

# TEXAS REGISTER

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TEXAS ARCHIVES

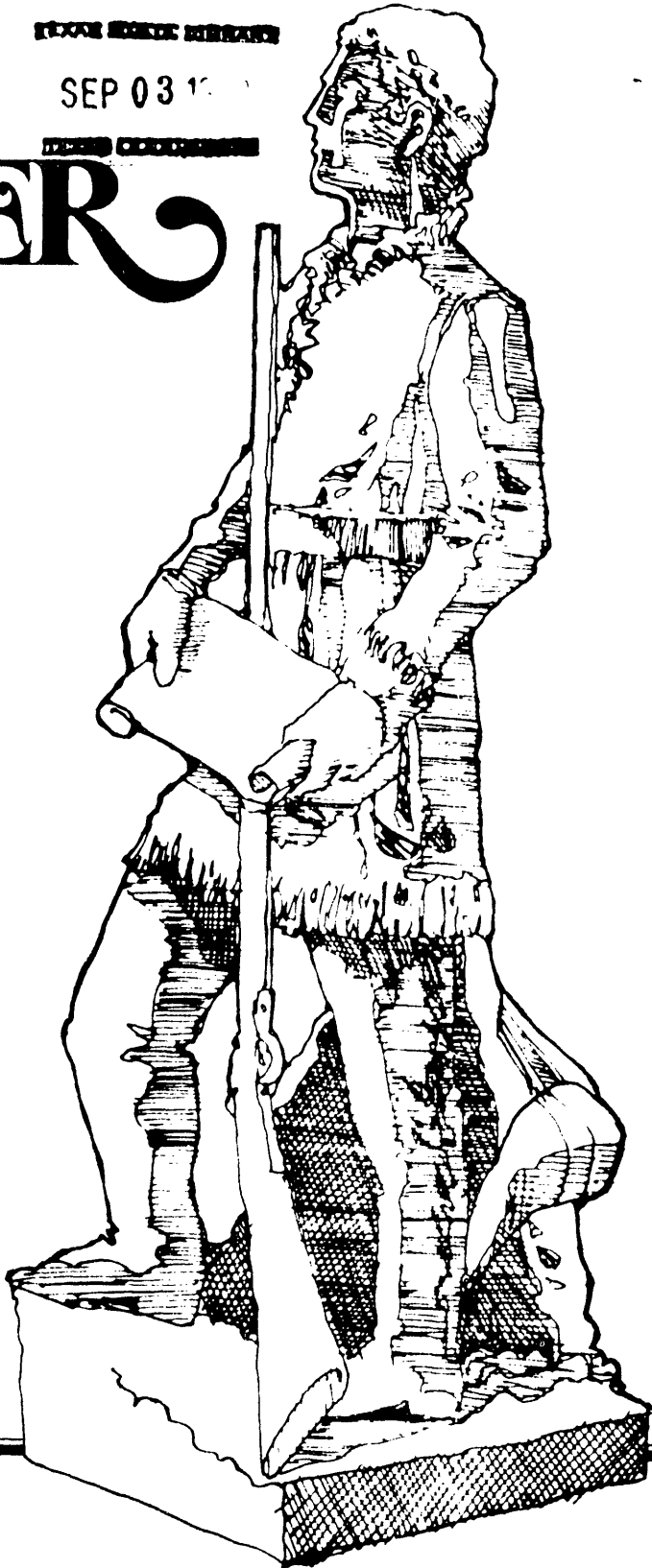
## In This Issue...

The Texas State Library and Archives Commission proposes to amend sections to reflect the name change of the State Library's governing commission, and to establish the maximum percent a major resource center may claim for indirect cost to administer a grant, proposed date of adoption—October 3 3546

The Texas Department of Human Resources proposes new rules concerning its child-placing agency (24-hour care and adoption) and agency home minimum standards while it concurrently repeals rules regarding these standards which no longer reflect the department's policy and procedures, proposed date of adoption—November 1 3548

State Board of Podiatry Examiners adopts amendments to sections concerning examinations, identification of practice, and conduct, effective date—September 15 3561

The Texas State Board of Public Accountancy adopts new sections concerning employees of the board, rulemaking procedures, certification as CPA, registration, replacement licenses, practice and procedures, fee schedule, and continuing professional education, effective date—September 15 3563



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)

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 2, May 80

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**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 the first Texas statue of Stephen F. Austin, which stands in the tower of the State Capitol.*

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# TEXAS REGISTER

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The *Texas Register* (ISSN 0962-4381) 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.



