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TEXAS REGISTER

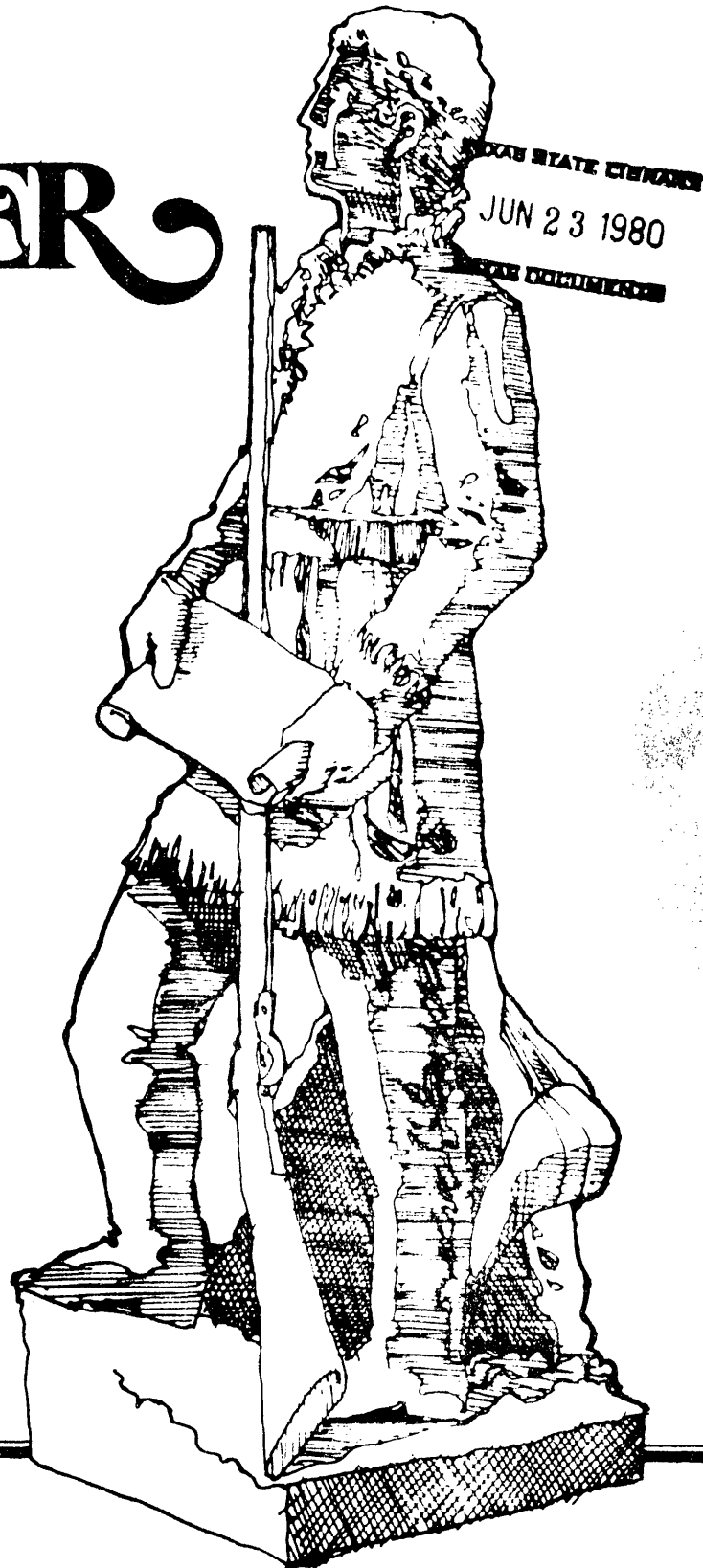
In This Issue...

Texas State Board of Podiatry Examiners proposes to adopt regulations concerning advertising and solicitation by a podiatrist; proposed date of adoption—after June board meeting 2437

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Department of Human Resources adopts new rules, amendments, and repeals of rules concerning child welfare services; effective date—July 4 2448

Department of Labor and Standards adopts rules setting forth the methods and procedures for the administration of boxing licensing and regulation provisions; effective date—July 1 2497



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, 22, 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. 2, May 80

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



George W. Strake, Jr.
Secretary of State

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

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Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

Request for Opinions

Summary of Request for Opinion RQ-338

Request from George M. Cowden, chairman, Public Utility Commission of Texas, Austin.

Summary of Request:

(1) Is the Texas Municipal Power Agency excluded from the definition of "public utility" under the Public Utility Regulatory Act?

(2) If your answer to the foregoing question is in the affirmative, then does the Public Utility Commission have any original or appellate jurisdiction over the rates and services of TMPA?

Doc. No. 804534

Summary of Request for Opinion RQ-339

Request from Warren G. Harding, state treasurer, Austin.

Summary of Request: May the state treasurer hire individuals who are expert in locating unreported property subject to escheat and, if so, out of which fund should their salaries and expenses be paid?

Doc. No. 804535

Summary of Request for Opinion RQ-340

Request from Gibson D. Lewis, chairman, Committee on Intergovernmental Affairs, house of representatives, Austin.

Summary of Request: Does an owner by the purchase of a lot in a subdivision where deed restrictions specifically set out further subdivision of those lots as permissible, waive his consent or give a prior consent pursuant to Article 974(a), Section 5, to the resubdivision of the original subdivision lots?

Doc. No. 804536

Summary of Request for Opinion RQ-341

Request from Robert Bernstein, commissioner of Health, Texas Department of Health, Austin.

Summary of Request: Does Senate Bill 277, Section 10, Acts 1977, 66th Legislature, Chapter 592 at 1249, effectively repeal the State Board of Health's rules requiring embalming in certain circumstances?

Doc. No. 804537

Summary of Request for Opinion RQ-342

Request from George N. Rodriguez, Jr., county attorney, El Paso County.

Summary of Request:

(1) Can a nonlawyer apartment manager represent an individual, partnership, or corporate owner of an apartment by filing a complaint in a forcible entry and detainer action?

(2) Can a nonlawyer apartment manager represent an individual, partnership, or corporate apartment owner at a forcible entry and detainer action hearing?

Doc. No. 804538

Summary of Request for Opinion RQ-343

Request from Homer A. Foerster, executive director, State Purchasing and General Services Commission, Austin.

Summary of Request: May the state legally pay the notary license fees of a state employee?

Doc. No. 804539

Summary of Request for Opinion RQ-344

Request from Bob Bullock, comptroller of public accounts, Austin.

Summary of Request: May the comptroller pay a claim for legal services rendered to a county by a prosecutor under contract to the Prosecutor's Coordinating Council?

Doc. No. 804540

Summary of Request for Opinion RQ-345

Request from Warren G. Harding, state treasurer, Austin.

Summary of Request:

(1) Since each employee of the State of Texas is a separate vendor of service to the state, under what statutory authority would the state comptroller be permitted to issue one warrant covering multiple vendor claims (payroll warrants)?

(2) Is there statutory authority permitting the comptroller to issue a pay warrant to any person, bank, or other corporation other than to the individual person entitled to the payment?

(3) Does the state comptroller have statutory authority to initiate direct deposit procedures for State of Texas employee payroll warrants by magnetic tap transfer service?

(4) Without statutory authority for direct deposit procedures, what liability would be incurred by the state treasurer in paying funds on presentation of warrants issued to substituted payee?

Doc. No. 804541

Summary of Request for Opinion RQ-346

Request from Robert Bernstein, commissioner of Health, Texas Department of Health, Austin.

Summary of Request: Is information concerning the sale of hospitals open under the Open Records Act when the information was collected through surveys conducted under the authority of Article 4437f, the Hospital Licensing Law?

Doc. No. 804542

Summary of Request for Opinion RQ-347

Request from Oscar H. Mauzy, chairman, State Education Committee, Austin.

Summary of Request:

(1) Is it proper for the Teacher Retirement System to apply the 1979 amendments to Section 3.02(a)(18), Education Code, retroactively to accomplish the result described above?

(2) Is the manner in which the amendment is being applied, as described above, in violation of Article 1, Section 16, of the Constitution of the State of Texas as constituting a retroactive legislation?

(3) Is the manner in which the amendment is being applied, as described above, in violation of Article 3, Section 44, of the Constitution of the State of Texas inasmuch as it is a grant of extra compensation after the public service has already been performed?

Doc. No. 804543

Summary of Request for Opinion RQ-348

Request from Joseph N. Murphy, Jr., executive director, Employees Retirement System, Austin.

Summary of Request: Are the names and addresses of former appellate judges available to the public?

Doc. No. 804544

Summary of Request for Opinion RQ-349

Request from Lee E. Holt, city attorney, Dallas.

Summary of Request: Are memoranda relating to potential city growth considered by a city staff study group open under the Open Records Act?

Doc. No. 804545

Summary of Request for Opinion RQ-350

Request from H. S. Harris Jr., chairman, Texas Industrial Accident Board, Austin.

Summary of Request: Are mental health and mental retardation community centers covered for workers compensation under Article 8309g or 8309h?

Doc. No. 804546

Summary of Request for Opinion RQ-351

Request from Bernie Martinez, criminal district attorney, Bexar County.

Summary of Request: Are services performed by district attorneys' offices in collection of hot checks legal?

Doc. No. 804547

Summary of Request for Opinion RQ-352

Request from Robert C. Koehl, attorney, Atascosa County.

Summary of Opinion: Is a person who has been granted a full and unconditional pardon by the governor of the State of Texas eligible to be a peace officer?

Doc. No. 804548

Summary of Request for Opinion RQ-353

Request from Ben Z. Grant, chairman, Judiciary Committee, Texas House of Representatives, Austin.

Summary of Request: May a person who is otherwise entitled to a homestead exemption from a school district but who fails to file a timely claim under Article 7150.5, Section 5, be denied the benefit of the exemption?

Doc. No. 804549

Summary of Request for Opinion RQ-354

Request from Charles Evans, House of representatives, Austin.

Summary of Request: Do municipalities have the authority to enact ordinances regulating the possession or sale of drug paraphernalia by an individual or enterprise?

Doc. No. 804550

Summary of Request for Opinion RQ-355

Request from Wilhelmina Delco, state representative, Austin.

Summary of Request: Are the 17 schools listed in Article 7, Section 17, of the constitution as currently written prohibited from receiving from the legislature any appropriations from general revenues for the purposes set out in Article 7, Section 17, irrespective of the fact that the fund is no longer in existence?

Doc. No. 804551

Summary of Request for Opinion RQ-356

Request from Tim Curry, criminal district attorney, Tarrant County.

Summary of Request: When a person is charged with issuance of bad check under Section 32.41 of the Penal Code in the justice court, is the justice of the peace prohibited from collecting restitution for the holders on dishonored checks written by the defendant?

Doc. No. 804552

Summary of Request for Opinion RQ-357

Request from Bill Coody, chairman, House Committee on Liquor Regulation, Austin.

Summary of Request: Can a Texas retailer with a federal wholesale permit sell a beer product across state lines in interstate commerce without violating state law or regulations?

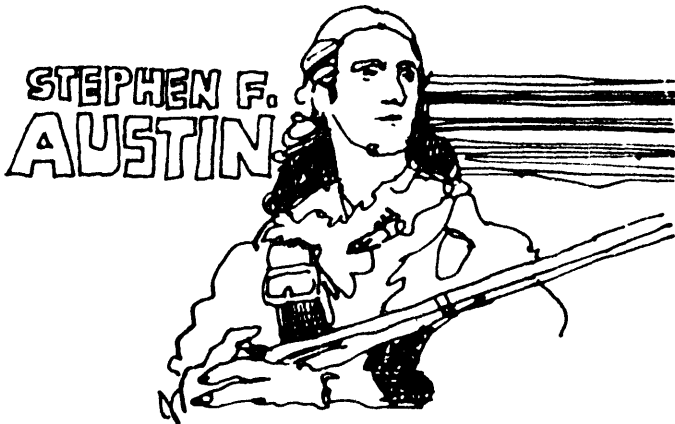
Doc. No. 804553

Summary of Opinion RQ-358

Request from Hal H. Hood, Firemen's Pension Commissioner, Austin.

Summary of Opinion: Does Section 7F of Article 2643e, Vernon's Texas Civil Statutes, permit modification of a pension plan in a manner which would remove a fireman's option to elect between retirement and disability plans as provided in Section 9 of the statute?

Doc. No. 804589



Opinions

Summary of Opinion MW-186

Request from Warren G. Harding, state treasurer, Austin, concerning whether Article 1581f, Vernon's Texas Civil Statutes, relating to unclaimed funds held by a county, is constitutional.

Summary of Opinion: Article 1581f, Vernon's Texas Civil Statutes, authorizes the county to take title to unclaimed property without a judicial proceeding. It is therefore unconstitutional as permitting the deprivation of property without due process of law.

Doc. No. 804554

Summary of Opinion MW-187

Request from Warren G. Harding, state treasurer, Austin, concerning whether the distributor's cigarette tax surety bond is ineffective on receipt of a cancellation notice.

Summary of Opinion: The surety on the Distributor's Cigarette Tax Surety Bond presented for our consideration remains liable for purchases of stamps made until the time his request for cancellation is accepted by the State Treasury Department provided the treasury department does not withhold its consent for an unreasonable length of time.

Doc. No. 804555

Summary of Opinion MW-188

Request from Joe Resweber, county attorney, Harris County, concerning the fees collected in connection with handling of hot checks.

Summary of Opinion: The Harris County auditor may prescribe accounting and control procedures for all fees collected pursuant to Article 53.08, Code of Criminal Procedure, including their deposit in Fund 521, district attorney administration fund. The county auditor may prescribe accounting and control procedures for justices of the peace as they pertain to the fees collected in the processing of hot checks for and on behalf of the district attorney.

Doc. No. 804556

Summary of Opinion MW-189

Request from Glen M. Ashworth, district attorney, Kaufman County, concerning whether a municipal utility district is required to obtain an easement from the county when its water lines cross county roads.

Summary of Opinion: A municipal utility district is not required to obtain an easement from a commissioners court before making open cuts across a county road for the purpose of laying water lines.

Doc. No. 804557

Summary of Opinion MW-190

Request from Mike Westergren, county attorney, Nueces County, concerning membership and compensation of the Juvenile Board of Nueces County.

Summary of Opinion: The compensation and composition of the Nueces County Juvenile Board is governed by Article 5139BBB, Vernon's Texas Civil Statutes.

Doc. No. 804558

Summary of Opinion MW-191

Request from Bob Bullock, comptroller of public accounts, Austin, concerning authority of the Texas Prosecutors Coordinating Council to contract with an attorney to assist the district attorney to prepare and try a case.

Summary of Opinion: Before the Texas Prosecutors Coordinating Council may spend appropriated funds to hire an outside attorney to assist a district attorney in prosecution of a case, it must request the attorney general to perform the services and receive his certification that he is unable to do so.

Doc. No. 804559

Summary of Opinion MW-192

Request from Bob Bullock, comptroller of public accounts, Austin, concerning investigative authority of the Comptroller of Public Accounts.

Summary of Opinion: The state comptroller of public accounts possesses no independent authority to duplicate or parallel the functions of the state auditor in initiating or conducting external, nonconsensual audits and examinations of the books and records of state agencies, although he does possess such authority when acting at the direction of the governor.

Doc. No. 804560

Summary of Opinion MW-193

Request from Warren G. Harding, Texas State Treasurer, Austin, concerning the distribution of interest in suspense account

Summary of Opinion: Depository interest earned on federal funds disbursed by the state treasurer to various counties under 16 United State Code, Section 500, should be distributed to the appropriate counties on a pro rata basis.

Doc. No. 804561

Summary of Opinion MW-194

Request from Joe D. LeMay, county attorney, Coleman County, concerning effect of Article 1645 on the office of county auditor in a county with a tax valuation of under \$35,000,000.

Summary of Opinion: A recent amendment to Article 1645, Vernon's Texas Civil Statutes, releasing some counties from the requirement that an auditor be appointed does not abolish the office until the term is up. After the term is over, the county would have to take action under Article 1646, Vernon's Texas Civil Statutes, to keep the office of auditor.

Doc. No. 804562



Open Records Decision

Summary of Open Records Decision ORD-243

Request from Lee E. Holt, city attorney, Dallas, concerning whether a police department is required by the Open Records Act to compile a list of all persons arrested under a particular statute within a stated time period.

Summary of Decision: Daily arrest records may be obtained under the Open Records Act. The police department is not, however, required to compile records of an individual's arrest or convictions.

Issued in Austin, Texas, on June 10, 1980.

Doc. No. 804533 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules may be effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

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 1. ADMINISTRATION

Part V. State Purchasing and General Services Commission

Chapter 113. Central Purchasing Division Purchasing

The State Purchasing and General Services Commission is renewing the effectiveness of the amendments to §113.1 (028.12.01.050) concerning a general policy statement of the commission. The text of §113.1 (.050), as amended on an emergency basis in February, was published in the *Texas Register* dated March 7, 1980 (5 TexReg 839). The amendments will be renewed for a 60-day period, effective June 27, 1980.

Issued in Austin, Texas, on June 12, 1980.

Doc. No. 804571 James H. Quick
 General Counsel
 State Purchasing and General
 Services Commission

Effective Date: June 27, 1980

Expiration Date: August 26, 1980

For further information, please call (512) 475-5966.

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 22. EXAMINING BOARDS

Part XVIII. Texas State Board of Podiatry Examiners

Chapter 375. Conduct

(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 State Board of Podiatry Examiners, 2204 Washington Avenue, Waco, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas State Board of Podiatry Examiners proposes to repeal the current sections governing conduct, §§375.1-375.19 (396.25.00.001-.019), in order to conform to recent case decisions on commercial advertising by professionals.

There are no fiscal implications to the repeal of these sections. No sources other than the members of the board have been consulted in determining that the proposed repeals have no fiscal implications.

Public comment on these proposed repeals is invited. Persons should submit their comments to Joe C. Littrell, secretary-treasurer, State Board of Podiatry Examiners, 2204 Washington Avenue, Waco, Texas 76702. Comments will be accepted until July 25, 1980.

The repeals are proposed under the authority of Articles 4568, 4570, and 4573, Vernon's Texas Civil Statutes.

- §375.1 (396.25.00.001). *Authority.*
§375.2 (396.25.00.002). *Definitions.*
§375.3 (396.25.00.003). *General.*
§375.4 (396.25.00.004). *General—Advertising and Solicitation.*
§375.5 (396.25.00.005). *Professional Signs.*
§375.6 (396.25.00.006). *Directories.*
§375.7 (396.25.00.007). *Special Announcements.*
§375.8 (396.25.00.008). *Offices.*
§375.9 (396.25.00.009). *Other Communication.*
§375.10 (396.25.00.010). *Telephone Directory Listings.*
§375.11 (396.25.00.011). *Product Endorsements.*
§375.12 (396.25.00.012). *Acquiring Another Practice.*
§375.13 (396.25.00.013). *Commercial and Business Connections.*
§375.14 (396.25.00.014). *Relationships with Other Practitioners.*
§375.15 (396.25.00.015). *Identity of Surgeon.*
§375.16 (396.25.00.016). *Fees.*
§375.17 (396.25.00.017). *Records.*
§375.18 (396.25.00.018). *Violations.*
§375.19 (396.25.00.019). *Severability.*

Doc. No. 804591

The Texas State Board of Podiatry Examiners proposes to adopt new sections concerning advertising and solicitation by a podiatrist in order to conform to recent case decisions on commercial advertising by professionals.

The effect of the repeal of the existing rules governing conduct and the adoption of new rules is that the prohibition against advertising and solicitation is repealed as well as rules on signs, directories, special announcements, and telephone directory listings. The remaining rules are carried forward to the new rules, with some slight changes, and two additional rules are proposed, one against fraudulent, false, misleading, deceptive or unfair advertising and the other setting out limits on solicitations.

There are no fiscal implications of these proposed sections since the procedures established by these proposals are currently being followed by the board. No source other than the members of the board has been consulted in determining that the proposed sections have no fiscal implications.

Public comment on these proposed sections is invited. Persons should submit their comments to Joe C. Littrell, secretary-treasurer, State Board of Podiatry Examiners, 2204 Washington Avenue, Waco, Texas 76702. Comments will be accepted until July 25, 1980.

The following sections are proposed under the authority of Articles 4568, 4570, and 4573, Vernon's Texas Civil Statutes.

§375.1 (396.25.00.020). *Definitions.* As used in this section, unless the context otherwise requires, the following terms have the meaning given in this section:

(1) "Board" means the Texas State Board of Podiatry Examiners.

(2) "Office" in the singular includes the plural.

(3) "Public communication" means any written, printed, visual, or oral statement or other communication made or distributed, or intended for distribution, to a member of the general public or the general public at large.

(4) "Solicitation" means a private communication to a person concerning the performance of a podiatric service for such person.

§375.2 (396.25.00.021) *General*

(a) The health and safety of patients shall be the first consideration of the podiatrist. The principal objective of the podiatry profession is to render service to humanity. A podiatrist shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The podiatrist shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A podiatrist shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life.

(b) A licensed podiatrist shall conduct his practice on the highest plane of honesty, integrity, and fair dealing and shall not mislead his patients as to the gravity of such patient's podiatry needs. A podiatrist shall not abandon a patient he has undertaken to treat. He may discontinue treatment after reasonable notice has been given to the patient by the podiatrist of his intention to discontinue treatment and the patient has had a reasonable time to secure the services of another podiatrist or all podiatry services actually begun have been completed and there is no contract or agreement to provide further treatment.

§375.3 (396.25.00.022) *Advertising*

(a) A podiatrist may advertise. However, a podiatrist shall not use or participate in the use of any public communication or advertisement which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(b) A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

- (1) contains a misrepresentation of fact; or
- (2) is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
- (3) contains any testimonial or laudatory statement, or other statement or implication that the podiatrist's services are of exceptional quality; or
- (4) is intended or likely to create false or unjustified expectations of favorable results; or
- (5) implies educational or professional attainments or licensing recognition not supported in fact; or
- (6) states or implies that the podiatrist has received formal recognition as a specialist or claim any specialized expertise in any aspect of the practice of podiatry, if this is not the case; or
- (7) contains statistical data or information so as to reflect past performance or prediction of future success; or
- (8) represents that podiatric services can or will be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for podiatric services that do not disclose all variables affecting the fee that will in fact be charged; or
- (9) contains other representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or be deceived.

(c) A podiatrist may use or participate in the use of a public communication which states the following information about the podiatrist and any associates:

- (1) name, address, telephone numbers, office hours, and telephone-answering hours;
 - (2) biographical and educational background;
 - (3) professional memberships and attainments;
 - (4) description of services offered;
 - (5) foreign language ability;
 - (6) acceptable credit arrangements;
 - (7) the limitation of practice to certain areas of podiatry;
 - (8) the opening or change in location of any office and change in personnel;
 - (9) fees charged for the initial consultation, provided that if the time for the consultation is to be limited, any such limitation on the time shall be stated;
 - (10) fixed fees for specific podiatric treatments and services; and
 - (11) a statement that a schedule of fees or an estimate of fees to be charged for specific treatments or services will be available on request.
- (d) All podiatrists shall retain recordings, transcripts, or copies of all public communications by date of publication for a period of at least two years after such communication was made.

§375.4 (396.25.00.023) *Soliciting*

(a) A podiatrist may make a solicitation if and only if:

- (1) the solicitation is made to a person who is, at the time of the solicitation, a patient of the podiatrist or his associates; or
- (2) the solicitation is invited by the person to whom it is made; or
- (3) the solicitation is made to a person seeking to secure the performance of podiatric services not currently provided by another podiatrist.

(b) The podiatrist making a solicitation shall have the burden of ascertaining and proving that it was made to a patient, that it was invited, or that it was made to a person seeking the performance of podiatric services not currently being provided by another podiatrist.

(c) A podiatrist may not make any private communication or solicitation which would violate §375.3 (022) if it were a public communication or an advertisement, or which involves or results in the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct.

§375.5 (396.25.00.024) *Offices*

(a) It is an objective of the Podiatry Practice Act and a policy of the board that the public be properly informed concerning the availability and level of podiatry services in every community where a podiatry office is located. To accomplish this objective, a podiatrist shall not establish or be affiliated with an office which does not comply with these sections.

(b) All podiatry offices shall contain the minimum amount of treatment equipment and facilities so that the podiatrist may provide his usual and customary podiatry services.

(c) The office shall be attended by the podiatrist on a routine schedule and frequently enough so that treatment is timely and convenient for the patients in the area where the office is located. Depending on the circumstances, adequate attendance might be once a week, one week a month, or an average of five days a month.

(d) All offices shall be staffed or equipped so that patients and the public can conveniently determine when the podiatrist will be in his office. Examples of how this information might be provided are an answering service or an automatic telephone listening and recording device of some type.

(e) This section does not prohibit a podiatrist from practicing in communities which are too small to economically justify or otherwise warrant the establishment of an office, but when a podiatrist undertakes to practice in such communities, he must have sufficient staff and equipment or facilities available to provide safe treatment.

§375.6 (396.25.00.025) *Practice Endorsements.* A licensed podiatrist shall not write testimonials as to the virtue of or endorse proprietary remedies, drugs, instruments, equipment, prosthetics, or footwear, except to report the results of properly conducted and controlled experiments or clinical studies, such reports to be submitted only to recognized scientific journals and/or to recognized scientific professional associations. A podiatrist may add his name to medical instruments and equipment which are not manufactured for or sold to the lay public.

§375.7 (396.25.00.026) *Commercial and Business Connections.*

(a) A podiatrist may prescribe shoes to his patients, but he shall not stock and sell shoes in connection with his practice, either in his office or in any room or space connected to his office.

(b) A podiatrist shall not have his office in or connected with a barber shop, beauty shop, department store, pharmacy, shoe store, gymnasium, bath house, institute of questionable repute, or any other business activity or location that brings discredit to the profession.

(c) A podiatrist who has maintained his office in or connected with a department store, shoe store, or pharmacy prior to the time this section is effective, may continue to so maintain his office without being in violation of this section. However, he may not confer this right on any other podiatrist, whether by sale of the office of his practice to the other podiatrist, by employing him, by entering into a partnership or any other type of association with him, or by any other method or device.

§375.8 (396.25.00.027) *Relationships with Other Practitioners.*

(a) A podiatrist shall not criticize or belittle his colleagues or other healing art practitioners.

(b) A podiatrist shall not aid an unethical practitioner or engage in any subterfuge with any person, business, or organization. He shall expose any illegal, unethical, or dishonest conduct of other practitioners and cooperate with those invested with the responsibility of enforcement of the law and these rules of conduct.

§375.9 (396.25.00.028) *Identity of Surgeon.* A person under a podiatrist's care or treatment on whom podiatric surgery is to be performed in connection with such care or treatment, should be informed by the podiatrist of the identity of the surgeon before the surgery is performed.

§375.10 (396.25.00.029) *Fees.*

(a) The fee which a podiatrist charges for his service should be commensurate with the reasonable and customary fee for such services in the community in which the podiatrist practices.

(b) The podiatrist has special knowledge which his patient does not have; therefore, to avoid misunderstanding he should advise his patients in advance of beginning treatment of the nature and extent of the treatment needed; the approximate time required to perform the recommended treatment and services, and any further or additional services or return by the patient for treatment, adjustments, or consultation and the time in which this shall occur. A podiatrist should inform his patients as to the fees to be charged for services before the services are performed, regardless of whether the fees are charged on a case basis, on the basis of a separate charge for each service, on a combination of these two methods, or some other basis. If an exact fee for a particular service, as in extended care cases, cannot be quoted to a patient, a fair and reasonable estimate of what the fee will be and the basis on which it will be determined should be given to the patient.

(c) A podiatrist shall not engage in fee splitting. However, a podiatrist may pay an assistant's fee according to the established percentage or rate prevailing in the community.

§375.11 (396.25.00.030) *Records.* All podiatrists shall make, maintain, and keep accurate records of the diagnosis made and the treatment performed for and upon each of his patients for reference and for protection of the patient for at least two years following the completion of the treatment.

§375.12 (396.25.00.031) *Violations.*

(a) Any podiatrist who violates any provision of these sections shall be subject to having his license and privilege to practice podiatry revoked, cancelled, or suspended.

(b) A board order to revoke, cancel or suspend a license may be probated.

(c) The board may institute action in its own name to enjoin a violation of any provision of these sections.

§375.13 (396.25.00.032) *Severability.* If any rule, section or subsection, sentence or clause is held for any reason to be invalid or inapplicable to any person, such decision shall not effect the validity of any remaining portion or portions of these sections.

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804592 Joe C. Littrell, DPM
Secretary-Treasurer
Texas State Board of Podiatry
Examiners

Proposed Date of Adoption: After June board meeting
For further information, please call (512) 476-6331.



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter H. Wildlife Management Areas Hunting, Fishing, and Trapping Proclamation, 1980-81

The Texas Parks and Wildlife Commission proposes to amend §§65.191, 194, 196, 197, 198, 200, 202, 203, 205, 207, 211, 213, 214, 217 (127.70.19.134, 136, 138, 139, 140, 142, 144, 145, 147, 149, 153, 155, 156, and 158), which constitute a part of the Wildlife Management Areas Hunting, Fishing, and Trapping Proclamation, 1980-81.

The commission is responsible for establishing seasons, bag limits, means, methods, and fees for taking the wildlife resources on wildlife management areas. Fluctuations of wildlife resource populations on wildlife management areas require that new regulations be adopted for the 1980-81 seasons.

The department staff (Wildlife Division) has determined that the proposed amendments will have no fiscal implications for the state or units of local government.

Comments on the proposed amendments are invited and may be submitted by contacting Bobby G. Alexander, wildlife facilities coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4875. Comments must be received within 30 days of publication of the proposed amendments in the *Texas Register*.

These amendments are proposed under the authority of Chapter 81, Subchapter E, Texas Parks and Wildlife Code.

§65.191 (127.70.19.134) Application. These sections apply to all of the wildlife resources in:

- (1) Eastern [Angelina] Wildlife Management Area:
 - (A) Dam "B" Unit (includes Angelina Neches scientific area) in Jasper and Tyler Counties;
 - (B) Toledo Bend Unit in Shelby County; [and]
 - (C) **Granger Wildlife Management Unit in Williamson County;** [Stephen F. Austin Unit in Nacogdoches County.]

(D) **Pat Mayse Wildlife Management Unit in Lamar County; and**

(E) **Somerville Wildlife Management Unit in Burleson and Lee Counties.**

(2) Black Gap Wildlife Management Area in Brewster County;

(3) Chaparral Wildlife Management Area in Dimmit and LaSalle Counties;

(4) Sierra Diablo Wildlife Management Area in Culberson and Hudspeth Counties;

(5) Gus Engeling Wildlife Management Area in Anderson County;

(6) Granger Wildlife Management Area in Williamson County.]

(6)(7) **Gene Howe Wildlife Management Area in Hemphill County;**

(7)(8) **Kerr Wildlife Management Area in Kerr County;**

(8)(9) **Matador Wildlife Management Area in Cottle County;**

(10) **Pat Mayse Wildlife Management Area in Lamar County;**

(9)(11) **J. D. Murphree Wildlife Management Area in Jefferson County.**

(10)(12) **Las Palomas Wildlife Management Area:**

(A) Adams Unit in Hidalgo County;

(B) Frederick Unit in Willacy County;

(C) Grulla Unit in Starr County;

(D) Kelly Unit in Hidalgo County;

(E) Longoria Unit in Cameron County;

(F) Prieta Unit in Starr County; and

(G) Voshell Unit in Cameron County;

(11)(13) **Sheldon Wildlife Management Area in Harris County.**

§65.194 (127.70.19.136) Carcass.

(a) None of the wildlife resources of the wildlife management areas may be taken except by holders of permits that have been issued by the Parks and Wildlife Department; however, no permits are required for the Eastern [Angelina] Wildlife Management Area (Dam "B," [and] Toledo Bend units), Granger [area, and], Pat Mayse [Wildlife Managements Area], and **Somerville Units**), except during the regular deer season and no permit is required for taking mourning doves on the Gene Howe, Matador, and Black Gap Wildlife Management Areas or white-winged doves on the Black Gap Area, **however, hunters must register at headquarters on each area.** No permit is required for taking fish.

(b) The department shall charge a permit fee based on the costs to the department in compliance with Section 81.403(c), Texas Parks and Wildlife Code. **Permit holders will be allowed to harvest game in accordance with established daily bag limits on the particular area hunted.**

(c) The permit fees are:

(1) white-tailed deer—\$20;

(2) mule deer—\$40;

(3) javelina—\$10;

(4) squirrel—\$4;

(5) turkey—\$10;

(6) quail—\$5;

(7) mourning doves and/or white-winged doves—\$5;

(8) waterfowl—\$4;

(9) predatory animals (feral hogs)—\$10.

§65.196 (127.70.19.138) Definitions.

(a) "Department" or "Parks and Wildlife Department" is the Texas Parks and Wildlife Department or a specifically authorized employee of the department.

(b) "Game animals" are wild deer, wild elk, wild antelope, wild desert bighorn sheep, wild black bear, wild gray or cat squirrels, wild fox squirrels or red squirrels, and colored peccary or javelina.

(c) A "buck deer" is a deer having a hardened antler protruding through the skin.

(d) An "antlerless deer" is a deer having no hardened antler protruding through the skin.

(e) "Game birds" are wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild

Mearn's quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes.

(f) "Migratory game birds" are wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and sandhill cranes.

(g) A "bearded hen" is a female turkey possessing a clearly visible beard protruding through the feathers of the breast.

(h) "Fur-bearing animals" are wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, or civet cat.

(i) "Exotic mammals" on wildlife management areas are nonindigenous wild mammals.

(j) "Daily bag limit" is the quantity of a species of game that may be taken in one day.

(k) "Possession limit" is the maximum number of a species of game that may be possessed at one time.

(l) "Predatory animals" on wildlife management areas are coyotes, feral hogs, European wild hogs, and crosses thereof, feral house cats, bobcats, and mountain lions.

(m) Other nonprotected species on wildlife management areas are rabbits.

(n) "Wildlife resources" on wildlife management areas are game animals, game birds, fur-bearing animals, alligators, marine animals, fish, other aquatic life, exotic mammals, predatory animals, and other nonprotected species.

(o) "Paraplegic" means an individual afflicted with paralysis of lower half of body without movement of both legs usually due to disease or injury to spinal cord.

(p) "Special permit" is a permit issued to an applicant to allow the taking of designated species of wildlife from wildlife management areas when such permit is issued as the result of a public drawing.

(q) "Regular permit" is a permit issued to an individual to allow the taking of designated species of wildlife from wildlife management areas when such permit is issued on a first-come-first-served basis by department personnel on an area at the time of the hunt.

(r) "Permission by registration" is the registering at designated places on areas by hunters and fishermen to be allowed to hunt certain wildlife species or fish on designated areas during open seasons.

§65.197 (127.70 19 139) General Regulations.

(a) Camping will be limited to authorized hunters and fishermen on designated campsites. [Camping on

areas will be limited to authorized hunters and fishermen, except by a special permit. Hunters and fishermen will be required to occupy designated campsites only, except camping and camp fires are not permitted on the Granger, J. D. Murphree, Kerr, Eastern (Angelina) (Stephen F. Austin and Toledo Bend Units), Las Palomas (Adams, Frederick, Grulla, Kelly, Longoria, Prieta, and Voshell Units), and Sheldon Wildlife Management Areas.] Camping on Dam "B" Unit of the Eastern (Angelina) Wildlife Management Area will be by permit only. Permits will be available at the U. S. Corps of Engineers office at the reservoir site.

(b) All hunters and fishermen shall be required to register at area headquarters, designated check stations or boxes provided at access points, except on Granger, Dam "B"

and Toledo Bend Units, and Pat Mayse Areas. Deer hunters on the Pat Mayse Area shall register at hunt headquarters located on FM 1499.]

(b)(c) All vehicles shall be restricted to designated roads. Parking will be permitted only in designated areas. On the Granger Unit (Area), parking is permitted only along roads and in such manner as to not obstruct traffic.

(c)(d) Fishermen shall be required to use Maravillas Canyon and Horse Canyon Roads only while going to and from the Rio Grande on the Black Gap Wildlife Management Area. From this point where the Maravillas Canyon Road enters the Rio Grande Valley downstream to the area boundary, all fishermen shall be confined to the area between the road and the river. From the same point upstream to the area boundary, all fishermen shall be confined to an area within 300 yards of the river.

(d)(e) Use of firearms except during open hunting seasons, disturbance or removal of plants, rocks, artifacts, or other objects is prohibited. It is unlawful for any person to possess firearms, or bow and arrow, on a wildlife management area, except persons possessing an authorized permit issued by the Parks and Wildlife Department to hunt on the area, or commissioned law enforcement officers and department employees in the performance of their duties.

(e)(f) Strewing of refuse, litter, trash, or garbage is prohibited.

(f)(g) No person may hunt, take, or kill, or attempt to hunt, take, or kill any game bird, game animal, or other protected species of wildlife from a motor vehicle, motor-driven land conveyance, or from any aircraft or airborne device, except paraplegics and single or double amputees of legs may take any legal wildlife during open seasons from any stationary motor vehicle or motor-driven land conveyance.

(g)(h) No person may possess or consume alcoholic beverages within the areas.

(h)(i) Employees of the department may remove parts from specimens harvested on management areas for scientific investigation.

(i)(j) A person hunting any wildlife, except migratory birds and turkey, on a wildlife management area must visibly wear a minimum of 400 square inches of daylight fluorescent orange material with 144 square inches appearing on both the chest and back.

(j)(k) Business concessions such as selling, renting, leasing, or peddling goods, merchandise, or services to the public may not be conducted on any area unless specifically authorized in writing by the executive director.

(k)(l) No person may enter or attempt to enter a wildlife management area with a gun, rifle, or any other weapon, except persons duly selected to hunt on the areas or employees of the department in performance of their duties.

(l)(m) No dogs are allowed within the J. D. Murphree Area, except one dog per permit-holding hunter is permitted to retrieve dead or wounded waterfowl.

(m)(n) Dogs in camp on wildlife management areas shall be confined or leashed.

(n)(o) Water skiing is prohibited.

(o)(p) Airboats are prohibited on the J. D. Murphree Area, except in Big Hill Bayou.

(p)(q) Boats, skiffs, or floating craft of any type may not be left overnight.

(q)(r) Swimming is prohibited.

(r)(s) Sheldon Wildlife Management Area shall be open for fishing from 5 a.m. to 9:30 p.m. each day, except

Mondays when the area will be closed unless a federal or state legal holiday occurs on Monday. In that event, the area shall open Monday and close on the following Tuesday.

(s)(t) Only persons with valid permits will be allowed afield during hunts on wildlife management areas, except on those areas where no permits are required.

§65.198 (127.70.19.140). Rifle and Shotgun.

(a) It is lawful to shoot game animals, predatory animals, and exotic mammals only with a rifle or shotgun capable of and designed for being shot from the shoulder.

(b) It is unlawful to shoot a game bird with a rifle, except turkey during the regular season, or to shoot a migratory game bird with a shotgun that is not permanently plugged to three-shell capacity.

(c) It is unlawful to use rimfire ammunition, jet gun, or rocket gun in shooting deer, javelina, predatory animals, and turkey.

(d) It is unlawful to use shotgun shells other than rifled slugs or buckshot in shooting predatory animals, except that feral house cats may be taken with any legal type shotgun shell.

(e) It is unlawful to use a rifle to take turkey during the spring turkey gobbler season.

(f) *On the Eastern Wildlife Management Area (Dam "B," Toledo Bend, Granger, Pat Mayse, and Somerville Units) shotguns only may be used for the taking of game birds and animals, except that rifles may be used for hunting deer during the regular open deer seasons.* It is unlawful to use a rifle for any purpose on the Granger, Pat Mayse, and Eastern (Angelina) (Dam "B" and Toledo Bend Units) Wildlife Management Areas, except for the hunting of deer during regular open deer season. Shotguns only may be used for the taking of game birds and animals.

§65.200 (127.70.19.142). Hunting with Dogs.

(a) It is unlawful to use a dog or dogs in hunting, pursuing, or taking deer, or predatory animals, *or javelina.*

(b) It is lawful to use not more than two leashed dogs in trailing wounded deer.

(c) A wounded deer is defined as a deer leaving a blood trail.

§65.202 (127.70.19.144). Hunting Permits.

(a) Permits for hunting wildlife species on wildlife management areas shall be issued by the department to applicants by means of an impartial method of distribution subject to limitations on the maximum number of permits to be issued.

(b) No person may receive a special permit for hunting on wildlife management areas for two consecutive years unless all applications from persons who applied but did not receive a permit for the preceding year are filled.

(c) A "special permit" is required for the hunting of deer, javelina, feral hogs, turkey and exotic animals on the following wildlife management areas: *Gene Howe, Engeling, Matador, Kerr, Black Gap, Sierra Diablo, Chaparral, and the Somerville and Pat Mayse Units of the Eastern Wildlife Management Area except during the deer archery season on Dam "B," Somerville and Pat Mayse Units of the Eastern Wildlife Management Area.*

(d) A "regular permit" (issued on a first-come-first-served basis at the area) is required for the taking of quail, squirrel, and waterfowl on the *Gene Howe, Matador, Engeling, Black Gap, Chaparral, and J. D.*

Murphree Areas, and for Mourning Dove on the Engeling, Chaparral, and J. D. Murphree Areas.

(e) *Hunters must register at headquarters before hunting mourning dove on the Gene Howe, Matador and Black Gap Wildlife Management Areas and before hunting white-winged dove on the Black Gap Area. Fishermen must register at designated places on the Black Gap and Engeling Wildlife Management Areas before fishing during open season on the areas.*

(c) All hunting and trapping shall be by special permit, except quail hunters on the Black Gap, Chaparral, Gus Engeling, Gene Howe, and Matador Wildlife Management Areas will be accepted on a first-come-first-served basis.

(d) No special permit is required for squirrel and duck hunting on the Engeling Area, squirrel on the Stephen F. Austin Unit, waterfowl hunting on the J. D. Murphree Area, or dove on the Chaparral Area.

(e) No permit is required for mourning dove hunting on the Matador, Gene Howe, and Black Gap Wildlife Management Areas or white-winged doves on the Black Gap Area (hunters must register at designated points).

(f) No permit is required for hunting on the Eastern (Angelina) Area (Dam "B" and Toledo Bend Units), Granger, and Pat Mayse Wildlife Management Areas during the open seasons provided in these sections, except a special permit is required to hunt deer on the Pat Mayse Area during the regular season.

§65.203 (127.70.19.145). Checking Game. All game birds, game animals, exotic mammals, predatory animals, other nonprotected species, and fur-bearers taken or killed on the wildlife management areas, except *the Eastern Wildlife Management Area (Pat Mayse, Somerville, Granger, Toledo Bend and Dam "B" Units)* (Pat Mayse Area, Granger Area, Eastern (Angelina) Area (Toledo Bend and Dam "B" Units)), and doves on the Gene Howe, Matador, and Black Gap Areas, must be checked at designated check stations before the hunter or trapper leaves the premises. On the Pat Mayse Area *and Somerville Units* during the regular deer season, hunters must check in at check stations (located on FM 1499).

§65.205 (127.70.19.147). Tagging of Game.

(a) The sex of deer or turkey and definition of antlered buck to be taken shall be determined at the time of the hunt and stipulated on the permit issued by the department to the hunter.

(b) The carcass of deer or turkey in possession of a person shall have attached to it a tag issued to the person from his or her valid hunting license; in addition, a special tag issued from the wildlife management area must be attached to each deer or turkey until the deer or turkey is processed for consumption, except no special tag is required for deer or turkey killed on the Eastern (Angelina) Area (Dam "B" Unit) and the Pat Mayse Unit (Area) during the deer archery season.

(c) No tag from the valid hunting license is required on exotic mammals; however, a special tag issued from the area must be attached to each exotic mammal unit it is processed for consumption.

§65.207 (127.70.19.149). Deer and Exotic Mammals.

(a) By permit only, except during open seasons on Eastern (Angelina) Area (Dam "B" Unit).

(b) Archery season—open season.

(1) **Eastern:**

(A) **Dam "B" Unit (includes Angelina-Neches Scientific Unit):** to conform with the deer archery season set in Jasper County;

(B) **Pat Mayse Unit:** to conform with the deer archery season set in Lamar County;

(C) **Somerville Unit:** to conform with the deer archery season set in Burleson County.

(1) Eastern (Angelina) (Dam "B" Unit - includes Angelina-Neches Scientific Area): October 1-31, 1979;|

(2) Gus Engeling: (special permit) October 13-15, 20-22, 1980; |October 22-24, 25-27, 29-31, 1979;|

(3) Pat Mayse: October 1-13, 1979;|

(3)|(4)| Other areas: no open season.

(c) Regular season—open season.

(1) **Eastern:**

(A) **Dam "B" Unit: (includes Angelina-Neches Scientific Area)** to conform with the regular deer season set in Jasper County;

(B) **Pat Mayse Unit: (special permit) November 15-20, 1980.**

(C) **Somerville Unit: (special permit) November 18, 1980-January 1, 1981.**

(1) Eastern (Angelina) (Dam "B" Unit - includes Angelina-Neches Scientific Area): November 17, 1979-January 1, 1980;|

(2) Gus Engeling: (special permit) November 15, 1980-January 1, 1981; |November 17, 1979-January 1, 1980;|

(3) Chaparral: (special permit) November 15, 1980-January 1, 1981; |November 17, 1979-December 31, 1979;|

(4) Gene Howe: (special permit) November 15, 1980-January 1, 1981; |November 17-19, 24-26; December 1-3, 1979;|

(5) Kerr: (special permit) November 15, 1980-January 1, 1981; |November 17, 1979-January 1, 1980;|

(6) Pat Mayse: November 17-19, 19-21, 1979;|

(6)|(7)| Sierra Diablo: (special permit) November 29-December 15, 1980; |November 24-26, 26-28, 28-30, 30-December 2, 1979;|

(7)|(8)| Other areas: no open season.

(d) Bag and possession limit: on all areas, one deer or exotic mammal per person; sex, definition of antlered buck, and species to be determined at time of the hunt.

§65.208 (127.70.19.150). *Javelina.*

(a) Open season:

(1) Black Gap: (special permit) January 1-31, 1981; |November 10-12, 12-14, 14-16; December 15-17, 17-19, 19-21, 1979, January 12-14, 14-16, 16-18, 1980;|

(2) Chaparral: (special permit) February 1-28, 1981; |February 11-13, 13-15, 1980;|

(3) Other areas: no open season.

(b) Bag limit: one javelina.

(c) Possession limit: one javelina.

§65.209 (127.70.19.151). *Squirrel.*

(a) Open season.

(1) Eastern [(Angelina)]:

(A) **Somerville:** season to conform with the season set in Burleson County; except no squirrel hunting allowed during regular deer season.

(A) Stephen F. Austin Unit: October 19-20, 26-27, November 2-3, 1979;

(B) Dam "B" Unit (includes Angelina-Neches Scientific Area): season to conform with season in Jasper County; |October 1, 1979-January 15, 1980; May 1-31, 1980;|

(C) Toledo Bend Unit: season to conform with season in Shelby County; |October 1-December 31, 1979;|

(D) Granger: season to conform to the season set in Williamson County;

(E) Pat Mayse: October 1-November 14, November 21, 1980-January 15, 1981, May 1-31, 1981.

(2) Gus Engeling: (regular permit) October 10-11, 17-18, 24-25, 1980, May 8-9, 15-16, 1981; |October 5-6, 12-13, 19-20, 1979, May 9-10, 16-17, 1980;|

(3) Granger: October 1, 1979-January 15, 1980, May 1-31, 1980;

(4) Pat Mayse: October 1-November 11, 1979, December 1, 1979-January 15, 1980, May 1-31, 1980;|

(3)|(5)| Other areas: no open season.

(b) Bag limit: 10 squirrels per day.

(c) Possession limit: 20 squirrels.

§65.210 (127.70.19.152). *Turkey.*

(a) Open season:

(1) Gus Engeling: (special permit) April 10-12, 24-26, 1981 |April 11-13, 18-20, 25-27, 1980 (spring season);|

(2) Gene Howe: (special permit) November 22-24, 24-26, 26-28, 1980, (regular season) April 11-13, 18-20, 25-27, 1981 (spring season); |November 17-19, 24-26, December 1-3, 1979 (regular season), April 12-14, 19-21, 26-28, 1980 (spring season);|

(3) Kerr: (special permit) April 18-20, 25-27, May 2-4, 1981 |April 12-14, 19-21, 26-28, 1980; (spring season);|

(4) Matador: (special permit) April 11-13, 18-20, 25-27, 1981; |April 12-14, 19-21, 26-28, 1980 (spring season);|

(5) Other areas: no open season.

(b) Bag limit: one gobbler or bearded hen, except during spring season here the limit is one gobbler only.

(c) Possession limit: one turkey.

§65.211 (127.70.19.153). *Quail.*

(a) Open season.

