.101-.103) 1914

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Noncodified (051.02.02.041) 1912

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Noncodified (301.33.10.001-.010) 1914

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part VI. Texas Conservation Foundation

31 TAC §§221.1, 221.2 (138.01.00.001, .002) 1883

TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System of Texas

34 TAC §83.11 (335.80.00.114) 1884

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Council

37 TAC §§95.1, 95.2 (203.41.01.001, .002) 1885
 37 TAC §§95.11-95.14 (203.41.02.001-.004) 1885
 37 TAC §§95.15, 95.16 (203.41.02.005, .006) 1884
 37 TAC §§95.31-95.37 (203.41.03.001-.008) 1886
 37 TAC §95.38 (203.41.03.009) 1885
 37 TAC §§95.51, 95.52 (203.41.04.001, .002) 1885
 37 TAC §§95.63-95.67 (203.41.05.003-.007) 1888
 37 TAC §§95.81, 95.84, 95.88, 95.91-95.97
 (203.41.06.001, .004-.008, .011-.017) 1889
 37 TAC §§95.112, 95.113 (203.41.07.002, .003) 1885
 37 TAC §§95.115-95.117 (203.41.07.005-.007) 1890
 37 TAC §§95.131, 95.132, 95.134, 95.135
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 37 TAC §§95.151-95.155, 95.159-95.161,
 95.163 (203.41.09.001-.005,
 .009-.011, .013) 1890
 37 TAC §§95.156-95.158, 95.164
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 37 TAC §§95.171-95.179 (203.41.10.001-.009) 1891
 37 TAC §97.1 (203.42.01.001) 1892
 37 TAC §§97.2, 97.3 (203.42.01.002, .003) 1891
 37 TAC §§97.11-97.15 (203.42.02.001-.005) 1892
 37 TAC §§97.21-97.24 (203.42.03.001-.004) 1893
 37 TAC §§97.31-97.33 (203.42.04.001-.003) 1893
 37 TAC §97.43 (203.42.05.003) 1894
 37 TAC §§97.62, 97.63 (203.42.06.002, .003) 1891
 37 TAC §97.81 (203.42.07.001) 1891
 37 TAC §§97.82, 97.83 (203.42.07.002, .003) 1894
 37 TAC §§97.91-97.98 (203.42.08.001-.008) 1894

37 TAC §99.3 (203.43.01.003) 1896
 37 TAC §§99.11-99.14 (203.43.02.001-.004) 1896
 37 TAC §99.21 (203.43.03.001) 1897
 37 TAC §§99.22-99.24 (203.43.03.002-.004) 1895
 37 TAC §§99.41-99.48 (203.43.04.001-.008) 1895
 37 TAC §§99.61-99.68 (203.43.05.001-.008) 1895
 37 TAC §§99.81-99.83 (203.43.06.001-.003) 1895
 37 TAC §§99.91-99.96 (203.43.07.001-.006) 1895
 37 TAC §§99.111-99.115 (203.43.08.001-.005) 1896
 37 TAC §§99.121-99.126 (203.43.09.001-.006) 1896
 37 TAC §§99.141-99.144 (203.43.10.001-.004) 1896
 37 TAC §101.68 (203.50.05.008) 1897
 37 TAC §§103.1, 103.2 (203.03.01.001, .002) 1897
 37 TAC §§103.21, 103.22 (203.03.02.001, .002) 1897
 37 TAC §§103.41 (203.03.03.001) 1898
 37 TAC §§103.61, 103.62 (203.03.04.001, .002) 1898

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

Noncodified (326.25.21.001) 1919
 Noncodified (326.25.31.001) 1919
 Noncodified (326.25.33.024) 1920
 Noncodified (326.25.34.011) 1920
 Noncodified (326.25.34.020) 1920
 Noncodified (326.25.35.011) 1921
 Noncodified (326.25.53.016) 1921
 Noncodified (326.46.03.001, .002) 1900
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 Noncodified (326.46.06.001, .002) 1901
 Noncodified (326.46.99.400) 1901
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 Noncodified (326.52.22.003-.010, .012-.016,
 .018, .022-.024) 1902
 Noncodified (326.52.22.025-.046) 1902
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 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