*George W. Strake, Jr.*  
Secretary of State

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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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## Governor

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## Appointments

### 12th Judicial District

*To be district attorney for Grimes, Leon, Madison, Walker, and Trinity Counties until the next general election and until his successor shall be duly elected and qualified:*

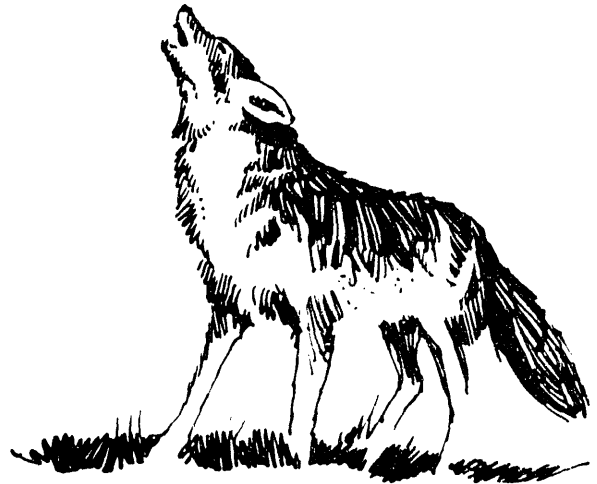
Latham Boone III  
P.O. Box 271  
Navasota, Texas 77868

Mr. Boone is replacing Jerry A. Sandel of Huntsville, Walker County, who resigned.

Issued in Austin, Texas, on August 21, 1980.

Doc. No 806562      William P. Clements, Jr.  
Governor of Texas

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



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.

## Opinions

### Summary of Opinion MW-220 (RQ-244)

Request from George W. McNeil, state auditor, Austin, concerning whether junior colleges are required to collect tuition for noncredit vocational-technical courses.

**Summary of Opinion:** A rider to the General Appropriations Act found at Acts 1977, 65th Legislature, Chapter 872, at 3005, does not establish a requirement to collect tuition for noncredit vocational-technical courses.

A governing board of a public junior college has full discretion in setting tuition and/or fees for noncredit vocational-technical courses, including a fee rate of 0. Tuition is required however, for vocational-technical courses taken for credit pursuant to Sections 54.051 and 130.003(b)(4) of the Education Code.

Doc. No. 806516

### Summary of Opinion MW-221 (RQ-347)

Request from Oscar H. Mauzy, chairman, Senate Education Committee, Austin, concerning whether Section 3.02(a)(18), Education Code, relating to the computation of retirement benefits, should be applied retroactively.

**Summary of Opinion:** Section 3.02(a)(18) of the Education Code does not violate Article I, Section 16, or Article III, Section 44, of the Texas Constitution.

Doc. No. 806517

### Summary of Opinion MW-222 (RQ-356)

Request from Tim Curry, criminal district attorney, Tarrant County, concerning authority of a justice of the peace to collect restitution on dishonored checks.

**Summary of Opinion:** A justice of the peace is not authorized to collect restitution on behalf of the holder of a dishonored check.

Doc. No. 806518

### Summary of Opinion MW-223 (RQ-57)

Request from Mike Atkins, county attorney, Ector County, concerning whether a county may charge a fee for use of airport easement granted in the past.

**Summary of Opinion:** A county may not charge additional consideration for the use of an easement over an airport validly conveyed in the past. The county may convey an easement over the airport in exchange for an annual charge.

Doc. No. 806519

### Summary of Opinion MW-224 (RQ-292)

Request from Jerry (Nub) Donaldson, Texas House of Representatives, Austin, concerning authority of a county to invest in obligations issued by the United States.