(1) Eastern [(Angelina)]:

(A) Toledo Bend Unit: season to conform with season in Shelby County; |December 1, 1979-January 31, 1980;|

(B) Dam "B" Unit (includes Angelina-Neches Scientific Area): season to conform with season in Jasper County; |November 17, 1979-February 17, 1980;|

(C) Granger Unit: to conform with the season set in Williamson County;

(D) Pat Mayse: to conform with the season set in Lamar County; except no quail hunting will be allowed during the regular deer season on the area;

(E) Somerville Unit: to conform with the season set in Burleson County; except no quail hunting will be allowed during regular deer season;

(2) Black Gap: (regular permit) October 4-5, 11-12, 18-19, 25-26, November 1-2, 1981; |October 6-7, 13-14, 20-21, 27-28, November 3-4, 1979;|

(3) Chaparral: (regular permit) November 1-2, 8-9, December 13-14, 20-21, 1980, January 10-11, 17-18, 24-25, 31-February 1, 7-8, 14-15, 21-22, 1981; |October 27-28, 1979, November 3-4, 10-11, 1979, December 8-9, 15-16,

1979, January 5-6, 12-13, 19-20, 26-27, 1980, February 2-3, 9-10, 16-17, 23-24, 1980;|

[(4) Granger: November 17, 1979-February 17, 1980;|

[(4)(5) Gene Howe: (*regular permit*) **October 25-26, November 1-2, 8-9, December 6-7, 13-14, 1980, January 3-4, 10-11, 17-18, 24-25, 31-February 1, 1981;** |October 27-28, November 3-4, 10-11, December 8-9, 15-16, 1979, January 12-13, 26-27, February 9 10, 23-24, 1980;|

[(5)(6) Matador: (*regular permit*) **October 25-26, November 1-2, 8-9, 15-16, December 6-7, 13-14, 1980, January 3-4, 10-11, 17-18, 24-25, 31-February 1, 1981;** |October 27-28, November 3-4, 10-11, 17-18, December 1-2, 8-9, 15-16, 1979, January 5-6, 12-13, 19-20, February 2-3, 9-10, 1980;|

[(7) Pat Mayse: November 22, 1979-February 17, 1980. |

[(8) Gus Engeling: November 2-3, 5-6, 1979;|

[(6)(9) Other areas: no open season.

(b) Bag limit: 12 quail per day.

(c) Possession limit: 36 quail.

§65.213 (127.70.19.155). *Migratory Birds.*

(a) Mourning doves.

(1) Open season.

(A) Eastern [(Angelina)]:

(i) Dam "B" Unit (includes Angelina-Neches Scientific Area): to correspond with the season set in Jasper County;

(ii) Toledo Bend Unit: to correspond with the season set in Shelby County;

(iii) Granger Unit: to correspond with season set in Williams County.

(iv) Pat Mayse Unit: to correspond with the season set in Lamar County.

(v) Somerville Unit: to correspond with the season set in Burleson County.

(B) Black Gap: (*permission by registration*) to correspond with the first 30 consecutive days of the season set in Brewster County;

(C) Chaparral: (*regular permit*) on dates when quail are hunted during the established dove season for Dimmit and LaSalle Counties. |October 27-28, November 3-4, 1979; January 5-6, 12-13, 19-20, 1980;

[(D) Granger: To correspond with the season set in Williamson County;|

[(D)(E) Matador: (*permission by registration*) to correspond with the first 30 consecutive days of the season set in Cottle County;

[(F) Pat Mayse: to correspond with the season set in Lamar County;|

[(E)(G) Gene Howe: (*permission by registration*) to correspond with the first 30 consecutive days of the season set in Hemphill County;

[(F)(H) Other areas: no open season.

(2) Shooting hours: One half-hour before sunrise to sunset.

(3) Bag limit: 10 mourning doves.

(4) Possession limit: 20 mourning doves.

(b) White-winged doves.

(1) Open season.

(A) Black Gap: (*permission by registration*) to correspond with the season set in Brewster County.

(B) Other areas: no open season.

(2) Shooting hours: noon to sunset.

(3) Bag limit: 10 white-winged doves.

(4) Possession limit: 20 white-winged doves.

(c) Waterfowl.

(1) Open season.

(A) J. D. Murphree—teal ducks only: (*regular permit*): to correspond with the teal season set by the migratory game bird proclamation; other migratory waterfowl: Every Tuesday, Thursday, and Saturday of the duck season for Jefferson County as set in the migratory game bird proclamation, except there shall be no hunting on Thanksgiving, Christmas, or New Year's Day. Should any of these holidays fall on a Tuesday, Thursday, or Saturday, the following Wednesday, Friday, or Monday shall be hunted in lieu thereof;

(B) Eastern [(Angelina)]:

(i) Dam "B" Unit (includes Angelina-Neches Scientific Area): within the season set by the migratory game bird proclamation;

(ii) Toledo Bend Unit: within the season set by the migratory game bird proclamation;

(iii) Pat Mayse Unit: *within the season set by the Migratory Game Bird Proclamation;*

(iv) Somerville Unit: *to correspond with the season set by the Migratory Game Bird Proclamation;*

(C) Gus Engeling: (*regular permit*) **January 9, 10, 11, 16, 17, 18, 1981;** |January 4, 5, 6, 11, 12, 13, 1980. |

[(D) Pat Mayse: within the season set by the migratory game bird proclamation;|

[(D)(E) Other areas: no open season.

(2) Shooting hours: to correspond with the shooting hours set by the migratory game bird proclamation.

(3) Bag limit: to correspond with the bag limit set by the migratory game bird proclamation.

(4) Possession limit: to correspond with the possession limit set by the migratory game bird proclamation.

(5) Special regulation: on the J. D. Murphree Area, hunters using 12-gauge shotguns may possess only shotgun shells that contain steel shot.

(d) Other migratory birds: no open season.

§65.214 (127.70.19.156). *Other Nonproceed Species: Rabbits.* Eastern: |Granger: no closed season and no bag or possession limit. |

(1) Granger Unit: *no closed season and no bag or possession limit;*

(2) Pat Mayse Unit: *no closed season and no bag limit, except that only persons possessing a special permit may take rabbits during the regular deer season on the area;*

(3) North Toledo Bend Unit: *no closed season and no bag or possession limit;*

(4) Somerville Unit: *no closed season and no bag or possession limit;*

(5) Dam "B" Unit (includes the Angelina-Neches Scientific area): *no closed season and no bag or possession limit.*

§65.217 (127.70.19.158). *Predatory Animals.* There is no open season on predatory animals; however, they may be taken by valid permit holders only during deer and javelina open seasons, except that feral house cats may be taken during any open season, and on the Gus Engeling Area, feral hogs, European wild boars, and crosses thereof may be taken during the seasons provided.

(1) Open season.

(A) Gus Engeling: (*special permit*) **October 1-3, 4-6, 7-9, 1980, February 2-4, 5-7, 9-11, 1981;** [January 17-19, 21-23, 24-26, 28-30; February 11-13, 14-16, 19-21, 25-27; March 13-15, 17-19, 20-22, 24-26, 27-29, 1980.]

(B) Other areas: no special hog hunt.

(2) Bag limit: none.

(3) Possession limit: none.

Doc. No. 804506

Early Season Migratory Game Bird Proclamation, 1980-81

The Texas Parks and Wildlife Commission proposes to adopt §65.311-.316 (127.70.20.001-.006) which will constitute the Early Season Migratory Game Bird Proclamation, 1980-81.

The commission is responsible for establishing seasons, bag limits, means, methods, and devices for taking and possessing migratory game birds. Regulations for hunting migratory game birds may be set by the state only within a framework established by the U. S. Fish and Wildlife Service. The general framework issued by the Fish and Wildlife Service allows states within major flyway systems to adjust seasons and bag limits to take into consideration their localized circumstances.

The proposals for early season species are based upon the most current data available. Early season species are those species that have seasons beginning before September 29, 1980. The seasons, bag limits, means, and methods are tentative and subject to modification. The proposed sections may be modified by Parks and Wildlife Commission action as a result of (1) changes in migratory game bird populations as determined by annual surveys, (2) the Fish and Wildlife Service's public hearing held June 20, 1980, (for early season species) in Washington, D. C., (3) the commission in public hearing, and (4) comments solicited from this proposal.

The administrative and enforcement responsibilities of the proposed sections will not involve local agencies. The department staff (Wildlife Division) has determined that the adoption of §65.311-.316 (001-.006) will have no fiscal implications on the state or units of local government.

Comments on proposed §65.311-.316 (001-.006) are invited and may be submitted by contacting William C. Brownlee, Migratory Game Program director, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4873. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*. Sections 65.311-.316 (001-.006) are proposed under the authority of Chapter 64, Subchapter C, Texas Parks and Wildlife Code.

§65.311 (127.70.20.001). Definitions.

(a) The following are migratory game birds: wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and sandhill cranes (Section 64.021(1), Texas Parks and Wildlife Code).

(b) The term "take" includes the term: pursue, hunt, shoot, capture, collect, or kill, or the attempt to pursue, hunt, shoot, capture, collect, or kill.

(c) Open seasons as herein regulated are those periods of time during which migratory game birds may be lawfully taken. When given in dates, all dates are inclusive during the permitted shooting hours.

(d) The daily bag limit, or bag limit, is the maximum number of the indicated species which may be legally killed, taken, or possessed during the permitted shooting hours in one calendar day.

(e) The possession limit is the maximum number of the indicated species permitted to be possessed by one person when lawfully taken in the United States.

(f) The sinkbox is any type of low floating device having a depression which affords the hunter a means of concealing himself below the surface of water.

(g) Baiting means the placing, exposing, depositing, distributing, or scattering of shelled, slucked, or unslucked corn, wheat, or other grain, salt, or other feed so as to constitute for such birds a lure, attraction, or enticement to, on, or over areas when hunters are attempting to take them; and "baited area" means any area where shelled, slucked, or unslucked corn, wheat, or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for ten days following complete removal of all such corn, wheat, or other grain, salt, or other feed.

§65.312 (127.70.20.002). Means and Methods.

(a) The following means and methods are lawful, subject to control of subsection (b) of this rule below, in the taking of migratory game birds:

(1) dogs, artificial decoys, manual or mouth-operated birdcalls, longbow and arrows, shotgun not larger (in barrel diameter) than 10 gauge and incapable of holding more than three shells, which includes one in the firing chamber, fired from the shoulder, and by means of falconry;

(2) positions in the open or from a blind or other place of concealment except a sinkbox and except by use of livestock as a means of concealment, on land, or water;

(3) taking from floating craft (other than a sinkbox) which is beached, at anchor, or tied within or alongside a fixed hunting blind, except that rails may be taken from craft unaffected at the time of taking by any source of propulsion other than paddle, oars, or pole;

(4) taking on or over unbaited areas;

(5) taking by the use of power boats, sailboats, or other craft when used solely as a means of picking up dead or injured birds; and

(6) paraplegics and single or double amputees of the legs may take migratory game birds from any stationary motor vehicle or motor-driven land conveyance.

(b) The following means and methods are unlawful in the taking of migratory birds:

(1) trap, snare, net, crossbow, rifle, pistol, swivel gun, or machine gun;

(2) shotgun larger in diameter than 10 gauge, or a shotgun not permanently plugged to three shell or less capacity, including both magazine and chamber;

(3) from, or by means, aid, or use of sinkbox, motor-driven conveyance, motor vehicle, or aircraft of any kind;

(4) from or by means of a sailboat or floating device having a motor attached unless such device is beached, resting at anchor, or fastened within or immediately alongside a fixed hunting blind, or is used solely as a means of picking up dead or injured birds;

- (5) by the use of livestock as a means of concealment;
- (6) by the use of recorded or electrically amplified birdcalls or sounds;
- (7) by the use of live birds as decoys;
- (8) by the means or aid of motor-driven land, water, or air conveyance or sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of waterfowl or coots; and

(9) by baiting, or taking on or over baited areas. However, nothing in this subsection shall prohibit:

(A) the taking of migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly stalked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(B) the taking of migratory game birds, except waterfowl, on or over lands where shelled, stalked, or unshucked corn, wheat, or other grain, salt, or other feed has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes; provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

(c) Nothing in these rules applies to persons taking birds pursuant to lawful collection or depredation permits when operating within the terms of such permits.

(d) Tagging requirements.

(1) No person shall possess more than one daily bag limit of freshly killed migratory game birds while in the field or while returning from the field to one's hunting camp, automobile or other motor-driven land conveyance, aircraft, temporary commercial lodging facility, or home.

(2) No person shall give, put, or leave any migratory game birds at any place or in the custody of another person or receive, possess, or give to another any freshly killed migratory game bird as a gift, except at the permanent residence of the donor or donee, unless the birds are tagged by the hunter with the following information:

(A) the hunter's signature;

(B) the hunter's address;

(C) the total number of each species of birds involved; and

(D) the dates such birds were killed.

(3) Tagging is required if the birds are being transported by another person for the hunter, or if the birds have been left for cleaning, storage (including temporary storage), shipment, or taxidermy services.

§65.313 (127.70.20.003) Open Seasons.

(a) No person shall take migratory game birds except during the open season as provided herein, or at any time except during the hours as provided herein. All dates are inclusive.

(b) The season is closed on migratory game birds on public roads and highways, or rights-of-way of public roads and highways, the state-owned riverbeds in Dimmit, Uvalde and Zavala Counties, including but not limited to the Nueces and Frio Rivers, and state wildlife preserves and sanctuaries unless an open season is otherwise provided. The open seasons for the taking of migratory game birds on any federal wildlife refuge shall be in accordance with the special hunt-

ing regulations duly adopted and published by the U. S. Fish and Wildlife Service.

(1) Rails: September 1 through November 9, 1980, from one-half hour before sunrise to sunset.

(2) Mourning doves:

(A) North Zone: Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties, and counties north and west thereof: September 1 through October 21, 1980, and January 31, 1981, from one-half hour before sunrise to sunset. In counties having days with concurrent white-wing and mourning dove hunting, the legal shooting time for those days is noon to sunset.

(B) South Zone: All counties south and east of the North Zone counties enumerated above: September 20 through November 2, 1980, and January 18, 1981, one-half hour before sunrise to sunset. In counties having an open season on white-winged doves, the fall season for mourning doves ends October 29, 1980. In counties having days with concurrent white-wing and mourning dove hunting, the legal shooting time for those days is noon to sunset.

(3) White-winged doves: Brewster, Cameron, Culberson, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata Counties: September 6-7 and September 13-14, 1980, from noon to sunset.

(4) Gallinules: September 1 through November 9, 1980, from one-half hour before sunrise to sunset.

(5) Teal duck: All species (blue-winged, green-winged, and cinnamon): September 13 through September 21, 1980, from sunrise to sunset.

§65.314 (127.70.20.004) Bag and Possession Limits.

(a) No person may take or have in possession more than the bag and possession limits of each species of migratory game birds as provided herein.

(b) The bag and possession limits are as follows:

(1) Rails:

(A) Large rails (king and clapper rails) bag and possession limits: 15 in the aggregate per day; possession limit: 30 in the aggregate.

(B) Small rails (sora and Virginia rails) bag and possession limits: 25 in the aggregate per day; possession limit: 25 in the aggregate.

(2) Mourning doves: bag limit: 10; possession limit: 20.

(3) White-winged doves: bag limit: 10; possession limit: 20.

(4) Gallinules: bag limit: 15; possession limit: 30.

(5) Teal duck: all species: bag limit: four per day in the aggregate; possession limit: eight in the aggregate.

(c) No person may possess migratory game birds on the opening day of the season in excess of the applicable daily bag limit.

(d) No person may possess freshly killed migratory game birds during the closed season.

(e) No person shall kill or wound a migratory game bird without making a reasonable effort to retrieve it.

(f) Every migratory game bird wounded by hunting and retrieved by the hunter shall be immediately killed and become a part of the bag limit.

(g) Identification requirements.

(1) One fully feathered wing must remain attached to all migratory birds while being transported by any means from Mexico into Texas.

(2) One fully feathered wing must remain attached on dressed migratory game birds while being transported between the place where taken and one's abode or a commercial preservation facility.

(3) Paragraph (2) above does not apply to doves except in the South Zone at all times and during the concurrent white-winged and mourning dove seasons in counties so affected, one fully feathered wing must remain attached to all doves while being transported from the place where taken until they have arrived at the personal abode of the possessor, or a commercial preservation facility.

(E) Employees of the Texas Parks and Wildlife Department may remove parts from specimens harvested on management areas for scientific investigation when needed.

§65.315 (127.70.20.005). Extended Falconry Season.

(a) It is lawful to hunt and take migratory game birds by means of falconry, but the hunting or taking is limited to persons holding valid falconry permits issued by the department.

(b) It is lawful to take migratory game birds by means of falconry during the following prescribed open seasons.

(1) Rails: September 1 through December 16, 1980, from one-half hour before sunrise to sunset.

(2) Mourning doves: September 1 through December 16, 1980, from one-half hour before sunrise to sunset.

(3) White-winged doves: September 1 through December 16, 1980, from one-half hour before sunrise to sunset.

(4) Gallinules: September 1 through December 16, 1980, from one-half hour before sunrise to sunset.

(c) The daily bag and possession limits for all permitted migratory game birds shall not exceed three and six birds respectively, singly or in the aggregate.

(d) No person may possess a firearm or longbow and arrow or be accompanied by a person possessing a firearm or longbow and arrow while hunting by means of falconry.

(e) Each person holding a valid falconer's permit must submit on forms furnished by the department, dates hunted, band number of the raptors used and number and kind of each species bagged. The report must be received at the state office no later than February 15 of each year.

§65.316 (127.70.20.006). Penalties. The penalty provided by law for violation of this proclamation is a fine of not less than \$25, nor more than \$100 (Section 64.026, Texas Parks and Wildlife Code).

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

Doc. No. 804507 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife Department

Proposed Date of Adoption: July 21, 1980
 For further information, please call (512) 475-4873.

TITLE 34. PUBLIC FINANCE
Part 1. Comptroller of Public Accounts
Chapter 3. Tax Administration
Subchapter Q. Business Tax Division—Franchise Tax

The Comptroller of Public Accounts proposes to amend §3.403 (026.02.12.013). The proposed amendment does not

constitute a change in policy and is merely a clarification of existing policy with respect to how transportation companies should report receipts from business done in Texas.

There are no significant fiscal implications expected from the proposed amendment (source: Revenue Estimating Staff, Comptroller of Public Accounts).

Public comment on the proposed amendment to §3.403(013) is invited. Persons should submit their comments in writing to Carolyn Busch, Drawer SS, Austin, Texas 78711.

This amendment is proposed under the authority of Texas Taxation—General Annotated, Article 12.12 (Vernon Supplement 1978-1979).

§3.403 (026.02.12.013). Gross Receipts: Determining Percent of Texas Business.

- (a) (No change.)
- (b) General rules of application.
- (1)-(12) (No change.)

(13) *In the absence of an election to report under one of the two optional reporting methods below, a transportation company is required to report as Texas receipts only those receipts derived from the transportation of goods or passengers in intrastate commerce (wholly within Texas). Optional methods: Transportation companies transporting goods or passengers in interstate commerce may determine their percentage of business in Texas using: (1) total mileage inside the borders of Texas and total mileage everywhere; or (2) total mileage in transporting goods or passengers picked up and delivered within Texas and total mileage everywhere. The taxpayer must maintain adequate records to validate the percentage of business in Texas determined under this rule. Should the taxpayer report using one of the alternative methods allowable under this rule, such action will constitute an irrevocable election of the alternate reporting method for the reporting period. A prospective election for a different reporting method may be made at any time. [A transportation company may use total mileage traveled inside the borders of Texas and total mileage traveled everywhere in determining percentage of business in Texas, under the provisions of Article 12.02(2). If the company uses intrastate receipts in its franchise tax reports and its books and records do not accurately reflect the amount of Texas receipts reported, the comptroller may utilize the mileage basis in projecting and establishing the amount of business done in Texas by the corporation.]*

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

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804587 Bob Bullock
 Comptroller of Public Accounts

Proposed Date of Adoption: July 21, 1980
 For further information, please call (512) 475-1933.

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 "Noncodified."

NONCODIFIED

Texas Department of Human Resources

AFDC

Title XIX Eligibility for Three Months Prior to Application 326.10.43

The Department of Human Resources adopts the following amendment concerning procedural changes in the aid to families with dependent children (AFDC) rules about Title XIX medical services to children. This amendment was proposed in the December 21, 1979, issue of the *Texas Register* (4 TexReg 4652). This change is necessary as a result of the implementation of the State-Paid Foster Care Program. This amendment was adopted on an emergency basis, effective January 1, 1980. The new State-Paid Foster Care Program provides state-paid foster care maintenance and Title XIX medical services to children in the department's managing conservatorship who meet eligibility requirements set forth in state law and who are not eligible for AFDC foster care.

No comments were received and this amendment is adopted with no changes to the proposed text.

This amendment is adopted under the authority of the Human Resources Code, Title 2, with the approval of the Texas Board of Human Resources.

.001. Determination.

(a) (No change.)

(b) To determine eligibility for retroactive medical coverage, the following criteria must be applied for each application:

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

(c) (No change.)

Issued in Austin, Texas, on June 12, 1980.

Doc. No. 804569 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: July 3, 1980

Proposal Publication Date: December 21, 1979

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

Child Welfare Services

The Department of Human Resources adopts the repeal of its rules concerning child welfare services which were published serially beginning with the March 25, 1980, issue of the *Texas Register* (5 TexReg 1125). The repeal of these rules was concurrent with the proposal of new rules and rule amendments regarding child welfare services.

Some comments were received regarding the repeal of these rules. However, these comments were addressed in the preamble to the adoption of the new rules and rule amendments; the adoption of these rules and rule amendments is being published at this time.

Legal Base for Child Welfare Services 326.50.71

The repeal of Rule 326.50.71.012 is adopted under the authority of Title 2 of the Human Resources Code and with the approval of the board of the Texas Department of Human Resources.

Doc. No. 804573

Protective Services for Children 326.50.72

The repeal of Rules 326.50.72.030-.033, .042-.047, .049-.058, and .060 is adopted under the authority of Title 2 of the Human Resources Code and with the approval of the board of the Texas Department of Human Resources.

Doc. No. 804575

Removal and Court-Related Services 326.50.73

The repeal of Rules 326.50.73.027-.045 is adopted under the authority of Title 2 of the Human Resources Code and with the approval of the board of the Texas Department of Human Resources.

Doc. No. 804577

Foster Care Placement Services 326.50.74

The repeal of Rules 326.50.74.005-.069 is adopted under the authority of Title 2 of the Human Resources Code and with the approval of the board of the Texas Department of Human Resources.

Doc. No. 804579

Adoption Services 326.50.75

The repeal of Rule 326.50.75.071 is adopted under the authority of Title 2 of the Human Resources Code and with the approval of the board of the Texas Department of Human Resources.

Doc. No. 804581

Child Welfare Services and the Community 326.50.78

The repeal of Rules 326.50.78.015-.023 is adopted under the authority of Title 2 of the Human Resources Code and with approval of the board of the Texas Department of Human Resources.

Doc. No. 804583

The Department of Human Resources adopts amendments and additions to its rules concerning child welfare services as published serially beginning with the March 25, 1980, issue of the *Texas Register* (5 TexReg 1125).

New Rules 326.50.71.021-.025 and 326.50.72.064-.098 provide for an amplification and clarification of existing policy in the program areas of protective services to children in their own homes, protective services to juveniles, truants, and runaways, and County Child Welfare Board contracts; for incorporation of program standards into existing policy; and for bringing the child welfare earned fund process in line with the current departmental contracting procedures.

Three of the comments received during the public comment period were not substantive in nature and were primarily editorial. They were in support of the rules, however. One respondent commented on 326.50.72.081, Protective Day Care. This section is currently being revised in its entirety for future publication in the *Texas Register*, therefore, it was not incorporated at this time. A respondent also commented on 326.50.72.080, Child Welfare Earned Funds—Emergency Homemaker Services, regarding the requirement of private, nonprofit, or public status for providers. In response to the comment, the statement was deleted pending clarification of DHR's position on contracting with profit-making organizations for provision of social services.

A second respondent commented on 326.50.72.074. This proposed rule states that DHR staff must provide protective services. It further states that DHR must provide or arrange for other services as needed. DHR protective service staff cannot, however, ensure that a client will be eligible for financial, medical, or other community social services solely on the basis of their need for protective services.

The social services referred to in Rule 326.50.72.076 are over and above those offered by DHR staff. Services such as these include family counseling, employment training, and mental health services. DHR staff work with communities in order to develop these additional services, but they are not DHR services.

Fair hearing procedures are outlined in other rules of the department and were not included in these adopted rules due to the fact that no changes in the policy are being proposed.

Rules 326.50.72.079, .081, and .083 all referred to contracted services for which DHR provides matching federal funding to private contractors. These funds are available statewide; however, DHR does not have the statutory authority to force local communities to establish these services; and community agencies wanting to contract with DHR for these services have not come forth to enter into these contracts.

A response concerning portions of 326.50.72.094 suggested clarification of parameters concerning independent living arrangements. These comments were incorporated in .094(b)(8) and clarified DHR's role in situations when older children place themselves in such living arrangements.

About half the comments regarding proposed Rules 326.50.73.027-.045 pertained to the repealed rules which had been amended by the proposed new rules in ways that incorporated the commenter's concerns. Changes were made in proposed Rules .046, .047, and .068 as requested by public comments. Changes were not made in proposed Rules .041 and .049 as recommended. In both instances the recommendation was for guidelines for decision-making. It is believed that in both instances the decision should be based on professional judgment as applied to the individual situation. Change was also not made in .065 as recommended because the comment appeared to be based on a misreading of the material.

New Rules 326.50.74.071-.170, 326.50.75.071, and the amendment of 326.50.80.001 provide for: incorporation of permanent planning concepts and techniques; identification of alternative permanent plans and definition when particular planning goals are appropriate; procedures to initiate state-paid foster care assistance; incorporation of SAVERR procedures for eligibility and reporting for foster care payments to programs 08, 09, and 10; specific changes in AFDC-FC eligibility which are required to comply with HEW interpretation of regulations regarding redetermination of deprivation and responsibility for placements and care; expansion of Medicaid coverage in accordance with DHR Legal Division's interpretation of the department's responsibility to all children in its managing conservatorship; and a policy for implementation of Chapter 18, Texas Family Code, Periodic Court Hearings.

One respondent commented on Rules 326.50.74.102-104 related to abortion for adolescents in DHR conservatorship. These changes were a result of the January 1980 Supreme Court ruling regarding federal funds for abortions. A few editorial changes were made in Rules 326.50.74.071-.143 due to the phasing out of the Institutional Placement Coordinator project, August 1980.

Rules 326.50.74.071-146, which contains the process for obtained cost studies for exceptional care facilities, was changed to reflect the process used in November and December 1979 due to the lack of DHR auditing staff to do these studies. The facilities will complete their respective cost study and certify to its accuracy. A few changes were made due to revision of licensing standards which occurred since this material was drafted; see 326.50.74.071, .107, .150, and .152.

Legal Base for Child Welfare Services 326.50.71

The following new rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Title 2 of the Human Resources Code.

.021. *Child Welfare Earned Funds Contracts.*

(a) Child welfare earned funds (CWEF) are used to contract for needed services in addition to those in the local community. CWEF are also used to assist communities to provide new or expanded services to children when local funding for needed services is insufficient. CWEF may not diminish the

county's financial commitment to provide services, replace foster care assistance funds, or be used for match money for Title XX purchase of services contracts.

(b) A contract must be developed with each CWF program provider. The contract must specify the respective responsibilities of DHR and the provider. The contents which must be included in the contract are given under the specific program items. The contract must be consistent with the program's policies. In addition, each contract must contain the following statement: "The provider agrees to report to DHR within 24 hours all instances of suspected child abuse and neglect." Before delivery of services, the contract must be completed and signed by the commissioner and the project provider. The Application for Identification Number form must be completed when the contract is signed if the provider does not have a comptroller's vendor identification number. The contract must be completed even when the provider is certified by DHR, such as an emergency foster home.

.022. *Contract Package.*

(a) The contract package submitted to the Legal Division of the department must include:

(1) an approval memo signed by the appropriate regional staff;

(2) Contract Information Sheet—Child Welfare Earned Funds Contract;

(3) Corporate Board of Directors Resolution form, or other authorization naming the person to sign the contract on behalf of the contractor;

(4) four copies of the completed contract, signed by the authorized representative of the contractor. The contract is to include the Child Welfare Earned Funds Contract form, a statement of need for the contracted service, a description of the service to be provided, and a budget or other description of the basis for payment.

(b) Any planned regional use of CWF that is not consistent with current policy must have prior written approval from the Protective Services for Children Division, State Office.

(c) The major basis of State Office review and evaluation of the projects will be a study of the written contracts, billing and payment records, and utilization records on file in regional offices.

.023. *Rate Determination.*

(a) In determining rates to pay a contractor for contracted services, regional or State Office staff should consider those reasonable and necessary costs related to the service incurred by the provider. Some selected cost items which could be considered in negotiating a rate are:

(1) salaries (except in development of community or parent groups);

(2) fringe benefits;

(3) travel—mileage and per diem at no more than the state-approved rates;

(4) supplies—office supplies or program supplies;

(5) equipment—the purchase of equipment under \$300 per piece, or the lease of equipment;

(6) space cost.

(b) Some items are not allowable, such as:

(1) Honorariums (speakers' fees for training and community development are allowable).

(2) Entertainment.

(3) Gifts.

(4) Foods, meals, refreshments. In the provision of group home services, shelter, or camping, purchase of food is acceptable. Community or parent groups may purchase food in the provision of services to children in the department's conservatorship. However, direct provision of food or refreshments for volunteers, consultants, or staff in other child welfare earned funds contracts is not allowable.

(5) Incorporation expense. Fees or legal services related to organization or reorganization are not allowable.

.024. *Payment Procedures.*

(a) Contractors will bill the department using a purchase voucher. In addition to that approved statement, the contractor must provide for the reimbursement request. In the case of a rate contract, units of service actually delivered and the unit rate should be reported. In cost contracts, expenditure reports should be provided.

(b) Staff designated by the regional administrator or State Office program manager should sign the agency certification of the purchase voucher form prior to forwarding the voucher to Fiscal Division.

.025. *Contract Changes.* Any changes to the Child Welfare Earned Funds Contract form subsequent to signature by the commissioner and the contractor, must take the form of an amendment to the contract. Amendments may be composed by regional staff and submitted to Legal Division for the commissioner's signature. Changes to the program description, budget, or other attachments to the Child Welfare Earned Funds Contract, may take the form of a plan change, and do not require the signature of the commissioner.

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Protective Services for Children 326.50.72

These new rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Title 2 of the Human Resources Code.

.064. *Truant and Runaway Children.* The department provides protective services for truant and runaway children under the following circumstances:

(1) Truancy.

(A) The child has violated the compulsory school attendance laws on three or more occasions.

(B) The parent has been the major cause of the failure of the child to be enrolled in school as required by the Texas Education Code.

(2) Runaway.

(A) The child, on three or more occasions, has been voluntarily absent from his home without the consent of his parent or guardian for a substantial length of time or without the intent to return.

(B) The parent has been the major cause of the child's absence from his home without the consent of his parents or guardian for a substantial length of time or without the intent to return.

.065. *Children in Need of Supervision (CHINS).* DHR provides protective services for children ages 10-17 who are referred to DHR by the court for violation of Section 51.03(b), Conduct Indicating a Need for Supervision, of the Texas Family Code, or by other concerned for the youth's need for

supervision to divert him from the criminal justice system. CHINS offenses include the following:

(1) **Status offenses.** Status offenders are children who come to the attention of the juvenile justice system for behavior that would not be considered criminal if committed by an adult. Status offenses include truancy, runaway, simple possession of alcohol, possession of inhalents where local ordinance prohibits possession by minors and not by adults, and curfew violations.

(2) **Misdemeanor offenses punishable by fine only.** These offenses would be considered criminal if committed by an adult. They include thefts under \$200, public intoxication, possession of marijuana without intent to sell, gambling, obscenity, public indecency, deviant sexual intercourse, sexual contact, cruelty to animals, and theft of service.

.066. Unmarried and School-Age Parents. DHR provides protective services for unmarried parents, of any age, and for school-age parents under age 21, whether married or not, who need assistance in planning for the birth, care, and rearing of their child, as a preventive measure and service against child abuse and neglect of the child. Unmarried or school-age parents with one or more children may be high-risk and may need protective services to prevent or remedy sexual abuse of themselves or abuse or neglect of the child, or as an unmarried or school-age parent. AFDC mothers, age 10 to 21, have been identified as one group for whom protective services may be needed to prevent or remedy sexual abuse and/or neglect.

.067. Receipt of Report of a Child in Need of Protective Services.

(a) The report of a child in need of protective services can come from any source, including parents or children worried about their situation at any time. The complainant should make an oral report immediately upon learning of a child in need of protection.

(b) The department must provide for the receipt of reports 24 hours a day, seven days each week in all counties. The complainant may make the report to DHR's child abuse hotline or to local staff in each county. Local staff receiving emergency reports may be on duty, on call, or available through an answering service.

(c) DHR and the Texas Department of Health cooperate to carry out Section 34.02 of the Texas Family Code which requires that deaths of children from abuse or neglect be referred to DHR. If DHR does not have a CANRIS report of the child's death, the Protective Services for Children Division, State Office, will refer the report to the local office for investigation to determine if there are other children in the home who need protection and if the child died of abuse or neglect.

(d) Only authorized DHR staff may make inquiries and reports to the CANRIS system. The DHR Investigation Division may make inquiries about child abuse and neglect cases referred to them for providing assistance to protective services staff. If the Investigation Division becomes aware of an unreported case of abuse or neglect, it will refer the case to the appropriate protective services regional staff who must report the incident to CANRIS and coordinate the investigation. The Special Services Division may also make inquiries to CANRIS when there are out-of-state inquiries about abuse or neglect incidents.

(e) The worker must report all reports of abuse and neglect to CANRIS. Even though the case may be active at

the time the report is received, the new report must be entered into the CANRIS system. When the death of a child due to abuse or neglect is reported to DHR, a CANRIS report must be made of the child's death. This CANRIS report should include the situation of any living children in the home.

(f) The worker must make an inquiry about previous incidents on all reports he has made to CANRIS, unless the case is currently active and the information has already been received.

(g) The worker must update the CANRIS report:

(1) during the investigation to enter information which necessitates another inquiry;

(2) at the end of the investigation to report the findings of the investigation;

(3) as soon as a family moves, if they do so before the investigation is completed;

(4) as soon as court action about the child or family is completed, if the court has not made its decision by the end of the investigation.

(h) Identifying information on persons in closed-intake invalid CANRIS reports will be automatically removed from the CANRIS computer files six months after the date of the finalization of the report. Identifying information on persons in CANRIS reports determined to be valid, potential, uncertain, or family moved will be automatically removed from the CANRIS computer files when the youngest victim or child reported in the case has reached age 18.

(i) Definitions.

(1) Invalidated is defined as a case in which abuse or neglect has been clearly ruled out.

(2) Validated is defined as a case in which actual abuse or neglect has been substantiated.

(3) Uncertain is defined as a case in which actual abuse or neglect cannot be substantiated or clearly ruled out, but there is enough evidence from the investigation to establish a reasonable doubt that there may be abuse or neglect.

(4) Potential is defined as those cases where actual abuse or neglect cannot be substantiated but there is sufficient evidence to identify that abuse or neglect is likely to occur as a result of existing conditions in the home which threaten the child's physical or emotional well-being.

(5) Moved is defined as a case where the family moved before any of the above dispositions were made.

(j) If licensing or social services staff suspect during the course of a foster home or licensing study that the family or individual may have been involved in an abuse or neglect situation in the past, they may request a CANRIS inquiry on the family or individual.

(k) The decision about intervention by DHR may be shared with an agency or professional person making the report. The worker should explain to the professional person that it is necessary to enter a report of abuse or neglect before inquiry information can be obtained. The worker should discuss with the professional person whether the inquiry without a report would place the professional person in violation of the mandatory reporting law. The worker must verify the identity of the professional person before releasing confidential information. The worker should help the professional person understand the confidential nature of the inquiry information and how the information should be used. If the professional person does not make a report, the worker and supervisor must evaluate the possibility of abuse or neglect in the case, based on the information gained. If they believe a

potential danger to the child exists, the worker must make a CANRIS report and further inquiry into the situation.

(l) Cases reported for truancy, runaway behavior, juveniles in need of supervision, unmarried and school-age parents, or death of a child are not reported into the CANRIS system unless the child's situation appears to involve abuse or neglect. If the death of a child has been diagnosed by a medical examiner or coroner to have been due to Sudden Infant Death Syndrome, the child's death must not be reported on CANRIS.

.068. Investigation of Reports That Public School Personnel Have Abused A Child.

(a) Policies relating to complaints of abuse against school personnel while on duty in the school system are predicated on the assumption that the school system is responsible for the behavior of its employees and must be involved in investigating and handling cases of alleged abuse.

(b) To provide for prompt and effective handling of complaints, DHR staff responsible for protective services to children will initiate discussions with each public school district in the region. These discussions should identify the areas of responsibility of both DHR and the school district as they pertain to protection of children. Written contracts, agreements, and procedures may be formulated to ensure continuity of understanding between department staff and the school district. Agreements with the school district should be reviewed at least annually and on change of school administration. If required to achieve appropriate communication and cooperation, the Child Welfare Board and the school board may be involved in negotiations.

(c) When reports of abuse by public school personnel are received by DHR staff, they must secure from the complainant all possible information and must prepare a written record. The worker must tell the complainant that the information is being referred to school or school board personnel for investigation. The complainant should be encouraged to take the complaint directly to appropriate school personnel. However, if the complainant does not wish to do so, the worker must assure the complainant that the department will not reveal the complainant's identity to the school.

(d) Upon receipt of a complaint against any employee of the school district, the worker or supervisor must make a verbal report of the complaint, except for the identity of the complainant, to the responsible person in the school district as identified in established agreements and/or contracts. If no such agreement exists, the report must be made to the principal of the school where the alleged abuser is an employee. If the alleged abuser is the principal, the report must be made to the superintendent of schools or to the next appropriate supervisory level above the principal. If the alleged abuser is the superintendent of schools, the report must be made to the president of the school board.

(e) The person to whom the complaint is reported must be asked to investigate the complaint and report back to the department at the earliest time possible. A tentative date for receipt of this report must be set at this contact.

(f) Immediately subsequent to transmitting the verbal complaint, DHR protective services staff must prepare a written referral, which must be approved by the supervisor. In addition to documenting the complaint, the agreements reached, and the plan for feedback of information about the investigation, this letter will advise that the department will be expecting a written report about findings and disposition within 30 days of the date of original referral.

(g) In the event the person receiving the complaint provides no report or an unsatisfactory report, the appropriate DHR staff member must communicate the problem to the regional director for social services. Appropriate contacts must be made with local administrative levels of the school district up to the president of the school board in an effort to secure satisfactory closure on the complaint. Should these efforts fail, the regional director may authorize a written report to the district attorney, identifying the details of the complaint and specifying the efforts made to secure cooperation from the school district. This letter will place the matter in the hands of the district attorney for further disposition.

(h) Complaints against personnel of schools other than public schools must be handled as is any complaint against an individual. If the school is subject to any regulatory laws, any validated, uncertain, or complaint of potential abuse/neglect and its resolution must be reported to the appropriate regulatory authority.

.069. Investigation of Referral of a Truant, Runaway, or CHINS Youth or Unmarried or School-Age Parents. Referrals of youth: age 10-17 or unmarried or school-age parents must be investigated. The intake procedure must involve:

- (1) an investigation and/or social study into the circumstances of the referred youth;
- (2) an assessment of the youth's or unmarried or school-age parent's need for protection and services;
- (3) the provision of needed protective action;
- (4) information, referral, and linkage to needed family and community resources;
- (5) a documentation of whether the youth's situation involves abuse or neglect;
- (6) a determination of whether the youth needs in-home protective services;
- (7) the report of the investigation to the family and complainant;
- (8) reports to the court, district or county attorney, and local law enforcement agencies must be completed.

.070. Investigation of Lack of Medical Care Because of Parents' Religious Beliefs.

(a) Refusal of parents to provide needed medical treatment for a child because of the parents' religious beliefs does not constitute medical neglect. The child must be given DHR's protection through a protective services investigation and the court's protection as necessitated by the child's condition.

(b) During the protective services investigation, a worker must interview the involved medical personnel and the parents to determine the nature and severity of the child's illness and possible alternatives to the recommended medical treatment. When possible, more than one doctor's opinion should be secured. If the child's life is in danger or if he is threatened with permanent loss of a limb or of major muscle, hearing, sight, or intellectual functioning, DHR staff must get written medical statements reflecting this.

(c) DHR must intervene by presenting the child's situation to the court when the doctor's statements indicate that without the recommended medical treatment, the child will die or suffer permanent loss of a limb or of major muscle, hearing, sight, or intellectual functioning.

(d) When the investigation shows that the child lacks needed medical attention because of the parents' religious beliefs (and not because of other parental motivation or in-

capacity), and that the child has not otherwise been abused or neglected, the CANRIS report must be invalidated.

.071. Investigation of Reports Involving Handicapped Persons. The basis for determining the need for protective services in a referral involving a handicapped parent or child is the effect of the situation on the children involved, not the existence of the handicapping condition. DHR must use its resources, provide information and referral about community resources, and help develop new resources to provide handicapped parents and children with social services equal to those provided to the non-handicapped.

.072. Deaf Persons.

(a) When a protective services case involves a deaf parent or child, a qualified deaf language interpreter should be used to communicate with the deaf person throughout DHR's involvement in the case. A qualified language interpreter is a person skilled in the language of signs or in communicating with the particular deaf person. The client should take part in selecting the interpreter. The client may select a person not on a Registry for Interpreters for the Deaf, such as a relative with whom the client is comfortable and conversant. The case record should document that the client was aware of the availability of an interpreter, when one was actually available.

(b) The deaf interpreter should be given information about DHR's legal role and responsibility for the protection of children, the social work principles involved in DHR's approach to and planning with families, and how to keep information confidential.

(c) Volunteers should be recruited from the deaf community to work with individual clients under the supervision of the caseworker. Caseworkers and volunteers should make a strong outreach to individual clients during the progress of the protective services case.

(d) A deaf client should not be allowed to sign a volunteer placement agreement or affidavit of relinquishment unless the agreement or affidavit is explained to the deaf client by a qualified deaf language interpreter and by an attorney, if available.

.073. Law Enforcement Investigations of Criminal Child Abuse and Neglect.

(a) Law enforcement responsibility. Investigations of criminal danger, harm, or injury to children are the responsibility of law enforcement. Criminal investigations are conducted by local law enforcement or, at regional option and in accord with the law enforcement agencies preferences, by DHR's Investigation Division. DHR's child protective services staff has an obligation to notify a law enforcement agency of children having suffered serious harm or injury. When child protective services staff notifies the law enforcement agency of serious harm or injury to a child, the law enforcement agency has the responsibility for deciding whether to take any action under the criminal laws. The decision to initiate and conduct a criminal investigation of the child's situation lies solely with the law enforcement agency. Responsibility for initiating civil action to protect children remains with child protective services staff. If the law enforcement agency initiates an investigation of criminal child abuse/neglect, the criminal and civil investigations may be conducted during the same time. In all instances, the civil investigation is a separate investigation from the criminal investigation. Both investigations are appropriate in their own

right and neither substitutes for, nor takes precedence over, the other.

(b) Protective service responsibility. DHR's child protective services staff may not conduct nor carry out the criminal investigation, nor may they act on behalf of the law enforcement agency to conduct or carry out the criminal investigation. However, during a law enforcement criminal investigation of child abuse and neglect, DHR will cooperate with the county or district attorney, law enforcement officials, or Investigation Division conducting the investigation. Child protective staff also may not act as agents of the law enforcement agency by gathering evidence or talking to parents, children, or collaterals for the purpose of furthering the criminal investigation. However, a child protective services staff person may conduct the questioning of a particular child victim or witness of abuse or neglect, upon the request of a law enforcement agency, court, or grand jury and when the rationale for the request is the worker's special expertise in interviewing children in a manner that protects the child's emotional integrity. DHR's Investigation Division staff may perform these activities to conduct or further the criminal investigation for the purpose of giving information to the law enforcement agency.

(c) Possible protective service actions. Child protective services staff may:

(1) When notifying a law enforcement agency of harm to a child, give information taken from the complaint or gathered while protecting the child through the civil investigation. If this information is not sufficient for the law enforcement agency to determine whether to initiate a criminal investigation, the law enforcement agency is responsible for gathering any further information or for requesting the assistance of DHR's Investigation Division.

(2) Provide to the law enforcement agency, upon their request, information which has been gathered for the purpose of conducting the civil investigation or of working to rehabilitate or reunite the family.

(3) Testify at the criminal hearing upon the law enforcement agency's request.

(4) Be interviewed by the law enforcement agency.

(5) Otherwise cooperate with the law enforcement agency as possible within the above limitations.

Child protective services staff, Investigation Division staff, and law enforcement agency staff should stay in regular contact with each other when involved with the same family.

(d) Required protective service actions. When a law enforcement official was the initial complainant, or when DHR and law enforcement staff are both investigating the same case, child protective services staff should promptly inform law enforcement staff of the following case actions:

(1) the results of the civil investigation;

(2) initiation of court action to remove the child from his home or removing the child from his home in an emergency before obtaining a court order;

(3) plan to return a child to his home or to close the department's case.

If the law enforcement agency is no longer involved in the criminal case, this notification does not have to be made in (2) and (3) above.

.074. In-Home Protective Services for Children.

(a) The goal of in-home protective services for children is to prevent the need for removal of children from their homes. DHR must determine from the findings of its in-

investigation whether protective services are needed and when needed, if they can be effectively provided in the home. If the child is not in immediate danger of permanent harm, and the parents are willing to and capable of, improving the problem situation, DHR must work with the family to improve the care of the child and to provide or to arrange for other services as needed. AFDC or SSI recipients or income-eligible clients who receive child protection services must be provided any DHR social, medical, and financial services available in the community. Clients must apply for, be eligible for, and able to utilize the services.

(b) When the worker and supervisor believe that removal is in the best interest of the child, the department must petition the court for permission to remove the child or to take other action as needed to protect the child.

(c) In an emergency, DHR may remove the child from the home according to Chapter 17 of the Texas Family Code. The hazard to the child if left in his home compared to the trauma to the child if removed from the home must be continually reassessed.

.075. Plan of Services for In-Home Protective Services for Children.

(a) When in-home services are given to children not in the department's conservatorship who are living in their own or a relative's home, the worker must establish a service plan. A multi-disciplinary team's services, if available, may be sought to establish the service plan.

(b) The service plan is a written statement containing the worker's information about the case, the worker's and family's analysis of the relevant problems and the potential solutions to the problems, and the worker-supervisor's decisions specifying the most appropriate services to be used in protecting the child. The worker should make every attempt to share with the family at least part of the decision making. The final service plan should be carefully explained, either verbally or in writing to the family.

(c) The service plan must be updated as changes occur. The worker and family must reassess the service plan at a minimum of every six months. The supervisor must approve the initial and updated service plans. The service plan must include:

- (1) the family's problems and the effects of the problems on the family and child;
- (2) the planned solutions to the problems, including the specific ways the care of the child is to be improved;
- (3) the specific steps the family agrees to take as a means of solving the problem and deadlines for each step;
- (4) DHR's responsibilities to provide services or to refer for supportive services, and by what deadlines;
- (5) the date that the service plan will be reviewed;
- (6) a list of appropriate and available community services and family resources to be used to implement the service plan;
- (7) the criteria to be met before ending DHR's intervention.

(d) Whenever possible, the worker must explore the use of relative's homes as the first choice for placing a child outside his own home. If removal of the child becomes necessary while work with the family is in process, the worker must enter a revised service plan in the family's case record. A written home study must be made by the worker and approved by the supervisor before placement or immediately after an emergency placement. Parents' and children's feelings about placement with relatives should be considered.

When parents are opposed to a relative placement, the decision of a court may be required to effect the placement.

(e) When the relative lives in another state, placement must be made through the Interstate Compact on Placement of Children if the other state is a member of the ICPC. The department must have legal authority to place the child and must maintain this authority throughout the period the child is in the out-of-state relative's home or until the relative assumes full legal responsibility with the concurrence of the ICPC administrator in the receiving state.

(f) In crisis situations when the worker has no knowledge of extended family members, nonrelative placement may be made. As soon as possible after the emergency placement, however, relative placement must be explored.

.076. Social, Financial, and Therapeutic Services for Solving Problems. Family resources, DHR, and community services should be used when available, appropriate, and accepted by the family to assist in solving problems identified in the family service plan. The worker should use these resources and services to facilitate the development of a supportive network of relationships for the family with several or many people in the community. If a needed service is not available, the worker and other regional staff should work with the appropriate community members to recognize the need. DHR staff or the community may provide leadership to organize and supply the needed resource.

.077. Work with Parents or Relatives to Keep the Child with Family Members.

(a) The worker must have personal contact with the family at least once each month. More frequent interviews and other contacts are usually necessary to protect the child and to help the parents become better parents, especially during the early period of work with the family and during crises. Other than the required monthly worker interview, other interviews and contacts may be made by qualified volunteers, case-aides, or field placement students under the supervision of an approved DHR staff person. Interviews and contacts must be recorded in the family case record by the person doing the activity. The DHR staff person must approve all volunteer, case-aide, or student entries and the approval must be shown in the case record by initialing each entry. If it is deemed that monthly interviews are not appropriate, this should be documented in the service plan, and approved by the supervisor prior to implementation.

(b) When there is an organized volunteer agency approved by the department to work with child protective families, and the worker is directly supervising the volunteer working with the family, the worker's supervisor may waive the requirement for the worker's monthly face-to-face contacts with the child and family. In this instance, the worker, volunteer, and supervisor must agree on how frequently the volunteer must contact the family and how frequently he or she must have a face-to-face interview with the child. During the interviews and contacts with the family, the worker, volunteer, case-aide, and/or student should use social, financial, and therapeutic services for solving the family's problems outlined in the service plan, as follows:

- (1) discuss with the family their feelings about DHR's intervention, about their children, and about being parents;
- (2) discuss with the family the problems that have been identified as contributing to the abuse/neglect of their children and how they feel about the problems;

(3) teach the family, or arrange for the family to have contact with volunteers, relatives, day care providers, or others who can teach or model these skills or practices;

(4) arrange for the family to become involved in counseling or therapy if this is specified in the service plan in order to help the family solve the problems which prevent good child-rearing practices;

(5) provide or arrange for the other services which have been identified in the service plan;

(6) encourage the family to become involved with family resources to help them with their child rearing problems; or, arrange for other people in the community to become involved with the family in supportive ways.

(c) Information given by the family to the worker is not regarded as legally privileged, and cannot be withheld from the court or county/district attorney should the child's protection require that the department seek to remove the child from his home.

(d) The worker and supervisor, with the input of the volunteer, case-aide, or field placement student, must constantly monitor the degree of danger to the child in the home, and should continuously assess with the parents how much progress has been made in solving the problems outlined in the service plan and how much improvement the family can make in the future. The worker should help the family understand that the worker and supervisor may recommend that the child be removed by the court if the changes outlined in the service plan, and that have been shared with the family, are not achieved. The service plan should be updated as needed.

(e) If the child is in DHR's conservatorship, the worker must try to contact absent parents, work with the court and keep a separate case record for the child.

(f) The worker and supervisor should decide if and at what point, the worker volunteer, case-aide, or field placement student should work directly with the child. Work with the child is done without the knowledge of the parents only in some rare instances with children age 10-17. The worker should explain to the child what information will be kept confidential and from whom.

(g) At any time there is to be a change of worker, the current worker and the new worker should prepare the child, the family, and others who are working with the family for this change by joint contact with the persons involved. The purposes of this joint contact are:

- (1) to introduce the new worker to the family;
- (2) to reaffirm service plan goals with the family;
- (3) to discuss any changes in the service plan that may need to occur at this time.

If joint contact is not possible, the current worker should prepare the persons involved for the change. These procedures should also be followed whenever there is a change in the volunteer, case-aide, or field placement student.

(h) Anytime a child dies in an open procedure case, staff must immediately notify the Investigation Division or local law enforcement office.

.078. Decision Making about Case Closure, Removal of the Child, or Seeking Assistance in Case Planning from the Community. The department should continue services to the child in his own or a relative's home until:

(1) The problems producing the abuse or neglect have been resolved to at least a minimally satisfactory level and the child is minimally safe in the home. In this event, the

worker should close the case. The supervisor must approve case closure. The worker must inform the family when DHR will no longer be delivering services to the family, and must inform them of how to obtain help if needed in the future.

(2) A decision is made to remove the child and one of the following legal bases exists:

(A) Verified and documented case facts indicate the fulfillment of statutory requirements governing managing conservatorship, ex parte temporary orders, or termination of parental rights. In this event, the worker may request a court order and remove the child from the home.

(B) The worker, his supervisor, and a law enforcement officer or other witness have reasonable cause to believe that conditions under Chapter 1703(c) or (d), Texas Family Code, exist. In this instance, the department can remove the child in an emergency before a court order is obtained.

(C) Parents have consented to a temporary or permanent voluntary placement and conditions and requirements specified by the department. In this instance, the worker, with supervisory approval, will remove the child from the home in a planned manner and with the involvement of the family.

(3) A period of six months' work with the family has passed and none of the above has occurred. In this event, the worker and supervisor should reassess the child's situation to determine which of the following is the appropriate action to take:

(A) Continue to revise the service plan as needed while continuing to work with the family. This action should be taken if the family is showing some progress in resolving problems of abusive or neglectful child care practices. The worker and supervisor should continue to reassess the child's situation every six months or as planned by the worker, his supervisor, and the family, until the case is closed the child is removed, or action is taken as outlined in (B) or (C) below.

(B) Close the case even though abuse or neglect may still be marginally or potentially present when all the following conditions are met:

(i) the child is not in current danger of serious injury, nor is there any reasonable cause to believe that he is potentially in this type of danger;

(ii) the child is not in a situation of immediate danger to his health or physical safety;

(iii) the family is refusing to further participate in therapeutic or rehabilitative efforts, or the department has provided or offered all available services the family has requested for which the family is eligible and which are indicated by mutual case planning.

(C) If the worker and supervisor believe they cannot close the case, remove the child, or offer further service resources the family will accept, they should seek input from the following:

(i) the county child welfare board;

(ii) regional child protective and/or administrative staff;

(iii) the department's deputy commissioner for operations and/or Protective Services for Children Division.

.079. Emergency Homemaker Services.

(a) Emergency homemaker services are defined as the immediate supervision and care given to children in need of protective services in their own home by a trained and supervised homemaker during an emergency or a crisis situation. These services may be provided in the home for a few hours

or 24 hours at a time. Emergency homemaker services are provided without regard to income. This service is available only for children in open protective services cases.

(b) Emergency homemaker services are provided through child welfare earned funds or Title XX social service funds or DHR staff, generally case-aides or other funding. Selection of the funding source may depend on local resources and the type of allocation available to the region.

(c) When a situation needing emergency homemaker services is identified and parents are present, the worker should discuss the service and its benefits with the parents and get their consent for the homemaker to provide services. When parents are not present, the worker, with supervisory approval, may seek a court order to allow the emergency homemaker to enter the home and care for the children until the parents return, the children are removed, or the homemaker's services are no longer needed. The worker should give the homemaker all available information on the situation, and plan with the homemaker for services. The worker should accompany the homemaker to the home at the time of the initial visit. The homemaker should be supervised by the DHR worker and the homemaker's supervisor when the service is provided through a contract agency. The worker, client, and homemaker should plan together about follow-up services. The worker and homemaker should stay in close contact to assess the progress of the family, update the case plans, and keep count of the number of days service is being provided.

.080. Child Welfare Earned Funds—Emergency Homemaker Services.

(a) Child welfare earned funds can be used to fund emergency homemaker services available to children in an open protective services case. Emergency homemaker services purchased by earned funds provide for immediate supervision and care given to children in their own homes by trained and supervised homemakers during an emergency or crisis situation. They must be available 24 hours per day, seven days per week.

(b) Child welfare earned funds can be used for payment of retainer fees and/or service fees. A retainer fee is a set monthly fee paid to the provider agency for having homemakers available 24 hours a day, seven days per week. A service fee is a set daily/hourly rate paid to the agency for providing services.

(c) Before delivery of services, DHR must have an approved, signed contract with each homemaker service agency. The Application for Vendor Identification Number form must be completed if the provider does not have a controller's identification number. The plan of operation must include but is not limited to:

- (1) name and location of the provider;
- (2) indications that homemakers will receive basic orientation and training consisting of not less than 40 hours per year;
- (3) indications that the provider will be available 24 hours a day, seven days per week, and a clear indication of how long the emergency care will be given;
- (4) indication of how homemakers will be selected to ensure that they will be qualified in:
 - (A) the care of children;
 - (B) home management skills;
 - (C) performance of household duties;
 - (D) purchase and preparation of food;

(E) will have respect and understanding of persons of different races, cultures, and backgrounds;

(F) will be in good physical health;

(G) other requirements appropriate to the function of a homemaker;

(5) amount of retainer and/or service fee;

(6) number of families to be served on behalf of children needing protection;

(7) indication that homemakers will be placed only when parents or caretakers have consented to the provision of services or a court order allows the homemaker to enter the home and care for the children until the parents return, the children are removed, or the services are no longer needed;

(8) maximum reimbursable amount of contract;

(9) a statement that an evaluation will be completed on the contract and the method of evaluation.

(d) Title XX providers of emergency homemaker services, DHR staff, generally case-aids, may provide emergency homemaker services or DHR may give the service to clients through purchase of service contracts. The purchase of service contract provider claims payment by using the standard billing methods (Form 4116, Purchase Voucher; Form 2014, Expenditure Report; and Form 2015, Purchased Service Delivery Report). The basis for payment is cost-reimbursement. In developing emergency homemaker contracts, the following should be sought:

(1) Well-qualified staff. Job descriptions must outline the requirements that homemakers be experienced in care of children and home management, performance of household duties, have respect and understanding of persons of different races, cultures, and backgrounds, be in good physical health, to withstand hard physical work and stress; ability and willingness to cooperate and coordinate services with DHR staff; and other requirements appropriate to the function of a homemaker.

(2) Personnel policies and an agency budget which allows reasonable compensation to the homemaker for job responsibilities and working hours beyond those of a 40-hour work week.

(3) Adequate supervision and training for homemakers.

.081. Protective Day Care.

(a) Protective day care is defined as day care for children who need protective services. Protective day care is given without regard to income. Protective day care is available only to children in open protective services cases. Contract providers can only serve clients who are authorized to receive the service. Protective day care services cannot be started before DHR authorization.

(b) Protective day care is given to infants, preschool-age, and school-age children for a portion of the day outside the child's home.

(c) The worker regularly consults with the provider to monitor the status of work with the client and find out if the results of the protective day care suggest a change in service planning. The worker and supervisor must evaluate the effectiveness of the protective day care with respect to the other casework plans. The worker must tell the provider when authorization to serve the client is ended.

.082. Providers of Protective Day Care. Protective day care is given through a purchase of service contract with a nonprofit private or public agency. Delivery will be in a day

care center or family day home which complies with applicable state licensing standards and federal requirements. Protective day care may not be provided through individual provider agreements with day care centers or through in-home day care. Regional purchase of services staff and child development staff maintain information concerning centers or family day home systems providing protective day care. The plan of operation of facilities under purchase of services contract with the department must allow provision of protective day care without regard to income before protective day care can be provided.

.083. Community Treatment Services.

(a) Community treatment services provide assessment and evaluation, treatment planning, treatment, and therapy for children and their parents or caretakers in open protective services cases. Community treatment services are provided through purchase of services contracts. The services are given without regard to income. Contract agencies will serve only clients who are referred and authorized to receive the service by DHR protective service workers. Community treatment services cannot begin before DHR authorization.

(b) When the worker has found that a child or parent needs community treatment services, he should explain the service to the client, mutually plan with the client so that they can agree on the expected benefits of the service, and make the referral to the contract agency. He authorizes the service and consults with the contract service agency about the needs and background of the client and the department's service planning.

(c) The worker must regularly consult with the contract agency to monitor the status of work with the client and determine needed changes in service planning. The worker must tell the provider when authorization to serve the client is ended.

.084. Providers of Community Treatment Services.

(a) Community treatment services are provided through purchase of services contracts with private nonprofit or public agencies. Regional purchase of services staff keep information on the location of providers of community treatment services.

(b) Payment procedures are completed by the contract services provider using regular contract billing methods. The basis for payment is cost reimbursement.

(c) With the exception of therapeutic camping, room and board expenses are not to be included in the approved budget of a contract provider.

.085. Camping Experiences. Camping experiences provide therapeutic camping services and youth camp summer recreational services for foster or children in their own homes in open protective services cases. The term wilderness camp is used to describe both types of programs. The distinguishing factor is whether the emphasis is on therapy or recreation.

.086. Therapeutic Camping.

(a) Therapeutic camping is a 24-hour-a-day camping program where the primary emphasis is on therapy rather than recreation. In these camping programs, the admission is selective and thorough intake studies are done, case records kept, and service plans made for each child.

(b) Child welfare earned funds used for placement of children in therapeutic camp programs are used to pay a service fee but not to pay for a child's regular care and maintenance in the facility.

The service fee pays for the special therapeutic services the child required. Payment for the child's regular care and maintenance in the facility is provided through foster care assistance funds such as AFDC, foster care, state-paid foster care, county funds, Medicaid, SSI, child support, RSDI, or other income the child receives. The child welfare earned funds service fee is paid in addition to foster care assistance funds. The total payment to the therapeutic camping provider must not exceed the provider's usual charge for the service.

.087. Youth Camping.

(a) Youth camp experiences emphasize recreational, educational, athletic, and religious activities rather than therapy. With the approval of the regional director for social services/protective services or regional child welfare earned funds contract coordinator, youth camping experiences may be provided for children in open family service caseloads where the child is receiving services to prevent the need for protective services.

(b) Payment for youth camping experiences is based on a daily fee. Child welfare earned funds may be used for the total payment for the service if no county funds are available.

.088. Out-of-State Camping.

(a) Child welfare earned funds may be used to purchase out-of-state recreational camp or therapeutic camp services when approved by the regional director of social services/protective services. Approval must be based on a determination that the out-of-state camp is preferable to available in-state camps according to the following criteria:

- (1) costs of the camp and of travel back and forth;
- (2) quality of the camping program in relation to the specific needs of the children involved.

(b) Approval under the Interstate Compact on Placement of Children is required when children are placed in out-of-state camps when a child is only temporarily absent from his foster/institutional care placement. A temporary absence is one where the child is not considered removed from the foster home or institution and the plan is for him to return to the foster facility after the camping experience. Approval for the out-of-state travel must be obtained.

.089. Contract with Provider. Before delivery of services, DHR must have an approved signed contract with each provider of camping services. An application for vendor identification number, must be completed if the camping provider does not have a comptroller's identification number. The plan of operation must include but is not limited to:

- (1) name and location of the camp;
- (2) type of camp such as summer camp, day camp, therapeutic camp;
- (3) average length of stay for DHR children;
- (4) cost per DHR child;
- (5) number of children to be served;
- (6) DHR license number of therapeutic camp; TDH license number of youth camp; or an indication that the youth camp has applied to TDH for a license;
- (7) maximum reimbursable amount of contract;
- (8) statement that an evaluation will be completed on this contract and the method of evaluation.

.090. Psychiatric and Psychological Services. Psychiatric and psychological examinations and treatment may be obtained through:

- (1) interagency agreement with community MH/MR centers;
- (2) child welfare earned funds;
- (3) Medicaid (psychological exams are covered under Medicaid only when they are ordered by a psychiatrist and are part of the psychiatrist's workup);
- (4) facilities of the TDMH/MR such as state schools, state hospitals, and centers for human development;
- (5) purchased social services, as a support service.

.091. Psychiatric and Psychological Examinations and Short-Term Treatment.

(a) Child welfare earned funds can be used to purchase psychiatric and psychological examinations and short-term treatment related to the exam for children in open protective services caseloads and their family members, caretakers, and/or potential caretakers. Short-term treatment should be limited to five sessions.

(b) Psychiatric and psychological examinations and short-term treatment must be sought from the mental health community before child welfare earned funds are used to provide these services. Child welfare earned funds must be used to develop services for families and children who do not live in the catchment of the community MH/MR service center. After resources are developed for these children, this allocation may also be used to supplement resources for additional children in the existing MH/MR contracts with the department. The MH/MR contracts must be used to their fullest capacities.

(c) The worker and others involved with the child or family should prepare an evaluation of the helpfulness of examinations or short-term treatment. Positive evaluations of the service is one basis of continued use of the professional person providing the service.

(d) A purchase voucher is used to make child welfare earned funds payments to the psychiatrist or psychologist. Before delivery of services, DHR must have an approved signed contract with each psychologist or psychiatrist. A vendor identification number must be completed if the psychologist or psychiatrist does not have a comptroller's identification number. The contract may cover the service to be delivered to one client, or more likely, several clients who will be seen during the contract period. The plan of operation must speak to but is not limited to:

- (1) name, title, and location of provider;
- (2) stipulation that the psychologist is licensed by the Texas Board of Examiners of Psychologists or the Texas State Board of Examiners in Social Psychotherapy;
- (3) cost per child examination/treatment hour;
- (4) number of children to be served, or number of examinations/treatment hours;
- (5) description of types of clients who will be receiving the service;
- (6) general description of the types of services to be provided;
- (7) the requirement that all clients served under the terms of the contract must be those referred to the contractor by appropriate DHR staff and that services must be authorized by DHR staff; the written authorization shall include identification of clients to be served and description of their roll in the protective service case, the purpose of the examination, and approval for a specific number of sessions or type of treatment;
- (8) maximum reimbursable amount of contract;

(9) statement that an evaluation will be completed on this contract and the method of evaluation.

.092. Ongoing Protective Services for Truant, Runaway, or CHINS Youth.

(a) Ongoing protective services are given to children, ages 10-17, by referring the youth to other community and family resources, direct delivery of services, and/or purchase of service contracts. The worker/provider must mutually determine a service plan with the youth and family within one month of referral and must re-evaluate the plan with them every six months. The worker/provider must make at least one contact with the family and the youth per month or document in the case record why the youth and family were not contacted. Ongoing protective services for youth are directed toward keeping these juveniles out of the criminal justice system. The protective services worker should seek to enlarge the youth's opportunities for socially productive and responsible roles. The youths should not be placed in groups made up solely of delinquent or pre-delinquent youth. Youth ages 18 to 21 may be given continuing services if they were being served by the department when they became 18 and are completing school or vocational training.

(b) The worker/contract provider must provide services to the youth and his or her family directed to one or more of the following:

- (1) resolving parent-child relationship problems;
- (2) helping parents assume their parental responsibilities;
- (3) resolving tension and stress in the home when the youth remains or returns there;
- (4) helping the youth develop inner controls over antisocial impulses and behavior;
- (5) helping the youth become self-sufficient.

(c) The worker/contract provider must assess the need for legal, law enforcement, medical, psychiatric, and/or protective intervention. If the assessment indicates that intervention is necessary, the worker/contract provider must provide or arrange services as resources allow.

.093. Runaway Children.

(a) Every effort must be made to locate a runaway child in an open protective services case, including notifying the police, the child's parents if parental rights are not terminated, and the court when the department has managing conservatorship. Department staff may not knowingly harbor a runaway child who is not in the department's conservatorship. Within 24 hours, staff must: notify the person or agency from which the child is absent or notify a law enforcement agency. Failure to comply with these requirements is a criminal offense.

(b) Legally the managing conservator of a child stands in lieu of his parents. Therefore, a runaway child's travel back to where he lives is the responsibility of the protective services unit holding managing conservatorship. When the runaway is not in the department's conservatorship, the parents are responsible for travel funds back home.

.094. Alternate Living Arrangements.

(a) When the home situation or level of conflict between the youth and his parents reaches such a point that DHR believes placement outside the home must be considered, the worker should explore with the youth and the family the feasibility of keeping the family intact or of removing the youth from the home. The worker should seek

an agreement with all involved as to what would be best for the youth.

(b) Alternate living arrangements the worker, youth, and family should explore are:

(1) the family's placing the youth with relatives or with close friends of the family or of the child;

(2) foster family home placement with DHR or another child-placing agency;

(3) foster group home placement with DHR or another child-placing agency;

(4) half-way house living arrangement through TRC or another child-placing agency;

(5) institutional placement in a facility providing basic or specialized care;

(6) educational, boarding, vocational, or military schools;

(7) emancipation;

(8) independent living arrangement. An independent living arrangement is a nonrelative, nonlicensed situation in which the older child whose minority status has not been removed and has placed himself without parental, court, or DHR permission or condonation. The department may not seek or place a child in an independent living arrangement or pay for the placement. However, the department may allow the older child to continue living independently after the older child has placed himself when the older child is not in physical danger, is not in danger of exploitation, or has run away from approved placements, and the only alternative living arrangement is a Texas Youth Council or juvenile probation detention facility which is an inappropriate placement for the child. The worker should give the child in an independent living arrangement the full range of the department's available services which the youth will accept and are appropriate to his needs, including helping the older child to leave the independent living arrangement if it proves harmful to him. The worker should intervene more and use a greater degree of legal authority, the younger the child is, and if the effects of placement are harmful to the child, the department should notify law enforcement of any aspect of the placement which appears unlawful. When an older child in the managing conservatorship of the department places himself in an independent living arrangement, the worker must document in the case record who made the placement decision and who physically placed the child, whether the child is related to the provider in the independent living arrangement, the goal the child is working towards, how the child is moving toward the goal and the timetable, who is providing financial assistance, and what this living arrangement is providing this child. The courts should be sent a copy of the worker's findings and should be kept informed in writing of significant changes in the living arrangement so that the court may involve itself as it deems appropriate in the child's situation. This ensures that judicial expertise and authority may be jointly responsible with DHR for the child's situation. The parents, when parental rights are not terminated, should be notified and kept informed of the child's circumstances. If the worker and supervisor have any questions as to whether this home is subject to licensing or certification as an agency home, contact should be made with the appropriate regional staff.

.095. Self-Support Services. The worker should help juveniles complete their high school education whenever possible. The worker may refer juveniles for tutoring services, vocational services, the graduate equivalent diploma

(GED), or other comprehensive services programs that may be available in the community. The worker should help older juveniles prepare for supporting themselves.

.096. Contract Services for Juveniles.

(a) Contract services for juveniles are provided to prevent or ameliorate abuse or neglect or inappropriate institutional care of eligible youth. Eligibility for services is without regard to income. The provider agency determines and certifies eligibility on the Eligibility for Services without Regard to Income form.

(b) To be eligible for services for juveniles, the youth must meet all the following criteria:

(1) truant, runaway, or a child in need of supervision not adjudicated through Title III of the Texas Family Code;

(2) age 10-17;

(3) in an open DHR case or referred to DHR or the contract agency;

(4) in need of the services.

(c) When a juvenile is found to need these services, this must be discussed with him and his parents, if present. If the juvenile wants to use the service, a referral is made to the contract service agency, providing them with appropriate background information.

(d) When the department has an open case on the juvenile, the worker must regularly contact the contract service agency to monitor the status of work with the juvenile and to determine needed changes in DHR's and the contract agency's service planning.

.097. Providers of Contract Services for Juveniles.

(a) Contract services for juveniles are provided through purchase of services contracts with public or nonprofit private agencies. Priority is given to developing these contracts with juvenile probation departments or juvenile courts. Regional purchase of services staff must keep information on the location of providers of services for juveniles.

(b) The contract's plan of operation should include but need not be limited to 24-hour intake capability, individual counseling, crisis counseling, family counseling, casework services in alternate care facilities exclusively serving the juveniles, psychological testing, information and referral, coordination with other local support services, and coordination with other funding sources such as child welfare earned funds, Criminal Justice Division of the Governor's Office, Texas Youth Council, and local agencies and organizations.

(c) Room and board expenses are not allowed as a cost to be included in the approved budget of a contract provider, with the exception of therapeutic camping.

.098. Ongoing Protective Services for Unmarried or School-Age Parents.

(a) The department offers ongoing protective services to unmarried and school-age parents by developing comprehensive community programs, linking the parents to community and family resources, direct delivery of services, and purchasing services. These services are initiated on the basis of established priorities. Services to this client group are given to prevent child abuse and neglect. Work with unmarried and school-age parents is mainly directed toward planning for the care and rearing of the baby. The worker should help parents consider all the alternatives available for planning and caring for the baby. These alternatives could include any of the following: abortion, giving the baby up for adoption, or keeping and caring for the baby.

(b) When at all possible and when known, the father of the baby, the grandparents, and other family members who are involved with the mother and baby should be included in service planning. The father should be told what plans are being made for his child, and that he has a part in deciding the child's future. The father must be involved in the court proceedings to terminate his legal rights to the child. The worker should discuss with the father his feelings about plans for the child, the out-of-wedlock pregnancy, and court action. The worker should help the father decide whether he will support the mother and unborn child financially, help pay for medical expenses, provide child care or housing, visit, or plan with the mother.

(c) If the unmarried or school-age parents want to give up their child for adoption or other permanent planning, the department will join the parents in a court petition to terminate the parent-child relationship and place managing conservatorship with the department. An affidavit of relinquishment should be executed by the parents, as outlined in Section 15.03 of the Texas Family Code. If the child is not the legitimate child of the alleged father, an affidavit of status of the child must be executed by the mother, if at all possible, as outlined in Section 15.04 of the Texas Family Code. If the parents wish to establish paternity or petition the court for child-support, the worker should help the parents get legal advice and services. If there are other legal problems, the worker should help the unmarried or school-age parents get legal advice and services in the community. A full social history about the baby must be obtained to aid in adoption placement. The worker should find out whether foster care or residential care in a maternity home may be available to the unmarried mother. Such living arrangements may be paid for by local funds or by the family, the father of the unborn child, another agency, or community resource.

(d) If DHR is the managing conservator of the unmarried or school-age pregnant mother, the worker must arrange for immediate medical verification of the pregnancy. Immediately after verification of the pregnancy, the worker must discuss with the mother plans for the unborn child. The worker must also notify the court having jurisdiction of the mother about the pregnancy and the mother's plans for the child. The worker must involve the father of the baby as stated above.

(e) If the mother is interested in an abortion, the worker should refer her to abortion resources. The worker should discuss with her all pregnancy alternatives to the abortion and should arrange for her to fully discuss the abortion process and its ramifications with a qualified physician, counselor, or nurse. If the mother requests an abortion, the worker should discuss notifying her parents to involve them in ongoing events in her life, as appropriate. The worker must also notify in writing the court having jurisdiction of the pregnant unmarried or school-age child of her decision to have an abortion so that the court can interview or appoint an attorney ad litem for the child, if it wants. The worker must get from the mother a written notarized request and consent for the abortion.

(f) Although Section 35.02(4) of the Texas Family Code provides that a minor may not consent to an abortion, a Supreme Court decision of 1976 ruled as unconstitutional laws such as this. As a result, DHR allows the unmarried mother to consent to the abortion and most medical facilities providing abortions will allow the minor to consent to her

own abortion. An unmarried minor can consent to hospital, medical, or surgical treatment related to her pregnancy.

(g) After the abortion or the birth of the baby, the unmarried or school-age parent(s) must be offered family planning counseling and services.

Doc. No. 804576

Removal and Court-Related Services 326.50.73

These new rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Title 2 of the Human Resources Code.

.046. *Planning for Removal.*

(a) While investigating a report of a child in need of protection, or providing in-home protective services to a child living in his home, DHR may find it necessary to consider removing the child to protect him from further abuse, neglect, or other danger or harm. When this occurs, a written service plan must be developed within regionally specified time frames to:

- (1) determine the legal basis for the removal;
- (2) plan for services to the family and child during removal;
- (3) determine where the child will be placed; relative placement should be explored as the first choice for placing a child outside his home;
- (4) complete the foster care intake study if the child is placed in a licensed or certified facility;
- (5) plan for preplacement services to the family, child, and out-of-home placement personnel.

(b) A child may be removed from his home by DHR only with prior or concurrent supervisory approval, or program approval in the supervisor's absence. If the approving staff member does not have a master's degree in social work and two years' experience in child placing, the removal must be reviewed by a staff member with these qualifications. The approval and review should be completed before removal unless emergency protection of the child is needed.

.047. *Legal Procedures for Removal.* No child may be removed from his home without one of the following:

(1) A written court order obtained before the removal. The court order may be obtained after a full adversary hearing pursuant to Chapters 11, 14, or 15, Texas Family Code, or after an ex parte emergency hearing pursuant to Section 17.02 of the Texas Family Code. Under Section 17.02, an ex parte order may be sought before a full adversary hearing is conducted only when the child is in an immediate danger to his health or physical safety, and there is no time, consistent with the physical health or safety of the child, for an adversary hearing.

(2) A clear reason for removal under the provisions of emergency removal. Under Sections 17.03(a)(3) and (4) of the Texas Family Code, the worker may remove a child from his home without the consent of his parents and before a written court order is obtained only when an immediate danger exists to the child's health or physical safety, and there is no time, consistent with the physical health or safety of the child, for an ex parte order or full adversary hearing.

(3) Written parental consent. A child may be removed from his home on a planned basis without a court order only when the situations of the child, family, and com-

munity meet department criteria for voluntary protective placement. Written parental consent must be given through one of the following:

- (A) temporary voluntary placement agreement;
- (B) an affidavit of relinquishment of parental rights.

.048. Social Services to the Family and Child during the Removal of the Child from His Home.

(a) Once the decision has been made to seek removal of the child from the home, the reasons for removal must be discussed with the parents, including the changes necessary for the return of the child to their care when this is the plan. The worker must explain to the parents the need for court action and tell them of planned court action. The worker must discuss with the parents what DHR will recommend to the court about visitation and child support. The parents must be encouraged to prepare for the events of the hearing by seeking legal counsel and to appear in court.

(b) If the parents are not present when the child is removed from the home, the worker must immediately try to contact them. Parents who are in jail or hospitalized must be notified of DHR's removal of the child and the legal basis of the removal. If the parents' whereabouts are unknown, the worker's efforts to locate them should not delay acting to protect the child.

(c) Removal services are provided to help the child and family understand why the child is being taken from his home and to help them discuss their feelings about separation. The worker should help the parents talk with the child, regardless of his age, about why he is leaving the home, what the parents' plans for themselves are, and their part in the planning for his care and how they feel about the separation.

(d) A child must be prepared for removal in a manner consistent with his age, his ability to take part in the plans, and his ability to understand the reasons for removal. The worker should talk with the child about all of the following:

- (1) why he is being removed;
- (2) the legal basis for removal;
- (3) how he feels about leaving his parents, family, and home.

(e) The child should be encouraged to take an active part in the removal process. Except in an emergency removal, placement with relatives the child knows, or in the removal of an infant under six months old, the child should visit the placement facility before he is actually placed there.

(f) In emergency removals, the child should be prepared for removal. When removal visits are not possible, pictures of the home, family members, and any pets, brochures from facilities, verbal descriptions, and factual information are helpful in relieving the child's fear of the unknown.

(g) The child must have a medical examination within 30 days before placement or seven days after an emergency placement. For Medicaid-eligible children (children receiving AFDC in their own home, foster care children on Type Program 08, 09, or 10, or children receiving SSI), an EPSDT examination signed by a licensed physician will meet this requirement. The Medical History and Physical Examination form may be used for the non-EPSDT medical examination. Results of the medical examination must be documented in the child's case record by this form or by the physician's reports.

.049. Placements by Relatives.

(a) Whenever possible, the worker must explore the use of relatives' homes as the first choice for placing a child outside his own home. A written home study must be made and approved by the supervisor before placement or immediately after an emergency placement. The study should include plans relatives have for protecting the child from exposure to the conditions from which he was removed. Parents' and children's feelings about placement with relatives should be considered. When parents are opposed to a relative placement, the decision of a court may be required to effect the placement.

(b) In crisis situations where the foster care placement must be made immediately, and the worker has no previous knowledge of extended family members, relative placement must be explored as soon as possible after the emergency placement.

.050. Removal by Court Order.

(a) When the worker and supervisor decide it is necessary to remove a child from his home and there is no emergency, the situation must be presented to the appropriate court. If the court finds that it is necessary to remove a child from a hazardous home situation, the worker and supervisor, upon order of the court, must plan for removal of the child and provision of foster care.

(b) When the child is to be removed from his home by court order, the worker and supervisor, in consultation with the county or district attorney or regional/child welfare attorney, must decide whether to petition for managing conservatorship or termination of parental rights. The decision should be based on the danger to the child, the family's situation, and DHR's recommendations as established by the findings of the investigation and the work with the family and child.

(c) The facts to be presented as evidence to the court as proof of the suit should be based on available witnesses and physical evidence. The worker should present his findings to the county or district attorney for his use in preparing and filing a petition for a suit affecting the parent-child relationship.

(d) The petition should show good cause why the recommended action is necessary to protect the child. In all instances, when DHR seeks managing conservatorship and parental rights have not been terminated, the petition must request the court to order what the child support responsibilities of the parents are.

.051. Jurisdiction of the Child. A suit affecting the parent-child relationship must be filed in the court having proper and correct jurisdiction of this type of court suit.

.052. DHR Central Record File.

(a) The department must maintain a central record file (CRF) of the following suits affecting the parent-child relationship:

- (1) termination of parental rights;
- (2) determination of paternity;
- (3) conservatorship;
- (4) adoptions;
- (5) habeas corpus;
- (6) divorce, annulment, or suit to declare a marriage void where children are involved;
- (7) cases of separation involving the custody and support of children.

(b) On the written request of an attorney, court, or any party to the suit, the department's central record file (CRF) in the Special Services Division, State Office, identifies the court which had last jurisdiction of the child or says that according to CRF records, the child has not been the subject of a suit affecting the parent-child relationship. Upon request, the Special Services Division will supply inquiry forms without charge. Telephone inquiries will be accepted in emergency situations if they are followed by written requests. The department must respond to each request within 10 days. When a judgment or decree is entered in any suit involving the parent-child relationship, except in adoption suits, the clerk of the court is required to send to the CRF a copy of the decree, together with the name of each child, birth date, and place of birth. Upon request, the Special Services Division will furnish forms for entering this information without charge.

(c) Upon entry of a decree of adoption, the court clerk must send to the CRF a certified copy of the petition and decree of adoption. At the petitioner's request, the court clerk must transmit a complete file on the case, including all pleadings, papers, studies, and records in the suit other than the minutes of the court. When the CRF receives the complete file or petition and decree of adoption, it must close the records concerning the child and, except for statistical purposes, must not disclose any information concerning them except upon order of the court which issued the decree or a district court of Travis County.

.053. Transfer of Court Proceedings. A transfer may be necessary after temporary orders are entered in a Chapter 17 suit affecting the parent-child relationship pending a final hearing. Immediately after the temporary orders are issued at the 10-day hearing and after consultation with the county/district attorney, the worker should determine from DHR's central record file whether there is a court of continuing jurisdiction and inform the county/district attorney of the findings. If there is a court of continuing jurisdiction in another county, or another court has venue, the county/district attorney should be consulted to arrange for the transfer of the suit.

.054. Jurisdiction of Parents Living Out of State. When the parent(s) of a child who is the subject of a suit affecting the parent-child relationship live(s) out of state, the worker should complete the Jurisdiction of Out-of-State Parents form, for the county/district attorney. This information will enable the county/district attorney to present information on jurisdiction to the court so that the court may determine whether it can exercise jurisdiction over the parents.

.055. Service of Citation.

(a) The following persons are entitled to service of citation on the filing of a petition in a suit affecting the parent-child relationship:

- (1) managing conservators, if any;
- (2) possessory conservators, if any;
- (3) people having access to the child under an order of the court, if any;
- (4) people required by law or by order of a court to provide for the support of the child, if any;
- (5) guardian of the person of the child, if any;
- (6) guardian of the estate of the child, if any;
- (7) each parent whose parent-child relationship has not been terminated or by whom process has not been waived under Section 15.03(c)(2) of the Texas Family Code;

(8) the alleged or probable father, in a suit in which termination of the parent-child relationship between an illegitimate child and its mother is sought, unless there is attached to the petition an affidavit of waiver of interest in a child executed by the alleged father or probable father as provided in Section 15.04 of the Texas Family Code or unless the petition states that the identity of the father is unknown;

(9) the alleged father, in a suit to determine the paternity of a child, unless the alleged father is a petitioner.

(b) Although the Texas Family Code makes notice optional to the unknown or alleged father of an illegitimate child in some cases, the U.S. Supreme Court has established that the father of an illegitimate child has certain rights. Since the uncited father could come back at a later date and claim that his rights were not fully protected, the worker must try to get citation to the unknown or alleged father in all suits affecting the parent-child relationship.

(c) The worker is responsible for giving the court the information it needs to issue and serve citations. The worker should try to ensure that notice is given to all parties interested in the child.

(d) If the parents cannot be notified by personal citation in suits where no termination of the parent-child relationship is sought, the court clerk may arrange for citation to be served by registered or certified mail with a return receipt requested or by publication. In suits in which termination of the parent-child relationship is sought, personal citation or citation by publication is required. The notice must be published one time.

.056. Diligent Search for Missing Parents. The worker or his designee must make a diligent search for each missing parent of each child taken into the department's conservatorship. These search efforts must be documented in the child's case record. Correspondence related to the diligent search must be filed in the case record.

.057. Managing Conservatorship.

(a) The department may seek managing conservatorship of a child when the plan with the family is to work to rehabilitate the family and return the child to the home. Managing conservatorship should also be sought when DHR's plan for the child is any permanency goal other than adoption.

(b) When the parents and DHR agree on a plan for working together, they may enter an agreed order at the hearing and the adversary nature of the proceedings may be avoided. The parents and DHR may agree to modify their previous plan for working together, and a modified order for the conservatorship and support of the child may be entered.

(c) The court considers the best interest of the child and the circumstances of the family in determining managing conservatorship. A child age 14 or older may file with the court a written statement about his choice of managing conservator. When managing conservatorship is contested, and a party to the suit requests, the court must confer with a child age 12 or older and may confer with a child under age 12. The court may permit counsel to be present at the interview.

.058. Managing Conservatorship and Child Support. When DHR seeks or has managing conservatorship and the parent-child relationship has not been terminated, staff must seek to have the court order set out the child support responsibilities of the parents or state that there is no child support ordered.

.059. Responsibility of Managing Conservator for Reports to the Court. The department must file with the court a report of facts about the child's welfare each 12 months after appointment as managing conservator.

.060. Possessory Conservatorship.

(a) The department may seek possessory conservatorship of a child to have the court's sanction and authority for monitoring the care of a child in his own home when parents are uncooperative. Possessory conservatorship usually means visitation rights.

(b) When managing conservatorship is awarded to DHR and possessory conservatorship is granted to the parents, grandparents, or relatives, the worker should explain to them their right to visitation and other legal rights and responsibilities while the child is in their possession. When the court grants managing conservatorship to DHR and does not grant possessory conservatorship to anyone, the worker must try to get the court to clarify the rights of the parents, grandparents, and other interested relatives.

.061. Termination of the Parent-Child Relationship.

(a) The worker may request that the county/district attorney petition the court to terminate the parent-child relationship when: the degree and nature of the mistreatment of the child and the parent's responsibility for the child's mistreatment appear to meet the stipulations under Section 15.02 of the Texas Family Code, or the parents voluntarily sign affidavits of relinquishment of parental rights; DHR's work with the family shows that the home is not a minimally safe permanent place for the child; and the child is adoptable or a permanent placement in a relative's home can be obtained for the child.

(b) The decision to request the petition for termination of parental rights should be based on work with the family in its own home and during foster care placement. This decision is not generally made solely on the basis of the investigation or work with the family in its own home.

(c) When requesting a petition for termination of parental rights, the worker should recommend to the county/district attorney whether the petition should request that the child be allowed to retain the right to inherit from its parents.

(d) A decree terminating the parent-child relationship cannot be modified or overturned unless a successful appeal is made. Therefore, DHR staff should not seek the final termination decree while planning with the family to return the child to the home. Rarely it may appear to be in the child's best interest to return him to the parent whose parental rights have been terminated. This may be indicated because of great change in the parents' circumstances so that the child would be safe in the home and the lack of another suitable permanent placement alternative.

(e) An alleged biological father, who is not married to the mother and whose paternity has not been legally established, is not given parental rights under the Texas Family Code. In a termination proceeding, the rights of the mother are terminated and the alleged biological father (as described above) is properly cited so that he may have the opportunity to legally establish his parental rights and to challenge the termination. If he has not established paternity, he has not established legal rights to the child and his parental rights, therefore, do not have to be terminated. When the mother was married at the time the child was born or conceived, or

when the biological father described above establishes his paternity, his rights too are subject to termination.

.062. Emergency Orders.

(a) Under Section 17.02 of the Texas Family Code, when the department requests an emergency order, the worker with personal knowledge of the child's situation must swear to the facts of the child's situation in a petition or an affidavit. The facts must be sufficient to satisfy a person of ordinary prudence and caution that both of the following exist:

(1) there is an immediate danger to the physical health or safety of the child;

(2) there is no time, consistent with the physical health or safety of the child, for an adversary hearing.

(b) If, during the duration of the emergency order, DHR feels further court action is necessary to protect the child when the order expires, and if not done in conjunction with the order under Section 17.02, the worker should ask the county/district attorney to file a petition under Chapter 11, 14, or 15 of the Texas Family Code. In the petition, the following information should be presented to the court:

(1) facts documenting the child's need for protection;

(2) immediate plans for the child;

(3) visitation and child support responsibilities of the parents.

(c) DHR must not seek successive emergency orders under Section 11.11 of the Texas Family Code without an adversary hearing following the initial emergency removal.

.063. Removal without a Court Order. Under Section 17.08 of the Texas Family Code, the worker who takes possession of a child without a court order is immune from civil liability if he had reasonable cause at the time possession was taken to believe there was an immediate danger to the child's physical health or safety.

.064. Taking Possession To Deliver Child to Parents.

(a) Under Section 17.034a(1) of the Texas Family Code, the department may take possession of a child without a court order when the child is in a situation of danger to his physical health or safety and the worker intends to take the child to his parent or other person entitled to possession without unnecessary delay. If there is not enough information to locate the parents or other person entitled to possession, the worker must immediately ensure that the local law enforcement agency has a report of the child's being missing from his home. The worker must seek to locate the parents or other person entitled to possession. If the whereabouts of the parents or other person entitled to possession remain unknown for 24 hours after the child was found, the worker/supervisor must seek an appropriate court order for managing conservatorship under Chapters 11, 14, 15, and/or 17 of the Texas Family Code, during the court's next working day.

(b) If the parents or other person entitled to possession can be located, the worker should discuss with them how the child became lost, why the child may have run away, or why the child otherwise had to be cared for by the department. From the information, and an assessment of the child's condition, the worker/supervisor should determine whether the child is abused, neglected, or otherwise in need of the department's protection, or whether further information is needed to make this determination. If the child is determined to need further protection by the department, the worker must immediately arrange for another valid legal basis for the

child's absence from his home and placement with the department.

(c) If the child is determined not to need further protection by the department, the worker should allow the parents or other person entitled to possession to immediately resume care of, or responsibility for, the child. The department may release the child, or arrange for the child to be taken to the parents, to another person entitled to possession, or, with written, transcribed, or tape recorded verbal parental consent, to a third party (relatives, neighbors, babysitters or a community child care agency, day care, or 24-hour care with which the parents or other person entitled to possession have arranged for the child's care).

(d) The worker should ask the parent or other person entitled to possession to make arrangements quickly enough to prevent the child from spending a night in the department's care. If parents or other person entitled to possession request the department to continue care for the child for overnight or longer, the worker and supervisor should decide whether the delay is necessary. If it is deemed necessary, the worker should discuss the terms of and complete the Temporary Voluntary Placement Agreement form, with the parents, or other person entitled to possession of the child.

.065. *Emergency Removal.*

(a) DHR defines emergency removal as removal of a child in immediate danger to his physical health or safety from his home or other place where he is receiving care without written parental consent and before a court order is obtained. Emergency removal can be made only as a last resort in protecting a child when the worker has personal knowledge of facts, or the worker has by personal knowledge of facts confirmed the information supplied by the complainant, which would lead a person of ordinary prudence and caution to believe all of the following:

(1) The child is in a situation of immediate danger to his physical health or safety. The danger may be from another person, from himself, or from the physical environment. Immediate physical danger does not include danger of nonemergency, emotional, or other nonphysical harm.

(2) An emergency court order cannot be obtained in sufficient time to protect the child from immediate danger of physical harm. The worker must have evidence that the child would be in immediate danger of physical harm between the time the worker could leave the child and the time he could return with the emergency court order authorizing removal.

(b) The worker must record in the child's case record the facts about the child's situation of which he has personal knowledge.

(c) The worker should try to get someone to witness the emergency removal of the child, as follows:

(1) When available, a law enforcement officer or Investigation Division staff person must witness the removal.

(2) If neither is available, a protective services supervisor, worker, or a DHR employee must witness the removal.

(3) When none of the above persons accompanied the worker to the child's home in anticipation of an emergency removal, and when a child would be left in a situation of immediate danger to his physical health or safety in order for the worker to get one of the above type persons as witnesses, the worker may seek to get a neighbor or anyone in the vicinity of the child's home to witness the removal. The worker should get the name, address, and telephone number

of any such witnesses. The witness should attend the emergency hearing.

(d) All of the following steps must be taken after removing a child from his home under Section 17.03 of the Texas Family Code.

(1) Notice. DHR must make every reasonable effort to inform the parents verbally or in writing of the following:

(A) That a hearing will be held on the conservatorship of the child on the court's next available working day, or, at the most, three days after the court's next working day after the child's removal.

(B) That they have the right to obtain the services of an attorney to represent them at that hearing.

(C) The location of the district court where the hearing will be held. The worker must file a copy of a written notice or should try to verify verbal notice with witnesses.

(2) Petition. Without unnecessary delay after removal, a petition must be filed seeking relief under Section 17.03(a)(3) or (4) and requesting a hearing to be held the first working day after the child's removal. If evidence of the child's needs indicates possible need for continuing custody past the full adversary hearing, DHR should ask the county/district attorney to join a Chapter 14 or 15 suit with the Chapter 17 suit.

(3) Emergency hearing. The emergency hearing must be held the first working day after the court becomes available, but in no case may the hearing be held later than the third working day after the court's first working day after child's removal. If the hearing cannot be held by this time limit, the child must be returned to the home and provided whatever services are possible to protect the child from further harm. When the child is in danger of further harm in his home, the worker must inform in writing the district judge, county/district attorney, local law enforcement officials, the regional attorney, and the regional director for social services, of the child's circumstances and the reason for the child's return. The danger to the child must be clearly stated. DHR may not retain custody of a child for more than 10 calendar days from actual removal without a complete adversary hearing with notice to the parents.

(4) Adversary hearing. To retain possession of the child, DHR must prove both of the following at the adversary hearing. Proof must be by evidence sufficient to satisfy a person of ordinary prudence and caution that:

(A) there is a danger to the physical health or safety of the child;

(B) the danger was caused by any act or failure to act of the parents or person entitled to possession.

.066. *Voluntary Protective Placement*

(a) A voluntary protective placement is a DHR placement of a child needing protection into a licensed or certified facility based on written parental consent and without a court order. Voluntary protective placements may be appropriate:

(1) when the parents want to permanently surrender their parental rights to a child;

(2) when parents are temporarily absent from the home or when they feel unable to provide adequate care of the child because of extreme temporary stress;

(3) when DHR and a family agree on a plan for voluntary placement of a child outside the home while the family tries to change harmful conditions in the home;

(4) when DHR and a family agree on a plan for voluntary placement of a child pending a court hearing.

(b) Voluntary protective placement can be made only when all the following exist:

(1) The parents and worker have explored and ruled out any other suitable relative, family friend, or other agency placement or plan for the care of the child.

(2) The child currently needs protection, or would because of lack of adequate care and supervision, if DHR did not provide placement. If abuse or neglect exists, a CANRIS report must be made.

(3) There are sufficient spaces in licensed or certified foster homes or institutions for children who are the responsibility of DHR by court order.

(4) The county agrees to pay for the cost of the child's care and maintenance when it is above what the parents contribute or above the child's own income.

(c) Before using county funds for the child's being voluntarily placed, the worker must explore all other funding sources. Since there is not court order, the child is not eligible for AFDC foster care (Type Program 08), medical assistance only foster care (Type Program 09), or state-paid foster care (Type Program 10).

(d) Voluntary placements may be either temporary or permanent. A voluntary placement must be authorized by one of the following documents:

(1) temporary voluntary placement agreement;

(2) affidavit of relinquishment of parental rights.

(e) The placement agreement or affidavit must be signed prior to the child's actual placement. The department must not pressure, coerce, or defraud the parents into signing these. The parent must appear competent to make the decision to sign the form. The parents' decision to request or consent to a voluntary placement must be documented in the family or child's case records.

.067. Screening Voluntary Protective Placement Requests.

(a) When parents request temporary DHR foster care for a child, the worker must explore with the parents any service which would enable the child to remain in his own home. If an adequate plan cannot be arranged for the child to remain at home, the parents should be encouraged to assume major responsibility for the child by arranging placement with relatives or in private or voluntary child care agencies. When parents arrange the placement and the child is not in the DHR's conservatorship, payment for the child's care is the parents' responsibility.

(b) When the parents cannot obtain at least a minimally adequate placement for the child, the worker must talk to the parents about the temporary voluntary protective placement and decide with the parents and DHR supervisor whether to proceed with those arrangements or to seek a court order as a basis for placement of the child.

(c) When parents request adoptive placement of their children through DHR, the worker must explore with the parents whether there are any available adoptive resources other than the department. If so, the worker must refer the parents to these resources.

.068. Temporary Voluntary Protective Placements.

(a) A temporary voluntary protective placement is when parents request or consent to protective placement of a child for less than 60 days, complete a temporary voluntary placement agreement, and establish a service plan with DHR for the child's care and return home. DHR accepts voluntary placements under the authority of Section 17.03(a)(2), Texas Family Code.

(b) The service plan must be in writing. It must include but is not limited to:

(1) The parents' agreement to continue to be involved in planning for the child. Planning for the child includes mutually determined regular visitation with the child and contacts with DHR about the child. The worker must determine that the parents are willing and able to continue involvement with the child before the child is voluntarily placed in temporary foster care.

(2) DHR's rules about visits, gifts, mail, and telephone calls.

(3) How often DHR will report to the child's parents about the child and what will be included in the report.

(4) Mutually determined steps for improvement of home conditions so that the child can return home.

(5) DHR's agreement with the parents that DHR may take court action to gain managing conservatorship of the child if the parents do not comply with the placement agreement or if the home is not suitable for the child when the parent requests the child's return.

(6) The parents' acknowledgement that Section 17.03(f) of the Texas Family Code requires the department to petition for court-ordered managing conservatorship as a basis for the child's remaining in foster care for over 60 days.

(c) During the first 60 days of placement, the worker must continue to plan with the parents to develop a more appropriate plan for the child. The worker must discuss with the parents that although they may request or consent to the child's placement, the worker and supervisor have responsibility to ensure at least minimally adequate planning and care for the child before the child is returned. If parents request return of the child, but the worker and supervisor believe that the home is not safe for the child, the worker must seek a court order as the continuing legal basis for placement. If parents are willing to leave the child with the department until an adversary hearing can be held, and the voluntary placement does not extend past 60 days, the worker should request the county/district attorney to file a petition under Chapter 14 or 15 of the Texas Family Code for a full adversary hearing. However, if parents demand immediate return of the child, the worker and supervisor must return the child the day the parent requests or take one of the following actions:

(1) obtain an emergency order under Section 17.02 of the Texas Family Code, for attachment of the child;

(2) take possession of the child under Section 17.03(a)(3) or (4), Texas Family Code, file a suit affecting the parent-child relationship and follow procedures under Section 17.03(b), (c), (d), and (e), Texas Family Code.

(d) If the child cannot be returned home within 60 days of placement, regardless of the reason, the worker and supervisor must seek a court order as the continuing legal basis for placement. The petition should contain the following:

(1) A request that DHR be named managing conservator.

(2) A request that the parents be ordered to pay child support.

(3) Under Section 17.04(a)(3) of the Texas Family Code, a request that a full adversary hearing be held within 10 days of the filing of the petition.

(4) Under Section 18.02(b) of the Texas Family Code, a statement that one of the purposes of the suit is to initiate periodic reviews of the necessity and propriety of the placement.

(5) If the parents consent to the court action, a copy of the placement agreement between DHR and the parent should be attached to the petition, and the petition should contain the reasons the worker and supervisor believe the child should stay in placement.

(6) If the parents are opposed to the court action, under Section 17.04(b), Texas Family Code, the petition should allege danger to the physical health or safety of the child which was caused by any act or failure to act of the parents. This worker must be prepared to testify to facts sufficient to satisfy a person of ordinary prudence and caution about the danger to the child and about the parents' behavior.

(7) Based on the permanent plan for the child, the petition may also request termination of parental rights.

.069. *Permanent Voluntary Protective Placements.*

(a) A permanent voluntary protective placement is when a parent requests or agrees to complete an affidavit of relinquishment of parental rights designating DHR as managing conservator of the child. DHR accepts affidavits of relinquishment under the authority of Section 15.03, Texas Family Code. A complete social study must be made of the biological family and of the child's being relinquished for adoption.

(b) Acceptance of a voluntary affidavit of relinquishment is appropriate only when parents voluntarily want to give up their parental rights permanently and to agree to the adoption of their child.

(c) Acceptance of a voluntary affidavit of relinquishment is not appropriate when:

(1) parents do not want to lose parental rights to their children;

(2) DHR staff will be working with a family to return a child home;

(3) a temporary placement is needed.

(d) The worker must clearly state to the parents that accepting the affidavit of relinquishment means the department will no longer work with them to return children home.

.070. *Affidavit of Relinquishment of Parental Rights and Affidavit of Status of Child.*

(a) When parents want to voluntarily give up their parental rights and to agree to the adoption of their child, an affidavit of relinquishment of parental rights must be signed by the parent(s) after the birth of the child. The affidavit must be witnessed by two credible persons at least 18 years of age and verified by a notary. When relinquishment is to DHR, the affidavit must designate DHR as the managing conservator and should contain a consent to the placement of the child for adoption by DHR. This information will show the parents' desire that DHR plan for the child. The affidavit may contain a waiver of citation.

(b) When a mother relinquishes a child, DHR must make every effort to obtain the affidavit of relinquishment of parental rights from the father of the child whether married to the mother or not. Relinquishment from an unwed father does not commit him to support the child.

(c) If the child is not the legitimate child of the father, an affidavit of status of child must be executed by the mother any time after the first trimester of the pregnancy. It must be witnessed by two credible persons at least 18 years of age and verified by a notary. When relinquishment is to DHR, the affidavit of status of child should name the father, if

known, who must be cited along with the mother in a suit to terminate the parent-child relationship.

(d) A petition based on the affidavit of relinquishment should be filed immediately upon accepting the affidavit. The contents of the petition should be as follows:

(1) a request that DHR be named managing conservator;

(2) a request for termination based on the affidavit of relinquishment;

(3) if filed under Section 17.04(a)(3) of the Texas Family Code, a request that a full hearing be held within 10 days of the filing of the petition;

(4) under Section 18.02(b) of the Texas Family Code, a request that the hearing initiate periodic court reviews of the placement no earlier than 5-1/2 months or later than seven months after the child's placement.

(e) Between the time when DHR accepts an affidavit of relinquishment of parental rights and the time the court acts on the affidavit by naming the department as managing conservator, DHR must continue to involve the child's biological parents in:

(1) giving consent for medical exams;

(2) giving consent for nonemergency medical and surgical treatment;

(3) giving consent for psychiatric exams and treatment;

(4) establishing the child's legal domicile;

(5) the duty of moral and religious training;

(6) providing the child with education;

(7) the right to services and earnings of a child;

(8) consenting to marriage and enlistment in the armed forces;

(9) representing the child in legal action and making other decisions of substantial legal significance about the child;

(10) receiving and giving receipt for periodic payments for support of the child and holding or disbursing the funds for the child's benefit.

(f) Until a hearing is held on the affidavit of relinquishment and DHR is named by the court as managing conservator, the biological parents must agree in writing to continue to be involved with the department and child and to fulfill the parents' continuing responsibilities. If the parents refuse to agree, the department cannot accept possession of the child until a court order is obtained naming the department as managing conservator. If the parents agree, but then do not honor their agreement, the worker/supervisor must seek an emergency order under Section 17.02 of the Texas Family Code, or a petition under Section 17.03(a) or (4) of the Texas Family Code.

.071. *Legal Rights of Parents and Children.*

(a) DHR must respect the following rights of the parents:

(1) To be advised by DHR of planned court action.

(2) To be told by DHR that they have the right to obtain the services of an attorney to represent them at court hearings. The worker should refer the parents to available legal aid services. The worker or district/county attorney should talk with the family's attorney about DHR's role in the hearing.

(3) To receive proper legal citation for the hearing.

(4) To attend the hearing. The worker should encourage the parents to attend the hearing. The court's decision about the conservatorship of the child, and any subse-

quent adoption placement, are strengthened when the parents are present at the hearing and have legal representation.

(5) To have an interpreter in court if the parent is deaf or does not speak English.

(b) The child must be involved in court action when required by the Texas Family Code and should attend court hearings when indicated by case planning. There are several instances in which the child may be legally required or allowed to attend the court hearing.

.072. Court Reports and Court-Ordered Social Studies.

(a) When ordered by the court, the department must provide or arrange for a department-approved written report of a social study on an adoptive or disputed conservatorship petition to be submitted to the court within the prescribed time limits. Information obtained should be verified when possible. The report must be approved by the person's supervisor. The report must be written, notarized, and signed by the department staff person named in the court order and by the primary person who completed the study and/or report. The names of all those who took part in the study should be listed. The report must be submitted within the prescribed time limits.

(b) The report should be factual and any assessments or evaluations in the report should be carefully labeled as such with the person prepared to support them in court. DHR should not share the report with anyone other than the court.

Doc. No. 804578

Foster Care Placement Services 326.50.74

These new rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Title 2 of the Human Resources Code.

.071. Foster Care Placement Services.

(a) Foster care is a protective service offered to children and families. It provides substitute, temporary care for a planned period of time when a child must be separated from his own parents or relatives until he is reunited with his family or is provided another type of permanent living situation. It involves the assumption of parental responsibilities by the department which are delegated in part to foster parents or staff of child caring facilities. Children placed with relatives are considered to be in foster care when placement by DHR is authorized or the relative's home is licensed/certified as a foster family or group home.

(b) DHR must have proper written authorization before placing a child in foster care in the form of a court order granting managing conservatorship to DHR, Temporary Voluntary Placement Agreement, or an Affidavit of Relinquishment of Parental Rights. The only exception is in an emergency when a child is placed under statutory authorization of Section 17.03(a) of the Texas Family Code. In this situation, statutory authorization substitutes for the court order until the first working day after the court becomes available provided the hearing is held no later than the third working day after the child is taken into possession.

(c) State law requires that all agencies engaged in child-placing activities be licensed or certified by the DHR Licensing Division as meeting Minimum Standards for Child-

Placing Agencies. Each DHR regional child-placing program must be certified.

(d) Requests for waivers or variances must include the following information:

(1) the name and address of the foster family, foster group home, or DHR region;

(2) date of certification, ages, and number of children affected, and whether the waiver/variance involves direct child care;

(3) specific standard or standards for which a waiver or variance is requested;

(4) reasons for requesting the waiver or variance;

(5) that alternatives have been explored and why they are not feasible.

A request may include the time period during which the waiver/variance is being requested and justification for that time period. A waiver/variance will not be granted beyond the duration of the certification period.

(e) If an extension of a waiver is needed, it must be requested prior to expiration of the variance/waiver.

(f) The department is responsible for appropriate placement resources for children who need protective placement. DHR regions are responsible for making placement needs known and for encouraging the development of needed child care programs in both the public and private child care sectors. DHR regions must not operate institutions (facilities which provide capacity for 13 or more children).

(g) Department staff should make their emergency foster care services and needs known to the community and work with the community to develop facilities. Emergency services should be coordinated with other community programs. Community and parent groups such as child welfare boards, foster parent associations, and councils on adoptable children must be considered as resources to meet the regions' recruitment needs for foster homes.

(h) Recruiting and screening of potential foster parent or adoptive applicants may be contracted to parent and community groups. Adoption services for children in DHR conservatorship may be purchased from private child-placing agencies under child welfare earned funds policy.

.072. Preparation for Placement. The worker must prepare the child, his family, and the foster family or child care staff for placement of a child. The process must include the following elements:

(1) The supervisor and worker must ensure proper planning and an orderly placement process. Workers should allow time to prepare the child for placement except where a delay could be injurious to the child.

(2) If immediate removal is necessary, the child may be placed in an emergency shelter or temporary home pending the selection of a facility appropriate to his needs. This temporary placement should allow time for an orderly placement process into the facility where he will be receiving planned care.

(3) Except in extreme emergencies and for infants under six months, the child should visit the facility prior to placement.

(4) The reasons for separation from the child's family should be discussed with the child frankly and honestly and should leave the child free to express his fears and doubts. Criticism of the child's own home and parents must be avoided both implicitly and explicitly.

(5) The worker must recognize that placement is a frightening and anxiety-filled experience for the child, representing the unknown to a child who has not learned to trust his environment. The worker must be sensitive to the feelings of the child and his family and allow them to express their feelings.

(6) The worker must be realistic in reassuring the child of his well-being.

(7) The worker must recognize that children perceive the worker and foster parents or other caregivers in terms of their previous experiences with adults.

(8) The child should be informed in advance about what to expect in each step of the placement process. He should also be given definite factual information about the foster home and family.

(9) The child should be encouraged to participate actively in the placement process according to his age.

(10) The worker should involve parents in the placement planning for the child except when specifically contraindicated. This means helping the parents understand the meaning of separation for themselves and their child(ren).

(11) Assurance should be given of the worker's continuing interest and continued contact with the child and his parents.

(12) Before leaving the child at the facility, the worker (and foster parents, if applicable) should tour the facility with the child and show the child where he will sleep, where his clothes will be kept, where he will eat, the bathroom, yard, or playground, and other physical aspects of the facility related to the child's basic needs.

(13) The worker must ensure an orderly transfer of a child from one school to another when he will attend a different school after placement.

(14) The child must have a physical examination within 30 days before or 30 days after placement.

.073. *Foster Care Intake Study.*

(a) The DHR worker must prepare the foster care intake study before placement, or for emergency placements, the foster care intake study must be started within five days after placement and completed within 30 days. The DHR worker must prepare a foster care intake study for each child placed in DHR foster care. The purpose of the intake study is to pull together pertinent information on the circumstances which led to placement, the child's conditions and needs, and expectations of the placement. Development of the intake study assures a planning process for the placement. The intake study should contain enough information for supervisory determination of whether the placement is needed and appropriate.

(b) The supervisor must review, approve, and initial the foster care intake study before placement or within 30 days after placement for emergency placements. If the supervisor does not have a graduate social work education and two years of experience in child placing, the intake study must also be reviewed by a staff person with those qualifications.

.074. *Choosing the Foster Care Facility.*

(a) Children should be placed in their own communities whenever possible unless there is a clear reason to place them away from their families or unless they have special needs which cannot be met within their own communities. The supervisor must approve the choice of the foster care

facility for the child. Except in emergency placements, approval must be prior to placement.

(b) The selection of the facility for the child's placement is a decision to be made by the Texas Department of Human Resources. DHR cannot accept a child for placement in a particular home or institution which the department does not approve. The following types of facilities may be used for DHR foster care placements:

(1) foster family homes;

(2) foster group homes;

(3) private institutions licensed by the Licensing Division and approved for participation in the department's child-placing program;

(4) public child-care institutions certified by the Licensing Division;

(5) state hospitals or institutions for the care of children who are physically, mentally, or emotionally handicapped;

(6) private nursing care facilities which are licensed by the Texas Department of Health as intermediate care facilities for the mentally retarded (ICF-MR);

(7) boarding schools or other educational facilities operated or approved by the Texas Education Agency;

(8) judicially connected emergency or group facilities or military facilities which are exempted from licensure by law;

(9) maternity homes licensed by the Texas Department of Health.

.075. *Court-Ordered Placements in Specific Facilities.*

(a) When courts request or order the department to place a child in a facility the department cannot approve, the department must inform the court in writing of its objections to the placement, its licensing limitations, and recommended alternatives. Alternatives may include:

(1) a placement which the department can approve;

(2) that conservatorship remain with the court, or be placed with the facility, a relative, or another qualified third party.

(b) If the court persists in its order, the region should place the child and immediately notify the Licensing Division, the regional attorney, and the deputy commissioner for operations of the situation.

.076. *Out-of-State Placement of Children in DHR's Managing Conservatorship.*

(a) Children for whom the department holds managing conservatorship must be placed within the state if at all possible. Children should be placed out of state only if:

(1) A parent or relative who lives out of state is willing and able to care for and support the child. In this situation, managing conservatorship should be transferred to the parent or relative. The court should be contacted for determination of whether a change in managing conservatorship is indicated.

(2) The child moves out of state with a foster family with whom the child has developed familial ties. The foster family is subject to licensing in the receiving state as well as approval of the administrator of the Interstate Compact on the Placement of Children (ICPC).

(3) The child is placed for adoption with a family which resides in another state.

(b) Children placed out of state are not eligible for Type Program 08, 09, or 10 benefits. Adoption subsidy payments can be made for out-of-state placements. County funds may

be used to pay for foster care outside the state if the county knows and approves of the plan to place the child out of state.

.077. Services to Children in Foster Care. Services must be provided to:

- (1) ensure that placement is appropriate to the child's needs;
- (2) ensure that a permanent plan is made for the child's future;
- (3) ensure that the department meets its responsibility as managing conservator of the child;
- (4) help parents of foster children re establish a home and develop parent skills so they can resume responsibility for their children and provide at least minimally adequate care;
- (5) keep the court informed of the progress in returning the child or developing another permanent plan for the child.

.078. The Service Plan.

(a) Services to children in foster care and their families are guided by a detailed service plan which has as its primary objective the development of a plan for permanency for the child within six months of initial placement. The purpose of the service plan is to ensure initiation of a structured plan in order to provide the best opportunity for the child to return home and to ensure that case plans and activities progress toward permanency for the child.

(b) A service plan for the child and family must be developed within 30 days after the child's placement. The child's service plan must be recorded in the child's case record and must:

- (1) state the services to be provided to the child and family within the first six months of the child's placement and who will provide these services;
- (2) individualize the services to be provided to the child in relation to his family situation, the foster care placement, and the child's personal needs;
- (3) identify a tentative goal from one of the alternative goals for permanency and a tentative date for achieving the goal;
- (4) consider the legal status of the child and any condition or stipulation set forth in the court order.

(c) The following persons should be involved in development of the service plan:

- (1) the child's worker from the unit holding managing conservatorship;
- (2) the worker supervising the placement, if different;
- (3) foster parents or other caregivers as appropriate;
- (4) the child;
- (5) the child's parents or other relatives, as appropriate;
- (6) other professionals who are providing services to the child and/or his family, as appropriate.

(d) The worker should seek the commitment of parents and children to the service plan in order to realize maximum benefit from the placement.

(e) The child's service plan must be reviewed and updated as needed, but at least every six months. To avoid duplicating effort, this review should be coordinated with required periodic court hearings of foster care cases. The purpose of service plan reviews is to assess progress, ensure that time frames are being adhered to, alter service plans and visitation contacts, and to ensure that all necessary services

are being provided to the child, biological family, and foster family. The updated service plan must:

- (1) include current information about the child, his family, and any other persons directly involved in plans for the child;
 - (2) note the progress toward achieving the child's placement objectives and the family's rehabilitation objectives, and note the changes in these objectives;
 - (3) specify the worker's activity in putting into effect permanent plans for the child.
- (f) The service plan for each child in DHR's managing conservatorship must be reviewed annually by supervisory staff. The purpose of the annual review is to provide monitoring at the supervisory level of the appropriateness of the service plans for children who have remained in DHR's care or responsibility for an extended period of time.

.079. Supervision of Placements of Children.

(a) DHR has the responsibility for supervision of all children who are in protective foster care placements and/or in the managing conservatorship of DHR. The child's placement must be supervised on the site where child is placed.

(b) The following may be used to determine the minimum frequency of visits:

(1) Intensive visiting required. At least twice a month contact for children whose problems require frequent contact.

(2) Moderate visiting required. Contact once a month for children who are able to manage their lives with a fair degree of independence with moderate agency support supplementing foster parents or child care staff daily support.

(3) Limited visiting required. Contact once every six months for children in permanent, stable foster homes whose needs are being met primarily by foster parents. There must be a permanent foster care agreement. Contact once every six months by DHR for children who are in residential treatment or other institutional or group facilities where social services are provided on site by facility staff.

(c) The worker must assist the foster care facility in the facility's responsibility for the day-to-day life of the child by being available as needed when difficulties arise or in relation to the overall experience with the child. General supervision of the child exercised through contacting collateral resources, such as visits to the schools or other community resources, should be discussed with the foster parent or institution staff before being made.

.080. Delegation of Supervisory Responsibility.

(a) In certain situations, the DHR unit holding conservatorship may delegate supervision of the placement to staff of other agencies or other child welfare units. The supervisor of the unit holding conservatorship must approve any plan for delegation of supervision of a case. When supervision is delegated, the plan for frequency of visits must be followed. This delegation of supervisory responsibility is subject to the following conditions:

(1) Responsibilities of the unit of conservatorship.

(A) When a child is placed outside his own community, the unit holding conservatorship must provide or arrange for supervision of the placement. Courtesy supervision may be requested from the DHR child welfare unit that serves the area in which the child is placed.

(B) The conservatorship unit must attend staffings for the development of the original service plan and for all subsequent six month service plan reviews.

(C) The conservatorship unit should maintain responsibility for working with the child's own family if they are in the area. If other arrangements are made, this should be clarified in the service plan.

(D) The conservatorship unit retains responsibility for working with the court.

(E) The conservatorship unit must plan for supervision of out-of-state placements in accordance with the interstate compact for the placement of children.

(F) In certain instances, the court must be involved in the placement planning of children in the department's managing conservatorship. The conservatorship unit worker must have case record documentation that the court approves the placement. These instances are:

(i) when an agreement for permanent foster care is signed,

(ii) when a child is placed out of state,

(iii) when placements are planned which will require court action to change legal status of the child.

(G) Ultimately, the conservatorship unit rather than the unit providing courtesy supervision is responsible for placement decisions.

(H) The conservatorship unit must retain minimum information on the child as follows:

(i) copies of all court documents pertaining to each child in agency conservatorship,

(ii) copies of any case information needed to give the court or other appropriate persons an explanation, review, or evaluation of the placement plan,

(iii) correspondence about the case,

(iv) other information needed by the conservatorship unit to show that it continues to be responsible for the child and to account for its planning for the child's care.

(I) The conservatorship unit must send complete information on the child to the DHR unit or child care facility supervising the placement. If non-DHR staff are supervising the placement, the conservatorship unit must retain the original case folder.

(J) When conservatorship is terminated or the court transfers conservatorship to the supervising unit, the original conservatorship unit closes its case and files the information it has on the child in its closed files. If the child is adopted, the original conservatorship unit's record must clearly identify the location of the child's adoptive family's case record.

(2) Responsibilities of the supervising unit.

(A) When a child is placed in the foster home of another child-placing agency, social services staff of the agency sponsoring the home are responsible for supervision of the placement.

(B) The worker supervising the placement must attend service planning and service plan reviews.

(C) The unit or agency providing supervision must keep the conservatorship unit informed of the child's progress.

(D) If responsibility for supervision is changed, the original courtesy supervision unit should forward the case record information on the child to the new unit or agency providing supervision or to the conservatorship unit.

(E) When the conservatorship unit closes its case on a child who remains in the community of the supervising

unit, the supervising unit may continue services or close its case, depending on the child's needs. If it closes the case, the information should be maintained in its closed records file. If the child is adopted, the child's information should be filed with the adoptive family's case folder.

(3) The service plan must reflect a goal of permanency and agencies and units providing services to the child and family must agree upon the goal for placement.

(b) The worker from the conservatorship unit and the supervising unit must seek coordination and cooperation of all agencies and units involved to protect children placed outside their own communities from becoming locked into the foster care system.

.081. Permanent Planning Services. Foster care services provided to the child, the child's family, and the child's caregivers must be planned, time-limited, and based on a goal of permanency for the child. The worker with supervision must establish a permanent plan for the child within six months of initial placement.

.082. Permanency Planning Alternatives. Permanency planning is based on and directed toward goals for permanent care for children. The following are alternative permanency planning goals for children, in the order of program priorities:

(1) return to own home or relatives;

(2) adoption, including adoption by foster parents;

(3) transfer of managing conservatorship to substitute parents;

(4) permanent foster family care by formalized agreement;

(5) emancipation (for older adolescents);

(6) permanent custodial care of disabled children.

.083. Return to the Child's Own Home or Relatives. Returning the child to his own home or family is assumed to be the preferred alternative for permanency for the child. Permanency planning begins with an assessment of the child's own home (unless parental rights have been terminated) and the offering of services to enable parents to resume care of their children.

.084. Adoption.

(a) Adoption is considered the first plan of choice for permanency for most children who will never return to their own families.

(b) In some foster care placements, adoption of the child by the foster parents is in the best interests of the child because it stabilizes the child with one family. The best interests of the child are usually served when the foster parents are qualified adoptive parents and when either of the following applies: the child has lived in the home for a major part of his life and the foster parents have become the psychological parents to the child; a special plan was made at the time of the child's foster care placement foreseeing possible future adoption by the foster parents; or the child is handicapped or has special needs which the foster parents have demonstrated their ability to meet. Foster parents who have agreed to take a child on a temporary basis should not be pressured to adopt and should be helped with any feelings of guilt they may have for not adopting a child. Approval for adoption of a child by his foster parents must be given to the foster parents in writing by the child welfare unit holding conservatorship. The petition to adopt may be filed immediately after approval if the child has been in the home over six months. In most

cases, foster care payments are discontinued when the petition to adopt is filed. Payments may be continued until consummation or an adoption subsidy may be requested, if the situation warrants such. The foster parents may continue to serve as foster parents to other children if this is mutually agreed upon by the foster parents and the department.

.085. Transfer of Managing Conservatorship.

(a) Transferring managing conservatorship to substitute parents can be a permanent plan for a child. The substitute parents may be relatives or foster parents to the child and should have a pre-existing relationship with the child. Transfer of conservatorship is an appropriate plan when:

(1) substitute parents are willing to assume permanent legal responsibility for the child;

(2) when continued involvement of DHR is not needed to support the placement or protect the child;

(3) when adoption is not possible or desirable.

(b) Transfer of managing conservatorship may be an alternative to legal adoption when substitute parents have become the psychological parents of a child but cannot adopt because the child cannot be legally freed for adoption. It does not establish the legal parent-child relationship of adoption, but gives the substitute parent the rights and responsibilities of managing conservator as defined in Section 14.02 of the Texas Family Code. Managing conservatorship may also be transferred to the director of an institutional facility which has become a second home to an older child.

(c) Under this plan, the worker must work with the child and the biological and substitute parents about the continuing rights and responsibilities of all parties. The biological and substitute parents may wish to enter into an agreement about visitation and child support under Section 14.08, Texas Family Code, and make the agreement a part of the court order transferring managing conservatorship to the substitute parents. The worker should also make sure the substitute parents understand what their legal responsibilities will be to the child and the court.

(d) When managing conservatorship is transferred, the foster care case is closed. Services to the foster family or child care facility in relation to the placement may be discontinued unless specifically requested by the family, facility, or court. The placement becomes the result of court action and it is not necessary that foster homes be certified in order to keep a child for whom the substitute parents are managing conservators.

(e) Children who are in managing conservatorship of substitute parents or child care facilities are not eligible for benefits under Type Programs 08, 09, or 10. The managing conservator should be made the payee of any private income to the child such as social security or SSI.

(f) The department should seek to have the substitute parent named as the child's managing conservator, rather than the substitute parent's seeking guardianship under the county probate court. A guardian has less responsibility for the child than a managing conservator yet has greater liability.

.086. Permanent Foster Family Care.

(a) Permanent foster family care is appropriate in the following situations:

(1) children whose foster parents have become psychological parents after a long period of care and who wish to keep the child on a permanent basis;

(2) children who cannot be legally freed for adoption and are unlikely to return home;

(3) handicapped children for whom the cost of care precludes adoption;

(4) children who have experienced meaningful relationships with their own parents and cannot separate emotionally from their own parents. When it is determined that severance of contact with own parents would be detrimental to the child, a plan for permanent foster care with periodic parent/child visits should be made. The visiting plan should be limited in place and frequency to enable the child to become an integral part of the foster family life but must respect the biological parents' continuing legal rights to visitation, unless parental rights have been terminated.

(b) In permanent foster family care placements, the department keeps managing conservatorship of the child. The department's continued involvement with the foster family is to:

(1) discuss problems that arise with the foster family and/or foster child;

(2) give consent to marriage of the foster child or military service;

(3) determine eligibility for AFDC foster care, MAO foster care, and state-paid foster care assistance benefits every six months, if applicable;

(4) review service plan and visit the child at least once every six months;

(5) revalidate the home as a foster home every two years;

(6) involve them as appropriate in periodic court hearings, and annual court reports;

(7) make payments to the foster home for the child's maintenance;

(8) visit the foster home quarterly for regulatory supervision (certification or home development visits).

(c) The worker must discuss plans for permanent foster care with the foster child, biological parents (unless parental rights are terminated), and the foster family. If both accept the plans and the family agrees to keep the child until age 18, a permanent foster care agreement must be signed by the foster parents, the child, if over age 12, and the supervisor of the protective services unit holding conservatorship. The agreement should clarify the roles of foster parents, biological parents, and the agency so that the parental role of the foster parents is strengthened.

(d) The worker should notify the court with continuing jurisdiction of the permanent foster care plans and agreement. The department will continue to make foster care payments to the foster family.

.087. Emancipation.

(a) Emancipation is an appropriate plan for an older child (preferably over age 15) for whom a permanent family plan is not possible. An individual is considered emancipated when he or she is legally an adult. Legal emancipation is when any of the following occurs:

(1) when the individual reaches age 18;

(2) when the individual marries, if under age 18;

(3) when the disabilities of minority are removed by the court under the provisions of Chapter 31 of the Texas Family Code. In this instance, emancipation may be for limited or general purposes.

(b) When the permanent plan is emancipation and services are provided by child care facility staff, DHR should be

supportive and responsive to the facility and must meet its responsibility as managing conservator of the child.

.088. Permanent Custodial Care.

(a) Arrangements should be made for the facility or the child's family to be payee of the child's income if it will be continued after age 18. Relatives or former foster parents should be encouraged to maintain contacts and visits.

(b) This is considered the least desirable of permanent plan alternatives and is appropriate only for severely handicapped persons who have not developed self-help skills or who require constant supervision when they reach age 18.

.089. Arranging for Counseling, Therapy, and Remedial Services.

(a) It is the responsibility of the department as managing conservator to arrange for those remedial or therapeutic services which are needed by the child to the extent these services are available in the community.

(b) In referring a child for treatment, the worker should submit a social history which delineates the presenting problem to the treatment facility at the time an appointment is arranged. The worker may provide or arrange for transportation with the foster parents or other resources.

.090. Day Care for Foster Children.

(a) Children in foster care are eligible for Title XX services and may receive day care. Title XX day care for foster children may be appropriate in the following situations:

(1) when a time-limited protective day care placement will enable a child to remain in his foster home during a crisis in the foster family;

(2) when the child is handicapped and needs growth opportunities related to physical, social, and mental functioning.

Title XX day care services may not be provided when the purpose is to enable foster parents to work.

(b) When foster parents are employed, the worker must ensure that suitable child care arrangements are made for the children. If child care is provided in the foster home on a regular basis, the child care staff must meet the same requirements as members of the foster family including a health certificate. If child care is provided outside the foster family home, it must be in a licensed day care center, a registered family home, or family day home. Relatives of the foster family who keep children outside the foster home on a regular basis must be licensed or registered.

.091. Services to Foster Children Receiving SSI. Responsibility for service planning and case reviews for children in DHR conservatorship belongs to DHR. Foster parents should be informed of health department counseling services which, if provided by health professionals, would not duplicate current protective services and should strengthen protective placements of handicapped children.

.092. Money Earned by Foster Children.

(a) Money earned by a foster child or received as a gift or allowance must be his or her personal property. A child's money must not become part of the funds of the department, the county child welfare board, or the foster care facility. A child's money may be deposited in his or her trust fund or a separate savings or checking account may be established.

(b) Money earned by foster children must not be used to reimburse the department, the county child welfare board, or

the foster care facility for room and board unless it is a part of the service plan approved by the program director.

.093. Clothing for Foster Children. Foster children must be provided with personal clothing which is suitable to the child's age and size. The clothing must be comparable with clothing of other children in the community. In most cases, the selection of clothing is delegated to foster parents or institutional child care staff. Older children should participate in the selection of clothing. The department's monthly foster care payment is intended to assist with the cost of an adequate basic wardrobe. Child-placing staff should solicit input from foster parents in development of basic clothing lists. Clothing lists are used as broad guides only. Basic wardrobe requirements of institutions will apply to children in institutional placements.

.094. Vacation and Holiday Planning for Foster Children.

(a) Children in institutions may have the opportunity to visit in the homes of sponsoring families. Each institution has its own policy about visiting with sponsors. To continue eligibility for AFDC foster care, MAO foster care, and state-paid foster care, the child may visit outside the foster care facility for up to 30 days while the facility continues its parental relationship and responsibility for the child, with extensions possible for up to 90 days with written approval of the regional director for social services. Children may also spend brief periods away from the foster care facility while attending camping and church programs, school-sponsored education trips, or while visiting in the home of persons with whom the child has had prior contact.

(b) Children in DHR managing conservatorship who are placed in institutions which close for holidays must be provided a substitute placement, preferably a foster family home off campus, when the placement facility is closed. The unit of conservatorship is responsible for the planning for the child during these periods unless arrangements are made for other designated person to do the planning.

(c) When the worker plans vacations for the child in foster care that will take the child out of the foster care facility for more than three days, the following must be documented in the child's record.

(1) Written permission for the child to take the vacation by the child's parents when the child is in voluntary placement.

(2) If the visit is out of state, the court's approval for the vacation must be obtained, and the judge's written or verbal approval documented in the child's record if the child is in managing conservatorship of DHR. Should the judge prefer, a copy of the letter informing him of the vacation plans will meet this requirement.

(3) If a visit is arranged in the home of a nonrelative, the child's worker must contact the adult caregiver who will be responsible for the child, discuss the needs of the child, the plans for the projected visit, and any other matters deemed necessary to provide for the welfare of the child during the visit. This discussion, including the name, address, and telephone number of the responsible adult, must be documented in the child's record.

(4) Permission for travel shall be obtained.

(5) Permission for obtaining medical care should be authorized by the managing conservator and arrangement made regarding payment for medical services.

.095. Travel by Foster Children.

(a) When a child travels away from the foster care facility, the following approvals, if applicable, must be filed in the child's record.

(1) Written approval from the child's foster care worker must be obtained for a child to visit or travel away from the foster care facility for more than 72 consecutive hours (three days). This does not apply to visits with the child's own family which are arranged by the child's worker.

(2) Whenever a child in the department's managing conservatorship is to travel out of state, the court must be informed and approve the travel plans. This approval must be documented in the child's case record. If courts do not respond to requests for written approval, a copy of the letter informing the judge of the plan will meet the requirements of approval and documentation if the court does not object to the plan.

(3) For voluntary placements, the child's parents must give written permission for the child to visit or travel away from the foster care facility for more than three days.

(b) Written permission must be related to the individual child and a copy must be filed in the child's record. When appropriate, blanket permission for a particular child may be given at the time of placement. In this case, written permission is not required for each trip or visit the child makes. Blanket travel permission from the department may not be issued to foster parents or institutional administrators for all children in their care.

(c) Travel policies of the department must be shared with natural parents as part of the placement process. Parents must also be informed and involved, when appropriate, in any plans for extensive travel by their children. Decisions must be made on an individual basis at the time of placements to whether to obtain blanket written approval of natural parents or other conservator for the children to travel when conservatorship is not held by DHR.

.096. Payment for Travel for the Placement or Return of Children in DHR's Managing Conservatorship. A child's travel for placement purposes or for return when the child has run away is the responsibility of the protective services unit holding managing conservatorship. The child's travel expenses may be paid as follows:

(1) by relatives, adoptive parents, the child's own funds, or voluntary service organizations;

(2) by the county child welfare board, if the child has no funds;

(3) when no other funds are available, the department will pay for the child's travel.

.097. Death of a Foster Child.

(a) If a child dies while in foster care, the child's worker must notify court. The child's own relatives should also be notified unless parental rights have been terminated. Parents or foster parents may be involved as appropriate in planning the funeral. The worker should explore all possible resources to cover burial expenses including the biological family insurance policies, social security, veteran's benefits, or other funds to which the child might be entitled. If no resources are found and the family is unable or unwilling to assume responsibility, the county may be requested to pay burial expenses. A clergyman of the religious faith of the biological parents should be asked to conduct the interment services. If the biological parents' religious preference is

unknown, a clergyman of the faith of the foster parents may be requested to perform the service.

(b) The child's worker must make a full written report of the circumstances of the death. The report must be made within 24 hours or the next working day following the death. The report must include the extent of involvement by the Investigations Division and/or law enforcement personnel. The report should include a copy of the death certificate and autopsy report if an autopsy was done. If these are not available, they may be submitted later.

.098. Discipline in Foster Care. The department as a child-placing agency must establish written policies for discipline of children in foster care. Threats to report to the child's caseworker or limit parental contacts must not be used as a form of discipline. The region's discipline policy will apply to DHR staff and volunteers as well as to foster parents and other caregivers. If physical discipline is allowed by the department, it must be reasonable and moderate as follows:

(1) Reasonable means ordinary, usual, rational, equitable, suitable, tolerable.

(2) Discipline must be done without malice.

(3) Discipline should be individualized and related to the misbehavior, the child's age, the child's previous experiences, and the child's previous reactions to discipline.

(4) Discipline of foster children may differ from discipline of the foster parents' biological children, just as the discipline of each biological child may differ, in order to individualize the discipline.

(5) Persons who use instruments to punish foster children are placing themselves in a precarious position and open to accusation of child abuse.

(6) Discipline of children must not result in bruises, welts, burns, fractures, sprains, exposure, or poisoning; nor may it consist of withholding food, shelter, supervision, medical or educational care; or violate any of the specific prohibitions in the minimum standards.

(7) In individualizing the discipline, care must be taken that the child is not subjected to further feelings of insecurity and unworthiness.

.099. Emergency Evacuation of Foster Children.

(a) When local authorities recommend evacuation of an area because of an emergency situation, children in foster care must be evacuated to a point outside the threatened area or to a designated shelter, whichever the local authorities advise.

(b) The regional disaster plan which is submitted to the deputy commissioner for operations must include the region's plan for evacuation of foster children in time of disaster. The plan for evacuation must establish the region's expectations of foster care providers and of department staff for ensuring the safety of foster children. Both department staff and foster care providers should be notified in writing of their respective responsibilities for the evacuation of foster children.

(c) The child abuse hotline may be called by persons evacuating foster children to notify the department of the safety and location of the children. Foster care providers and protective services staff should be informed that the hotline will function in this capacity if the region wishes to utilize this service.

.100. Vocational Planning and Self-Support Services.

(a) Children who are in foster care during adolescence should have help in preparing for independent living and should be helped to assume self-support and financial responsibility on a step-by-step basis. Every child in foster care should have vocational counseling throughout high school in areas in which the child has expressed interest. Counseling and examination of alternatives should begin sufficiently in advance to ensure ample time for making application for jobs and securing information from vocational schools about prerequisites. When appropriate, adolescents should be given help in planning for marriage, obtaining housing, or entering military service.

(b) When a youth in the managing conservatorship of the department nears the age of independence, the youth's worker should plan with the youth for his movement into adult status.

(c) The youth should be told of DHR and other services he might be eligible for as an adult which might include family planning, food stamps, or SSI.

.101. College Attendance. When a student has shown the motivation and the capability of achieving in college, he may remain in foster care while attending college until he reaches age 21. Planning for college should be undertaken while in high school with the student selecting the proper academic courses as preparation for college. The caseworker should assist the student in applying for scholarships, government loans, or grants to meet educational expenses.

.102. Pregnancy of Adolescents in DHR's Managing Conservatorship.

(a) When a foster child becomes pregnant, the worker must help her consider alternatives, such as marriage, independent living arrangements, involvement of the father in planning, surrender of the child for adoption, abortion, or placement with relatives. Maternity home care may be arranged if appropriate.

(b) If the adolescent mother remains in foster care and placement is needed for the infant, the department must obtain proper authorization for placing the child. When definite time-limited goals for mother and child to remain together independent of foster care can realistically be established, an infant may be placed in the same foster home as the mother. If it is not likely that the mother can make a permanent home for the child within a reasonable time, the child's interests may be best protected by placing the child separate from the mother and working toward another permanent plan. The department has responsibility for protecting the infant's right to an adequate permanent home and family.

(c) Adolescent mothers in DHR conservatorship must be referred to the Department of Health maternal clinics for prenatal and postnatal care, to well-baby clinics, and to family planning clinics for sex education, counseling, and birth control before or after the birth of the baby, as appropriate.

.103. Family Planning Services for Youth in DHR's Managing Conservatorship.

(a) The department must provide family planning services to pregnant and sexually active youth in its managing conservatorship to make informed, responsible decisions about the prevention of unmarried or school-age pregnancies.

(b) Family planning discussions with the youth may be provided by protective services staff, as well as by family planning providers. This is considered an outreach group service without the need for formal eligibility determination for each person. Only AFDC, state-paid foster care, SSI recipients, MAO income-eligible clients, and otherwise income-eligible clients may receive contracted family planning services.

(c) Youth eligible for Medicaid (Title XIX) or social services (Title XX) may voluntarily request contraceptive services (but not sterilization) and receive these services without the consent of parents or managing conservator.

.104. Abortion for Adolescents in DHR's Managing Conservatorship.

(a) If a pregnant youth in the department's managing conservatorship expresses an interest in an abortion, the worker should refer her to abortion resources. The worker should discuss with her all pregnancy alternatives including abortion and its ramifications. A minor can receive an abortion without the consent of a parent or managing conservator.

(b) Effective February 19, 1980, Medicaid will pay for an abortion that is necessary in the professional judgment of the pregnant woman's attending physician exercised in the light of all factors: physical, emotional, psychological, familial, and the woman's age relevant to the health-related well-being of the pregnant woman.

(c) The department may not consent to the sterilization of youth in its managing conservatorship. Federal funds cannot be used to sterilize any person under age 21 or who is, legally incapable of giving informed consent to the sterilization.

.105. Marriage of Youth in DHR's Managing Conservatorship.

(a) When a youth in the department's managing conservatorship expresses an interest in marrying the worker must discuss the following with the youth:

- (1) youth's age;
- (2) youth's relationship to proposed spouse;
- (3) medical examination.

(b) The department's consent to marriage, as the youth's managing conservator, may be given if counseling with the youth has established that marriage is in the best interest of the youth. The court must be informed of the department's consent.

(c) If parental rights are not terminated, the worker should encourage the youth to notify and possibly involve his parents in the decision to marry, in the marriage ceremony, and the youth's life after marriage.

.106. Foster Care Services after Age 18. In most cases, foster care services must terminate at age 18 when a child is legally an adult. However, persons age 18 to 21 may continue in foster care or continue receiving services if they are being served by protective services when they become 18 and are completing school or vocational training. If foster care is to continue, it is voluntary and the youth must understand the terms and conditions of continuance.

.107. Medical Services for Children in Foster Care.

(a) The child in foster care must have medical, emotional, and dental health care and treatment on a regular, preventive, and emergency basis.

(b) The staff must notify the court, and the parents when parental rights are not terminated, of any serious medical problems of the child. The staff should try to get the parents to take part in making decisions about medical care alternatives.

(c) Requirements for children placed in DHR foster care are:

(1) All children must have a medical examination within 30 days before placement or 30 days after placement. A child who is being transferred from an agency and who has had a medical examination within the past year is exempt.

(2) Children three years old or older must have an annual dental examination within one year before placement; or arrangements shall be made within 30 days after placement for a dental examination.

(d) Ongoing preventive services are:

(1) All children must have a physical examination or medical screening annually.

(2) All children three years old and older must have an annual dental examination.

(3) Immunizations and tuberculosis tests for children must be kept current.

.108. *Diagnostic or Treatment Services.*

(a) Any medical, diagnostic, or treatment services recommended by a physician or dentist must be provided for the foster child. If funds and resources are not available, workers must document this in the child's record and request a waiver of the licensing standards. When prior planning is possible, major medical procedures should be arranged and authorized by the child's managing conservator.

(b) Diagnosis and treatment for medical or emotional problems may be obtained as follows:

(1) All Medicaid-eligible children are eligible to receive treatment for medical and dental problems and are eligible for vendor drugs within the limitations of the Medicaid Program.

(2) All Medicaid-eligible children are entitled to receive psychiatric examinations and/or treatment for emotional problems. Psychological examinations are covered only when they are ordered by a psychiatrist and they are part of the psychiatrist's work-up.

(3) For certain physical problems, certain state agencies may provide medical care or payment for care.

(4) County hospitals or local county facilities, as available, may give medical treatment to county residents.

(5) MH/MR facilities, state hospitals, and schools give diagnosis and treatment for retardation and emotional problems in local community centers.

(6) Child welfare earned funds can be used for psychiatric and psychological examinations and short-term treatment.

(7) Social agencies such as Cystic Fibrosis, Cerebral Palsy, Arthritis Foundation, and Heart Association give care for specific ailments.

.109. *Emergency Medical Services.* An emergency medical situation is any situation in which a delay in obtaining medical care might be hazardous to the child's life, health, or well-being. The local unit should make arrangements for emergency health services to ensure children 24-hour, seven day per week coverage by hospitals, physicians, and dentists. In medical emergencies when the caseworker or other DHR representative who is familiar with the child's medical condition cannot be contacted, the foster parent or institutional

director, upon the advice of a physician, may consent to medical care.

.110. *Consent for Medical Care for Children in Foster Care.* A Medical Consent form must be provided to the foster parents or institutional director at the time of the child's placement. Copies of the signed Medical Consent form must be filed in the child's record.

.111. *Medical Records.*

(a) Current medical and dental records must be kept for each child in foster care. When a child needs treatment, a plan for providing it must be documented in the child's record. If workers cannot get the recommended treatment for the child, an explanation must be included in the record. The following items must be included in each child's record:

(1) the court order designating DHR as managing conservator of the child and therefore authorized to give medical consent, the written placement agreement signed by legal parents giving DHR authorization to get medical care for the child, or the affidavit of relinquishment of parental rights;

(2) the child's medical history;

(3) a record of each medical and dental examination including testing and recommended treatment;

(4) a record of medications and treatment received by the child;

(5) the child's immunization and tuberculosis test with dates.

(b) When a child is placed in a licensed child-caring institution, the institution is responsible for maintaining current medical and dental records for the child in care. Records of medical and dental services for these children can be included and updated in the plan of service and review of plans of service in the conservatorship record.

.112. *Court-Related Services to Children in Foster Care.*

(a) The department must cooperate with the court in procedures to systematically review the status and progress of all children in foster care under the jurisdiction of the court. The following types of reporting are required:

(1) An annual report to the court of jurisdiction by the managing conservator.

(2) Periodic court hearings at six-month intervals to review foster care cases.

(3) Reports of special circumstances concerning the child including:

(A) Circumstances harmful to a child, such as severe or life endangering illness, repeated placement failures, abuse or neglect in a foster care facility, or the department's losing contact with a child due to his running away or being kidnapped by a parent or relative, should be reported to the court immediately.

(B) The department must respond to any request from the court about the child, or the child's family.

(C) Court approval must be obtained for:

(i) out-of-state travel of a child in DHR conservatorship;

(ii) out-of-state placements of a child in DHR's managing conservatorship;

(iii) out-of-state visits of a child in DHR's managing conservatorship.

(iv) returning a child to his family.

(v) discharging a child from foster care.

(b) Until parental rights are terminated, the department has responsibility for continuing to assess the legal basis for separation of the child from his family and for making recommendations when a change in legal status is indicated.

.113. Annual Report to the Court. Texas Family Code Section 14.01(d) requires a managing conservator who is not the parent of a child to file annual reports with the court of facts concerning the child's welfare, including his whereabouts and physical condition. This includes protective services cases in which DHR is named managing conservator. Unless the court requires otherwise, this report should include such information as:

- (1) A summary of the child's placement since the last report to the court, including the child's present living situation. If the child has been moved, the report must include the reasons for removal.
- (2) Problems encountered in planning for the child.
- (3) The child's present physical, mental, and emotional condition.
- (4) How many and what kind of contacts the department has had with the family and the child has had with his family since the last report to the court.
- (5) Efforts to rehabilitate the family and progress or lack of progress when parental rights have not been terminated.
- (6) A statement about the department's efforts to make a permanent placement plan for the child.
- (7) Recommendations about changes needed in the child's placement and conservatorship.
- (8) Information about whether the parents have complied with court-ordered child support payments.
- (9) Other information the court needs to assess the department's and the court's responsibilities toward the child and his family.

.114. Periodic Court Hearings on Foster Care.

(a) Department staff members are responsible for working with local courts and county and district attorneys to develop procedures which are mutually understood and acceptable to DHR and the courts. The procedures should clarify the following:

- (1) whether the court will hold hearings on children in permanent foster care placements;
- (2) the extent of flexibility allowed to the department by the court in the day-to-day placement and service planning for the child;
- (3) the extent to which the court wishes to be notified of changes in placement between hearings.

(b) The worker must notify the court in writing that a hearing is due a month ahead of time. The notification letter should include:

- (1) significant changes in the placement situation or child's life since the last hearing;
- (2) names and current addresses of persons entitled to notice;
- (3) other information the court has requested;
- (4) recommendations or concerns the department, as the child's managing conservator, wishes to ask the court to consider in the hearing;
- (5) recommendations as to the advisability of the child attending the hearing;

(6) recommendations regarding the appearance at the hearing of persons other than those entitled to notice who have knowledge of or interest in the child.

.115. When the Child Is Returned to the Parents.

(a) The worker must obtain prior approval of the court before returning a child in DHR conservatorship to his own parents. Periodic court hearings to review placements are not required by Chapter 18 of the Texas Family Code, while a child is with a parent. However, if DHR wishes to recommend that managing conservatorship be transferred to the parent, the report to the court should include this recommendation and request a hearing.

(b) If a child has been returned to a parent and if DHR retains managing conservatorship and subsequently removes the child again, the court must be notified. A court hearing is generally not required for subsequent removals if DHR retains managing conservatorship. If the period of time that the child was with the parent was less than three months prior to removal, this time is not considered in determining the date for the next placement review hearing.

.116. Changes in Placement between Periodic Court Hearings. Adoption or other placement or service planning which meets a child's needs should not be delayed pending periodic hearing unless the court has specifically so ordered. The worker may provide any placement and service planning and delivery between hearings which meets the child's needs but does not contravene the court order. The worker must notify the court of any changes in the child's situation between hearings of which the court has requested notification.

.117. Social Services to Parents of Foster Children.

(a) It is the protective services worker's responsibility to establish and maintain regular contact with parents of children in foster care, unless parental rights have been legally terminated. The parents' failure to initiate contact with the agency in itself cannot be interpreted as lack of interest.

(b) The worker must have at least monthly contact with the parent. With documented supervisory and parental approval, contacts may be less frequent than monthly but must still be at regular intervals. The frequency of less-than-monthly contacts must be mutually agreeable among the worker, his supervisor and the parents.

.118. Objectives of Social Services to Parents. The objectives and nature of services to parents are directly related to the predicted duration of placement and must be coordinated with services to the child.

.119. Family Service Plan.

(a) The worker jointly with the family must develop the family's service plan within 30 days after placement. This plan must be recorded in the family's case folder. This service plan must include:

- (1) a statement of the problem which precipitated removal of the child;
- (2) identification of changes that must take place before the department can recommend that the court return conservatorship to the family;
- (3) the role of the worker in helping to bring the changes about;
- (4) the role of the parents in achieving the changes;
- (5) a tentative time limit for achieving the changes;

- (6) a plan for the parent's visiting, telephoning, and writing letters to the child;
- (7) a plan for financial child support by the family;
- (8) any specific conditions or stipulations set forth in the court order;
- (9) possible consequences if changes are not achieved.

If a service plan is not established with the family, the reasons must be stated in the case record.

(b) The worker and family must reassess the service plan at a minimum of every six months.

120. Initial Assessment of Own Home.

(a) The protective services worker must establish contact with the parents of children in foster care. In some instances, this may require seeking out the parents, initially and repeatedly. The parents' failure to initiate contact with the agency in itself cannot be interpreted as lack of interest.

(b) Work with parents toward rehabilitation should begin before or immediately after placement of the child, before parents have adjusted to their loss. Parents may resist rehabilitation services later because they are reluctant to reopen old wounds or may have developed feelings of helplessness about regaining their children. The assessment must include identification of strengths and weaknesses in the parents, existing problems plus resources, and parents' ability to use resources.

121. Structured, Time-Limited, Rehabilitation Services.

(a) If the initial assessment indicates that return home is a possibility, structured, time-limited, and mutually acceptable rehabilitation services must be offered to the parents. The parents are expected to participate in the formulation of the rehabilitation services by providing input on the child's needs and by establishing goals for themselves. The rehabilitation part of the service is developed with, not for the parents. Generally the limit of six months (less if possible) may be set for the rehabilitation program as a whole. Time limits for short-term objectives within the rehabilitation part of the service plan may be flexible as needed.

(b) In work with natural parents, focus is on the problem which precipitated removal and which prevents reunification of the family. Necessary changes for the child to return home must be concretely identified and time frames developed for these changes.

(c) Before considering termination of parental rights, the department must attempt to help the parent meet the minimum sufficient level of parenting. Therefore, it may be necessary to attempt to involve parents in a structured rehabilitation program even if there is little chance that the parent will respond.

122. Visits and Ongoing Contacts with the Child's Own Family.

(a) The parent and child retain the right of reasonable contact with each other unless parental rights have been terminated or relinquished or contact has been restricted by the court. Visitation should be allowed at least once per month unless the supervisor or program director approves less frequent visitation. However, frequency of visits should be determined by the child's welfare. When there is a conflict between the child's best interest and the parent's legal rights, the court may be requested to intervene. Unless stated in the court order, frequency of visits and contacts and who is allowed to contact the child should be determined mutually

by the worker, parents, child, and foster caregiver and should be in accord with the child's plan for permanency. The child's welfare must be the primary basis for consideration.

(b) The worker should help the parent be consistent and regular in visiting the child to ease the child's anxiety about when, or if, he will see the parent again. When the case plan is to return the child home, a visiting schedule should be established and followed. Parents should be helped to manage visits in a way that is beneficial to the child. This may involve planning activities during the visits which will ease anxiety and provide mutual gratification for parent and child. In most cases, surprises, even pleasant ones, may increase a child's anxiety about what to expect. When the child will be in foster care on a long-term basis, visits should be managed so they support the child's participation in the ongoing family life of the foster home and in the school and community in which the child is placed.

(c) Place of visits should also be determined by the child's welfare. The parents' and foster parents' wishes about this must be considered, but the decisions are the responsibility of DHR. As a general rule, visiting should be allowed in private. The parent cannot remove the child from a designated visiting spot without permission.

(d) Visits, mail, and telephone calls between the child and his parents, siblings, and significant relatives must be allowed while the child is in foster care unless there are reasons for limiting these contacts.

123. Preparation for Return Home.

(a) Before the child is returned home, the worker and supervisor must determine that the conditions in the home which led to removal have been corrected and that the home is currently minimally safe for the child. If the department has managing conservatorship of the child, the court must give prior approval to return of the child to the parents or relatives. This should be documented in the child's record by one of the following:

- (1) a court order permitting the return of the child;
- (2) a written authorization from the judge to return the child;
- (3) a letter from the staff to the judge confirming his verbal approval.

(b) If the department retains managing conservatorship for a temporary period following return, the family must agree to work with the department after the return. There should be a written plan of service or agreement with the family for continuing services. At least monthly contact must be made with the family until DHR no longer has conservatorship. If the child is placed with a relative, the case plan should include a decision about whether the relatives should have guardianship or conservatorship and about the child's parents' continued involvement with him in the relative's home.

(c) When appropriate, relatives should be offered assistance in the legal adoption of children placed with them. In most cases, adoption of children by relatives should be based on the voluntary consent of natural parents to this plan. Involuntary termination of parental rights for purpose of adoption by relatives should be scrutinized closely as it may leave the child caught in the midst of hostile or conflicting family relationships.

(d) When it appears the family is able to assume full responsibility for the child and/or no longer needs services, managing conservatorship should be transferred to the child's caretaker. The department should not retain manag-

ing conservatorship of children indefinitely after they have been returned to their own families. Services may be continued after conservatorship is transferred if needed and if the family agrees to accept services.

(e) The worker should help children express their natural ambivalent feelings about leaving foster care, or separation from foster parents.

(f) Children should have medical examinations before leaving care and any medical or dental needs should be identified. Recommended medical or dental treatment should be completed prior to leaving care unless there has been a clear understanding with the parents that they are to assume this responsibility.

(g) An adequate supply of clothing should be sent so that the child leaves care with a serviceable wardrobe. The worker should arrange for money held in trust for the child to be transferred to the family when the family assumes conservatorship.

(h) Discharge plans must be documented in the child's case record including:

- (1) the circumstances surrounding the discharge;
- (2) any court action and change of conservatorship;
- (3) the name, address, and relationship to the child of the person to whom the child is discharged;
- (4) the day the child is discharged from foster care;
- (5) any plans for continued services to the child and his family.

The child's record must remain open as long as the department has managing conservatorship of the child and as long as services continue.

124. Working with Absent Parents of Children in DHR's Managing Conservatorship.

(a) Efforts should be made to locate absent parents of children in the department's managing conservatorship. Evidence of attempts to locate absent parents must be kept in the child's case record.

(b) When the absent parent is located, the staff person must attempt to involve them in planning for the child, as appropriate.

(c) If parents are in a jail, prison, or hospital outside the county where the department is working with the children, they must be informed of the department's responsibility for planning for the children.

(d) Children in foster care should be allowed to write, send pictures, visit, or make telephone calls to parents in prisons or hospitals or the reasons for limitations on contacts must be stated in the child's case record. Before a child visits a parent in a prison or hospital, the worker should explain the prison or hospital environment and why the parent is there.

(e) The worker and supervisor should assess, before the parent is released from a prison or hospital, whether placement of the children with the parents after discharge will be considered. They should consider the length of time until discharge, the child's age and need for permanent placement early in life, the parents' possible ability to care for the child after discharge, and how much prior healthy involvement the child had with the absent parent. Available services should be used to try to reunite the family and to help the parent come back into society and the family if this is an appropriate plan.

(f) If the confinement or commitment of the parent is

expected to be long-term and no other relative can offer the child a permanent home, a planned permanent nonrelative placement shall be made for the child.

125. Termination of Parental Rights.

(a) If parents have made no measurable progress toward rehabilitation within six months after placement, a petition for termination of parental rights should be filed if:

(1) the department has evidence of consistent efforts to rehabilitate the family before and/or after placement which were not successful;

(2) the conditions of Sections 15.01, 15.02, or 15.03 of the Texas Family Code are met;

(3) the child is adoptable;

(4) severance of the relationship is in the child's best interest;

(5) termination of rights of both parents is likely, when the child has two legal parents;

(6) other relatives are unable to offer the child a permanent home, or placement with relatives is not in the child's best interest.

(b) Termination of parental rights is not a permanent plan nor an objective of placement. Termination is a means of making the child legally available for adoption. If adoption is not a realistic goal for the child, termination should not be pursued in most cases.

(c) When there has been an important, uninterrupted relationship of long duration between parent and child, and it is judged that severance of contacts would be seriously detrimental to the child, a plan for permanent foster care with periodic parent-child visits may be indicated. In this case, services should be directed toward helping the child to become an integral part of foster family life.

126. Foster Family Home Care. Foster family home care is most appropriate for:

(1) infants and preschool children except severely handicapped children who require care not available in foster family homes;

(2) children who can accept substitute parents;

(3) children of any age who can take part in family life and live in the community without danger to themselves or others.

127. Procedures for Certification of DHR Foster Family Homes.

(a) Prospective foster parents must complete an Application to Provide DHR Foster Care form.

(b) Applications are processed through means of a home study.

(1) Purpose:

(A) to evaluate the foster family and determine their abilities in meeting needs of children with different needs;

(B) to document that the Minimum Standards for Agency Foster Family Homes are met;

(C) to ensure that foster parents have knowledge of the agency, the foster care system, and are prepared for the role of foster parenting.

(2) Methods. The home study consists of at least three interviews during which the applicants and worker share information. The interviews must include at least one home visit and any other combination of home and office contacts, individual or group. Everyone living in the home must participate in the home study, as appropriate to their age and ability.

(3) **Content.** The following subjects must be included in the study-training process:

(A) **Minimum Standards for Agency Foster Family Homes.** A copy of the standards must be given to the applicants. Applicants must understand their responsibility to maintain all standards throughout the period the home is certified. Copies of reports required by the Minimum Standards for Child-Placing Agencies must be included in the foster home record as part of the home study.

(B) **Goals, objectives, and special characteristics of foster family services.**

(C) **Foster parenting abilities.**

(D) **General health information on all family members.** A complete medical examination should be requested if there is indication of any family member having health problems which would interfere with the care of a foster child.

(E) **Pictures of family members, the home, and any family pets** should be obtained for the case record.

(c) **References.** At least three nonrelative references must be obtained for the foster family and any employee involved in child care. The foster home record must contain narrative statements of reference or letters of reference.

(d) **Required reports:**

- (1) fire inspection;
- (2) health inspection;

(3) **verification that adult family members and employees have had a tuberculosis test within the past 12 months;**

(4) **children of the foster family must have a tuberculosis test if recommended by the local Texas Department of Health;**

(5) **sketch of the floor plan of the home showing room dimensions and purposes of rooms;**

(6) **verification of legal marriage or civil registration of common-law marriage, if applicable.**

(e) **Before certification, home studies must be reviewed and approved by a supervisor who has been designated to approve foster home studies.** After approval, the following forms must be completed:

(1) **Agreement between Foster Family and Texas Department of Human Resources.**

(2) **Foster Family Placement Register.**

(3) **Agency Home Confirmation.**

(4) **Child Welfare, Foster Home, and Homemaker Service.**

.128. *Rejection of Applications and Right to Appeal.*

(a) **Compliance with minimum standards does not ensure certification of a home or placement of a child.** Certification and placement are based on the worker and supervisor's assessment that the applicant can offer adequate care to a child the department is responsible for placing.

(b) **When worker-supervisor assessment finds applicants unsuitable and they do not withdraw, the application must be rejected.**

(c) **When an application is rejected, the decision and reasons must be discussed with the applicant by the worker.** If the applicant is not satisfied with the explanation, worker should inform the applicant of the right to administrative review of the decision. If the applicant requests an administrative review, the decision is reviewed by administrative staff and a final decision and explanation must be given in writing. When appropriate, applicants may be referred to

other child-placing agencies. The same procedures apply when the decision is made to close a certified foster home.

.129. *Recertification.* Before recertification, the worker must prepare a re-evaluation summary for the foster home record. The summary must include:

- (1) documentation that all minimum standards are met;
- (2) how the agency has used the home;
- (3) current situation in the home;
- (4) any community responses to the home;
- (5) specific information regarding strengths and weakness of the home;
- (6) recommendation for future use.

.130. *Special Considerations in Foster Home Studies.*

(a) **Marital status.**

(1) **In most cases, two-parent facilities are most suitable for foster homes.** Verification of legal marriage must be obtained.

(2) **Single persons may be accepted as foster parent applicants if they have suitable child care arrangements and can meet the needs of particular children.**

(3) **Couples living in common-law relationship may be accepted as foster parent applicants if the common-law marriage has been recorded by civil registration as provided in Sections 1.92-1.94 of the Texas Family Code.**

(b) **Certification of AFDC recipients as foster parents.** AFDC recipients may be certified as foster parents if they meet all licensing requirements and can otherwise meet the needs of a foster child. It is essential to obtain information about money management and spending habits since AFDC payments do not meet the full budgetary needs for an AFDC family. Foster care payments are reimbursement for the foster child's expenses and are not considered income to the family. However, if a county pays more than the standard rate because of specialized services required for an individual child, the amount above the standard foster care payment will be considered as earned income in determining eligibility of the family for AFDC financial assistance. The foster child is considered a member of the family household for food stamp purposes.

(c) **Mobile homes and apartments as foster homes.** Families living in mobile homes or apartments may be certified if the home passes health and fire inspections, has adequate square footage, and meets other minimum standards.

(d) **Certification of DHR employees as foster parents.** DHR employees may be certified as foster parents if:

(1) It is determined that there is no possibility of conflict of interest.

(2) Approval is granted by the program manager, Protective Services for Children Division, State Office.

(e) **Request for criminal records.** Checking for criminal records is recommended as a safeguard for foster children and for foster parents. It protects children and preserves the image of foster parenting by preventing certification of persons with previous convictions of child molesting, contributing to delinquency, alcoholism, or drug abuse. Criminal records may be requested from the Department of Public Safety and from local sheriff's offices or police departments. The request should specify that it is needed for a foster home study under the licensing law and should give the legal citations of Chapter 42, Human Resources Code. If it is the practice of local units to request this information, it should be

done routinely on all applications and applicants should be advised of the practice during screening.

(f) When a foster family moves.

(1) Foster children in stable foster home placements may move with their foster families if the children's workers and their supervisors approve the move. If the move is out of state, the court and interstate compact administrator on placement of children must also approve the plan. Also, the foster family may be subject to licensing in the receiving state. Care should be taken that the move does not adversely affect planning to return the child to his home. The planning must be consistent with the goal for permanency for the child.

(2) When a foster family moves within the state, the foster home record should be sent to the home development supervisor in the area of the family's new location. This supervisor may give approval for temporary certification of the home at the new location if foster children have moved with the family. This approval must be documented in the foster home record and is valid for six months. The home must meet all licensing standards at the new location within six months in order to receive biennial certification.

(3) When foster families move from one county/region to another, services to the foster home should be provided by the child welfare unit which serves foster parents in the new county/region of residence. Exceptions may be made in adjacent counties or where both child welfare units are in agreement that it is in the best interests of the children served.

(4) Unless parental rights are terminated, services to the child's parents and visitation between the child and his family must continue.

(g) Inactive foster homes. Foster homes may be considered inactive during temporary periods when children are not in placement in the home. Certification may continue, but it is not necessary to make quarterly visits or initiate the recertification process during inactive status unless the plan is to reactivate the home. The foster home case record should note that the home is inactive. The home must be reevaluated for compliance with minimum standards and handbook policy before being reactivated for additional placements. In the absence of plans for future use of the home, the certification may lapse. Should this happen, foster parents should be notified in writing that their certification has expired. Some foster parents may choose this method of withdrawing from the program and should be allowed to do so.

(h) Civil liability of foster parents. Section 33.01 of the Texas Family Code provides that a parent or other person having the duty of control and reasonable discipline of a child may be liable for property damage directly caused by the child. However, liability is contingent upon finding the cause and negligence on the part of the foster parents. The following are types of situations in which foster parents could be found liable for damages to person or property caused by foster children:

(1) Damages to property or injury to another person caused by a foster child. If the damage or injury was expressly authorized or implied by the foster parents, the foster parents could be held liable. If not authorized by foster parents, minors who damage property or injure another are personally liable for these acts.

(2) Injury to a foster child. If a foster child is injured due to negligence by foster parents, suit may be brought on behalf of the child by an adult appointed by the court to

represent the child as "next friend." This may be any adult, including the biological parent (whether or not parental rights have been terminated). Suit may also be brought by the department, which as managing conservator is responsible for seeking damages for the child when injured through negligence. Any damage that is awarded by the court is awarded to the child as the injured party, not the "next friend."

(3) Death of a foster child. If the foster child dies because of the negligence of the foster parents, a wrongful death action could be brought only by the child's biological parents. If parental rights have been terminated, no wrongful death action can be brought, and the foster parents are not civilly liable. The doctrine of sovereign immunity prevents foster parents from recovering from the state their personal losses for damages caused by a foster child.

131. *Preplacement Services to Foster Parents.*

(a) Before the placement, staff must discuss with foster parents pertinent information about the child to enable them to decide whether this is a child they should accept. This information must include as much of the following as possible:

(1) a description of the child's personality, his physical, mental, and emotional functioning, and his current routine and habits;

(2) social, medical, psychological, and school history that relate to the child's needs and plans for care;

(3) what the child will bring with him such as clothing, toys, personal items, and their meaning to him;

(4) information about what legal action has been taken or is pending;

(5) how the cost of the child's care will be reimbursed, including the amount of reimbursement;

(6) reasons for placement;

(7) anticipated involvement with parents and other relatives such as visitation plans;

(8) the procedure for getting necessary medical and dental care.

(b) Information about the family which is not needed in caring for and understanding the child should not be discussed with foster parents.

(c) The worker must plan with the foster parents for the child to make one or more preplacement visits to the home if the child is over six months old, and if it appears this would be a suitable placement.

132. *Ongoing Services to Foster Families.*

(a) The protective services unit which certifies a foster home is responsible for supervision and providing support services to the foster family. This includes a minimum of one home visit every three months by the home development worker. Quarterly visits should focus on specific concerns with the foster parents themselves. Recording should cover the family lifestyle, ways parents cope with stressful situations, relationships to own children, relationships of natural children to foster children, any significant changes in the family composition or functioning since the last quarterly visit, and foster parents' understanding of agency policy. Special skills or strengths of foster parents and areas in which they need help or support should be identified. The foster home record should maintain enough current information about the foster home and family for children's workers to determine whether the home should be considered for individual children.

(b) The following principles apply to work with foster parents:

(1) The department delegates to the foster family the responsibility for daily care and nurture of the child.

(2) The child's worker must share social, medical, psychological, and school history information about the child's needs for care and supervision with the foster parents.

(3) The foster parents must be involved in service planning for the child.

(4) The foster family must keep the worker informed how the child is adjusting in the home, school, and community, and of any problems that arise. Serious illness, accidents, or serious occurrences involving the foster child must be reported immediately to the foster child's worker and documented in the child's record. Foster care workers must report accidents or serious occurrences to the Licensing Division.

(5) The worker must help the foster family cope with problems presented by the child which are affecting relationships within the foster home.

(6) The child's worker is responsible for determining if the child's physical and emotional needs are being met, for linking the child and foster family to community resources, and for future planning for the child.

(7) The foster child and foster family must be adequately prepared before each placement and before each removal unless the child's safety requires otherwise.

(8) The foster family should be given at least two weeks advance notice prior to removal of a foster child except in an emergency situation. The worker should discuss with them and the child their feelings of separation, guilt, grief, and anger. The worker should discuss with foster parents and the child the reason for the move and future plans for the child.

(9) When the foster family requests removal of a child, the family should give at least two weeks notice to allow the department time to make other plans for the child and to prepare the child for the move. The foster family should help in a positive manner to prepare the child for the move. If a delay in the move would be injurious to the child, this policy should be waived.

(10) The department is responsible for decisions about who can visit, telephone, or write the child. The worker or foster parents must mutually decide whether parents, siblings, and other relatives can visit the child in the foster home. This decision will be made on what is in the best interest of the child, and whether a visit in the foster home will be a positive experience for the child.

(11) Reports of abuse or neglect by foster parents are to be investigated.

(12) The department is required to provide or arrange for foster parent training and foster parents are required to participate in training.

(13) Foster children may be adopted by foster parents when the child is legally free and it is in the best interest of the child.

(14) Children's workers must regularly contact the foster parents to carry out the department's legal and professional responsibility for the foster children.

(15) Any experience that is potentially harmful to the foster child or to others in the family or community mandates the intervention of the case worker.

(16) When there is to be a change in a foster home worker, the current worker and the new worker should pre-

pare the foster parents for this change by joint contact with both workers and the foster parents. If this is not possible, the current worker should prepare the foster parents before the change.

(17) Foster home workers and workers responsible for the children in the foster home, if different workers, should have regular contact to discuss the strengths and weaknesses of the foster parents, resolve any problems and share any information relating to the child.

(18) Volunteers, case aides, and field placement students under the supervision of the foster home worker may assist the worker in providing support services to the foster family.

133. Foster Parent Associations. The department strongly encourages the organization and development of foster parent associations. Child welfare earned funds are available for the development of community and parent groups which are incorporated as private, nonprofit organizations.

134. Foster Group Home Care.

(a) A foster group home is a child care facility which provides care for seven to 12 children 24 hours a day. The following types of group homes may be used for DHR placements:

(1) private families who are certified as DHR foster group homes;

(2) independent foster group homes (not owned or sponsored by an agency);

(3) group homes owned or sponsored by private nonprofit corporations or community groups which enter into a contract with the department to operate the home;

(4) group homes operated by other child placing agencies or by private, nonprofit child caring institutions.

(b) Foster group home care is most appropriate for older children and adolescents who:

(1) are moving away from dependence on parental figures;

(2) need group living experiences and may be grouped together on the basis of common needs such as maternity care or vocational planning;

(3) have serious physical, mental, or emotional handicaps that require specialized services;

(4) are returning to the community from more sheltered, or therapeutic settings and need an environment that will encourage them to make the transition to self-sufficiency.

(c) A foster child under five years of age must not be cared for in a foster group home unless necessary for the child's own needs, such as keeping siblings together.

(d) The procedure for studying and licensing foster group homes is as follows:

(1) The Application to Provide DHR Foster Care form is submitted by group home parents.

(2) Department child protective program staff prepare the home study, including documentation that all standards are met. The purpose, method, and content of the home study is similar to the home study for foster family.

(3) At least three references must be obtained for the foster parents and any employee involved in child care. References must be written and filed whether the interview is done in person or by telephone. References must not be from employees of the Texas Department of Human Resources or relatives of the foster family or child care staff.

A reference from the department, as an agency, may be requested.

(4) Checklists for fire and health inspections are not used for foster group homes. Instead, the following apply:

(A) Fire inspections must be obtained at the time of initial licensing and annually thereafter. The fire inspection must meet the requirements set by the local marshal and local ordinances where applicable. In areas where there is no local fire inspector, the state fire marshal must be requested to make the inspection.

(B) A health and sanitation inspection by the city or county health department must be obtained annually. The health inspection must meet or exceed regulations set by local health ordinances where applicable. It may never be less than those regulations set by the Texas Department of Health.

(C) All gas pipes must have a pressure test annually.

(D) A railroad commission inspection is required for LP gas.

(E) Foster parents and staff must have had a tuberculosis test not more than one year before the home is certified. If the health certificate contains evidence of the tuberculosis test, this requirement is met. Re-examinations will be in accordance with recommendations of local public health authorities.

135. *Approval and Licensing of Foster Group Homes.*

(a) The social service worker's written study of the home must be approved by a supervisor. It must also be reviewed by a staff member with an MSW degree and two years child-placing experience if the supervisor does not meet these qualifications. After approval and review, it is submitted to the State Agency Certification Team (SACT), Licensing Division.

(b) The SACT reviews the study and makes an on-site visit to the foster group home. If all standards are met, the SACT makes a recommendation about issuance of a license, to the director, agency and Institutional Licensing Division. If approved, the group home receives a biennial license from the Licensing Division.

(c) After approval, the following forms must be completed by the social services worker:

(1) An agreement form must be completed with the group home foster parents or administrator or representative of a group responsible for the home. If more appropriate, individual agreements may be developed in accordance with licensing standards.

(2) Foster Family Placement Register form.

(3) Child Welfare Foster Home and Homemaker Service form.

(d) The SACT makes at least one follow-up visit per year after licensing.

(e) Social services staff has responsibility for notifying a DHR foster group home when the department will no longer be able to use the home and giving the reason such as loss of license, or changing needs of the programs. The SACT must be notified of any action taken to involuntarily close or discontinue use of the facility.

(f) Foster group homes must be relicensed at least once every two years. The social services worker prepares a current study and submits it to the SACT.

(g) Special considerations in foster group homes are similar to those in foster family homes.

(h) Services to agency foster group homes are similar to those given to agency foster family homes.

136. *Foster Group Homes for Adolescents.*

(a) A foster group home for adolescents is a non-emergency community-based placement facility providing care for seven to 12 adolescents age 10 through 17.

(b) The length of placement may vary, but placement should be on a planned basis. Foster group homes for adolescents should not be used as emergency shelter or for transient placements because such placements are not consistent with the rehabilitative and therapeutic goals and group process which characterize foster group homes for adolescents.

(c) Sites for group homes for adolescents should be carefully selected and work should be done with the community to gain acceptance of the children. Group homes should be accessible to schools, recreational activities, public transportation, churches, and sources of full or part-time employment.

137. *Retainer and Service Fees for Foster Group Homes for Adolescents.*

(a) The special demands placed on group home foster parents who provide specialized services to adolescents may require payment of fees over and above the regular reimbursement for maintenance for foster children. These fees may be for retaining a space or for specialized services. These fees may be paid with child welfare earned funds. Child welfare earned funds may not diminish or replace foster care assistance funds for maintenance of the child. However, when foster care assistance funds are not available to all children placed in the facility, this may be considered in negotiating the amount to be paid for service or retainer fees. The amount of the fees must remain the same for each child in the facility.

(1) Retainer Fee. A set monthly fee per space whether the child is in the space or not. Retainer fees are used to ensure the availability of spaces for group home placement of adolescent children.

(2) Service fee. A daily (or monthly) fee per child when the child is in the space. Service fees are for payment of the special services required of a facility providing group care for adolescents.

(3) Foster care assistance. A set daily rate per child when the child is in the space. Foster care assistance is provided through AFDC foster care, state-paid foster care, county funds, Medicaid, SSI, child support, RSDI, or other income accruing to the child. Foster care assistance funds are for a child's regular care and maintenance such as room and board, covered medical expenses, and miscellaneous living expenses.

(b) Child welfare earned funds may be used for placement of children in a DHR group home or to purchase a given number of slots in independent group homes or in group homes operated by other child-placing agencies or licensed institutions in which the slots are used for DHR placements only. These homes must be approved for participation in the department's child-placing program. Retainer and service fee amounts are to be based on local conditions.

(c) Before delivery of services, DHR must have an approved signed agreement with each group home provider. A Vendor Identification Number form must be completed if the provider does not have a comptroller's identification number. The agreement must include but is not limited to:

- (1) name and location of facility and foster group home license number;
- (2) the number of spaces available for DHR children;
- (3) amount of retainer fee per space and/or amount of service fee per child;
- (4) the approximate amount and source of any income other than child welfare earned funds which is available to the group home;
- (5) stipulation that the capacity of the home is for seven to 12 children from 10 through 17 years of age;
- (6) statement that an evaluation will be completed on the contract and the method of evaluation. The evaluation must consider cost effectiveness and utilization of the facility.

.138. Therapeutic Foster Family or Foster Group Home Care.

(a) Therapeutic foster family or foster group home care is planned, time-limited, placement for children who have been identified as having emotional or behavioral problems which are amenable to treatment. The child receives special care and services through the use of trained foster parents and intensive treatment through professionals and other appropriate community resources. Time-limited placement involves the establishment and accomplishment of treatment goals. Therapeutic foster family or foster group homes are appropriate for the following children:

- (1) those children who during the placement process are identified as having emotional problems and are in need of intensive treatment services;
- (2) those children in residential treatment centers, evaluation centers, or institutions who need a treatment oriented placement in the community as a prerequisite to a permanent family plan;
- (3) children who need behavior modification treatment;
- (4) autistic children;
- (5) children who have experienced a series of placement failures and are unwilling or unable to invest in relationships.

(b) Therapeutic foster family home care must meet Minimum Standards for Therapeutic Homes. Therapeutic foster group home care must meet Minimum Standards for Therapeutic Group Homes.

(c) Foster parents for therapeutic homes should possess the following qualities:

- (1) stable marital and family relations;
 - (2) a desire to understand children's problems and to find ways of avoiding or resolving such problems;
 - (3) a lack of dependence upon gratification from the child;
 - (4) the demonstrated ability to develop and maintain healthy interests and activities outside the home as well as a satisfying home life for themselves and their children;
 - (5) ability to work cooperatively with agency staff in order to learn to carry out effectively the treatment recommendations;
 - (6) capacity to develop skill in handling special behavior problems;
 - (7) experience or training in parenting that would provide a desirable base of knowledge and self-discipline;
 - (8) a commitment to working in a professional team setting.
- (d) DHR may develop and supervise foster family/foster group treatment homes or may place children

in therapeutic homes developed by other child-placing agencies or independently by professional or community organizations.

(e) The multidisciplinary approach is used for service planning, case decisions, children in foster treatment homes, and for consultation with therapeutic home parents. DHR or the therapeutic home sponsor is responsible for obtaining the services of the team members. The team is responsible for developing and reviewing the treatment plan for each child. The foster home worker is responsible for supervising the foster home.

(f) Therapeutic foster home parents must be informed at the outset of the importance of their participation in staffings, discussions, and conferences related to the child for whom they are providing services.

(g) The agency sponsoring the home must provide orientation for the foster parents prior to placement. This orientation should focus on handling severely disturbed children. Therapeutic home parents must receive 50 hours of in-service training annually. Each therapeutic home family or staff should have its specific educational objectives identified prior to each new training year.

(h) A written psychiatric and psychological diagnostic evaluation of the child is required prior to placing a child in a treatment home. Children requiring a closed setting must not be placed in therapeutic foster homes.

.139. Treatment Plan.

(a) The treatment team is responsible for developing a treatment plan within 30 days after placement of the child. The plan must include:

- (1) An assessment that includes the physical, psychological, developmental/chronological age, family, social, educational, and recreational needs of the child. Particular strengths and abilities of the child should be noted.
- (2) Diagnosis, prognosis, and estimated length of treatment.
- (3) How the needs of the child will be met, including community resources and persons responsible for meeting specific needs.
- (4) Tentative goal for permanency for the child.
- (5) Concrete, measurable objectives for change in the child's behavior and functioning.
- (6) Vocational planning if over age 15.

(b) The treatment team should review and update the treatment plan at least every three months. Reviews should focus on progress the child has made and, where possible, should be structured so that the child feels success in the placement. The foster parents, child, and other team professionals should participate in the review.

(c) These specially trained parents are reimbursed at an intermediate rate (for AFDC and state-paid foster care) which is higher than foster parents providing normal care.

.140. Retainer and Service Fees for Group Treatment Home Care. Therapeutic foster group homes may also contract for retainer and service fees under policies in Rule .137.

.141. Placement of Children in Foster Family Homes and Foster Group Homes of Other Child-Placing Agencies.

(a) Children in the conservatorship of the department may be placed in foster homes of other licensed child-placing agencies. The decision to place children through other child-placing agencies should be based on the capability of a partic-

ular agency home and social services staff to best meet an individual child's needs. The child-placing agency is responsible for supervision of placements in foster homes which they certify and supervise. DHR staff must participate in service planning for the child.

(b) Protective service staff are responsible for providing the child-placing agency with sufficient information at the time of referral for the agency to determine if it is able to serve the child and prepare an intake study if the child is just entering foster care. The information provided should include the anticipated degree of family involvement with the child. The location of the foster home should not preclude visitation according to the child's needs. The information provided must include:

- (1) a description of family relationships and the family's social, economic, and cultural circumstances making the placement necessary;
- (2) the child's developmental and medical histories;
- (3) a description of the child's personality, behavior, and interests as appropriate to age;
- (4) the child's school history, if applicable;
- (5) history of previous placements;
- (6) child's legal status;
- (7) name, address, and telephone number of DHR protective services worker primarily responsible for the

the child's social, emotional, and treatment needs;

- (9) anticipated length of placement.

(c) The protective services worker is responsible for preparing the child for placement. Prior to or within 30 days after actual placement of the child, the protective services worker must submit the following additional information to the child-placing agency:

- (1) birth certificate or other document which establishes identity and birthdate;
- (2) immunization record;
- (3) tuberculosis test report, if required;
- (4) medical records;
- (5) dental records;
- (6) copy of the court order or other legal documents;
- (7) placement agreement, if appropriate;
- (8) psychological or psychiatric reports, if needed.

(d) At the time of placement, the DHR unit holding managing conservatorship of the child must submit to the child-placing agency in writing:

- (1) authorization for the agency to care for the child;
- (2) authorization for the agency to obtain medical care for the child;
- (3) any financial agreement.

(e) The service plan must include delineation of the responsibilities of each agency toward the child and his or her family. The responsibility of working with the parents of children in placement usually remains with the department as the agent responsible for reporting to the court on the parent's progress.

(f) The child-placing agency must sign the Agreement between Texas Department of Human Resources and Licensed Child-Placing Agency form to receive AFDC-FC or state-paid foster care payments. Payment for the department's children in foster homes of other child-placing agencies must be made to the agency. Each child-placing agency is responsible for reimbursement to its foster parents, including payment for the department's children.

(g) Independent foster family and foster group homes may be used for placement of children in DHR conservatorship. Homes must have a signed Agreement between Texas Department of Human Resources and 24-Hour Child Care Facility form, for participation in the department's child-placing program before AFDC-FC or state-paid foster care payments can be made.

142. Institutional Care.

(a) A child-caring institution is a child care facility which provides care for 13 or more children for 24 hours a day. Institutional care is appropriate for:

- (1) emergency or short-term placements while the child's needs and family situation are assessed;
- (2) temporary placements in which siblings need to be kept together pending development of service plans for each child;
- (3) children who are handicapped mentally, physically, or emotionally and need the remedial or therapeutic services which the facility's program provides;
- (4) children for whom group influence and peer relationship has greater value than family life;
- (5) children who need structure, controls, and planned socialization to prepare them for family life or independence;
- (6) adolescents who are in severe conflict with authority and those who are trying to emancipate themselves from close family ties and would react adversely to any family situation.

(b) Children under the age of five should not be placed in institutional care unless it can be documented that the child's needs can only be met in an institutional setting.

(c) State licensed private nonprofit child-caring institutions, institutions exempted from child care licensure by law, and state or other public child care institutions are used for the placement of DHR children. Licensing of a facility or approval for participation in the department's child-placing program does not constitute an obligation on the part of the department to place children, continue placement, or maintain a quota of children in the facility.

(d) Selection of a facility for placement of a particular child is the responsibility of the child's worker and supervisor. Choice of a facility must be based on the child's needs and the capability of the facility's program for meeting those needs. If a child has ties to his community, efforts should be made to locate a facility that would continue and strengthen these ties. Accessibility of the facility to parents for visiting their child is a factor to be considered in choosing an institution. Parents should be involved if possible in any plan for placement of a child in an institution, and should participate in the preparation and placement.

(e) Each region of the department is responsible for approving those institutions in the region which participate in the department's child-placing program. The region must designate a staff person to serve this function. The function includes verifying licensing status, obtaining information on program and services of the facility, explaining the department's child-placing program and foster care payments, and completing the Agreement between Texas Department of Human Resources and 24-Hour Care Facilities form, and/or the Agreement between Texas Department of Human Resources and Licensing Child-Placing Agencies form, with private child care facilities wishing to participate in the DHR

child-placing program. AFDC and state-paid foster care payments can be made only to facilities which have signed the agreement.

(f) The region must maintain a resource file of all child-placing facilities in the region in which DHR places children. The regional staff person should contact each facility twice annually to ensure the file is current. The purpose of the resource file is to make information on the facilities and their programs available to protective services staff statewide. The file should contain the following information on each facility:

- (1) description of the physical facility and neighborhood or community in which it is located, and the licensed capacity;
- (2) a summary of the characteristics of children in placement, including age range, behavioral characteristics, and gender;
- (3) admission requirements;
- (4) information on the program and services provided, educational services or plans, availability of community resources, and special features;
- (5) a copy of the Agreement between Texas Department of Human Resources and 24-Hour Care Facilities form, and/or the Agreement between Texas Department of Human Resources and Licensed Child-Placing Agency form;
- (6) any correspondence about the facility.

143. Referrals to Institutions.

(a) The child's worker must provide sufficient information to the facility to whom it is referring the child for the facility to decide if its program can serve the child. The information must include the following:

- (1) Family relationships and the family's social, economic, and cultural circumstances necessitating the placement.
- (2) Child's developmental and medical history, including current immunization record.
- (3) Description of child's age, sex, religion, personality, behavior, and interests.
- (4) Child's school history.
- (5) History of previous placements.
- (6) Child's legal status.
- (7) Assessment of the child's individual needs.
- (8) Reasons for choosing group care in this situation.
- (9) Immediate and long-range goals.
- (10) Name, address, and telephone number of DHR staff person who will carry primary responsibility representing DHR as managing conservator. If a night unit is available in the child's region, that number must be given also.
- (11) The department's plan for reimbursement to the facility for child's care.
- (12) Anticipated degree of family involvement with the child. The protective services worker is responsible for providing preplacement services to the family and child. If possible, the child should have the opportunity to visit the facility prior to placement. During this visit, the facility staff, protective services worker, and child should discuss the reason for expectations of placement. The child's worker must notify a facility that has accepted a child if other plans are made for the child so the facility will not hold space.

(b) At the time of placement, a written agreement must be established between the institution and the unit holding managing conservatorship. The agreement must include:

- (1) authorization from the managing conservator for the facility to care for the child;

(2) authorization from the managing conservator for the facility to obtain medical care for the child;

(3) financial agreement when a charge is made for care;

(4) the facility's rules regarding visits, mail, gifts, and telephone calls;

(5) information on the nature and frequency of the facility's reports to the DHR unit holding managing conservatorship;

(6) plans related to the child's discharge from the facility.

144. *Social Services to Children in Institutions.* The conservatorship unit retains the following responsibilities for the child in an institutional placement:

- (1) Ensuring the child's well-being and placement planning.
- (2) Maintaining contact with the child while in care.
- (3) Being accessible and responsive to the facility when questions or problems arise concerning the child.
- (4) Service planning, which must be developed jointly with the institution. Services needed, but not provided by the facility are the responsibility of DHR as managing conservator of the child. The child's worker (from the unit holding conservatorship) must attend staffings where the service plan is developed and reviewed.

(5) If the plan for the child is reunion with his or her family, the institution and the conservatorship unit must promote family involvement and participation at all stages of the child's placement. Progress notes or telephone contacts on the child and the family's situation should be exchanged regularly between the child's worker and the institution as appropriate between six-month reviews.

(6) Visiting the child in the facility at least once every six months.

145. Foster Care Assistance Payments to Institutions

(a) Private nonprofit child care facilities may be approved to receive AFDC or state-paid foster care assistance. Foster care assistance rates for institutions participating in the department's child-placing program covers food, clothing, education, school supplies, child care services, necessary personal and incidental expenses for the child, recreation, travel, transportation, and administrative expenses. For exceptional care facilities, this rate also covers psychological services, therapeutic or social services, and any health, medical, or psychiatric services which are provided as part of the facility's program.

(b) Exceptional care facilities are those facilities licensed in the following categories: residential treatment centers, therapeutic camps, and institutions exclusively serving the mentally retarded.

(c) Rates for exceptional care vary according to the actual cost of care subject to a maximum daily rate. The facility must complete an annual cost study report for use in determining its rate for each calendar year. The report is sent to State Office for rate determination. When the rate is established, this is communicated to the region to be included on the Agreement between TDHR and 24-Hour Child Care Facility form.

(d) Counties may make additional payments for expenses for individual children if they wish.

(e) Income for children in DHR managing conservatorship (such as RSDI, SSI, VA, child support) must be paid to

the department. The department has the responsibility for reimbursing the facility according to agreed upon rates.

.146. Removal of Children from Institutions.

(a) When a child no longer needs or benefits from an institution's program, other plans must be made for him. Decisions and plans for termination should involve institutional staff, protective service worker, the child, and the child's family. When appropriate, institutional staff may assist in preparing the child for the move.

(b) Except in emergencies, institutions must be given two weeks notice before children are removed. Removal and replacement must follow an orderly process in accordance with usual standards for placement. When institutions request removal of the child, two weeks advance notice should be given except in extreme emergency situations.

.147. Placement of DHR Children in Dependency and Neglect (D&N) Facilities Operated by Texas Youth Council.

(a) Choice of the TYC facility must be based on the child's needs and the appropriateness of the institution's program for meeting those needs. The service plans and six month review must be developed jointly with the TYC facility.

(b) The following policies apply regarding placement in a Texas Youth Council D&N facility:

(1) All referrals are made to the Corsicana State Home.

(2) Managing conservatorship must be maintained in DHR. As approved by the court, TYC should be made possessory conservator.

(3) Progress notes must be exchanged regularly between the facility and DHR concerning the child and the child's family. DHR must make a contact at least three months with the facility concerning the child's care and progress.

(4) The DHR unit holding conservatorship will liaison with the child's family, community, and court.

(5) The DHR unit will provide for the eventual replacement of the child back into his family or community when this is in the best interest of the child or if his placement in the facility turns out to have been an inappropriate placement. Careful review and planning for this child should be done to assist in the selection of an appropriate placement.

(6) Medical authorization forms will be completed as requested for necessary medical care.

(7) The DHR unit is responsible to supply the youth with the necessary clothing as required by the regional clothing policy.

.148. Placement of DHR Children in Facilities for the Delinquent Operated by the Texas Youth Council.

(a) Only adjudicated delinquent children committed to TYC by the court under Title III, Texas Family Code may be placed at a delinquent facility operated by TYC. Children in DHR's managing conservatorship may be adjudicated delinquent and committed to TYC. When parental rights are not terminated, DHR may either seek dismissal of the child's conservatorship (TYC will assume responsibility and make appropriate future placement plans for the child) or retain conservatorship, maintain an open case, and coordinate service plans with TYC. If parental rights have been terminated, then DHR must retain conservatorship, maintain an open case, and coordinate service plans for the child with TYC.

(b) DHR staff should have a copy of the court order declaring the child delinquent and committing the child to TYC, and any service plans and reviews as are appropriate while the child is in placement with TYC.

.149. Intermediate Care Facilities for the Mentally Retarded (ICF-MR).

(a) The protective services worker must obtain information about the program and population of an ICF-MR facility before referring a child for placement, since many facilities may choose to serve an all adult population. This type of placement may be appropriate for foster children reaching majority who will still be in need of sheltered care after leaving the department's conservatorship.

(b) Payment for care under this program is from Title XIX (Medicaid). Eligibility is based on income and degree of handicap. In most cases, eligibles will be SSI recipients. In these cases, a level of care determination by the Texas Department of Health will complete the eligibility requirements. Eligibility for non-SSI must be determined by the medical eligibility worker. Local patient care units (PCU) may offer assistance in making referrals. This Title XIX payment may not be supplemented by county funds, AFDC-FC payment, or private funds from any source.

(c) Children in the conservatorship of DHR who are placed in ICF-MR facilities are not eligible for Type Program 08 (AFDC-foster care), Type Program 09 (MAO foster care), or Type Program 10 (state-paid foster care). Responsibility for service planning and work with the child's family remains with the protective services worker as long as the child is in conservatorship of DHR.

.150. Emergency Foster Care.

(a) Emergency foster care is protective placement for neglected or abused children who are without supervision, or who are in immediate danger, or would be without the emergency shelter. It is also for youth who, without emergency shelter, would become the responsibility of the department for protection such as runaways or children in need of supervision.

(b) Emergency foster care services may be provided only in licensed or certified emergency shelters, foster family homes, foster group homes, basic child-caring institutions, or in court-related facilities which are exempted from licensure by law.

(c) An emergency shelter is defined as a child-caring institution which provides short-term residential care for children. Emergency shelter care given in a child-caring institution includes providing food, clothing, shelter, medical care, and the formulation of a plan for continuing care outside the shelter.

(d) Protective services staff must have clearly defined procedures for placing children in facilities or foster homes that provide emergency foster care. Working agreements should be made with legal, medical, law enforcement, and social services agencies to develop orderly procedures for emergencies. Any placements made in emergency spaces provided, retained, or contracted by the department must be authorized by DHR.

(e) When possible, emergency or unplanned removal of a child from his own home should be avoided because of the effects of such an experience on children. Children should not be placed in emergency facilities unless it is not possible or is inappropriate to place them with relatives or to provide them with protective day care or emergency homemaker ser-

services. Protective services staff must be immediately available for follow-up to the child, parent, facility, staff, or court after an emergency placement. Follow-up should begin the next working day after placement.

(f) Children needing emergency placement should not be placed with children in ongoing foster care, and children in ongoing foster care should not be placed in an emergency foster care facility when a more appropriate placement is available. Emergency shelter should not be used if a long-term plan can be made at the time of removal, because of the trauma children experience with each successive placement.

(g) Group or institutional emergency shelter care services are generally inappropriate for children age five and under. Emergency placement of children of these ages should be in foster homes. A child under five years old can remain in an emergency shelter for not more than five working days unless the child has a sibling over five years old in the shelter. Infants under 12 months old can remain in an emergency shelter no longer than 96 hours.

(h) Each emergency placement should be kept to 14 days but must not exceed 30 days. When these time frames cannot be met, the unusual circumstances requiring extension of the placement and plans for other placement or discharge must be documented in the case record.

(i) The child must have a physical examination within 48 hours after placement in an emergency shelter and within 30 days after placement in a foster family or group home. Medical treatment must be provided as recommended by the physician, including emergency medical care. Authorization for medical care must be obtained from the court, parent, or managing conservator.

.151. Funding for Emergency Foster Care.

(a) To provide emergency foster care services, DHR uses child welfare earned funds, Title XX social services funds, and foster care assistance funds.

(b) Since child welfare earned funds and Title XX funds are limited and will not provide emergency foster care services to all children needing them, workers should use all sources of foster care assistance funding and of existing community services for providing emergency foster care to children.

.152. Child Welfare Earned Funds Emergency Foster Care.

(a) Child welfare earned funds (CWEF) may be used to purchase emergency foster care. The department must approve beforehand the placement of the child and the child must be in the conservatorship of DHR or have been placed in an emergency under Chapter 17 of the Texas Family Code. A child may not stay in CWEF emergency foster care for longer than 30 days during any one placement without program director approval.

(b) If there are appropriate facilities for emergency shelter care where spaces can be purchased, CWEF funds should be used in this way as priority over developing or recruiting new facilities.

(c) CWEF funds are for payment of retainer fees and/or service fees, but are not for payment of foster care assistance costs.

(d) The retainer fee is a set monthly fee per space whether a child is in the space or not. Retainer fees are normally used to ensure the availability of space for emergency placement of children.

(e) The service fee is a daily fee per child when the child is in the space. Service fees are for payment of the

special services required of a facility providing round-the-clock acceptance of children for emergency care.

(f) Foster care assistance is a set daily rate per child when the child is in the space. Foster care assistance is provided through AFDC foster care, state paid foster care, county funds, SSI, child support, RSDI, or other income accruing to the child. Foster care assistance funds are for a child's regular care and maintenance.

(g) CWEF funds are paid in addition to foster care assistance because emergency shelter services go beyond providing for the child's regular maintenance and care in the facility. CWEF funds must not diminish or replace foster care assistance funds. Foster care assistance funds may not be available for some children placed in the facility. This may be considered in negotiating the amount to be paid for service and/or retainer fee. The amount of the fees must remain the same for each child in the facility.

(h) Retainer and service fee amounts should be based on local conditions.

(i) Before delivery of services, DHR must have an approved signed contract with each emergency foster care provider. The contract must include, but is not limited to:

- (1) name and location of the facility;
- (2) certification or license number and category of standards being met;
- (3) number of spaces available for DHR children;
- (4) amount of retainer fee and/or amount of service fee for each child;
- (5) if it is a group or institutional facility, a stipulation that no child under five will be placed there unless the child has a sibling over age five in the shelter;
- (6) indication that the facility will take children 24 hours a day, seven days a week;
- (7) indication that no child will stay in the facility longer than 30 days during any one placement without DHR program director approval;
- (8) indication that the facility will not mix children in emergency short-term placement with children in ongoing substitute care;
- (9) indication that protective services staff must place or approve placement of a child in spaces available for DHR children;
- (10) statement that a physical examination of the child will be obtained within 48 hours or 30 days, as required by the type of license;

(11) indication that arrangements have been made with legal, medical, law enforcement, and social agencies for developing orderly procedures for the emergency placement of children;

(12) approximate sources and amounts of non-CWEF funds to be used in conjunction with CWEF funds to keep the children in the facility. If no non-CWEF funds are to be used, this must be stated in the agreement;

(13) statement that an evaluation will be completed on the contract and the method of evaluation. The evaluation must consider cost effectiveness and utilization of the facility.

.153. Title XX Emergency Shelter.

(a) Emergency care in a purchase of service contract agency must not be given for more than 30 days in any six-month period. The 30 days may be consecutive or cumulative, but must not exceed a total of 30 days in any six-month period.

(b) As a part of a contract, there should be a plan of operation for meeting special needs of children placed in emergency care. The plan contains but is not limited to:

- (1) the size and qualification of staff;
 - (2) what special care will be given to children;
 - (3) how the facility staff will help department staff assess the needs of children placed;
 - (4) how the facility will handle emergencies.
- (c) Title XX contract services providers are paid on a cost reimbursement basis.

.154. Foster Care Maintenance Resources.

(a) The department must seek financial resources for the care and maintenance of a child in foster care from the following sources:

- (1) AFDC (aid to families with dependent children) foster care (Type Program 08);
- (2) MAO (medical assistance only) foster care (Type Program 09);
- (3) state-paid foster care (Type Program 10);
- (4) supplemental security income (SSI);
- (5) child support;
- (6) food stamps;
- (7) special services for refugee children;
- (8) RSDI (social security), VA benefits, railroad retirement, teacher's retirement;
- (9) county funds;
- (10) Title XX funds.
- (11) child welfare earned funds (CWEF).

(b) Title XX money and CWEF may be used in addition to but cannot replace the foster care assistance funds noted in (1) through (9) above.

.155. Application for Foster Care Assistance. The following procedures must be followed in making application for foster care assistance:

(1) The financial and other eligibility circumstances of all children entering foster care must be screened to rule out income from other sources before Type Program 08, 09, or 10 benefits or county funds are used to pay the cost of a child's care.

(2) Every handicapped foster child must be referred to SSI to determine the child's eligibility for SSI. A child may not receive both SSI and AFDC-FC benefits. A child may receive both SSI and state-paid foster care benefits.

(3) Child support must be requested for every child in foster care except when parents' legal rights have been terminated.

(4) Workers must explore the situation of every child in foster care whose legal parents are deceased or disabled to see whether the child should be referred for benefits through RSDI, VA, railroad retirement, or teacher's retirement.

(5) The child's worker must complete the Foster Care Application and Review form to apply for assistance in Type Program 08, 09, or 10.

(6) A copy of the court order and of the original petition initiating court action (including the file date stamped by the court) must be attached to the Foster Care Application and Review form and filed in the child's eligibility and services case record.

(7) When information and records necessary to complete the Foster Care Application and Review form are not available, such as birth certificates or written court orders, completion of this form may be delayed for up to 10 working days after placement of the child. The form must be com-

pleted no later than 10 working days after placement with as much information as is available and must be updated when additional information is received.

(8) The child's worker must verify the accuracy of information reported on the Foster Care and Application Review form.

.156. Eligibility for AFDC Foster Care, MAO Foster Care, and State-Paid Foster Care.

(a) The following eligibility requirements apply to Type Programs 08, 09, and 10. To be eligible for Type Program 08, 09, or 10 benefits, the child must meet all of the following criteria:

(1) The child must be placed in the managing conservatorship of DHR by written court order.

(2) The child must be under the age of 18, or age 21 if a student regularly attending school. A birth certificate should be filed in the child's record as proof of age. This requirement is considered met if efforts have been made to obtain a birth certificate.

(3) The child must be a citizen of the U.S. or a lawfully admitted alien. A child of unknown parentage found in the U.S. while under the age of five years is considered a citizen of the U.S. unless it is shown before the child attains the age of 21 that he was not born in the U.S.

(4) The child must be receiving care in a licensed or certified foster home or a licensed private, nonprofit child-caring institution within the State of Texas.

(5) The child must not have real or personal property with a market value in excess of an amount prescribed by the department.

(6) The child's monthly income must be less than the cost of the child's maintenance in foster care (based on the daily rate paid to the child care facility).

(7) The child must have a social security number (SSN). This requirement is met if application for a number is made.

(b) Foster care assistance will not be denied, delayed, or discontinued pending issuance or verification of social security numbers if the above procedures are met.

.157. Additional Eligibility Requirements for Type Program 08 Only.

(a) Eligibility status at the time of removal. In order for a child to be eligible for AFDC foster care, one of the following must apply:

(1) the child was a recipient of AFDC in his own home or in the home of a qualified relative in the month that court proceedings resulting in the child's removal from the home were initiated;

(2) the child would have received AFDC in the month that court proceedings resulting in removal from the home were initiated, if application for AFDC had been made;

(3) the child lived in the home of a qualified relative at some time during the six months prior to the month court proceedings were initiated, and while living with the relative would have been eligible for AFDC had application been made.

Court proceedings are considered initiated when one of the following has occurred: a petition alleging abuse or neglect or other need for protection is filed with the court; or the child is removed under the statutory authority and emergency removal provisions of Section 17.03a (3) or (4), Texas Family Code. The original court order which removes the child from his own or a relative's home must place the child

in managing conservatorship of DHR. If another agency is given managing conservatorship at the time of removal, the child does not become eligible if managing conservatorship is later transferred to DHR. DHR must retain managing conservatorship of the child continuously during placement for the child to remain eligible for AFDC foster care.

(b) AFDC relationship and domicile. The child must meet relationship and domicile criteria. Relationship and domicile are established when a child was living with one of the following relatives during the month court proceedings were initiated or during the six months prior to the month court proceedings were initiated:

- (1) father or mother;
- (2) grandfather or grandmother (extended to all degrees of "great" relationships);
- (3) brother or sister;
- (4) uncle or aunt (extended to all degrees of "great" relationships);
- (5) first cousin;
- (6) nephew or niece;
- (7) stepfather or stepmother;
- (8) stepbrother or stepsister;
- (9) natural father or paternal grandparents of an illegitimate child.

Except for the spouses of the stepbrother, stepsister, stepfather, and stepmother, all relatives listed above are qualified relatives if the child lived with the relative and spouse as a family unit prior to their separation due to death, divorce, or desertion.

(c) Verification of age and relationship. The child's age must be verified by one of the following (listed in the order of preferred verification):

- (1) child's birth certificate;
- (2) baptismal or hospital certificate;
- (3) a worker's evaluative conclusion after examining available records;
- (4) the court order may be used to support the worker's evaluative conclusion when no other birth proof can be found.

(d) Deprivation of parental support. The child must have been deprived of parental support by death, continued absence from the home, or by physical or mental incapacity of a parent (according to AFDC eligibility requirements) during the month or at some time during the six months prior to the month the petition was filed which resulted in the child's removal from his home or the home of a qualified relative. If incapacity of a parent is the reason for deprivation, the worker must document incapacity through one of the following:

- (1) verification that the parent receives SSI or retirement survivors disability insurance (RSDI) benefits due to physical or mental disability or blindness;
- (2) obtaining medical information on the incapacitated parent on the Report of Physical or Mental Incapacity form, and submitting it to the Medicaid Eligibility and Disability Determination Division. The Medicaid Eligibility and Disability Determination Division determines eligibility based on incapacity;
- (3) if the parent or designated relative refuses to cooperate by signing a release for the doctor or hospital to furnish medical information, information obtained by observation or from any source may be used by the worker to document incapacity.

(e) Redetermining deprivation every six months. Continuing deprivation must be re-established at each redetermination. Redetermination of deprivation of parental support is based on a review of the current circumstances in the home from which the child was removed. If the child was removed from the home of a relative, the circumstances in the relative's home must be reviewed each six months to determine if deprivation would exist if the child were again living in that home. Deprivation will continue to exist in the home of a relative unless the child's legal parents are residing in the relative's home. If the child was removed from the home of his parent(s), the review is based on the current circumstances in the parent(s) home. In those instances where the home from which the child was removed no longer exists such as in the case of death of the relative or the location of the home is unknown due to disappearance of the parent(s) or relative, deprivation continues to exist due to absence. Children whose parent's parental rights have been terminated are permanently deprived of parental support effective the date of termination. A copy of the decree of termination must be filed in the child's foster care eligibility case record.

(f) Eligibility extension. When it is learned that an estranged or incarcerated parent has returned to the home, the child's eligibility for AFDC foster care benefits may be continued for an additional three months following the change in circumstances, if all other eligibility requirements continue to be met. This permits an adjustment period to soundly establish that deprivation of parental support has actually ended. The child-placing worker must also use this adjustment period to plan for and secure alternate sources of funding for the child's foster care maintenance. Upon learning of a change in circumstances in the home from which the child was removed, the child-placing worker must immediately report the changed circumstances to the eligibility determination worker. The child-placing worker must monitor the home during the three-month period prior to the scheduled denial of benefits to ensure that deprivation has actually terminated. If during this three-month period the circumstances in the home again change and the change results in deprivation, the worker must report the change and the date of the change to the eligibility worker. If deprivation is re-established, the child's eligibility will not be denied. If at any time following the denial, the child's worker determines that the child is again deprived of parental support, the worker must immediately reapply for AFDC foster care benefits for the child.

(g) Need. Need must be established and documented by determining if the child's family was living at subsistence level based on the best information available about the number of family members and the amount of income available to the family according to current AFDC single figure needs.

(h) WIN status and registration. Sixteen and 17-year-old AFDC foster care children must register for WIN unless they have a valid exemption. Valid exemptions are given for school attendance, illness, incapacity, or remoteness from a WIN project. Valid exemptions are defined as follows:

- (1) full-time school attendance;
 - (2) illness or incapacity.
- (i) Additional eligibility requirements for Type Program 10 only.

(1) If the court order naming DHR managing conservator is issued solely under Article 15.02(1)(J), Texas Family Code, the child is not eligible for state-paid foster care, Type Program 10, benefits.

(2) The child's eligibility for AFDC foster care must have been tested and the child found ineligible. The process need not be repeated for redetermination, once a child is determined ineligible for AFDC foster care unless the child returns home and is replaced in foster care.

(3) A petition for termination of parental rights of one or both parents under Section 15.02, Texas Family Code must have been filed on the department's behalf. The disposition of the petition does not effect eligibility.

(4) The child must have been placed in foster care and the petition for termination filed after December 31, 1979.

(j) Effective date of eligibility. A child is eligible for AFDC foster care, MAO foster care, or state-paid foster care on the earliest date that all applicable eligibility requirements are met.

158. Special Circumstances Regarding Eligibility for Type Programs 08, 09, and 10.

(a) Eligibility in emergency placements. A child placed in an emergency under the statutory authorization of Chapter 17.03(a)(3) or (4), Texas Family Code, is eligible for Type Program 08, 09, or 10 coverage effective the date of placement when:

(1) managing conservatorship is placed with DHR at the hearing required by Texas Family Code, 17.03(e);

(2) other eligibility requirements are met (this includes filing of the petition for termination of parental rights under Section 15.02, Texas Family Code, for Type Program 10).

If a child is returned to parents or other caretakers during the initial removal period before a hearing is held, or if DHR is not given managing conservatorship at the hearing, the child is not eligible for Type Program 08, 09, or 10 coverage.

(b) Eligibility while in medical facilities prior to placement. When a child requires care or treatment in a medical facility prior to foster care placement, the child may be certified for Type Program 08, 09, or 10 while in the medical facility if applicable eligibility requirements are met. The following special policies will apply:

(1) In the opinion of the attending physician the child must need medical care;

(2) The requirement of managing conservatorship is considered met if a petition is filed with the court while the child is in the medical facility which results in a written court order granting DHR managing conservatorship of the child.

(3) The medical facility is approved as a Title XIX facility.

(4) Plans must have been made to place the child in a specific foster care facility directly from the hospital.

(5) The placement plan must be implemented unless unforeseen circumstances arise precluding placement, such as change in the court order or death of the child while in the medical facility.

(6) Medicaid payments for hospitalization are limited to 30 days for each spell of illness, as defined in the Texas Medicaid Program.

(7) If the above conditions and other eligibility requirements are met, the child is eligible effective the date of the child's entry to the medical facility. For newborns, this is the date of birth.

(8) Foster care assistance payments to the child care facility will begin the date of the child's placement in the child care facility.

(c) Eligibility for children born to incarcerated mothers. A child born to an incarcerated mother is eligible for AFDC foster care, MAO foster care, or state-paid foster care if all other eligibility requirements are met. For AFDC foster care, the child is considered to be living with the mother at the time of the child's birth. This will meet the domicile and relationship criteria.

(d) Eligibility in relative placements. Children who are placed in foster care with relatives are eligible for coverage under Type Program 08, 09, or 10 if other eligibility requirements are met. The home must be licensed or certified and meet the same standards as other foster homes. DHR must have managing conservatorship and has the same responsibility for service planning as for children in nonrelative foster care placements. If certification of a relative's home is after placement, eligibility may not precede the date of certification of the home.

(e) Eligibility during absence of child from foster care facility. If a child is temporarily absent from the foster care facility, foster care assistance may be continued for up to 30 days if the following conditions are met:

(1) the plan is for the child to return to the facility;

(2) space is being retained in the facility for the child;

(3) the department is not making payment to any other child care facility for the child.

The purpose of this is to allow the child temporary stays outside the licensed or certified facility while the facility continues its parental relationship and responsibility for the child. The foster care facility may forward payments for the child's care to the caregiver who incurs the actual child care expense during these temporary absences. In no case shall duplicate payments be made for the child's care. If a decision is made during the absence that the child will not return to the foster care facility, foster care payments must be discontinued immediately effective the date the decision is made.

(f) Eligibility for students age 18-21.

(1) Students age 18-21 may continue to receive foster care assistance if the student is regularly attending college, vocational, or technical training and if the student continues to meet other eligibility criteria.

(2) Continuing managing conservatorship is not necessary if the department was managing conservator prior to the student's 18th birthday. If education of the student age 18-21 is discontinued or interrupted except for illness, semester breaks, or summer vacation, eligibility is discontinued and the student cannot be reinstated for foster care assistance.

(3) When a student who is eligible for foster care assistance is temporarily residing in a dormitory while attending college, his residence is considered to be the licensed foster care facility. The foster home or institution must retain space for the student and continued parental responsibility while the student is in school.

(4) Payment is made to the foster care facility and must be used for the student's maintenance and expense while attending school. Financial arrangements must be recorded in the case record and be available for audit.

(5) A case worker must be assigned to the student and foster facility as long as the student's case is open.

(g) Eligibility for four months Medicaid coverage following denial of AFDC foster care due to increased earnings. Eligibility for Medicaid for AFDC foster care children

continues for four calendar months after the effective date of denial of AFDC foster care when both of the following conditions are met:

- (1) the denial was due to the employment earnings of the foster child;
- (2) the foster child continues his employment during the four-month period.

.159. Redetermination of Eligibility for Type Programs 08, 09, and 10.

(a) The worker must redetermine eligibility at least every six months and any time circumstances affecting eligibility change.

(b) Eligibility need not be redetermined each time the child's facility changes unless the change affects eligibility or the foster care payment rate.

(c) Redetermination is on the basis of the child's income and need, age, continuing managing conservatorship, and placement facility. For Type Program 08, continuing deprivation and WIN status must also be verified by redetermination.

.160. Supplemental Security Income (SSI) for Foster Care Children.

(a) Children's workers must apply for SSI for all children who are physically or mentally handicapped (including deafness or visual impairment). It is not necessary for the department to hold managing conservatorship of the child in order to make application on behalf of the child.

(b) For eligibility purposes, an adoptive, substitute, or own parents' income is not considered available to the child until the adoption is consummated, conservatorship is transferred to substitute parents, or the department's conservatorship is dismissed which results in the child's own parents resuming parental rights to the child. Therefore, anytime a change in conservatorship is being considered for an SSI eligible child, the implications for continued eligibility should be considered and the legal change of conservatorship timed accordingly.

(c) SSI benefits include a monthly payment and Medicaid coverage. If a child on Type Program 09 is determined eligible for SSI, Type Program 09 coverage should be denied immediately since SSI provides both Medicaid and financial benefits.

(d) If an AFDC foster care child is determined eligible for SSI, the worker must determine which payment is more advantageous to the child. The child cannot receive both SSI and AFDC foster care.

(e) State funds and county funds may supplement the SSI payment if needed to cover the cost of a child's care.

(f) If the child has income such as RSDI, VA, or child support, a certain amount per month of the income is exempt and the balance is deducted from the SSI payments. State and county payments for the child's foster care are not considered income to the child and may continue without affecting the amount of SSI received by the child. The SSI payment must be used for the child's foster care maintenance at the payment rate established by the department. Excess funds, if any, must be held in trust for the child.

.161. Foster Care Payments.

(a) Upon receipt of notification of the child's eligibility for Type Program 08 or 10, the child's worker is responsible for ensuring that appropriate payment authorization for foster care is made.

(b) Foster care payments are made retroactively based on daily rates which are established by the department. The rates are based on the category of child care license the facility holds. The child's age is also a factor in foster family and foster group homes providing normal care.

(c) When foster care assistance is paid by the county or from children's private funds, the rate paid to the child care facility should be the same as for Type Program 08 and Type Program 10 children. If a county is paying a higher rate than the department's foster care rate, the county must supplement the department's payment with local funds. The rate paid for all children should be the same, regardless of the source of funds.

(d) The daily rates for foster care are intended to cover the basic minimum needs of the child for maintenance. The rates cover lodging, food, clothing, school supplies, child care services, necessary personal and incidental expenses for the child, recreation, and travel or transportation.

(e) In nonchild welfare contract counties, the child welfare unit responsible for the child must seek funds from all available resources to pay for the child's foster care placement, or obtain free care for the child.

(f) Foster care assistance rates for exceptional care in child-caring institutions vary with each institution and with the type of child's problems the institution exclusively serves. Rates are based on an annual cost study of the institution's actual expenditures. The rate is subject to a maximum.

.162. Effective Dates of Foster Care Payments.

(a) The effective date of beginning foster care payments is the same date the child meets all eligibility requirements for foster care assistance.

(b) The effective date for discontinuing payments for foster care payments is the date before the day the child leaves the facility. The social services worker must keep accurate dates of the child's entrance and departures in each facility. For payment purposes, the date a child leaves one facility must precede the child's entry into another facility by one day. In specific circumstances, a child may be temporarily absent from a foster care facility and continue to be eligible for foster care payments.

.163. Method of Payment.

(a) Child welfare contract counties. In counties with a child welfare contract, the county through the child welfare board pays the foster care facility. The department issues one warrant to the county for reimbursement for eligible children.

(b) Child welfare noncontract counties. In counties with no child welfare contract, the department issues a warrant directly to child care providers.

.164. Determination of Amount of Foster Care Payment.

Income received by the child is deducted from the foster care payment on a month-to-month basis. This includes income received from child support, SSI, RSDI, VA benefits, any other dependent or survivor's income, or other income from private sources. Income for children in the managing conservatorship of the department must be paid to the department as managing conservator. It may not be paid directly to the provider as caregiver. Income from the following sources is exempted from the deduction:

- (1) earnings of a child when the child is one of the following: under 14 years of age, a full-time student, or a part-time student and not a full-time employee;

(2) money given on an irregular basis by the parent directly to the child as a gift;

(3) RSDI benefits received by an 18-21 year old student;

(4) a loan or grant such as scholarship, which is received by a foster child when used under conditions which prevent its use for current living expenses, or as a resource for educational purposes and is made or insured under any program administered by the state commissioner of education;

(5) child support collected for an AFDC foster care child under the policy found in Rule .165.

.165. Child Support for Children in Foster Care.

(a) Parents have legal and cultural rights and responsibilities for the care and support of their children. Under the Texas Family Code, a parent is divested of the legal right and duty to provide financially for a child only when a court decree terminates the parent-child relationship or a court otherwise terminates this responsibility. Court-ordered (without termination of parental rights) or voluntary placement of a child in foster, group, or institutional care does not deprive, relieve, or otherwise affect parents' continuing legal rights and responsibilities for support of the child. Parents have the right and responsibility to show the court their continuing commitment to, wish to be responsible for, and ability to meet the needs of the child by providing financially for him or her. The parents' exercise of this right and responsibility, and their opportunity to exercise it, is crucial when parents want children returned to them or the department is seeking to terminate parental rights. Termination can be ordered on the basis of failure to support the child in accordance with the parents' ability to pay during a one-year period (under Section 15.02 (1)(F), Texas Family Code) or failure to support the child under certain conditions (Section 15.02 (1)(h), Texas Family Code) and when termination is in the child's best interest (Section 15.02(2), Texas Family Code).

(b) When the department is managing conservator of a child, or provides placement under a voluntary placement agreement, every avenue for funds with which to provide for the child as adequately as possible must be pursued, including parental child support. Thus, the department must request child support in every petition for conservatorship of a child and in every voluntary placement agreement. Also, the worker and supervisor must assess the parent's exercise of this responsibility, along with all other aspects of the parent's functioning, while the child is in care in order to determine whether the child should be returned to his home.

(c) The following policies and procedures for seeking child support apply to all children placed in foster care by the department under court order:

(1) The department must request child support in every petition for managing conservatorship and foster care placement of a child unless parental rights are already terminated or the parents are deceased. The petition should ask that the child support be paid to the department. The worker should ask the family whether support is being received for the child. If it is, the worker should discuss with the parent paying and the person receiving child support that the department will ask the court to make the child support payable to the department if the department is appointed managing conservator of the child. The worker should also gather information needed to complete the petition and required department forms. When child support is not being received, the worker should discuss with the family that the

department will ask the court to order both parents to pay child support for the child in foster care due to their responsibilities under Section 14.05, Texas Family Code, if DHR is appointed managing conservator. The worker should give the county/district attorney information about any existing child support orders or payments, who makes the payments, the amounts, the frequency, and to whom the payment is made. The worker may recommend to the county/district attorney a specific amount of child support the parents would be reasonably able to pay.

(2) Under Section 14.05 (b), Texas Family Code, the court can order parents whose parental rights have not been terminated to continue to pay child support for an indefinite period after the child's 18th birthday. To take this action, the court would have to find that the child, whether institutionalized or not, required continuous care and personal supervision because of a mental or physical disorder and was not able to support himself. The child's foster care worker should seek a court ruling under this statute for all 16-17 year old children in the department's conservatorship who meet the above criteria.

(3) After the parent-child relationships have been terminated, the department may not ask the county/district attorney to request that the court require the parents to pay child support.

(d) The worker should discuss the court order with available parents. If the court orders child support, the worker should clarify any questions the parents have about the amount and frequency of the payments and payment procedures and emphasize the parents' responsibility to comply with the court order. If the court order does not speak to child support, the worker should explain that if the child is found eligible for AFDC foster care, the department's child support enforcement program may pursue child support again with the parents and the court.

(e) The local child welfare and departmental child support enforcement units must cooperate in working with the community, district courts, and children's parents to collect and enforce child support. The two units must develop mutually acceptable local procedures to:

(1) Inform the county/district attorney(s), the district judge(s), and the county child welfare board or county commissioner's court of the legal basis for both the child support and child welfare units' responsibilities and activities in AFDC foster care cases. The units should explain policies about change of payee, denial of AFDC foster care if child support collections exceed the foster care payment, and distribution of child support collections. They should make a similar explanation about their roles and relevant policies in non-AFDC foster care cases when application is made to use the department's child support services.

(2) Establish with the county/district attorney(s) and district judge(s) mutually acceptable court-related procedures for both units' court activities in collecting and enforcing court-ordered child support for AFDC foster care children and non-AFDC foster care cases in which the department's child support services are used.

(3) Work with parents ordered to pay child support regarding responsibilities in paying child support, delinquent payments, and court action to collect delinquent child support.

(f) Information about applicants for and recipients of child support services is confidential.

.166. AFDC Foster Care Cases.

(a) To receive child support services, an AFDC foster care case must be referred to the department's child support enforcement program. An AFDC-FC foster care case must be referred for child support services in either of the following circumstances:

- (1) the court has ordered the parent(s) to pay child support;
- (2) the court order fails to speak to child support (whether or not the petition requested it) and all of the following apply to at least one of the child's parents: parental rights are not terminated; the parent is alive; the parent is not incapacitated; the parent is a legal parent of the child; or the worker is requesting legitimation services from the child support unit.

(b) A parent who is missing or who lives out-of-state but who otherwise meets the above description must be included in the referral to the child support program. Both legal parents of an AFDC foster care child must be included in the referral when they meet the above description. If the parent has more than one child receiving AFDC foster care, the parent must be included in the referral for each child.

(c) The AFDC foster care case is not referred to the child support unit under the following circumstances:

- (1) the court order states that neither parent has child support responsibilities;
- (2) the court order fails to speak to child support and any of the following apply to both parents: parental rights are terminated; the parent is incapacitated; or the parent is deceased.

167. Non-AFDC Foster Care Cases.

(a) When the department is managing conservator of a child who does not receive AFDC foster care, court-ordered child support and paternity establishment for the child may be sought by the county/district attorney or the department's Child Support Enforcement Branch. The worker should discuss with county and district court officials which of these options should be used for these children in that county. Child support and paternity establishment may be sought through the county/district attorney by requesting that he or she petition the court for them.

(b) To use the department's full Title IV-D child support enforcement services for a child not receiving AFDC foster care, the child's worker must apply and a fee must be paid in advance.

(c) To use only the department's Title IV-D parent locator services for a child not receiving AFDC foster care, application must be made and a fee must be paid in advance. Parent locator services can only be used for child support enforcement purposes. The district court is authorized to use the federal parent locator services after all state and local locate efforts have been exhausted. If the district court certifies that all state and local locate efforts have been exhausted, the Child Support Enforcement Branch will process a request to use the federal parent locator services without charge. If not ordered by the court, the child's foster care worker must complete the application and arrange for the fee.

(d) The department has no funds with which to pay fees for full child support services or for parent locator services only. Because there are no state or federal funds available to pay these fees, the Child Support Enforcement Branch cannot waive these fees for children in the department's conservatorship. To pay the fee, children's county funding source,

or other funding sources must be explored or the fee may be reimbursed by the managing conservator to the county or other funding source from child support collected. Fees are waived or paid from court costs when the district court orders parent locator services.

.168. Collection of Child Support by the Department's Child Support Enforcement Program.

(a) A case is deferred for three to 12 months due to the parent's temporary inability to pay support or to the child support unit's temporary inability to locate the parent, or when requested by protective services in the child's best interest. A case is inactivated when activity is suspended for over a year. The child support unit reviews inactivated cases every two years.

(b) For AFDC foster care children born out of wedlock for whom paternity has not been established, the local child support unit must try to legally establish paternity. If there is insufficient evidence to pursue a paternity action, the child support unit can elect not to pursue it. When this service for these children is requested by protective services staff, child support staff will notify protective services staff of the decision to file a paternity suit or the reason why such action is not appropriate.

(c) By child support policy, the local child support unit cannot seek to reduce the amount the court has ordered the parents to pay. If the parent wants to reduce the court-ordered amount, the parent must pursue this with his or her own attorney.

(d) The child's foster care worker's responsibility during the child support unit's collection phase includes:

(1) The worker must tell the parent(s) that the child support unit may contact him about child support matters.

(2) The worker may tell the parents that they have the right to representation by an attorney and that they cannot be represented by the child support attorney.

(3) The worker should refer the parents to the child support unit for appropriate payment forms and procedures to follow.

(4) The worker must immediately forward any court-ordered child support for AFDC foster care children received in the local office or by the local child welfare board.

(5) The worker should take appropriate action on child support information/forms sent by the child support unit or eligibility worker.

(6) The worker should discuss the child/family's situation with the child support officer when he contacts the worker before contacting the family for the first time.

(7) If protective services staff wants to reduce the court-ordered amount, they must request a conference with the child support attorney.

(e) The responsibilities of the AFDC foster care eligibility worker during collection of child support include:

(1) notifying the child support unit of changes in the child's foster care worker or eligibility worker, or their mail codes;

(2) notifying the child support unit of changes in the child's monthly foster care payment;

(3) working with Fiscal Division, State Office in handling undeliverable excess warrants due inactive AFDC foster care cases. Fiscal Division will notify the appropriate eligibility worker of a returned warrant.

.169. Enforcement of Child Support by the Department's Child Support Enforcement Program. If the child support unit determines that it is necessary to enforce the obligation

through court action, the attorney must give the child's foster care worker ten calendar days notice of intent to file suit. The worker must inform the county/district attorney of proposed court action. In response to the notification, protective services staff may take any of the following actions:

(1) The worker and supervisor may request a conference about the child support action. The child support attorney will schedule the conference. The child support attorney, county/district attorney, and protective services supervisor should make a joint decision for meeting child support requirements. The child's attorney ad litem may participate in the conference. If an agreement cannot be reached for enforcing child support as a part of the total plan for care of the child, the regular administrative channels of the department should be used to reach a decision. This is to prevent the possibility that a DHR child support attorney representing DHR protective services might go to court on the same case with conflicting or duplicating purposes.

(2) The worker and supervisor may request deferment of enforcement action by stating in writing the reasons why it would be in the child's best interest to defer legal enforcement action. The child support attorney may respect this request for six months at which time the situation must be reviewed.

(3) If a conference is not requested, the child support attorney must discuss the case with the county/district attorney to determine appropriate action to take and proper representation for the child in the child support hearing. The child support attorney will file the case and the managing conservator will receive proper legal notice of the court hearing. Proper legal notice requires a minimum of ten calendar days notice before the hearing date.

.170. Case Records and Reporting Forms.

(a) While a child is in foster care, his adjustment and well-being and DHR services to him must be regularly recorded and documented in the child's case record.

(b) The following is required recording for documenting cases when children are in foster care:

(1) the narrative must contain the service plan(s) for the child and family;

(2) the record must indicate that foster care plans were discussed with the child and his or her family;

(3) the child's placement(s) must be recorded on the Substitute Child Care Record form. If numerous placements are made for the child, the narrative should explain problems with placements;

(4) throughout placement, all progress made by the child and biological family must be validated by regular recording;

(5) the narrative must show frequency of worker contacts with child, foster parents, and biological family and indicate interest and frequency of the family's contacts with the child. If parents do not keep appointments, the worker must indicate why. Compliance with court ordered visitation must be documented;

(6) efforts to rehabilitate the child's own home or to make available to him or her the homes of relatives must be documented;

(7) narrative must include any verbal agreements/conferences with courts or legal representatives in respect to the child's adjustment or changes in circumstances;

(8) case record must indicate worker's follow-up in reference to the type of court order;

(9) if plans are to terminate parental rights, the record must indicate that the worker has discussed this action with parents and informed them of their right to legal representation. The record must indicate if a guardian ad litem or attorney ad litem has been appointed to represent the child;

(10) medical or psychological/psychiatric information must be detailed in the narrative (if a form has not been completed by appropriate personnel examining the child and entered in the record). The worker should indicate "quoted material;"

(11) narrative should indicate the worker has discussed plans with the child prior to permanent placement, with documentation of the child's feelings/preference in placement;

(12) attempts to locate absent parents to inform them of court hearings must be documented;

(13) the plan to remove the child from foster care must be recorded in his or her record, to include the circumstances surrounding the removal and the date, name, address, and relationship of the person with whom the child is placed.

Doc. No. 804580

Adoption Services 326.50.75

The following new rule has been approved by the Texas Board of Human Resources and is adopted under the authority of Title 2 of the Human Resources Code.

.079. Court-Ordered Social Studies on Adoption Petition.

(a) Upon the filing of any petition to adopt a minor child, the court is required to appoint a person to investigate the circumstances of the placement, the background of the child to be adopted, the kind of home in which the child has been placed, and to file a social study with the court regarding the investigation.

(b) The court may appoint a DHR representative to complete the social study. Under such circumstances, DHR must investigate the adoption placement.

Doc. No. 804582

Child Welfare Services and the Community 326.50.78

These new rules have been approved by the Texas Board of Human Resources, and are adopted under the authority of Title 2 of the Human Resources Code.

.024. Child Welfare Contracts.

(a) DHR and a county may cooperate in providing a county-wide, jointly financed, and state-administered program of child protection by entering into a child welfare contract. This program may be neither a probation nor a general relief program, and DHR staff is not to aid in law enforcement. This program is administered by the regional offices of DHR. All personnel must be state employees with the exception of certain specialists.

(b) In counties without a child welfare contract, DHR and county officials work cooperatively to carry out their respective legal responsibilities for the provision of protective services and benefits to families and children.

.025. Creation of Child Welfare Boards.

(a) The contract entered into by county commissioners and the department establishes a partnership between the state, county, and private sector. The contract outlines the responsibilities of the state and county. The child welfare contract requires the appointment of a county child welfare board under the terms of the Human Resources Code. The county commissioner's court appoints the board which consists of seven to 15 members who represent a cross section of the citizens of the county. The county judge and the judge of the district court having jurisdiction in cases involving abuse and neglect serve as ex officio members of the board.

(b) A single board may represent more than one county. When counties decide to have a multicounty board, each county contracts separately with the state and appoints members from the various counties to a single board. The counties represented by the multicounty board have the same powers and are subject to the same liabilities under the contract as a single county.

(c) The county and child welfare board approves expenditures of county funds and assures that required fiscal records are maintained for state and federal audits.

.026. DHR, Child Welfare Board, and County Roles and Responsibilities.

(a) The roles and responsibilities of the department are to:

(1) provide personnel and programs for a state-wide, child protective services program in accord with state-wide priorities, policies, program and licensing standards, and available resources;

(2) administer and supervise all program components receiving federal and state funds in accord with state priorities, policies, program and licensing standards, and available resources;

(3) plan for and administer personnel policies in accord with the Texas Merit System provisions;

(4) plan for and administer staff and administrative costs (travel, fringe benefits, overhead) on a regional fair-share basis, dependent upon the availability of funds and state-wide need;

(5) provide, plan for, and administer Title XX contracting funds based on the availability of funds and the state-wide need, and the state and federal policies regarding the use of these funds;

(6) provide, plan for, and administer state and/or federally funded financial benefits for eligible children for protective foster care. This includes reimbursing the county for AFDC and state-paid foster care expenses;

(7) provide, plan for, and administer state and/or federally funded adoption subsidies;

(8) provide, plan for, and administer Medicaid and the vendor drug program for eligible children in protective foster care;

(9) provide, plan for, and administer child welfare earned funds and other funds for special projects based on the availability of the funds, the state-wide need, and the state and federal policies regarding the use of these funds;

(10) provide, plan for, and administer staff training;

(11) receive and expend children's personal funds (SSI, SSA, or child support), in accordance with the needs of the child.

(b) The roles and responsibilities of the county are to:

(1) provide funding for a protective foster care program which meets AFDC and state-paid foster care requirements by:

(A) paying for the care of any child covered by the county child welfare program;

(B) paying the daily rate established by DHR.

(C) not paying less for the care of AFDC foster care children than any other foster care children;

(2) provide funding for other protective child care programs as needed by the children in the community and as required by the contract;

(3) periodically review the terms of the contract with the department and child welfare board;

(4) authorize expenditures of county funds for purposes for which appropriated and ensure that required fiscal records are maintained for state and federal audits.

(c) The roles and responsibilities of the child welfare board are to:

(1) negotiate and act as a liaison between the child welfare unit and the county commissioners courts to secure adequate local funding for such program components as:

(A) protective foster care funds for children not eligible for state or federal foster care funds.

(B) clothing and transportation needs for foster children.

(C) medical care and examinations not covered by Medicaid for children needing protection.

(D) psychiatric and psychological evaluations and treatment not covered by Medicaid.

(E) office space, utilities, office equipment, and upkeep.

(F) other needed services within the financial capability of the county;

(2) develop policy, consistent with DHR policies, related to expenditure of county funds;

(3) authorize expenditure of county funds for purposes for which appropriated;

(4) review expenditures of child welfare units to ensure that county money is spent for purposes for which it was appropriated; adequate accounting methods are maintained for county funds and DHR, AFDC, and state-paid foster care reimbursements to the county; the total AFDC and state-paid foster care reimbursement for a designated child is spent for that child;

(5) complete needs assessments related to the children of the county;

(6) in conjunction with DHR staff, formulate a plan to develop community resources to meet the needs identified;

(7) interpret child welfare services and needs to the community;

(8) interpret the community's conditions and attitudes on policy, services, and priorities to DHR staff;

(9) coordinate operations and develop local agreements, as needed, with other community agencies serving children;

(10) review quality of services being rendered by the child welfare unit;

(11) in conjunction with DHR staff, formulate goals and objectives for the board and evaluate progress toward achieving these goals and objectives.

.027. Staff Responsibilities and Procedures for the Development of a Child Welfare Contract.

(a) To initiate a child welfare contract, the social services program director or supervisor should discuss with the county commissioners and county judge the provisions of the contract. The DHR person working with the county should ask the county officials to complete the contract outline—"Information Required for a Child Welfare Contract." If the county disagrees with any of the provisions under Section A of the contract outline, State Office must approve these exceptions. If the county disagrees with any of the provisions under Section B of the contract outline, the region should resolve these differences with the county. The county judge and commissioners' court members should be asked to sign Section C of the contract outline.

(b) Two copies of the prepared contract are sent to the person working with the county so that he can get the county commissioners and county judge to sign them. He returns them to the Protective Services for Children Division which arranges for the department's commissioner to sign them. One copy of the fully executed contract is returned to the person working with the county for filing in county and regional files. One copy is retained by the State Office Legal Division. The county commissioners' court must appoint a county child welfare board before the DHR person working with the board can process the Individual Provider Registration, for AFDC and state-paid foster care reimbursements to be made to the county.

(c) In ongoing work with the child welfare board, the local staff should meet with the board regularly to present the activities and needs of the child welfare unit, explain DHR new programs, present a monthly financial report, present a case activity statistical report, request board approval for payment of bills, and plan for future needs. Local staff may also present de-identified reports on individual children to involve the board in specific planning and expenditures for children.

.028. Fiscal Procedures Required under the Contract.

(a) Receipt, depository, and expenditure of funds under the child welfare contract must meet department criteria. County funds may be spent in accordance with the annual child welfare budget for the county, upon the authorization of the board or county commissioners' court. Children's private funds may be spent for foster care at the current foster care payment rates for the type of care needed by the child if the unit authorizes and the board approves.

(b) For a county to get AFDC and state-paid foster care reimbursement, the DHR person working with the board must register the board, get the board's certification of expenses for AFDC and state-paid foster care, and verify and return a proper bill to DHR. When it receives this bill, DHR will reimburse the county child welfare board for eligible AFDC foster care payments the board made in the preceding month. DHR will reimburse the board on or after the effective date of this contract each month, with adjustments for previous months or for audit exception.

(c) The county's total expenditures (excluding the AFDC foster care reimbursements) for the child welfare program for the current fiscal year must be at least equal to the county's appropriated or actual expenses for the program whichever is less, for the fiscal year before the contract is signed. The amount the county spends or receives as AFDC foster care reimbursement must not be used as a measure of the county's maintenance of effort. The county should ex-

tend the child welfare programs in the county to provide increasing care and services to the children of the county.

(d) The state and federal funds which are sent to a county child welfare board to reimburse county funds spent in the AFDC and state-paid foster care program become, in effect, county funds and may be spent as the county commissioners' court and the county child welfare board approve.

(e) None of the funds, other than revenue sharing funds, that DHR gets from the county under the contract can be federal funds, nor can they have been used as federal matching funds. The county must keep fiscal documents which are adequate to ensure that claims for federal matching funds meet applicable federal requirements. The county must keep these documents three years after the date it submits the final expenditure report or until an audit is performed. If the department or the United States Department of Health, Education, and Welfare conducts an audit, the county must keep the documents until the audit questions have been resolved.

.029. Child Welfare Contract Audit. DHR's Audit Division may audit annually selected child welfare units in counties with child welfare boards and contracts.

.030. Volunteers in Child Welfare Services.

(a) Volunteers must observe the same confidentiality requirements as DHR staff.

(b) Volunteers working directly with protective services clients must have the same qualifications as protective services caseworkers unless the tasks they perform require different or less academic training. Volunteers working directly with protective services clients must be supervised by the protective services worker or supervisor.

.031. Funds for the Development of Community and Parents Groups Related to Child Protective Services.

(a) Child welfare earned funds are available to develop, or expand the activities of, community and parent groups concerned with services for abused and neglected children and their families. The purpose of this program is to enable each region to help and cooperate with communities and parents in the development of group interest in promoting child welfare services.

(b) The group's planned use of the funds must show some benefit to the families and children who come to DHR's attention because of abuse or neglect. The local protective services unit must be involved in the group's planning to verify that the planned use of the funding will benefit DHR's clients.

(c) The request for funding must say clearly how the funds will be used, and must give an auditable method of accountability for the expenditure of the funds. Groups requesting and using these funds are entitled to DHR consultation and leadership to help them get other community support, funding, and leadership so that they will not rely solely on these DHR funds for their existence.

(d) These funds should not be used to pay a salary, nor should the total regional allocation be granted to only one group or only one community. The funds should not be used to buy equipment. Any exceptions to these limitations must be approved by the State Office.

(e) Before delivery of services, the department must have an approved signed contract with each community or parent group. The community or parent group must be incorporated as a nonprofit corporation. Corporate status can be verified by the Texas Secretary of State's Corporations Divi-

sion. The plan of operation should include but is not limited to:

- (1) identification and location of the group;
- (2) identification of the agencies and organizations sponsoring the group;
- (3) a discussion of the purpose of the group which says how the activities of this group are consistent with the purpose indicated by the guideline;
- (4) amount of funds and methods of accounting for the group's use of funds;
- (5) a requirement that the group will document all expenditures and will retain that documentation for three years or completion of an audit;
- (6) maximum reimbursable amount of contract;
- (7) statement that an evaluation will be completed on this contract and the method of evaluation.

.032. Consultant Services.

(a) Child welfare earned funds are available to a region to buy consultation for child welfare and family services staff, foster parents and parents, members of other agencies and organizations working with DHR, and parent and community groups interested in family and children's services.

(b) Consultation bought with these funds should be for groups and not individuals. Consultation may be bought for one session only or for a series of sessions. Child welfare earned funds may be used to develop consultation and training for foster parents and staff on discipline and other issues raised by the licensing standards.

(c) Consultation which costs over an amount prescribed by the department must meet the requirements of Senate Bill 737.

(d) Before delivery of services, DHR must have an approved signed contract with each consultant. The Vendor Identification Number form must be completed if the consultant does not have a comptroller's identification number. The plan of operation must include but is not limited to:

- (1) identification and qualification of consultant and location;
- (2) rate of consultant plus additional costs, such as travel;
- (3) purpose and nature of consultation (how it relates to the guidelines);
- (4) estimated number of child welfare staff, family services staff, foster parents, biological parents, parents and community group members, and members of agencies and organizations working with the department who will receive the consultation;
- (5) maximum reimbursable amount of contract;
- (6) statement that an evaluation will be completed on this contract and the method of evaluation.

Doc. No. 804584

Standards 326.50.80

This new rule has been approved by the Texas Board of Human Resources, and is adopted under the authority of Title 2 of the Human Resources Code.

.001. Protective Services for Abused and Neglected Children.

- (a)-(b) (No change.)
- (c) Standards for services for children in substitute care.

(1) The worker with supervision must establish a permanent plan for the child within six months of initial placement.

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

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

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804585 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: July 4, 1980

Proposal Publication Date: March 25 & 28 & April 1 & 4, 1980
For further information, please call (512) 441-3355.



Texas Department of Labor and Standards

Boxing and Wrestling Division

Boxing 063.11.01

The Boxing and Wrestling Division of the Texas Department of Labor and Standards adopts Rules 063.11.01.001-.016, setting forth the methods and procedures for the administration of the boxing licensing and regulation provisions of Article 8501 et seq., Texas Civil Statutes. These rules are necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law, which was a total new writing of the law. Without the adoption of these rules, the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules set forth guidelines for licensing, standards for protection of the participants, and the rules and procedures for the collection of the gate receipts taxes.

These rules are promulgated under the authority of Section 4(b) of Article 8501 et seq., Texas Civil Statutes.

.001. *License Revocation.* Any license herein provided for may be revoked or suspended by the commissioner of labor and standards for the reason therein stated that the licensed person has in the judgment of the commissioner of labor and standards been guilty of an act in violation of a boxing rule or regulation issued by the department or a provision of the Texas Boxing and Wrestling Act.

.002. *Promoter's Appearance.* Any person applying for a promoter's license must appear in person in the office of the commissioner of labor and standards in Austin, Texas.

.003. Promoter's License—Where Valid. A promoter's license is valid only in the incorporated limits of the city for which it is granted, but a promoter may apply for a license in each city in which he desires to operate. If the promotion should occur in a nonincorporated area, the size of the nearest incorporated city shall determine the license fee. No promoter shall hold a boxing contest in any location other than that location in his license without permission of the commissioner.

.004. License Examination. The commissioner may, at his discretion, require licensees to pass a written examination to establish their qualifications and may conduct seminars to instruct licensees on required knowledge. Before acting upon an application for a license, the commissioner of labor and standards may, at his discretion, hold an administrative hearing on the license application.

.005. Promoter's Violation of Rules. Any conduct of a licensed promoter which violates the Texas Boxing and Wrestling Act or the rules and regulations issued by the department can be considered against all licenses held by the promoter.

.006. Other Licenses. Before a person may perform as a boxer, manager, referee, second, judge, timekeeper, or matchmaker he shall file with the department or its authorized representative an application on a form supplied by the department. The applicant may be issued a temporary permit which would permit him taking part in a scheduled contest pending processing of the application.

.007. Out-of-State License Required. Individuals licensed in other jurisdictions who participate in a professional boxing contest must, prior to the contest, make application for a license with the department.

.008. Age Limit. Minors over age 17 applying for a boxer's license must submit written consent from parent or guardian and demonstrate proficiency in boxing skills through previous amateur ring experience. Anyone over 35 making application for a boxer's license may be required to demonstrate mental and physical competency to perform as a boxer.

.009. Promoter's License and Fees. In a city with a population not exceeding:

Population	Fee	Minimum Bond
10,000	\$20	\$300
10,001-25,000	\$50	\$300
25,001-100,000	\$100	\$500
100,001-250,000	\$200	\$1,000
250,001-Up	\$300	\$2,000

The commissioner may require a larger bond than the minimum amounts listed in Rule .009 under certain circumstances at his discretion.

.010. Other License Fees. All other license fees are as follows:

Boxers—\$10
Managers—\$50
Matchmakers—\$50
Referees—\$15
Judges—\$15
Timekeepers—\$5
Seconds—\$5

.011. Ring. The ring must not be less than 16 nor more than 24 feet square within the ropes, and the ring floor must extend beyond the ropes a distance of not less than 12 inches on all sides. The ring floor shall be padded with felt matting or other soft material approved by the commissioner of the Texas Department of Labor and Standards or his authorized representative and shall extend over the edge of the ring platform, with a top covering of canvas, duck, or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps may not be used. When ring posts extend to within a foot of the ropes, the turnbuckle must be padded. The mat and covering shall be kept clean and free from disagreeable odors at all times.

.012. Height of Ring. The ring platform shall not be more than 54 inches above the floor of the building, and shall be provided with suitable steps for use by the contestants. Ring posts shall be made of some strong material, preferably metal pipe, three inches in diameter, extending from floor of the building to a height of at least 58 inches above the ring floor.

.013. Ring Ropes. Ring ropes shall be three or four in number, at least one inch in diameter; the lower rope 18 inches above the ring floor, the second rope 35 inches above the ring floor, and the third rope 52 inches above the ring floor. When four ropes are used, the bottom and top ropes shall be the same as above and the other two will be evenly spaced. Ropes shall be wrapped in soft material.

.014. Gong. Gong must be at least eight inches in diameter, to be adjusted near a level with the ring platform, the timekeeper to ring indicating the beginning and end of rounds, so that the contestants and referees can hear the sound of the bell.

.015. Obstruction. The entire ring platform shall be cleared of all obstructions, including buckets, stools, etc., at the instant the gong indicates the beginning of a round; and none of these articles shall be placed on the ring floor until the gong has sounded the end of a round.

.016. Ring Equipment. Each ring shall be equipped with two funnels with a hose attached to each funnel, to be used as a receptacle by the contestants when washing out the mouth. There shall be provided by the promoter a sufficient number of water buckets for the use of all contestants. Each bucket shall be sterilized before being used by the contestants. Promoters also shall provide resin, stools, and other such articles as are required for the conduct of contests.

.017. Scales. Scales shall be furnished by the promoter and tested and approved previous to each contest.

.018. Glove Weight. Boxers weighing over the lightweight limit (135 pounds) must wear gloves weighing not less than eight ounces and not more than 10 ounces. Boxers weighing under the 135 pounds must wear gloves weighing not less than six ounces and not more than eight ounces.

.019. Gloves Approval. Gloves shall be examined by the referee and the representative of the Texas Department of Labor and Standards at the time of the weigh-in. If padding is found to be misplaced or lumpy, or if gloves are found to be imperfect, they shall be changed before the contest starts. No breaking or twisting of gloves shall be permitted.

.020. Gloves—Main Event. Gloves for all main events shall be furnished by promoter and made so as to correctly fit the hands of the contestant.

.021. Bandages. Bandages shall be of soft surgical bandage not more than two inches in width, held in place by not more than six feet of surgeon's tape for each hand. The use of six inches of adhesive tape, two inches in width, will be permitted across the back of each hand before bandaging the hands provided such tape is not put across the knuckles. These bandages shall be adjusted in the dressing room under the examination of a representative of the Texas Department of Labor and Standards and in the presence of both contestants.

.022. Weighing Time. In all contests or exhibitions, contestants shall weigh in stripped not later than two o'clock on the same day of the contest or exhibition in the presence of a representative of the Texas Department of Labor and Standards.

.023. Weight Difference. No contest shall be permitted when there is a difference in weight of more than 12 pounds when the lighter of the two contestants weighs between 160 and 175 pounds, or 10 pounds in weight when the lighter of the two weighs between 135 and 160 pounds, or eight pounds in weight when the lighter of the two weighs under 135 pounds. No exceptions shall be made to this rule except by written permission from the commissioner of labor and standards.

.024. Weights and Classes of Boxers.

Flyweight	112 pounds
Bantamweight	over 112 to 118 pounds
Featherweight	over 118 to 126 pounds
Lightweight	over 126 to 135 pounds
Welterweight	over 135 to 147 pounds
Middleweight	over 147 to 160 pounds
Light-heavyweight	over 160 to 175 pounds
Heavyweight	over 175 pounds

The failure of boxers to make agreed weight may subject boxer to forfeiture of his purse.

.025. Costume. Boxers shall box in proper ring costume including protection cup, which shall be firmly adjusted previous to entering the ring. The felt of the trunks shall extend above the waistline. No other apparel except as above specified shall be worn by boxers entering the ring, with the exception of a robe. Gloves for principal contest shall be adjusted in the ring under the supervision of the referee, the laces to be knotted on the back of the wrist. Mouthpieces shall be white or flesh colored. Shoes shall be of soft material and shall not be fitted with spikes, cleats, hard soles, or hard heels.

.026. Guidelines for Female Contestants.

- (a) Mouthpiece must be used of same variety required of male boxers.
- (b) Ten ounce gloves will be worn.
- (c) Breast protection mandatory.
- (d) Promoter must provide adequate separate dressing rooms.
- (e) Contestants must sign agreement indicating that to the best of their knowledge they are not pregnant and that the contest will not take place during the menstrual period.

.027. Dressing Rooms. No one shall be allowed in the boxer's dressing room except his manager, seconds, a representative of the Texas Department of Labor and Standards, physician, and news media representatives. Promoters are

directed to post a sign at the entrance to dressing rooms informing all concerned of the above requirements.

.028. Decision. Neither by word or act shall a contestant at the close of a bout indicate to the spectators his belief that he has won or lost. When the decision of the referee or judges has been announced, both contestants and their seconds shall at once leave the ring and retire to their dressing rooms.

.029. Ring Name. A boxer shall fight under the same ring name which appears on his boxing license.

.030. Announcer.

(a) Announcers shall announce the name of contestants, their correct weights, the decisions of the referee and judges, and other matters, as approved by the representative of the Texas Department of Labor and Standards in charge. Promoters and clubs shall provide proper facilities for announcing rounds.

(b) To prevent mistakes being made in announcing decisions, the announcer must, upon receiving the score cards from the referee and judges, submit them to the representative of the Texas Department of Labor and Standards at ringside for examination before announcement of decision is made.

(c) The following procedure is to be followed: In preliminary to the semi-main event, if the decision is unanimous, the announcer announces the unanimous verdict. If the decision is not unanimous, but a majority decision, the announcer so announces it. If it is a draw, that is, each one of the officials voting differently, the announcer so announces it. In main event and championship contests, the scoring of the referee and judges will be announced by total points for each contestant.

.031. System of Scoring. In scoring a contest, the elements of offense, defense, clean hitting, ring generalship, and sportsmanship will be carefully considered. Scoring shall be by the 10-point system. The winner of any round is marked 10. The loser of any round is marked one to nine. When the round is even, each contestant is scored 10. A clean knockdown should be heavily scored. A knockdown is rated as such as soon as it occurs. The contestant who takes advantage of the nine-count shall be credited with ring generalship (that would not be credited him if he arose immediately and, possibly in a groggy condition, tried to continue). The use of foul blows and other tactics shall result in a penalty of two points for each foul committed. The referee shall advise the judges of the number of points to be deducted immediately upon termination of the round to which such deductions apply. Referees and judges shall clearly write their decisions and sign them individually.

.032. Knockdown. When a boxer is knocked down three times in any one round, the contest will be automatically terminated. The boxer scoring the knockdown shall be the winner by technical knockout. The referee shall stop a contest after one knockdown, if, in his opinion, the boxer is unable to defend himself.

.033. Purse Forfeiture. Purse forfeitures or fines for violations of any rules or regulations may be assessed by the authorized representative of the department. The disbursement of such fines or purse forfeitures shall be decided at a hearing by the commissioner.

.034. Change of Decision. A decision rendered at the termination of any boxing contest shall not be changed unless,

at any time following the rendition of a decision, the commissioner should determine that there was collusion or fraud affecting the result of any contest, or if the compilation of the score cards of the referee and judges shows a clerical or mathematical error which would mean that the decision was given to the wrong boxer, then such decision may be changed by the commissioner after a hearing has been held.

035. Amateur Contests. Any club seeking exempt status under this act shall furnish on a form provided by the department information concerning ownership, affiliation, and such information as shall be included on the form. Failure to submit this information may prevent recognition of the exempt status of clubs. Nonexempt amateur clubs promoting contests where an admission fee is charged shall promote under the following conditions.

(1) The commissioner must approve the contest, match, or exhibition at least seven days in advance of the event.

(2) All entries shall be filed with the amateur organization at least three days in advance of the event.

(3) The amateur organization shall determine the amateur standing of all contestants.

(4) The amateur contests, match, or exhibition shall be subject to the supervision of the commissioner and all profits derived from such contests shall be used in the development of amateur athletics.

(5) Only referees and judges licensed by the commissioner may participate in amateur contests, matches, or exhibitions.

(6) All contestants shall be examined by a licensed physician within a reasonable time prior to the event, and a licensed physician shall be in attendance at the ringside during the entire event.

036. Referee and Judges. A referee and two judges, or three judges, subject to approval of the department, shall be chosen to officiate at boxing bouts, with majority vote of these individuals prevailing to determine the outcome of the contest. Referees and judges may be required to take a written exam at the time of application or at any time a reasonable doubt as to the competency of said license may be raised.

037. Provisions for Referees.

(a) General.

(1) The chief official of the contest shall be the referee, who shall have general supervision over the bout and take his place in the ring.

(2) The referee shall notify the commissioner of labor and standards before 2 p.m. on the day of the contest, in the event that he is unable to officiate at the contest.

(3) The referee shall, before starting a contest, ascertain from each contestant the name of his chief second, and shall hold that chief second responsible for the conduct of his assistant during the progress of the contest.

(4) The referee shall, before each bout, call the contestants together for final instructions, at which time the contestants shall be accompanied by their chief seconds only. The contestants, after receiving final instructions, shall shake hands and retire to their corners. They shall not again shake hands until the beginning of the last round.

(5) All referees must be attired in a clean uniform, to be approved by the department.

(b) Referee's power:

(1) to stop a bout and make a decision if he considers it too one-sided;

(2) to stop a bout and make a decision if he considers that the contestants are not boxing in earnest, at which time he may disqualify both contestants;

(3) when a contestant is incapacitated by an unfair blow or act, he shall be given sufficient time to recuperate; the referee may consult with the official doctor or other medical aid, and has sole power in this regard. If the referee decides that even after a rest the injured boxer is unable to continue, he shall disqualify the guilty contestant.

(c) Referee's duties.

(1) The referee shall not touch the contesting boxers except when one or both contestants fail to obey the break command.

(2) When a contestant is down, the referee shall at once commence counting off the count in seconds and indicating the count with a motion of the arm. If the contestant fails to rise before the count of 10, the referee shall declare him the loser.

(3) Should a contestant who is down rise before the count of 10 is reached and again go down intentionally without being struck, the referee shall resume the count where he left off.

(4) When a round in any boxing contest shall terminate before a contestant who has been knocked down shall have risen from the floor of the ring, the count shall be continued. If the fallen contestant shall fail to rise before the count of 10, he shall be considered to have lost the bout by a knockout in the round lately concluded.

(5) Should a contestant leave the ring during the one-minute period between rounds and fail to be in the ring to resume boxing when the gong rings, the referee shall count that contestant out the same as if he were down.

(6) If a contestant who has been knocked or has fallen out of the ring during the contest fails to return immediately, the referee may count him out as if he were down, and the seconds shall not be allowed to assist contestants back in the ring.

(7) When a contestant is down, his opponent shall retire to the farthest corner of the ring and remain there until the count is complete; if he shall fail to do so the referee may cease counting until such opponent has so retired.

(8) Referees shall see that their count is as near 10 seconds as possible, and that the count is loud and clear so that it can be heard at a reasonable distance from the ring.

(9) Referees must instruct boxing contestants that wrestling and rough tactics will not be tolerated.

(10) In case of serious injury to a contestant, an immediate investigation will be conducted by the commissioner of the Texas Department of Labor and Standards to determine whether injury was the result of negligence or incompetence on the part of the referee or whether the injury was due to circumstances not reasonably within his control. A hearing may be held by the commissioner of labor and standards on the suspension or revocation of the referee's license.

(11) The referee shall decide all questions arising during contests which are not specifically covered by these rules.

038. Down Definition. A contestant shall be deemed down when:

(1) any part of his body other than his feet is on the ring floor;

(2) he is hanging over the ropes in a defenseless manner; a referee can count the boxer out either on the ropes or on the floor;

(3) he is rising from a down position.

.039. Fouls Definition.

- (a) hitting below the belt;
- (b) holding an opponent with one hand and hitting him with the other;
- (c) hitting an opponent who is "down" or who is getting up after being "down";
- (d) holding an opponent or deliberately maintaining a clinch;
- (e) butting with the head or shoulder or using the knee;
- (f) hitting with the inside or butt of the hands, the wrist, or the elbows;
- (g) hitting or "flicking" with open gloves;
- (h) wrestling or roughing at the ropes;
- (i) purposely going down without being hit;
- (j) striking deliberately at that part of the body surrounding the kidneys;
- (k) the use of abusive or profane language;
- (l) jabbing opponent's eyes with the thumb of glove;
- (m) rabbit punches (hitting at back of the head or neck);
- (n) failure to obey the referee;
- (o) any physical actions which may injure a contestant other than sportsmanlike boxing.

.040. Seconds

- (a) Seconds must not be more than three or less than two in number except by permission of the commissioner of labor and standards. There shall be two chief seconds—one for each contestant. Each chief second must have a complete first aid kit.
- (b) Seconds shall not coach the principal during the progress of the rounds and shall remain silent during the rounds and shall not throw water on the contestant or in any way assist. Fans may be used between rounds but the swinging of towels is prohibited.
- (c) A licensed manager may act as a second without the necessity of a second's license.
- (d) Seconds shall leave the ring enclosure at the sound of the timekeeper's whistle, which must be 10 seconds before the beginning of each round. They shall leave the ring platform and remove all obstructions, including stools, buckets, and equipment promptly when the gong sounds for the beginning of each round.
- (e) The seconds must be neatly attired.
- (f) Violations of the above provisions may be followed by ejection of the offender from the ring corner, and may result in the disqualification of their contestant by the referee.

.041. Timekeeper.

- (a) Timekeepers shall blow their whistles 10 seconds prior to each contest and 10 seconds prior to the beginning of each round. Timekeepers shall not strike their gong during the process of the rounds. The gong shall be sounded at the beginning and at the end of each round.
- (b) When a boxer is down and the referee starts his count, the timekeeper shall rise and start his count in unison with the referee, counting one for each second until 10 is counted.
- (c) Failure to keep accurate time in starting and stopping rounds will subject the timekeeper to the penalty of having his license suspended or revoked.

(d) If the referee is absent from the ring or temporarily incapacitated, the timekeeper shall immediately sound the gong for temporary discontinuance of the contest.

.042. Matchmaker. If a matchmaker is employed by a licensed promoter, he shall immediately make application to the Texas Department of Labor and Standards for a matchmaker's license. In such cases, the matchmaker and the promoter shall be jointly responsible to the commissioner for matches made and for the mailing in of contracts, applications, license fees, and taxes to the commissioner's office. Matches shall be made only by a licensed promoter or licensed matchmaker. Any person acting in the capacity of arranging matches for a show for compensation shall be acting in the capacity of "matchmaker" and shall be required to obtain a license.

.043. Physician

(a) At the time of the official weigh-in, all contestants must be given a thorough medical examination, which may include a blood test and urine test for drugs, by a duly licensed and practicing physician whose name shall be filed with the commissioner by the promoter along with the medical report.

(b) A duly licensed and practicing physician, prepared to deal with emergencies that may arise, shall be in attendance at ringside during the contest. It shall be the responsibility of the promoter to secure the attendance of a doctor at the contest.

(c) The examining physician shall deliver reports of examinations to the promoter before the contest begins.

(d) Should a contestant examined prove unfit for competition through physical injury, high blood pressure, faulty heart action, presence of any infectious or contagious disease, defective vision, or any weakness or disability discovered by the physician, the contestant must be rejected and an immediate report of the facts must be made to the promoter and the commissioner of labor and standards.

(e) A contestant rejected by the physician for disability will be placed on a medical suspension list until it is shown that the disability no longer exists. A contestant may request a hearing before the commissioner of labor and standards if he disagrees with the medical suspension.

.044. Failure of Condition. Any contestant, who by failing to properly condition himself, or through any fault of his own may be the cause of any bout or exhibition being called off or postponed, may be suspended after investigation and a hearing conducted by the commissioner of labor and standards.

.045. Failure of Competence. Whenever a boxer, because of injuries or illness, is unable to take part in a contest for which he is under contract, he or his manager must immediately report the fact to the promoter and the commissioner of labor and standards.

.046. Eye Examination. Boxers must be examined by a duly licensed ophthalmologist at least once a year and they must furnish the commissioner, along with their application for a license, a report from such specialist showing that the boxer has had an eye examination, and the result of that examination.

.047. Head Injury. If a boxer suffers a concussion or other serious head injuries, he cannot box for six months, after which time an examination must be made by three reputable physicians, all of whom must concur in approving

the boxer for further combat. If the contestant disagrees with the six months' medical suspension, he may request a hearing before the commissioner of labor and standards.

.048. Tanker.

(a) Any boxer who sustains a succession of four knockouts shall be subject to inquiry and a hearing to determine if the boxer is:

- (1) competent;
- (2) physically unfit;
- (3) suffering from incompetent or unscrupulous management.

(b) Anyone who sustains a succession of six defeats shall be subject to inquiry by the commissioner of labor and standards.

.049. Eight Count. A contestant, when knocked down, shall be required to take a count of "eight," whether or not he has regained his feet before the count of "eight" is reached.

.050. Accidental Butt. If a boxer is accidentally butted in a bout so that he cannot continue, the referee shall:

- (1) call the bout a technical draw if the injured boxer is behind on points; or
- (2) declare the injured boxer the winner on a technical decision if he has a lead in points. If judges are used, then a majority vote is disclosed by the score cards and shall prevail in determining the decision as specified in Sections (1) and (2) hereof. If all score cards differ, the contract shall be declared a technical draw.
- (3) call the bout a draw if an accidental butt occurs during the first round of any contest.

This rule applies only to accidental butting. Intentional butting is a foul and shall be penalized as such.

.051. Boxer's Knockout (Suspension). When a boxer is knocked out, he should be examined immediately by a physician. The physician shall report to the commissioner on the severity of the injury. The boxer shall be automatically suspended for 30 days on a KO, unless on a later examination by two physicians the boxer is allowed to enter the ring.

.052. Monsel's Solution. The use during a boxing match of Monsel's solution, or any similar iron-based drug or compound for the stoppage of hemorrhage in the ring is prohibited. Only such preparations as are approved by the commissioner of labor and standards may be used to stop hemorrhage in the ring.

.053. Drugs Prohibited. The administration or use of any drugs, alcohol, or stimulants or injections in any part of the contestant's body either prior to or during a match, to or by any boxer is prohibited unless administered by a physician with the approval of the commissioner.

.054. Management of Contestants. Except for a contestant's personal manager, no employee of the Texas Department of Labor and Standards, individual promoter, match maker, or stockholder in or employee of a corporation or association or club engaged in the promotion of contests, shall be, directly or indirectly, manager or part-manager of a contestant, nor shall any such person be financially interested in a contestant.

.055. Filing Contracts. A copy of all contracts entered into between managers and boxers must be placed on file with the department for approval. After the deduction of training and transportation expenses actually incurred by the boxer in the

performance of his duties, no manager or group of managers shall be allowed to participate, directly or indirectly, in more than 33-1/3% of the gross earnings of the boxer. No assignment of any part or parts of the boxer's or manager's interest in a contract, filed and approved by the commissioner, will be permitted without the written approval and consent of the commissioner. After the effective date of this rule, no contract shall be approved between a boxer and a manager for a period exceeding five years.

.056. Validity. A contract is not valid between a boxer and manager unless both parties appear at the same time before the commissioner of labor and standards or his authorized representative and receive approval, unless otherwise directed by the commissioner.

(1) In addition to these regulations, a contract, to be valid, must be otherwise legally valid.

(2) When a manager is not present at the contest where his boxer is performing, before said boxer may lawfully contract for his own services, it shall be necessary that the boxer:

(A) present written authority from his manager to sign the contract for the fight;

(B) present written authority from his manager to receive the purse.

(3) In case managerial authority is temporarily transferred to another person acting as manager, the acting manager shall:

(A) hold a valid manager's license;

(B) present written agreement, signed by both boxer and manager;

(C) file a copy of such written agreement of transfer of authority with the department for approval.

.057. Manager's Duties. Managers are prohibited from signing a fight contract for the appearance of any boxer when the manager does not have a written contract on file with the Department of Labor and Standards for said boxer.

(1) A manager must have an approved boxer-manager contract on file with the department on each boxer the manager is handling. Managers shall be allowed to have any number of boxers engaged on the card of any show in the State of Texas.

(2) No two boxers under the same management may be matched against each other.

(3) Managers and seconds are forbidden to toss a towel into the ring in token defeat of their boxer.

(4) No boxer, manager, second, or ring tender shall enter a ring with a sweater, jersey, robe, or other garment carrying any advertisement other than the name of the boxer.

(5) Manager shall send written notification to the Department of Labor and Standards immediately upon the termination of a contract with a boxer.

(6) Any boxer who signs a contract with a manager while under contract with another manager may be suspended pending a hearing by the commissioner of the Texas Department of Labor and Standards.

(7) When a manager obtains a promoter's license, his manager's license will be automatically cancelled and all contracts that he has with boxers will be cancelled and cannot be transferred or assigned to another manager.

.058. Form of Contract. Contracts between boxers and managers and managers and licensed clubs shall be executed

and notarized on standard printed forms furnished by the commissioner of labor and standards.

.059. Contract Expiration. No manager shall be allowed to contract for the services of a boxer under his management for a match to take place on a date after the expiration of the contract between the boxer and manager.

.060. Arbitration. If the validity of a contract or the terms of a contract are at issue, both parties may agree to binding arbitration by the director of the Boxing and Wrestling Division of the Texas Department of Labor and Standards.

.061. Out of State Contracts. The commissioner of labor and standards may honor contracts on file in other jurisdictions at his discretion.

.062. Championship Matches. Only champions designated by the commissioner of the Texas Department of Labor and Standards shall be recognized and advertised as such. Before championship matches can be advertised, the contracts of the contestants must be on file with and approved by the commissioner. Champions shall be required to defend their titles at least once every 90 days and failure to do so may result in forfeiture of all claims to championship.

.063. Advertising Unrecognized. The advertising of unrecognized champions by a promoter in championship matches is prohibited.

.064. International Rules. In a championship match to be held in Texas, the commissioner may approve the suspension of or any changes in the rules governing conduct of contests to conform to international rules.

.065. Conduct of Promotion. Boxing shows may be held Sunday after 12:01 p.m.

.066. Gambling Prohibited.

(a) No individual, firm, club, copartnership, association, company, or corporation shall permit any gambling or betting or wagering of any character on the result of or any contingency in connection with the fistic combat match, boxing, or sparring contest or exhibition, either before or during any such contests.

(b) No promoter shall be allowed to contract for the services of a boxer, referee, timekeeper, manager, matchmaker, or second unless the promoter is licensed by the Texas Department of Labor and Standards, nor enter into a contract for the services of or negotiate with any boxer, referee, timekeeper, manager, matchmaker, or second whose license has been suspended or revoked by the department.

.067. Change of Program. Notice of any change in announced or advertised programs for any contest must be promptly filed with the department at least 24 hours previous to the scheduled contest. Notices announcing such a change or substitution must also be conspicuously posted at the box office and also announced from the ring before the opening bout.

.068. Payment of Purse. All payments of purse shall be made in cash immediately after the contest and not before the contest. In the case of a percentage contract, payment shall be made as soon as the percentage can be determined. If a boxer has a manager, separate payments will be made to the boxer and manager and the receipt signed and delivered to the department. If the boxer has no manager legally en-

titled to represent him, the purse shall be paid in full to the contestant.

.069. Purse Forfeitures or Fines. Purse forfeitures or fines shall be withheld from the purse and delivered to the department by the promoter. The commissioner will determine the disbursement of such fines or forfeitures at a hearing.

.070. Club Contracts.

(a) Promoters shall be required to have written agreements of contract executed in triplicate with the boxers showing amount of guarantee or percentage promised, the number and time limit of rounds, when and where they are scheduled to appear, and all other details governing contracts and agreements. Standard forms will be furnished by the Texas Department of Labor and Standards.

(b) The promoter shall furnish one copy of contract to the boxer or his manager, shall retain one copy, and forward one copy to the commissioner of labor and standards with tax reports on the contests held.

(c) It is specifically provided, however, that no contestant in the main, semi final events, or special added attraction shall be advertised as such by any promoter before said promoter has in his possession a duly signed or valid contract for each such contestant or performer.

(d) Contracts must be available for examination by the inspectors of the Texas Department of Labor and Standards prior to contests.

(e) Boxers must live up to terms of their contracts. Whenever a contestant fails to appear in accordance with his contract, said contestant must be prepared to satisfactorily prove that he was sick, had a valid reason for not appearing, or was otherwise prevented from carrying out the agreement. A doctor's certificate shall be required in case of illness and affidavits are required to bear out other assertions.

(f) The failure of a promoter to perform according to the terms of the contract to produce contestants or special added attractions as advertised, to pay the contestants their contractual guarantee, or percentage or the failure of a promoter to live up to his agreement with his contestants or performers who did perform as scheduled shall subject said promoter to a hearing before the commissioner of labor and standards regarding possible suspension or revocation of his license.

(g) The term "special added attraction" as used herein shall mean the appearance of any person or persons to act in any capacity at any boxing match, other than licensed contestants, who by reason of their reputation, ability, or otherwise is calculated for and has a tendency to increase the attendance at such boxing match.

.071. Appearance Forfeiture. Promoters may require boxers to post appearance forfeitures.

.072. Payment of Bills. Licensees must pay all legitimate bills contracted in connection with training and gymnasium expenses or other expenses incurred directly related to a contest. Failure to pay such bills may result in suspension of such licensee.

.073. License In Possession. All licensees, except promoters, shall keep their licenses in their possession and shall present said license upon request to promoters and representatives of the Texas Department of Labor and Standards as evidence of eligibility to act or perform in their respective capacities in connection with boxing contests or exhibitions.

.074. Rounds Scheduled. Licensed promoters shall not schedule less than 25 rounds nor more than 40 rounds of boxing on any one program. An emergency bout must be provided in case any of the scheduled bouts are not provided.

.075. Promoter Acting as Judge. No person who has a financial interest in or is officially connected with any promotion shall be permitted to perform or act in said arena as referee or judge.

.076. Manager Acting as Referee. No manager shall be allowed to referee. No promoter shall be allowed to referee in his own ring. No promoter or matchmaker shall hold a manager's license or manage any boxer, either directly or indirectly.

.077. Duties of Promoter. Each promoter shall:

(1) file with the commissioner of labor and standards the name and address of the duly licensed and practicing physician or physicians used by him for examination of contestants, and notify the commissioner of labor and standards of any changes made in the party chosen to so act.

(2) file with the commissioner of labor and standards the names, titles, and addresses of all officials of the promoting organization, whether it be a copartnership, firm, club, association, company, or corporation, and notify the commissioner of labor and standards of all changes of officials;

(3) file with the commissioner of labor and standards the following information relating to any individuals serving him or his organization in the capacity of matchmaker:

(A) name of matchmaker;

(B) whether or not he is an employee;

(C) whether or not he is a bona fide partner, member, or shareholder of the organization;

(D) whether he serves for salary on a monthly or percentage basis or without remuneration; and notify the commissioner of changes made in matchmakers.

.078. Profanity. Use of profanity by a boxer, his manager, or second shall be prohibited and if indulged in after a warning by the referee, the offender may be disqualified and the match given to his opponent.

.079. Contests Between Sexes. No promoter, matchmaker, or any other person shall arrange, match, or advertise any boxing contest between persons of opposite sex. Exhibitions are permitted between women when matched against women, but no male person will be permitted to engage in a boxing contest with a female person. No exception shall be made to this rule without the written permission of the commissioner of the Texas Department of Labor and Standards.

.080. Drinks. All drinks shall be dispensed only in paper or plastic cups, and it shall be the promoter's responsibility to enforce this rule.

.081. Return of Forms. A promoter must submit the tax report, doctor's reports, and contracts within 72 hours after the show is held.

.082. Minimum Payment. Promoters shall be required to pay a boxer a minimum of \$25 for his and/or her performance as a boxer. Any promoter violating this rule may be suspended, after a hearing, for a period of 30 days for the first offense, 60 days for the second offense, and on third offense his and/or her promoter's license shall be cancelled.

.083. Disciplinary Action by Other States. Disciplinary action on licenses issued by other states may be recognized and

honored by the commissioner of labor and standards after a hearing.

.084. Time Between Bouts. Main-event boxers shall not be permitted to engage in more than one contest or exhibition every seven days. Preliminary boxers may fight every third day if they are in good physical condition, but they must have doctor's approval.

(1) Boxers billed to appear in a main event may be required to report to the promoter in the city in which they are to appear, not later than two days (48 hours) prior to the date of the contest.

(2) Substitutions will not be permitted in a main event contest unless the substitute has been approved by the commissioner at his discretion.

(3) All contestants must be ready to enter the ring immediately upon the finish of the preceding bout.

(4) All contestants must be in the arena where they are to perform not later than 45 minutes before the show is scheduled to begin.

.085. Three Minute Rounds. All contests or exhibitions in professional boxing will be required to have three-minute rounds with one minute rest periods between rounds. No exceptions will be made to this rule without the written permission of the commissioner of the Texas Department of Labor and Standards.

.086. Advance Notice of Bouts. Promoters shall furnish the department the names of all contestants and the date of the boxing shows at least five days before the match is to be held.

.087. Number of Rounds. No boxing or sparring contest or exhibition shall be permitted for more than 10 rounds duration, except in a championship match, which shall not exceed 15 rounds.

.088. Ticket Inventory. The promoter shall mail to the Texas Department of Labor and Standards a sworn inventory of all tickets delivered to any club. This inventory shall account for any known overprints, changes, complimentary tickets, or extras. Said form will be provided by the Texas Department of Labor and Standards.

.089. Complimentary Tickets.

(a) Any promoter or employee thereof selling complimentary tickets may have his promoter's license revoked or suspended after a hearing and at the discretion of the commissioner of labor and standards. Complimentary tickets shall be overstamped with the wording "complimentary" on the printed face of the ticket. The promoter must retain a clipped end or perforated portion of each complimentary ticket.

(b) Bona fide employees of the management of the club, municipal or county officers on official business, employees of the news media assigned to work by their recognized employers or superiors, policemen and firemen in uniform and on duty, and persons of similar vocation who are admitted free to any club for the performance of special duties in connection with the event and whose special duties are the sole reason for their presence are entitled to complimentary tickets.

(c) Complimentary tickets shall be provided by the club for representatives of the Texas Department of Labor and Standards and for contestants and seconds, who are engaged in the contest, and for those officials provided for under the

law and rules. Any club admitting a person without a ticket, is liable to suspension or revocation of its promoter's license pursuant to a hearing held by the commissioner of labor and standards.

(d) Tickets of every description used for any boxing match or exhibition must be held by promoters for a period not to exceed 30 days. Such tickets may be destroyed after 30 days or delivered to the Texas Department of Labor and Standards, if requested. Such tickets must be kept in separate packages for each show in order that a recheck or recount can be made by the Texas Department of Labor and Standards.

.090. Exchanges. No exchanges of tickets shall be made except at the box office, and no tickets shall be redeemed after the show has taken place. Tickets in the hands of agencies must be returned to the office not later than one hour after the show has started.

.091. Pricing. All tickets shall have the price and the name of the promoter and date of show printed plainly thereon. Requests for changes in ticket prices or dates of shows must be referred in writing to the Texas Department of Labor and Standards for approval. Working press seats as follows: three rows for outdoor shows and two rows for indoor shows unless specific permission is obtained from the commissioner to increase these numbers. There must be an aisle space at the end of the working press section, after which the ringside section begins.

.092. Refunds. The price paid for the tickets shall be printed on the ticket and the stub and detached and returned to the ticket holder at the entrance gate. This stub shall also show the name of the club and date of the contest or exhibitions, and may be redeemed at its face value by the club upon presentation by the purchaser if the advertised main event is postponed or does not take place as advertised.

.093. Color of Tickets. Tickets of different prices must be printed on cardboard of different colors.

.094. Counting Tickets.

(a) Representatives of the Texas Department of Labor and Standards will check numbers and places of ticket cans at gates and cause them to be sealed and padlocked, and after the show, have them opened and tickets counted under their supervision.

(b) Licensed clubs are prohibited from selling tickets for any price other than the price printed thereon unless appropriately stamped, and from changing the price of tickets at any time after tickets for the exhibition have been placed on sale, or from selling any ticket at any time during the exhibition at a lesser price than tickets for the same seats were sold or offered before exhibition.

.095. Ticket Stubs. Under no circumstance shall a ticket folder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub.

.096. Seating Capacity. No tickets shall be sold for more than the actual capacity of the place where the contest is being held.

Doc No. 804524

Wrestling 063.11.02

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is adopting Rules 063.11.02.001-.050, setting forth the methods and procedures for the administration of the wrestling licensing and regulation provisions of Article 8501 et seq., Texas Civil Statutes. These rules are necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law. Without the adoption of these rules, the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules set forth guidelines for licensing, standards for protection of the participants, and the rules and procedures for the collection of the gate receipts taxes.

These rules are promulgated under the authority of Section 4(b) of Article 8501 et seq., Texas Civil Statutes.

.001. Licensing Suspension. Any license herein provided for may be revoked or suspended pursuant to a hearing by the commissioner of labor and standards for the reason therein stated that the licensed person has, in the judgment of the commissioner of labor and standards, been guilty of an act in violation of a wrestling rule or regulation issued by the Department of Labor and Standards or a provision of the Boxing and Wrestling Act.

.002. License Hearing. Before acting upon an application for a license, the commissioner of labor and standards may, at his discretion, hold an administrative hearing on the license application.

.003. Promoter's License—Where Valid. A promoter's license is valid only in the incorporated limits of the city for which it is granted, but a promoter may apply for a license for each city in which he desires to operate. If the promotion should occur in a nonincorporated area, the size of the nearest incorporated city shall determine the license fee. No promoter shall hold a wrestling contest in any location other than that location in his license without permission of the commissioner.

.004. Promoter's Appearance. Any person applying for a promoter's license must appear in person at the office of the commissioner at Austin, Texas.

.005. Promoter's Violation of Rules. Any conduct of a licensed promoter which violates the Texas Boxing and Wrestling Act or the rules and regulations issued by the department can be considered against any and all licenses held by the promoter.

.006. Licenses in Possession. All licensees, except promoters, shall keep their licenses in their possession and shall present said license upon request to promoters and representatives of the Texas Department of Labor and Standards as evidence of eligibility to act or perform in their respective capacities in connection with wrestling contests or exhibitions.

.007. Other Licenses. Before a person may perform as a matchmaker, manager, second, referee, or timekeeper, he shall file with the department or its authorized representative an application on a form provided by the department. The applicant may be issued a temporary receipt which would permit him taking part in scheduled contests pending processing of the application.

.008. Contracting by Promoter. No promoter shall be allowed to contract for the services of a wrestler, referee, timekeeper, matchmaker, or second until the promoter is licensed by the Texas Department of Labor and Standards, nor enter into a contract for the services for or negotiate with any wrestler, referee, timekeeper, manager, second, or matchmaker whose license has been suspended or revoked by the Texas Department of Labor and Standards.

.009 Fees and Bonds.

(a) Promoter's annual license fees and bond amount. In a city with population not to exceed:

Population	Fee	Minimum Bond
10,000	\$20	\$300
10,001-25,000	\$50	\$300
25,001-100,000	\$100	\$500
100,001-250,000	\$200	\$1,000
Over 250,000	\$300	\$2,000

(b) The commissioner may require a larger bond than the minimum amount listed under certain circumstances at his discretion.

.010. License Fees. All other license fees are as follows:

Wrestlers—\$10
Managers—\$50
Matchmakers—\$50
Referees—\$15
Timekeepers—\$5

.011. Ring Rules. In time-limit matches or exhibitions, the timekeeper shall sound the gong at the start and end of the designated time limit. If the length of any time-limit bout or exhibition is more than one hour, all rest periods must be included by the timekeeper as part of the time of the bout or exhibition.

.012. Time Periods. At the termination of each five-minute period, the timekeeper shall call out the time that the participants have been wrestling sufficiently loud for the referee to hear, as "five minutes," "10 minutes," etc.

.013. Costumes. Participants must be clothed in neat and clean apparel. Trunks and tights must be well fitted and whole, and two pairs of trunks, one over the other, must be worn. Shoes, when worn, must have soft tops, smooth soles, and laces, and be equipped with eyelets only.

.014. Appearance. Each contestant's skin must be clean and free from grease or other sort of lotion or foreign substance.

.015. Ring. The ring floor shall extend beyond the ropes a distance of not less than 12 inches. The ring floor shall be padded with felt matting or other soft material, to be approved by the commissioner of the Texas Department of Labor and Standards or his authorized representative, extending over the edge of the platform. Material that tends to gather in lumps must not be used. When ring posts extend within a foot of the ropes, the turnbuckle must be padded. The mat and covering shall be kept clean and free from disagreeable odors at all times. The ring ropes shall be covered with a material to prevent rope burns.

.016. Referees.

(a) The chief official of the contest shall be the referee, who shall have general supervision over the bout and take his place in the ring.

(b) In case of serious injury to a contestant, there will be an immediate investigation of the department to determine whether the injury was the result of negligence or incompetence on the part of the referee or whether the injury was due to circumstances not reasonably within his control. A suspension not to exceed 10 days in duration and a hearing may be held within 10 days by the commissioner of labor and standards on the suspension or revocation of the referee's license.

(c) Should a contestant, during the course of a match, quit or intimate his desire to concede the bout to his opponent, it shall be solely in the judgment of the referee as to whether or not the act is justified or authorized and, at the referee's option, whether or not to order the contest continued.

(d) Under no circumstances shall a referee use force to break contestants. The failure of the contestants to obey the referee's order to break may result in disqualification or a purse forfeiture, with a hearing to be held by the commissioner of labor and standards within 10 days.

(e) The referee may stop a match at any time because of an injured contestant or the weak physical condition of the contestants.

.017. Dangerous Conduct. The referee shall not permit physically dangerous conduct or tactics by any wrestler which, in his opinion, could be dangerous to either the contestants or spectators. Any wrestler who fails to discontinue such tactics after being warned by the referee may be disqualified and, at the discretion of the commissioner of labor and standards, his purse may be forfeited in the amount of \$1,000 or less pursuant to a hearing by the Texas Department of Labor and Standards.

.018. Falls—Decisions.

(a) When both shoulders of a wrestler are momentarily pinned on the mat for the referee's count of three seconds, it shall constitute a fall.

(b) The referee shall slap the back or the shoulder of a wrestler who wins a fall, so that the losing contestant shall not receive unnecessary punishment after the fall.

(c) Should a wrestler claim injury and refuse to continue the contest at the referee's command, the referee shall stop the contest and have the contestant examined by a physician. If after a physician's examination such wrestler is found to be physically unable to continue the bout, then the referee must decide in favor of his opponent.

(d) When wrestlers fall off the mat under the ropes, they shall be ordered into the middle of the mat by the referee, in order to begin anew.

(e) The referee is instructed not to put his hands under the shoulders of the contestants unless it is absolutely necessary to determine a fall.

.019. Spot Promotions. All wrestling promoters promoting spot shows must notify the Texas Department of Labor and Standards office in Austin, Texas, at least five days before a show is held. If a promoter fails to notify the Texas Department of Labor and Standards in accordance with this rule, his promoter's license may be revoked or suspended pursuant to a hearing by the commissioner of labor and standards.

.020. Sunday Promotions. Wrestling shows may be held on Sunday after 12:01 p.m.

.021. Promoter's Reports. A promoter must submit the tax report, doctor's reports, and contracts within three working days after the show is held.

.022. Payment Before Contest. No contestant shall be paid for services before the contest, and should it be determined by the referee that such contestant did not give an honest exhibition of his skill, such services shall not be paid for.

.023. Payment of Purse. All payment of purses shall be made immediately after such match or exhibition or, in case of a percentage contract, as soon as the percentage can be determined, and a receipt signed by the contestant shall be delivered to the Texas Department of Labor and Standards.

.024. Club Contracts. Promoters shall be required to have written agreements or contracts executed in triplicate with wrestlers, showing the amount of guarantee or percentage promised, the number of time-limit falls, when and where they are scheduled to appear, and all other details governing contracts or agreements. Standard forms will be furnished by the Texas Department of Labor and Standards.

.025. Promoter-Contestant's Contractual Obligations.

(a) The promoter shall furnish one copy of the contract to the wrestler, shall retain one copy, and forward one copy to the commissioner of labor and standards, with a tax report on contests held.

(b) Contracts must be available for examination by the inspectors of the Texas Department of Labor and Standards on the day of shows.

(c) Failure of wrestlers to carry out the terms of their contracts subjects them to a hearing before the commissioner of labor and standards regarding possible forfeiture of their purses up to \$1,000 and/or suspension of their licenses. Whenever a contestant fails to appear in accordance with his contract, said contestant must be prepared to satisfactorily prove he was sick, had a valid reason for not appearing, or that he was otherwise prevented from carrying out the agreement. A doctor's certificate shall be required in cases of illness and affidavits are required to hear out other assertions or reasons for not appearing for the contest.

(d) The failure of a promoter to perform according to the terms of the contract, to produce contestants as advertised, to pay the contestants their contractual guarantee or percentage, or the failure of a promoter to live up to his agreement with the contestants or performers who did perform as scheduled shall subject said promoter to a hearing before the commissioner of labor and standards regarding the possible suspension or revocation of his license.

.026. Matchmaker. Any person acting in the capacity of arranging matches for a wrestling show for compensation shall be acting in the capacity of "matchmaker" and required to obtain a license.

.027. Matchmaker's Responsibilities. If a matchmaker is employed by a licensed promoter, the matchmaker and the promoter shall be jointly responsible to the commissioner for matches made and for the mailing in of contracts, doctor's reports, and taxes to the commissioner's office. Matches shall be made only by a licensed promoter or licensed matchmaker.

.028. Purse Forfeitures. Purse forfeitures for violations of any terms of contracts for matches or any of the rules prescribed may be assessed by the representative of the Texas Department of Labor and Standards, at Austin, Texas,

and he will forward such remittances with other reports on contests or exhibitions held.

.029. Dressing Rooms. No one shall be allowed in the wrestler's dressing room except his manager, his seconds, club physician, a representative of the Texas Department of Labor and Standards, or the news media representatives and law enforcement representatives. Promoters are directed to post a sign at the entrance of the dressing room informing all concerned of the above requirements, and promoters will be held responsible for the strict enforcement of this rule.

.030. Advertising Unrecognized Champions. The advertising of unrecognized champions by a promoter in championship matches is prohibited.

.031. Ring Name. A wrestler shall wrestle under the same ring name which appears on his wrestling license.

.032. Dispensing of Drinks. All drinks shall be dispensed only in paper or plastic cups, and it shall be the promoter's responsibility to enforce this rule.

.033. Matches between Opposite Sexes. No promoter, matchmaker, or any other person shall arrange, match, or advertise any wrestling bout or exhibition between persons of opposite sex. Exhibitions are permitted between women when matched against women, but no male person will be permitted to engage in a wrestling bout or exhibition with a female person. No exceptions shall be made to this rule without the written permission of the commissioner of labor and standards.

.034. Failure of Promoter to Produce Contests

(a) The failure of promoters to produce contestant or special attraction that was scheduled to appear as advertised, or failure of promoter to live up to agreement with contestant or performers of such special added attractions who did perform as scheduled may cause said promoter to be suspended for a period of not less than 30 days nor more than six months, pursuant to a hearing by the commissioner of labor and standards.

(b) The term "special added attraction," as used herein, shall mean the appearance of any person or persons to act in any capacity at any wrestling bout or exhibition, other than licensed contestants, who by reason of their reputation, ability, or otherwise, is calculated for and has a tendency to increase the attendance at such wrestling bout or exhibition.

.035. Payment of Bills. Licensees must pay all legitimate bills contracted in connection with training and gymnasium expenses or other expenses incurred directly related to a contest. Failure to pay such bills may result in suspension for such licensees.

.036. Minimum Payment. Promoters shall be required to pay a wrestler a minimum of \$25 for his and/or her performance as a wrestler. Any promoter violating this rule may be suspended after a hearing for a period of 30 days for the first offense, 60 days for the second offense, and on the third offense his and/or her promoter's license shall be cancelled.

.037. Amateur Contests.

(a) Any club seeking exempt status under this act shall furnish on a form provided by the department information concerning ownership, affiliation, and such information as should be included on the form.

(b) Failure to submit may prevent recognition of exempt status of clubs.

(c) Nonexempt amateur clubs promoting contests where an admission fee is charged shall promote under the following conditions:

(1) The commissioner must approve the contest, match, or exhibition at least seven days in advance of the event.

(2) All entries shall be filed with the amateur organization at least three days in advance of the event.

(3) The amateur contest, match, or exhibition shall be subject to the supervision of the commissioner and all profits derived from such contests shall be used for the development of amateur athletics.

(4) Only referees and judges licensed by the commissioner may participate in amateur contests, matches, or exhibitions.

(5) All contestants shall be examined by a licensed physician within a reasonable amount of time prior to the event, and a licensed physician shall be in attendance at the ringside during the entire event.

0.38 Proper Physical Condition Contestants in all matches or exhibitions must be properly trained and in proper physical condition to wrestle at their best. The commissioner of labor and standards or his authorized representative and the medical attendant are to be the sole judges of such condition. If the contestant is not physically fit, the commissioner of labor and standards or his authorized representative shall refuse to sanction such bout or exhibition.

0.39 Medical Attendance

(a) A person of qualified medical background, approved by the commissioner of labor and standards, shall examine all referees and contestants before they enter the ring and shall be in attendance during the match or exhibition. It shall be the responsibility of the promoter to secure the attendance of the same at the contest.

(b) The examining party shall deliver reports of examinations to the promoter before the contest begins.

(c) Should a contestant on examination prove unfit for competition through physical injury, high blood pressure, faulty heart action, presence of any infection or contagious disease, defective vision, or any weakness or disability, the contestant must be rejected and an immediate report of the facts must be made to the promoter and the commissioner of labor and standards.

(d) A contestant rejected for a disability will be on a medical suspension list until it is shown that the disability no longer exists. A contestant may request a hearing before the commissioner of labor and standards if he disagrees with the medical suspension.

0.40 Unable to Compete Whenever a wrestler, because of injuries or illness, is unable to take part in a contest for which he is under contract, he or his manager must immediately report the fact to the promoter and the commissioner of labor and standards.

0.41 Use of Drugs The administration or use of drugs, alcohol, stimulants or injections in any part of the contestant's body, prior to or during a match, to or by any wrestler, is prohibited unless administered by a physician with the approval of the commissioner.

0.42 Ticket Inventory The promoter shall mail to the Texas Department of Labor and Standards a sworn inventory

of all tickets delivered to any club. This inventory shall account for any known overprints, changes, complimentary tickets, or extras. Said form will be provided by the Texas Department of Labor and Standards.

0.43 Sale of Complimentary Tickets

(a) Any promoter or employee thereof selling complimentary tickets may have his promoter's license revoked or suspended after a hearing and at the discretion of the commissioner of labor and standards. Complimentary tickets shall be overstamped with the wording "complimentary" on the printed face of the ticket. The promoter must retain a clipped end or perforated portion of each complimentary ticket.

(b) Bona fide employees of the management of the club, municipal or county officers on official business, employees of the news media assigned to work by their recognized employers or superiors, policemen and firemen in uniform and on duty, and persons of similar vocation who are admitted free to any club for the performance of special duties in connection with the event and whose special duties are the sole reason for their presence are entitled to complimentary tickets.

(c) Complimentary tickets shall be provided by the club for representatives of the Texas Department of Labor and Standards and for contestants and seconds, who are engaged in the contest, and for those officials provided for under the law and rules. Any club admitting a person without a ticket is liable to suspension or revocation of its promoter's license pursuant to a hearing held by the commissioner of labor and standards.

(d) Tickets of every description used for any wrestling match or exhibition must be held by promoters for a period of 30 days. Such tickets may be destroyed after 30 days or delivered to the Texas Department of Labor and Standards, if requested. Such tickets must be kept in separate packages for each show in order that a recheck or recount can be made by the department.

0.44 Exchanges No exchanges of tickets shall be made except at the box office, and no tickets shall be redeemed after the show has taken place. Tickets in the hands of agencies must be returned not later than one hour after the show has started.

0.45 Printing All tickets shall have the price, the name of the promoter and date of show printed plainly thereon. Requests for changes in ticket prices or dates must be referred in writing to the Texas Department of Labor and Standards for approval.

Working press seats as follows: Three rows for outdoors and two rows for indoor shows unless specific permission is obtained from the commissioner to increase these numbers. There must be an aisle space at the end of the working press section after which the ringside section begins.

0.46 Refunds The price paid for the tickets shall be printed on the ticket and the stub detached and returned to the ticket holder at the entrance gate. This stub shall also show the name of the club and date of the contest or exhibition, and may be redeemed at its face value by the club upon presentation by the purchaser if the advertised main event is postponed or does not take place as advertised.

0.47 Color of Tickets Tickets of different prices must be printed on cardboard of different colors.

.048. *Counting Tickets.*

(a) Representatives of the Texas Department of Labor and Standards will check the numbers and places of ticket cans and cause them to be sealed and padlocked, and, after the show, have them opened and the tickets counted under their supervision.

(b) Licensed clubs are prohibited from selling tickets for any price other than the price printed thereon unless appropriately stamped and from changing of the price of tickets at any time after tickets for an exhibition have been placed on sale, or from selling any ticket at any time during the exhibition at a lesser price than tickets for the same seats were sold or offered before the exhibition.

.049. *Ticket Stubs.* Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub.

.050. *Seating Capacity.* No tickets shall be sold for more than the actual approved capacity of the place where the contest is being held.

Doc. No. 804525

Karate 063.11.03

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is adopting Rules 063.11.03.001-.016, setting forth the methods and procedures for the administration of the karate licensing and regulation provisions of Article 8501 et seq., Texas Civil Statutes. These rules are necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law, which was a total new writing of the law. Without the adoption of these rules, the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules set forth guidelines for licensing, standards for protection of the participants, and the rules and procedures for the collection of the gate receipts taxes.

These rules are promulgated under the authority of Section 4(b) of Article 8501 et seq., Texas Civil Statutes.

.001. *Professional Boxing Rules Applicable.* The following boxing rules and regulations, when appropriate, apply to full contact karate. Rules 063.11.01.008-.014.

.002. *Weights and Classes.*

(a) *Weights within classes.*

Flyweight	113 lbs. or under
Bantamweight	113-124 lbs.
Super Lightweight	125-134 lbs.
Lightweight	135-145 lbs.
Welterweight	146-157 lbs.
Middleweight	158-170 lbs.
Light Heavyweight	171-184 lbs.
Heavyweight	185-220 lbs.
Super Heavyweight	221 lbs. and over

(b) The following weight spread is permissible for match making within each weight division. Any greater spread requires the approval of the commission.

Flyweight	no limit
Bantamweight	not more than 4 lbs.
Super Lightweight	not more than 5 lbs.
Lightweight	not more than 6 lbs.

Welterweight	not more than 7 lbs.
Middleweight	not more than 8 lbs.
Light Heavyweight	not more than 9 lbs.
Heavyweight	no limit
Super Heavyweight	no limit

.003. *Rounds; Number; Length; Rest; Period.* Matches shall not exceed nine two-minute rounds with a one-minute rest period between rounds; however, the commission may permit an additional two rounds for the purpose of the championship events.

.004. *Contestants' Equipment.* Male contestants must wear a foul-proof groin protector. A plastic cup with an athletic supporter is adequate, but an abdominal guard is preferable. Female contestants must wear foul-proof breast protectors. Plastic breast covers are adequate. Female contestants must also wear a pelvic protective of hips.

.005. *Method of Judging.*

(a) Judges shall score all rounds and determine the winner by a tally of total rounds won by each respective contestant. In this system, the winner of each round may receive 10 points and the opponent a proportionately less number. Judges shall also tally up to a possible 10 points for each fighter for each round, depending on the sequel of the contestant. If the round is even, each contestant receives an equal number of points. No fraction of points may be given. Points shall be marked and relied upon where contestants have won an equal number of rounds to determine the winner. If both rounds and points are equal, the contest shall be determined a draw.

(b) Following each round at the termination of the contest, the announcer shall deliver the ballots to the master scorekeeper, who shall tally up foul points and who shall make final tally and deliver the totals to the commission representative assigned to check and total them. The majority opinion shall be conclusive, and if there is no majority, then the decision shall be a draw. When the commission representative has completed verifying and totaling the scores, the ring announcer will be informed of the decision, and the announcer then in turn shall inform the audience on the speaker system.

.006. *Minimum Kicking Requirement.* Each contestant must execute a minimum of six kicks during the course of each round. If either fighter does not execute his minimum kicks, he will automatically lose the round. If both contestants during the course of a round should fail to execute the required minimum kicks by the end of a round, then the round is declared a draw. In any match of nine or more rounds, if either fighter fails to execute in any three rounds, he automatically loses the fight. In a non-title fight, if either fighter fails to execute his minimum kicks in any two rounds, he loses the fight.

.007. *Fouls.*

(a) The following tactics are fouls and are forbidden. Use of these tactics may result in a warning and loss of points as determined by the referee. Use of these tactics may also result in disqualification or fine:

- (1) Leadbutts, clove strikes, or clubbing, kicks, or punches or any other strikes to the groin, attacking with the knees, open-hand attacks to the eyes or throat, and striking at that part of the body over the kidneys or spine;
- (2) spitting, slapping, or biting.

(3) palm heel strikes (using the heel of the palm of the hand to deliver a blow to the face);

(4) arm bars (grabbing one arm with the other and pressing the grabbed arm against the opponent's throat);

(5) grabbing or holding onto an opponent's leg or foot, and grabbing or holding onto any other part of the body except for the purpose of attempting to throw the opponent to the floor;

(6) punching or kicking a contestant when he or she is down. A contestant is down when any part of his or her body, other than his or her feet, touch the floor. His or her opponent may continue to attack until the contestant has touched the floor with any part of the body other than the feet;

(7) leg checking (extending the leg to check an opponent's leg or to prevent him or her from kicking);

(8) purposely going down without being hit;

(9) the use of abusive language in the ring;

(10) any unsportsmanlike trick or action causing any injury to an opponent;

(11) attacking on the break;

(12) attacking after the bell or gong has sounded ending the round, or when the opponent is out of the ring;

(13) intentionally pushing, shoving, or wrestling an opponent out of the ring with any part of the body;

(14) kicking or striking below the belt.

(b) Any contestant guilty of foul tactics in a contest may be disqualified, his or her purse withheld from payment, and shall be automatically suspended. Disposition of the purse and the penalty to be imposed upon the contestant shall be determined by action by the commission.

008 Intentional Evasion of Contact. A contestant intentionally avoiding any physical contact with his or her opponent will receive a warning. If a contestant continues to avoid a confrontation with his or her opponent after receiving a warning during that round, he or she will be declared the loser of that round. If a contestant repeats this evasive action, in either the same round or in the following round, he or she may be subject to the same penalties and procedures as a contestant guilty of foul tactics.

009 The Referee Shall Have Power to Stop Contests.

(a) The referee shall have the power to stop a contest at any stage during the bout and if he or she considers it too one-sided, or if either contestant is in such condition that to continue might subject him or her to any serious injury, and, in either case, shall have the power to render a decision.

(b) Should both contestants be in such condition that to continue might subject them to serious injury, the referee will declare the match a technical draw.

(c) In cases where a contestant receives a cut eye from a fair blow or an accidental foul or any other injury which the referee believes may incapacitate the contestant, the referee must call into the ring the attending physician for examination of the contestant before the referee decides whether to stop the contest. Time will be called during the examination.

010 Procedure Where Failure to Compete. In any case where the referee decides that the contestants are not honestly competing, that the knockout is a "dive," or the foul is a prearranged termination of the bout, he or she will not finish the knockout count, disqualify the contestant for fouling or render a decision, but shall stop the bout and declare it ended not later than before the end of the last round and order purses of both fighters held pending investigation and

disposition of the funds by the commission, and the announcer or referee shall inform the audience that no decision will be made.

011 Failure to Resume Contests. No contestant shall leave the ring during the one-minute rest period between rounds. Should any contestant fail or refuse to resume fighting when the bell sounds denoting the commencement of the next round, the referee will award a knock-out victory to his or her opponent as of the round which has last been finished, unless the circumstances indicate to the referee the need for an investigation or disciplinary action, in which event the referee will not make a decision and will order the purse or purses of either or both contestants withheld.

012 Wiping Gloves. Before a fallen contestant resumes fighting after having been knocked to, slipped to, or fallen to the floor, the referee shall wipe the contestant's gloves free of any foreign substance.

013 Method of Counting Over a Contestant Who is Down.

(a) When the contestant has been wrestled, pushed, or has fallen through the ropes during a contest, the provision of Rule 063.11.037(c)(6) shall apply. The timekeeper will begin the count pursuant to Rule 063.11.03.015.

(b) If both contestants go down at the same time, counting will be continued as long as one of them is down. If both contestants remain down until the count of 10, the contest will be stopped and the decision will be a technical draw. If one contestant rises before the count of 10, and the other contestant remains down, the first contestant to rise shall be declared the winner by knockout. If both contestants rise before the count of 10, the round will continue.

(c) The referee may, at his or her own discretion, request the ring physician to examine a contestant during the bout. Should the examination occur during the course of a round, the clock shall be stopped until the examination is completed.

014 Resuming Count. Should a contestant who is down rise before the count of 10 is reached and go down immediately without being struck, the referee shall resume the count where it was left off.

015 Communication of Counting Knockdowns. As soon as a fighter has been knocked down, the official timekeeper begins calling the count (from 1 to 10) while the referee directs the opponent to a neutral corner. He or she returns to the fallen fighter and counts over him or her, picking up the count from the timekeeper.

016 Change of Decision. A decision rendered at the termination of any contest is final and cannot be changed unless the commission determines that any one of the following occurred:

(1) there was collusion affecting the results of any contest;

(2) the compilation of the scorecard of the judges shows an error which would mean that the decision was given to the wrong contestant;

(3) there was a clear violation of the laws or rules and regulations governing karate which affected the result of any contest.

If the commission determines that any of the above occurred with regard to any contest, then the decision rendered shall be changed as the commission may direct.

Boxing 063.11.10

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is repealing Rules 063.11.10.001-.101 because of the adoption of new rules which were necessary because of amendments made by the 65th Legislature to the Boxing and Wrestling Law.

This repeal is adopted pursuant to the authority of Article 8501 et seq., Texas Civil Statutes.

Doc. No. 804527

Wrestling 063.11.20

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is repealing Rules 063.11.20.001-.051. The adoption of new rules is necessary because of the amendments made by the 65th Legislature to the Boxing and Wrestling Law.

This repeal is adopted pursuant to the authority of Article 8501 et seq., Texas Civil Statutes.

Doc. No. 804528

Boxing and Wrestling 063.11.30

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is repealing Rules 063.11.30.001-.011. The adoption of new rules is necessary because of the amendments made by the 65th Legislature to the Boxing and Wrestling Law.

This repeal is adopted under the authority of Article 8501 et seq., Texas Civil Statutes.

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

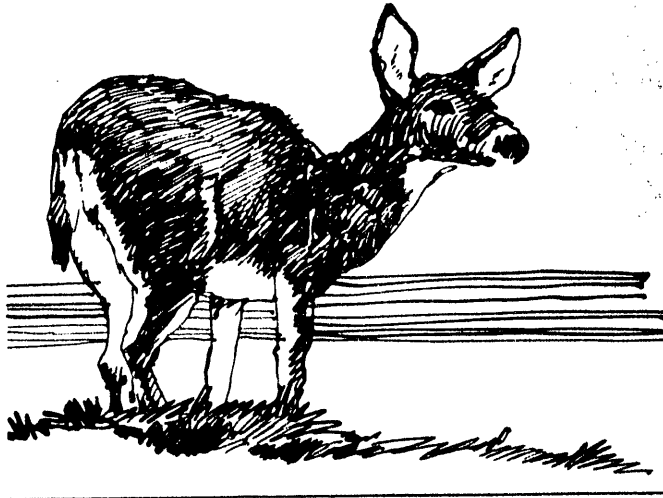
Doc. No. 804529 Lias B. "Bubba" Steen
Commissioner
Texas Department of Labor
and Standards

Effective Date: July 1, 1980

Proposal Publication Date: September 30, 1977

For further information, please call (512) 475-6560.

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*.



Texas Animal Health Commission

Friday, June 27, 1980, 9 a.m. The Texas Animal Health Commission will meet in Room 110-B of the John H. Reagan Building, Austin. According to the agenda summary, the board will consider the following items: approval of the actions of the executive director for the period May 16, 1980, through June 26, 1980; fiscal and budget submission report; discussion of changes in regulations: (a) interstate regulations (Proclamation 428), (b) section on brucellosis regulations regarding—(1) truck sealing in lieu of "S" branding untested slaughter cattle, (2) testing cattle during slaughtering process, (3) inclusion of Clay, Jack, Erath, and Palo Pinto Counties into the Class A brucellosis control area, (4) movement of negative cattle in a consignment with a vaccinated suspect (card positive-rivanol negative). The commission will also discuss extended dipping interval for tick program; quarterly report on brucellosis; proposed training of private veterinarians for contract fee basis work; discussion of herd testing fees and vaccination in markets; discussion of USDA's policy on the card test; executive session of commissioners.

Additional information may be obtained from Jo Anne Conner, 1015 Sam Houston Building, Austin, Texas, telephone (512) 475-4111.

Filed: June 12, 1980, 2:42 p.m.
Doc. No. 804530

Texas Coastal and Marine Council

Friday, June 20, 1980, 9:30 a.m. The Texas Coastal and Marine Council will meet at Sea Isle Village, Port Aransas. An Executive Committee meeting will convene at 8:30 a.m. that same day. According to the agenda, at 9:30 a.m. there will be a discussion of personnel matters in executive session. Upon completion of the executive session, the council will consider the executive committee report and the interagency contract with the General Land Office; status reports on the Hurricane Awareness Program, building standards, potential legislation regarding the beach cleaning fund, commercial redfish culture, update on Mustang Island Development, and public testimony.

Additional information may be obtained from Jenny Aldridge, P.O. Box 13407, Austin, Texas 78711, telephone (512) 475-5830.

Filed: June 12, 1980, 4:05 p.m.
Doc. No. 804532

Texas Department of Community Affairs

Tuesday, June 24, 1980, 10 a.m. The Texas State Weatherization Policy Advisory Council of the Texas Department of Community Affairs will meet in the fourth floor conference room, TDCA Building, 210 Barton Springs Road, Austin. According to the agenda, the council will consider old business; weatherization film from the City of Austin; summary of the weatherization assistance for low-income persons state plan for fiscal year 1980; progress of contractors as monitored by Economic Opportunity Division Staff; how a household unit is declared eligible; review of TDCA's monitoring instrument; also new business.

Additional information may be obtained from John A. Geistweidt, P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-6601.

Filed: June 13, 1980, 4:12 p.m.
Doc. No. 804815

Employees Retirement System of Texas

Thursday, June 26, 1980, 10 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in the first floor auditorium, ERS Building, 18th and Brazos, Austin. According to the agenda summary, the committee will review rates and coverages for the new Uniform Group Insurance Program contract to become effective September 1, 1980.

Additional information may be obtained from Joseph N. Murphy, Jr., Box 13207, Austin, Texas 78711, telephone (512) 476-6431.

Filed: June 13, 1980, 9:42 a.m.
Doc. No. 804611

Texas Department of Health

Saturday, June 21, 1980, 9:30 a.m. The board of the Texas Department of Health will conduct its monthly meeting in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the board will consider minutes of the May 24, 1980, meeting; the commissioner's report; rural health initiatives; authorization of signatures for chest hospital payroll vouchers; the proposed Cancer Registry Advisory Committee; Personnel Committee reports on request for employment beyond age 70; appointments to the Hemophilia Assistance Advisory Committee; and announcement of meeting dates for July and August, 1980. The board will also meet in executive session.

Additional information may be obtained from Joe Klinger, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7487.

Filed: June 13, 1980, 2:12 p.m.
Doc. No. 804594

Texas Health Facilities Commission

Friday, June 27, 1980, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the summarized agenda, the commission will consider the following applications:

certificate of need

Park Plaza Hospital, Houston

AH80-0305-008

Hansford County Hospital District and Hansford Convalescent Center, Spearman

AH79-1212-003

Harris Hospital Methodist, Fort Worth

AH79-1227-039

reissuance of certificate of need

St. Luke's Episcopal/Texas Children's Hospitals, Houston

AH79-0511-017R (050880)

exemption certificate

Gulf Coast Medical Foundation, Wharton

AH80-0522-005

Chambers Memorial Hospital, Anahuac

AH80-0128-011

Further information may be obtained from O. A. Cassity III P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: June 13, 1980, 11:31 a.m.
Doc. No. 804605

Texas Housing Agency

Monday, June 16, 1980, 1 p.m. The Bond Counsel and Financial Advisor Selection Committee of the Texas Housing Agency met in emergency session in the fourth floor conference room, TDCA Building, 210 Barton Springs Road, Austin. According to the agenda, the committee considered action on committee recommendations to the Board of Directors concerning selection of an agency financial advisor. Urgent public necessity required that this meeting be held on less than seven days' notice because the Board of Directors of the Texas Housing Agency was scheduled to take action on this matter on June 16, 1980.

Additional information may be obtained from Sid Wieser, P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-2431.

Filed: June 13, 1980, 4:12 p.m.
Doc. No. 804612

University of Houston

Friday, June 20, 1980, 9 a.m. The Academic Affairs Committee of the Board of Regents of the University of Houston System will meet in Room 510, Houston United Bank Building, 4600 Gulf Freeway, Houston. According to the agenda, the committee will discuss the following items: contracts and grants; faculty workload policies; patent policy; personnel recommendation; and other matters.

Additional information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, telephone (713) 749-7545.

Filed: June 13, 1980, 4:09 p.m.
Doc. No. 804617

Friday, June 20, 1980, 10:30 a.m. The Budget and Finance Committee of the Board of Regents of the University of Houston System will meet in Room 510, Houston United Bank Building, 4600 Gulf Freeway, Houston, to consider the following items: approval of all fees; gift income; legislative appropriations; the system operating budget; the quarterly budget; the quarterly investment report; full-time equivalent positions; and other matters.

Additional information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, telephone (713) 749-7545.

Filed: June 13, 1980, 4:10 p.m.
Doc. No. 804618

Commission for Indian Affairs

Monday, June 23, 1980, 3:30 p.m. and 7:30 p.m. At 3:30 p.m., the Commission for Indian Affairs will meet in executive session at 414 North Washington, Livingston, and at 7:30 p.m., the commission will meet in open session at the Alabama-Coushatta Community Center, 15 miles east of Livingston on U.S. 190. According to the summarized agenda, the commission will consider reports from Tigua Indian Reservation, Alabama-Coushatta Indian Reservation, and the commission.

Additional information may be obtained from Walt Broemer, P.O. Box 510, Livingston, Texas 77351, telephone (713) 327-3683.

Filed: June 13, 1980, 9:44 a.m.
Doc. No. 804607

INDIAN AFFAIRS



State Board of Insurance

Monday, June 16, 1980, 2:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance made an emergency to the agenda of a meeting held in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the commissioner conducted a public hearing to consider the proposed merger of Texas Title Guaranty Company, Incorporated, Dallas, into American Title Insurance Company, Miami, Florida, such that American Title Insurance Company will be the survivor. The reason for the emergency status of the meeting was to enable the company to comply with the requirements of Florida law concerning mergers—Docket 6066.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: June 13, 1980, 9:43 a.m.
Doc. No. 804610

Legislative Audit Committee

Friday, July 25, 1980, 9 a.m. The Legislative Audit Committee will meet with the Legislative Budget Board in Room 301 of the State Capitol to discuss the state auditor's operating budget, fiscal year 1981.

Additional information may be obtained from George McNiel, P.O. Box 12067, Austin, Texas 78711, telephone (512) 475-4115

Filed: June 13, 1980, 1:58 p.m.
Doc. No. 804595

Texas Municipal Retirement System

Saturday, June 28, 1980, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at the

Sheraton-Marina Inn, 300 North Shoreline Boulevard, Corpus Christi. According to the agenda summary, the board will hear and approve minutes of the March meeting; consider and approve applications for service retirements, disability retirements, and supplemental death benefits payments; consider and approve extended supplemental death benefits coverage for Bobby J. Martin, (453-32-8344); consider and approve proposed procedures for processing extended supplemental death benefits protections applications; consider and approve proposal for disclosure of certain laws and regulations to all newly appointed board members; review and act on financial statements, investment reports, and other reports of the director, actuary, legal counsel, and independent auditor; consider and fix contribution rates of participating municipalities and supplemental benefits contribution rates for the year 1981 as calculated by the actuary, consider and approve 1979 annual report; and consider and make selection of independent auditors for fiscal year 1980.

Additional information may be obtained from Jimmie L. Mormon, P.O. Box 2225, 1200 North IH 35, Austin, Texas 78701, telephone (512) 476-7577.

Filed: June 13, 1980, 11:32 a.m.
Doc. No. 804606

Texas Pork Producers Board

Wednesday, June 25, 1980, 7 p.m. The Texas Pork Producers Board will meet in the conference room at the new Texas Tech Livestock Arena, Indiana and Brownfield Highway, Texas Tech Campus, Lubbock. According to the agenda, the board will consider reports from the Check-Off, Pork Promotion, and Research Committees; and installation of new board members.

Additional information may be obtained from Ken Horton, 8330 Burnet Road, Northwest Office Building, Room 108, Austin, Texas 78758, telephone (512) 453-0615.

Filed: June 12, 1980, 4:39 p.m.
Doc. No. 804564

Texas State Board of Public Accountancy

Monday and Tuesday, June 23 and 24, 1980, 9 a.m. The Texas State Board of Public Accountancy will meet in Suite 500, 3301 Northland Drive, Austin. According to the agenda summary, the board will consider the following: minutes of the April meeting; approval or ratification of CPA certificates, applications for registration of individuals or firms, and applications for reciprocity (individuals who have not taken the uniform CPA examination); committee reports; recommendations of additional members of the Technical Standards Review Committee; assignments for November CPA exam; reports on NASBA meetings; hearing on substantive rules, enforcement matters; pending litigation; communications received by the board; report on status of swearing-in ceremony; status of computer processing; personnel actions; financial statements; legislative budget request for fiscal years August 31, 1982 and 1983; methods to permit peer review; schedules of future board meetings.

Additional information may be obtained from Bob E. Bradley, 3301 Northland Drive, Suite 500, Austin, Texas 78731, telephone (512) 451-0241.

Filed: June 13, 1980, 2:20 p.m.
Doc. No. 804593

Department of Public Safety

Monday, June 23, 1980, 10: a.m. The Public Safety Commission of the Department of Public Safety will meet at 5805 North Lamar, Austin. According to the agenda, the commission will approve the minutes, consider budget matters, personnel matters, and other unfinished business.

Additional information may be obtained from James B. Adams, 5805 North Lamar, Austin, Texas, telephone (512) 452-0331, Sta. 3700.

Filed: June 13, 1980, 8:12 a.m.
Doc. No. 804570

Public Utility Commission of Texas

Tuesday, June 24, 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 3280—inquiry of the Public Utility Commission of Texas into the actions of Haysco Water Supply Corporation concerning operations.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: June 13, 1980, 9:43 a.m.
Doc. No. 804609

Monday, June 30, 1980, 2:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, Shoal Creek Boulevard, Austin to conduct a prehearing conference on Docket 3254—application of El Paso Electric Company for a rate increase in El Paso, Hudspeth, and Culberson Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: June 12, 1980, 4:23 p.m.
Doc. No. 804568

Monday, August 11, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing will concern Docket 3254—application of El Paso Electric Company for a rate increase in El Paso, Hudspeth, and Culberson Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: June 12, 1980, 2:36 p.m.
Doc. No. 804531

Purchasing and General Services Commission

Friday, June 27, 1980, 10 a.m. The State Purchasing and General Services Commission will meet in Room 916, Lyndon Baines Johnson Building, 111 East 17th Street, Austin. According to the agenda summary, the commission will consider the following items: adoption of amendments to Executive Administration Rules 028.11.03.030, .031, .036-.038, and .039, relating to parking; adoption of an amendment to Central Purchasing Division Rule 028.12.01.050, relating to general purchasing policy statements recently approved by the commissioner; status report on parking; status report on Battleship Texas; operational review-staffing; report on evaluation surveys and liaison reports; State Purchasing and General Services Commission monthly reports; set date and time for next regular meeting of the commission.

Additional information may be obtained from Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, telephone (512) 475-2211.

Filed: June 16, 1980, 11:50 a.m.
Doc. No. 804629

Railroad Commission of Texas

Monday, June 23, 1980, 10 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: June 13, 1980, 11:53 a.m.
Doc. No. 804602

Monday, June 23, 1980, 10 a.m. The Automatic Data Processing Division of the Texas Railroad Commission will meet in the first floor auditorium, 1124 IH 35 South, Austin, for consideration of acquiring a terminal controller, additional disk space, word processing matters, and a service agreement with Standard Registrar Company.

Additional information may be obtained from David M. Garlick, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1204.

Filed: June 13, 1980, 11:52 a.m.
Doc. No. 804601

Monday, June 23, 1980, 10 a.m. The Gas Utilities 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 Gas Utilities Dockets 1819, 2241, 2268, 2651, 2656, 2659, 2660, 2661, 1908, 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: June 13, 1980, 11:50 a.m.
Doc. No. 804596

Monday, June 23, 1980, 10 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: June 13, 1980, 11:51 a.m.
Doc. No. 804599

Monday, June 23, 1980, 10 a.m. The Oil and Gas Division of the Railroad Commission of Texas is making an addition to a meeting to be held in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the addition concerns the consideration of the initiation of a lawsuit concerning the filing of a Form P-4 by Darrell Bryant for the Alfred Wiemers Lease, Taylor-Ina Field, Medina County.

Additional information may be obtained from John G. Soule, P.O. Box 12967, Austin, Texas 78711, telephone (512) 445-1285.

Filed: June 13, 1980, 11:50 a.m.
Doc. No. 804597

Monday, June 23, 1980, 10 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: June 13, 1980, 11:51 a.m.
Doc. No. 804598

Monday, June 23, 1980, 10 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 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: June 23, 1980, 11:52 p.m.
Doc. No. 804600

Monday, June 23, 1980, 10 a.m. The Surface Mining Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin, to consider the performance bond of Farco Mining Company and permit issuance for the Rachal Mine Site (Docket 031); and the director's report.

Additional information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1176.

Filed: June 13, 1980, 11:53 a.m.
Doc. No. 804603

Monday, June 23, 1980, 10 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: June 13, 1980, 11:54 a.m.
Doc. No. 804604

Texas Real Estate Commission

Monday, June 23, 1980, 2 p.m. The Texas Real Estate Commission will meet in the Terrace Room of the Marriott Hotel, Market Center, 2101 Stemmons Freeway, Dallas. According to the agenda, the commission will consider minutes of the May 19, 1980, meeting; take action on a motion for rehearing in the matter of Billy Max McClendon's application to license Coy James Roden II, as a salesman; hear staff reports for April and May, 1980; consider education and school matters; discuss budget request for next biennium; and meet 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: June 13, 1980, 9:44 a.m.
Doc. No. 804608

Advisory Council for Technical-Vocational Education in Texas

Monday, June 23, 1980, 10 a.m. The Industry/Education Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in the Ambassador Room, Villa Capri Hotel, 2400 North IH 35, Austin. According to the agenda, the committee will be given a report on the meeting of the Steering Committee for the public information campaign which is plotting the course for the campaign. The committee will review a similar campaign conducted by the State of Florida and some of their materials and ideas. The committee will discuss involvement in the inservice meetings with teachers this summer, a target date for the campaign kick-off, the involvement of the governor, etc.

Additional information may be obtained from Valeria J. Blaschke, P.O. Box 1886, Austin, Texas 78767, or 1700 South Lamar, Suite 202, Austin, Texas 78704, telephone (512) 475-2046.

Filed: June 13, 1980, 4:04 p.m.
Doc. No. 804613

Texas Water Commission

Monday June 16, 1980, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission considered the emergency addition to the June 16, 1980, agenda regarding extension of Temporary Order No. 79-13E by Bill Tregellas and Rusty Tregellas doing business as Figure I Ranch Feedlot. (The order expired on June 15, 1980, 180 days after issuance, so it was necessary that the commission consider the referenced request for extension on this date.)

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: June 13, 1980, 4:10 p.m.
Doc. No. 804614

Monday, June 23, 1980, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider application for bond issues, use of surplus funds, change order, water quality permits, amendments, renewals, cancellation of water quality permit, approval for plans of a reclamation project, water rights applications, and voluntary cancellation and dismissal of applications.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: June 12, 1980, 3:56 p.m.
Doc. No. 804565

Wednesday, July 9, 1980, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on petition for organization of Harris County Municipal Utility District 186 which contains 351.209 acres of land located in Harris County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: June 13, 1980, 4:11 p.m.
Doc. No. 804619

Wednesday, July 9, 1980, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on petition for creation of North Mission Glen Municipal Utility District which contains 310.4077 acres of land located in Fort Bend County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: June 13, 1980, 4:11 p.m.
Doc. No. 804620

Friday, July 18, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in District Courtroom 2 (Room 322), Matagorda County Courthouse, Bay City. According to the agenda summary, the hearing will concern an application by Houston Lighting and Power Company (South Texas Project) for a renewal of Permit 01918 (to be renumbered 12219) to authorize a continuation of the same requirements and conditions of the expiring permit, which authorizes a maximum discharge of 3,828,000 gallons per day of treated domestic sewage effluent and plant site runoff. The applicant proposes to continue operation of the sewage treatment plant and site dewatering facilities used in the construction phase of the South Texas Project. The plant is located approximately 10 miles north of Matagorda Bay and 12 miles south-southwest of Bay City, Matagorda County.

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: June 12, 1980, 3:56 p.m.
Doc. No. 804566

Friday, July 18, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in District Courtroom 2 (Room 332), Matagorda County Courthouse, Bay City. According to the agenda summary, the hearing will concern an application by Houston Lighting and Power Company for a renewal of Permit 01908 to authorize a continuation of the same requirements and conditions of the expiring permit, which currently authorizes an intermittent discharge of 144 million gallons per day from the cooling pond at the nuclear power station known as the South Texas Project. The plant is located approximately 10 miles north of Matgorda Bay and 12 miles south-southwest of Bay City in Matagorda County.

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: June 12, 1980, 3:57 p.m.
Doc. No. 804567

Friday, July 25, 1980, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on Application 3894A of Paul W. Nye and D. E. Peterson for an amendment to move the existing diversion point downstream 400

feet to a point on Petronila Creek, tributary Cayo de Hinoso, tributary Baffin Bay, Nueces-Rio Grande Coastal Basin in Nueces County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: June 13, 1980, 4:11 p.m.
Doc. No. 804621

Friday, July 25, 1980, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, Austin. According to the agenda summary, the commission will conduct a hearing on Application 4056 of Texas Municipal Power Agency for a permit to directly divert not to exceed 2400 acre-feet of water per annum from Navasota River, tributary Brazos River, and to transport the water to applicant's reservoir on Gibbons Creek, Brazos River Basin, for industrial purposes in Grimes County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: June 13, 1980, 4:11 p.m.
Doc. No. 804622

Texas Water Development Board,

Tuesday, June 17, 1980, 8:30 a.m. The Texas Water Development Board made an emergency addition to a meeting held in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the board considered the approval of the rate schedule for the sale of up to 5,000 acre-feet of water from Lake Texana by the Lavaca-Navidad River Authority to Formosa Plastics Corporation. The board also filed a correction to item 9 in which the board considered a request for financial assistance by the Bacliff Municipal Utility District in the amount of \$485,000 under the Loan Assistance Program. Agenda item 10(b) was also corrected to read, Town of Tom Bean in the amount of \$80,476. The emergency addition has been made because the board, by contract with the Lavaca-Navidad River Authority, is required to approve or disapprove all rate schedules for the sale of water by the authority within 60 days of submission which precedes the next regularly scheduled meeting of the board in July.

Additional information may be obtained from Harvey Davis, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: June 12, 1980, 3:35 p.m.
Doc. No. 804563

Regional Agencies

Meetings Filed June 12, 1980

The ATCMHMR Board of Trustees, Operations and Planning Committee, met in the board room at 1430 Collier

Street, Austin, on June 18, 1980, at 5 p.m. Further information may be obtained from John Brubaker, 1430 Collier Street, Austin, Texas 78704, telephone (512) 4478-4141.

The Deep East Texas Council of Governments, Angelina County Minority Organizations, will meet at Holiday Inn, Lufkin, on June 23, 1980, at 6:30 p.m. The Sabine County Minority Organization will meet at the Arthur Temple Memorial Library, Pineland, on June 25, 1980, at 6:30 p.m. Further information may be obtained from Louisa Kyles, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The West Central Texas Municipal Water District will meet in the third floor conference room, 174 Cypress Street, Abilene, on June 24, 1980, at 9:30 a.m. Further information may be obtained from Victor Jaeggli, P.O. Box 2362, Abilene, Texas 79604, telephone (915) 673-8254.

Doc. No. 804523

Meetings Filed June 13, 1980

The Central Texas Manpower Consortium, Private Industry Council, met at Hele Mai Restaurant, River Forest Motel, Belton, on June 16, 1980, at 7 p.m. Further information may be obtained from Billy Don Everett, P.O. Box 727, San Saba, Texas 76877, telephone (915) 372-5136

The Copano Bay Soil Conservation District 329, will meet at 106 South Alamo, Shay Plaza, Refugio, on June 23, 1980, at 7:30 p.m. Further information may be obtained from Jim Wales, P.O. Drawer 340, Refugio, Texas 783, telephone (512) 526-2334.

The Deep East Texas Council of Governments, Houston County Minority Organizations, will meet at King's Inn, Crockett, on June 27, 1980, at 6:30 p.m. Further information may be obtained from Louisa Kyles, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The Panhandle Regional Planning Commission, Texas Panhandle Employment and Training Advisory Council, met in Room 216 of the Amarillo Building, 3rd and Polk Streets, Amarillo, on June 17, 1980, at 2:30 p.m. The Project Notification and Review System Committee met in the first floor PRPC conference room of the Amarillo Building, 3rd and Polk Streets, on June 19, 1980, at 1:30 p.m. Further information may be obtained from Ola Kidd and Tom Plumlee, respectively, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

The Region VII Education Service Center, Board of Directors, will meet at Region VII ESC, 818 East Main, Kilgore, on June 24, 1980, at noon. Further information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas, telephone (214) 984-3071.

The Region XVI Education Service Center, Board of Directors, met at 1601 South Cleveland, Amarillo, on June 19, 1980, at 1 p.m. Further information may be obtained from Dr. Kenneth M. Laycock, P.O. Box 30600, Amarillo, Texas 79120, telephone (806) 376-5521.

The West Central Texas Council of Governments, Regional Council on Aging Executive, West Central Texas Council of Governments, met at 1025 East North 10th Street, Abilene,

on June 19, 1980, at 2 p.m. Further information may be obtained from Dorothy Vanderslice, P.O. Box 3195, Abilene, Texas 79604.

Doc. No. 804616

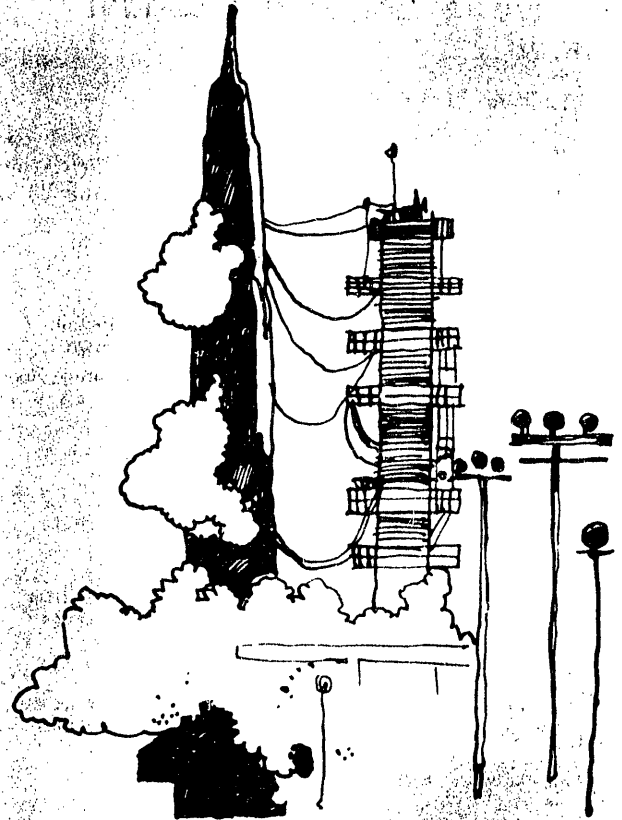
Meetings Filed June 16, 1980

The San Antonio River Authority, Board of Directors, met in the conference room of the general offices, 190 East Guenther Street, San Antonio, on June 18, 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.

The Tri-Region Health Systems Agency, Project Review Committee, will meet in the River Oaks I Room, 5403 South 1st, Abilene, on June 26, 1980, at 10:30 a.m. The Plan Development Committee and the Board of Directors, will meet at the Kiva Inn, 5403 South 1st, Abilene, on June 26, 1980, at 10:30 a.m. and 1:30 p.m. respectively. Further information may be obtained from Linda Moody, for the Project Review Committee meeting, and David Brown, for the Plan Development Committee and the Board of Directors meetings, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

The West Central Texas Council of Governments, A-95 Physical Planning Advisory Committee, met at 1025 East North 10th Street, Abilene on June 18, 1980, at 11 a.m. Further information may be obtained from Gary L. Smith, 1025 East North 10th Street, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 804626



Executive and Legislative Budget Offices

Joint Budget Hearing Schedule

The Executive and Legislative Budget Offices will jointly conduct the following budget hearings to consider appropriations requests for the 1982-83 biennium, for the period June 23-27, 1980:

Agency	Date	Place
Good Neighbor Commission	9 a.m. June 23	Room F, Reagan Building, Austin
Texas Industrial Commission	1:30 p.m. June 23	Senate Finance Room 301, State Capitol
Library and Archives Commission	9 a.m. June 24	Room F, Reagan Building, Austin
Texas Board of Fitting and Dispensing of Hearing Aids	9:30 a.m. June 24	Sergeants Committee Room 215, State Capitol
Texas Board of Land Surveying	9:30 a.m. June 24	Senate Committee Room 213, State Capitol
Soil and Water Conservation Board	10 a.m. June 24	Senate Finance Room 301, State Capitol
Cosmetology Commission	9:30 a.m. June 25	Room F, Reagan Building, Austin
Board of Vocational Nurse Examiners	1:30 p.m. June 25	Senate Committee Room 213, State Capitol
State-Federal Relations	1:30 p.m. June 25	Sergeants Committee Room 215, State Capitol
Water Well Drillers Board	9 a.m. June 26	Senate Committee Room 213, State Capitol
Board of Examiners of Psychologists	9:30 a.m. June 26	Room F, Reagan Building, Austin
Nimitz Memorial Naval Museum Commission	9:30 a.m. June 26	Room 503G, Sam Houston Building, Austin
Board of Barber Examiners	9:30 a.m. June 26	Senate Committee Room 213, State Capitol
Board of Irrigators	10 a.m. June 26	Senate Committee Room 213, State Capitol
River Compact Commissions	11 a.m. June 26	Senate Committee Room 213, State Capitol
Texas Motor Vehicle Commission	9 a.m. June 27	Room F, Reagan Building, Austin
Texas Commission on the Arts	1:30 p.m. June 27	Senate Finance Room 301, State Capitol

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804590 James P. Oliver
Assistant Director
Legislative Budget Board

Filed: June 13, 1980, 9:42 a.m.

For further information, please call (512) 475-3428.

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 June 10-12, 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.

Rosewood General Hospital, Houston (6/12/80)
AH80-0609-017

EC—To complete an additional operating room by painting, plastering and installation of isolation monitor/transformer

Richards Memorial Hospital, Paducah (6/12/80)
AH80-0609-009

EC—Provide diagnostic ultrasound services to residents of Cottle County by contracting with a mobile service

Bexar County Hospital, San Antonio (6/12/80)
AH79-0927-003A (061180)

AMD/CN—Request to change the completion

deadline from July 31, 1980, to January 19, 1981, in Certificate of Need AN79-0927-003, which authorized the addition of a radiology suite and equipment purchase, and also an increase in the project cost of approximately \$30,000

Watson W. Wise Regional Dialysis Center, Tyler
(6/12/80)
AS80-0530-109)

EC—To increase the number of dialysis stations authorized for the permanent facility from 25 to 27 stations

Watson W. Wise Regional Dialysis Center, Tyler
(6/12/80)

AS79-0109-010A (053080)

AMD/CN—Request to change the number of temporary dialysis chairs authorized in Certificate of Need AS79-0109-010 and also to release the limitations as set out in the certificate of need concerning the use of the dialysis stations for self-care and for limited care dialysis

Tarrant County Hospital Authority for Harris
Hospital—Methodist and Methodist-Affiliated
Hospitals, Fort Worth (6/12/80)

AH80-0612-012

DR—That neither a certificate of need nor an exemption certificate is required prior to the purchase of Dublin Hospital located in Dublin, by the Tarrant County Hospital Authority for the Harris Hospital—Methodist and Methodist-Affiliated Hospitals

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804588 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: June 13, 1980, 11:31 a.m.

For further information, please call (512) 475-6940.

Texas Health Facilities Commission

Corrections of Error

An application for an exemption certificate was incorrectly published in the June 6, 1980, of the *Texas Register* (5 TexReg 2239). The application should read as follows:

Moore County Hospital District for Memorial
Hospital, Dumas (5/28/80)

AH80-0523-040

EC—Addition of a Rohnar 7100 ultrasound system to the existing radiology department

An application for an amendment of a certificate of need was incorrectly published in the June 13, 1980, issue of the *Texas Register* (5 TexReg 2379). The application should read as follows:

St. Mary's Hospital of Port Arthur, Port Arthur
(6/3/80)

AH78-1109-020A (052980)

AMD/CN—Request to change the completion deadline from April 13, 1980, to September 30, 1981, in Certificate of Need AH78-1109-020, which authorized the purchase of data processing equipment to implement the Duke University Medical Center/IBM patient care system

Texas Department of Human Resources

Amendment to Request for Proposal

On June 3, 1980, the Department of Human Resources (DHR) announced in the *Texas Register* (5 TexReg 2208) a notice of request for proposal (RFP) from parties interested in contracting with the department to provide four new alternate care services on a demonstration basis: congregate care, emergency response service, and respite care and emergency care. The department also provided a technical information workshop to answer questions of clarification and explanation about the new services. DHR further announced in the *Texas Register* that "no questions will be answered outside this workshop."

Because of a delay in printing and mailing of the RFPs to prospective offerors, DHR is amending the announcement of June 3, 1980, in order to allow for additional clarification questions from potential providers. Questions may be submitted by telephone or in writing to DHR contact persons listed below. Answers will be given orally. A log of all questions and answers will be maintained and will be available for inspection by all potential providers. Potential providers may also request by telephone information provided to others in response to questions received outside the technical information workshop.

Contact Persons.

(1) Congregate care, emergency care, respite care: Dennis Zeller, 835-0440, ext. 2083.

(2) Emergency response service: Paul Blanton or Ernest McKenney, 835-0440, ext. 2083.

Closing Date. The closing date for offers remains the same—June 30, 1980—as indicated in the June 3, 1980, *Texas Register* announcement.

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804572 Jerome Chapman
Commissioner
Texas Department of Human Resources

Filed: June 13, 1980, 9:38 a.m.

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

Railroad Commission of Texas

Review of Commission Curtailment Policy

Public Meeting

In January of 1973 the commission issued an Order in Gas Utilities Docket 489, relating to the approval by the commission of curtailment programs for natural gas transported and sold within the State of Texas. In this docket, the commission promulgated a curtailment priority schedule to control the flow of natural gas during times of shortage. Each gas utility within commission jurisdiction was additionally instructed to file a curtailment program for approval by the commission. It was further provided that until the commission had specifically approved a utility's curtailment program, the priority schedule contained in Docket 489 would be observed. Subsequently some utilities secured approval of specific curtailment programs for the operation of their systems.

In the intervening period from the time of implementation of the general and specific curtailment plans until the present, there have been curtailments varying in magnitude and duration. Curtailments in recent periods in conjunction with developments in the applicable law and regulatory scheme, and changes in customers' operational capabilities, suggest that existing curtailment plans may not be well suited to the demand and supply configuration of the energy market today. These considerations in part led to the commission's emergency amendment in Gas Utilities Docket 2336 on January 7, 1980, to all curtailment plans which placed certain interstate transactions at the lowest priority level. In Gas Utilities Docket 2336 the commission also sought comments on the existence and effectiveness of a system to voluntarily allocate and share natural gas among pipelines in times of emergency shortage. The general conclusion of the participants was that a voluntary allocation plan was effective and much preferred over a mandatory scheme although it could be made more efficient if studies were conducted to identify and eliminate obstacles, regulatory and otherwise, to a fully coordinated system.

In order to develop recommendations on modifying the overall curtailment policy or specific plans, it is necessary to provide a public forum for the presentations of opinions and information of all interested persons or agencies. It is contemplated that the public meeting convened by this notice would be in the nature of a legislative fact finding and would form the foundation of future proceedings, including rulemaking, where the implementation of specific proposals would be examined. To continue the inquiry begun in Docket 2336, the opportunity will be taken at this time to solicit nominees to be appointed to a committee which will study the problems of a voluntary gas allocation system and report to the commission on any remedial action necessary to a more responsive and comprehensive system.

The Railroad Commission of Texas has authority pursuant to Texas Revised Civil Statutes Annotated, Article 6053 (Vernon 1962) to regulate and apportion the supply of gas between towns, cities, and corporations. Further, Texas Revised Civil Statutes Annotated, Article 1446c (Vernon Supplement 1980) authorizes the Railroad Commission to regulate rates, operations, and services of utilities in order to protect the public interest by assuring adequate and efficient service.

It is therefore directed that a public hearing be held on July 9, 1980, at 10 a.m. in Room 107 of the commission offices at 1124 South IH 35, Austin, Texas, to allow all gas utilities, other public utilities using natural gas as a fuel, municipalities, and any other interested persons or agencies to appear and present information, the focus of which should be upon, but need not be limited to, the following subjects:

(1) Reasons for past curtailments. When applicable comments should address:

(A) Any identifiable causes of curtailment in recent heating seasons.

(B) The probability of future curtailments from those identified causes.

(C) What remedial actions, if any, have been taken to avoid future curtailments.

(D) What remedial measures, and the cost thereof, could be taken to avoid future curtailments.

(E) The possibility of future curtailments from other causes and the cost of any measures to forestall these curtailments.

(2) Available supplies of natural gas. Comments should include information concerning:

(A) Whether the Railroad Commission should require gas utilities to have available at all times immediately accessible reserves of natural gas stored in sufficient quantities to enable the utility to meet extraordinary demand peaks.

(B) Whether the commission should require gas utilities to acquire and maintain sufficient reserves to provide adequate supplies of natural gas during seasons of peak consumption.

(C) Whether the Railroad Commission should seek to establish market mechanisms to allocate the supply of gas during times of curtailment such as a market for the future rights to purchase gas for periods of short duration.

(D) Costs which customers of all classes would incur if the commission should require the implementation of A through C above, or any other course of action designed to ensure that all utilities have adequate supplies of natural gas.

(3) Delivery capacity. Comments relating to the capacity of a utility to deliver natural gas during periods of peak demand should include information concerning:

(A) Factors relating to the interplay of weather and economics which were considered in developing the transportation and distribution systems currently in use in Texas.

(B) Whether the commission should require utilities in Texas to adjust their delivery capabilities in order to meet extraordinary demand peaks occasioned by severe weather, and if so, what demand peak should be used.

(C) Costs associated with providing utility systems which are capable of meeting the referenced peak demand.

(4) Technical improvements. The commission is interested in technical improvements which can be made or procedures which can be adopted in order to ensure that a utility system operates at any given point in time as near as practicable to 100% of designed supply and capacity limits. Information presented should include data concerning:

(A) The design and installation of pipeline controls which would not be vulnerable to predictable weather extremes. In the alternative, the alteration of existing controls to make them impervious to weather conditions.

(B) Steps that can be taken to ensure that such controls are accessible to utility employees at all times. Particular attention should be devoted to:

(1) remote control devices; and

(2) the availability to gas utility employees of the equipment necessary to ensure access to controls at all times.

(C) The cost associated with implementing any technical improvements.

(5) Priority Schedules. Assuming the commission should consider the establishment of new priority schedules, or the alteration of existing priority schedules, what specific changes must be made. Included should be information concerning:

(A) What classes of customers should be included in each priority classification and why.

(B) Whether a priority schedule should result in total curtailment to a lower classification before any curtailments are initiated for the next higher classification.

(C) How the priority schedule will be operationally implemented during times of curtailment.

(D) The makeup and implementation of a comprehensive priority schedule which would be applied statewide to all gas utilities regulated by the Railroad Commission of Texas pursuant to either original or appellate jurisdiction.

(E) The effect that Texas Revised Civil Statutes Annotated, Article 6066f (Vernon Supplement 1980) would have on any priority schedule.

(G) Whether the commission should require the development of an entitlements program whereby customers in a curtailment plan may participate in intra-category or inter-category transfers of entitlements to natural gas in contemplation of curtailment. The objective of such a program would be to build in flexibility to a particular curtailment plan to make it more responsive to the economic decisions of a utility's customer while effecting an orderly reduction in deliveries.

It is further directed that any persons or agencies who intend to participate in this proceeding so indicate by filing with the acting director of the Gas Utilities Division of the Railroad Commission of Texas at P.O. Box 12967, Austin, Texas 78711, a statement of intent to participate along with a copy of the statement, testimony, and any supporting data which they will present orally at the hearing at least 10 days prior to the date of the hearing. This material need not be served on any other party, but will be available for inspection at the commission office.

It is further directed that all gas utilities shall serve a copy of this notice on all municipalities within which they serve or to whose city gate they deliver natural gas and on all industrial and agricultural customers, excluding other gas utilities to whom they provide natural gas service, by United States mail, postmarked no later than May 30, 1980.

It is further directed that all gas utilities shall file with the acting director of the Gas Utilities Division of the Railroad Commission of Texas a list of all municipalities, persons, or agencies on whom it has served notice no later than June 6, 1980.

It is further directed that, in the event that neither the commission nor any of its members is present to preside over and hold said hearing, the acting director or a Hearings Examiner of the Gas Utilities Division is hereby authorized and empowered to hold the same and to perform any act as provided in Texas Revised Civil Statutes Annotated, Article 6519a (Vernon Supplement 1980).

It is further directed that interested persons or agencies wishing to participate in the selection of members of a committee to be appointed by the division to study the operation of the voluntary gas allocation system should submit the nominee's name, affiliation, and professional credentials to the division no later than June 9, 1980. The Gas Utilities Division staff will select a committee from the nominees to meet independently and report to the commission what measures could be adopted to make the system more efficient.

Issued in Austin, Texas, on May 12, 1980.

Doc. No. 804586 John W. Camp, Acting Director
Gas Utilities Division
Railroad Commission of Texas

Filed: June 13, 1980, 11:50 a.m.

For further information, please call (512) 445-1126.

Texas Water Commission

Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of June 9-13, 1980.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed action; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Week Ending June 13, 1980

City of San Antonio (Mission Road Power Plant), Bexar County; power plant; 303 Mission Road at Highland Boulevard; 01513; renewal

City of San Antonio (Leon Creek Power Plant), Bexar County; power plant; 7118 Quintana Road at Pitluck Avenue; 01517; renewal

City of San Antonio (W. B. Tuttle Power Plant), Bexar County; power plant; West side of FM 2252 approximately one mile north of Interstate Highway Loop 410 on north side of San Antonio; 01516; renewal

General Homes Consolidated Company, Inc., Fort Bend County; sewage treatment plant (domestic); approximately 0.8 mile east-southeast of intersection of Eldridge Road and Belknap Road and north of City of Sugarland; new permit

Bell County Water Control and Improvement District No. 3, Bell County; domestic sewage treatment facilities; approximately 3/4 mile southeast of Nolanville, on South Nolan Creek; 10797-01; renewal

Melecio M. Villarreal, Jr., doing business as Villarreal Hog Farm, Atascosa County; commercial swine operation; 600 feet southeast of FM 1333 at a point 3.5 miles northeast of intersection of FM 1333 and State Highway 173, 5.4 miles west of Poteet; new permit

Paso-Pak Chili Company, Inc., El Paso County; vegetable wash; water plant; one mile northwest of the City of Fabens, just northwest of State Highway 20 and just south of Southern Pacific Railroad; new permit

Bayou Forest Village, Inc., Harris County; wastewater treatment facilities; 12500 block of Aldine-Westfield Road in Harris County; new permit

Western Commercial Transport, Inc., Harris County; truck terminal—discharge of industrial wastewater; 8510 East Belt Drive, Houston; 01940; renewal

Paktank Gulf Coast, Inc., Deer Park, Harris County; treatment plant to discharge treated industrial wastewater; 2759 Battleground Road (FM 134); new permit

Blocker Refining Company, Industrial Park, Harris County; petroleum refinery; 225-acre tract bounded by south bank of Carpenters Bayou and the north side of Jacintoport Boulevard in Jacintoport Corporation Industrial Park; new permit

Harris County Municipal Utility District No. 122, Harris County; domestic sewage treatment facilities; South of Haralson Road and east of Willow Waterhole Bayou, approximately 2,200 feet north and 4,000 feet west of intersection of Haralson Road and U.S. Highway Alternate 90; new permit

Al Lum Properties, Harris County; wastewater treatment facilities; between Jackrabbit Road and State Highway 6, at a point approximately 5,750 feet southwest of intersection of U.S. Highway 290, State Highway 6 and Jackrabbit Road; new permit

Lodomada Corporation, Aransas County; shrimp unloading and transfer facility; near the intersection of South Beach and Broadway Streets in City of Fulton; 02194; renewal

Recreation World, Inc., doing business as Wildwood Resort City, Hardin County; sewage treatment facilities; 1/4 mile south of Lake Norman, west of Kimball Creek and approximately three miles west of Village Mills; 11184-01; renewal

City of Lone Oak, Hunt County; sewage treatment facilities; 0.5 mile due south of intersection of Highway 69 and FM Road 1571 in Hunt County; 10760-01; renewal

City of Kingsville (Plant No. 2), Kleberg County; domestic sewage treatment facilities; north side of FM 1717 (Angle Road), approximately 1.5 miles east of its intersection with U.S. Highway 77 bypass; 10696-02; renewal

Lamar County Water Control and Improvement District No. 1, Roxton, Lamar County; domestic sewage treatment facilities; 2,400 feet southeast of intersection of FM Road 137 and Atchison, Topeka and Santa Fe Railroad on north side of Denton Creek; 10204-01; renewal

Paris Golf and Country Club, Lamar County; domestic sewage treatment facilities; northeast of Paris and north of FM 195, approximately 1/2 mile due west of FM 195 bridge over Sixmile Creek; 11400-01; renewal

Jasper County Water Control and Improvement District No. 1, Jasper County; domestic sewage treatment facilities; 2,000 feet due south of intersection of U.S. Highway 96 and State Highway 62 in Jasper County; 10808-01; amendment

Mitchell Development Corporation, Montgomery County; sewage treatment facilities; 1,500 feet upstream from permanent plant site to be located east of Missouri-Pacific Railroad tracks, north of Trade Center Boulevard, approximately 3/4 mile south and 1/2 mile east of intersection of IH 45 and FM 1488; 11658; amendment

City of Nacogdoches (Plant No. 1), Nacogdoches County; domestic sewage treatment facilities; 3/4 mile south-southeast of intersection of State Highway 21 and State Highway 7 in Nacogdoches; 10342-03; renewal

City of Stratford, Sherman County; domestic sewage treatment facilities; south of Stratford, west of U.S. Highway 287, approximately 4,000 feet southeast of its intersection with U.S. Highway 54; 10293-01; renewal

E. I. duPont de Nemours and Company, Inc., Ingleside, San Patricio County; waste disposal well; duPont Plant Property, T. T. Williamson Survey, Abstract-292, approximately one mile west of City of Ingleside; WDW-121; amendment

Community Water Supply Corporation, Tarrant County; water treatment plant; west side of Eagle Mountain Lake adjacent to Peden Road, approximately 3.7 miles northeast of intersection of State Highway 199 and FM 730; 10753-01; renewal

City of Wichita Falls (River Road Plant), Wichita County; domestic sewage treatment facilities; south of River Road, approximately 1,000 feet northeast of intersection of River Road and Rosewood Street in Wichita Falls; 10509-01; renewal

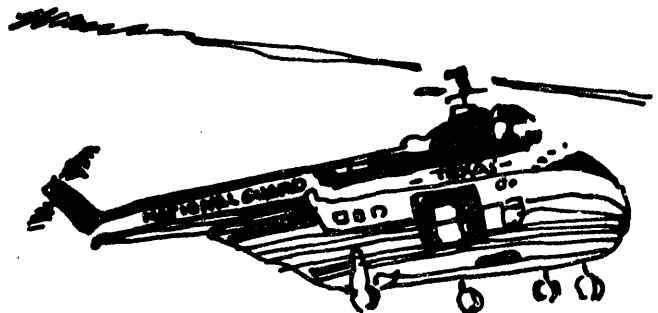
City of Olney, Young County; oxidation ditch, sedimentation and chlorination; 1,500 feet southeast of intersection FM 210 (Spring Creek Road) and State Highway 79 in Young County; 10050; amendment

Issued in Austin, Texas, on June 13, 1980.

Doc. No. 804623 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: June 13, 1980, 4:12 p.m.

For further information, please call (512) 475-1311.



TAC Titles Affected in This Issue

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TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

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TITLE 22. EXAMINING BOARDS

Part XVIII. Texas State Board of Podiatry Examiners

22 TAC §§375.1-375.13 (396.25.00.020-.032) 2437
 22 TAC §§375.1-375.19 (396.25.00.001-.019) 2437

TITLE 31. NATURAL RESOURCES AND CONSERVATION

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