**Summary of Opinion:** County governments may withdraw funds from the county depository to invest them in United States obligations where expressly permitted to do so by statute. The laws existing at the time the contract is made become part of it. Thus, violation of a statute regarding withdrawal of funds constitutes a breach of the contract, and the county does not waive its right to withdraw funds pursuant to statute by entering into a depository contract. Article 1269j-3, Vernon's Texas Civil Statutes, does not authorize a county to withdraw at the end of a fiscal year and place in federal obligations funds which were collected for the subsequent fiscal year.

Doc. No. 806520

### Summary of Opinion MW-225 (RQ-374)

Request from Tim Curry, criminal district attorney, Tarrant County, concerning whether a married woman may register to vote under a hyphenated last name consisting of her maiden name and her husband's surname.

**Summary of Opinion:** A married woman may register to vote under a hyphenated last name consisting of her maiden name and her husband's surname.

Doc. No. 806521

### Summary of Opinion MW-226 (RQ-229)

Request from A. R. Schwartz, Natural Resources Committee, Texas Senate, Austin, concerning regental authority to name institution "Texas A&M University at Galveston."

**Summary of Opinion:** The regents of the A&M University System lack power to officially change the name of their maritime institution at Galveston to "Texas A&M University at Galveston."

Issued in Austin, Texas, on August 21, 1980.

Doc. No. 806522

C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

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

# PROPOSED RULES

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.

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## CODIFIED

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### TITLE 13. CULTURAL RESOURCES

#### Part I. Texas State Library and Archives Commission

#### Chapter 1. Library Development

#### Standards for Accreditation of a Major System of Libraries in the Texas Library System

The Texas State Library is proposing to amend §§1.44, 1.47, 1.51, 1.58, and 1.60 (351.20.04.004, .007, .011, .018, and .020).

The proposed changes are to clarify the meaning of the sections and to reflect the name change of the State Library's governing commission. There are no substantive changes except in §1.51 (.011) which establishes the maximum percent a major resource center may claim for indirect cost to administer a grant. This percent is being proposed from 5.0% to 7.0% of total direct expenses.

The proposed amendments have no fiscal implications for units of local governments of the state.

Public comments on the proposed amendments are invited, and persons should submit their comments in writing to Dorman Winfrey, director and librarian, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

A public hearing to consider these amendments has been scheduled for October 8, 1980, 10 a.m., in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin. Those wishing to make oral comments may do so at the hearing.

The amendments are proposed under the authority of Article 5446a, Texas Civil Statutes.

**§1.44 (351.20.04.004).** *Annual Program and Budget for System Services.* On behalf of a major resource system, a major resource center shall submit an annual program and budget for system services 120 days prior to the beginning of the state fiscal year for approval by the state librarian. Approval of a major resource system's annual program and budget shall be certified by the state librarian in writing 60 days prior to the beginning of the state fiscal year. If, following consultation with the major resource system the state librarian, on behalf of the *Texas State Libraries and Archives* [Library and Historical] Commission, does not certify approval of the system's annual program of services and budget, the state librarian may recommend that the commission revoke the major resource center's designation or withhold funds from the system until the plan is acceptably redrawn. If the state librarian does not accept a proposed program of service, a formal public hearing shall be held within the boundaries of the system, with adequate prior notification to member librarians, to allow exchange of information among member libraries, State Library, and major resource center. If, following a public hearing the commission finds that program of the major resource system unacceptable and revokes the major resource center's designation, the major resource system is dissolved as defined under the Library System Act.

**§1.47 (351.20.04.007).** *Consulting and Continuing Education Service.* A major resource system shall provide consulting and continuing education services to **public** [members] libraries **on site**. At least one professional librarian shall be assigned full time to consulting and other system duties and provided with an adequate budget for support staff, travel, and communications to carry out these duties. A professional librarian is defined as a librarian holding **either a** [an American Library Association accredited] fifth-year degree in librarianship, or master's degree, from an American Library Association accredited library school.

**§1.51 (351.20.04.011).** *Indirect Costs.* Costs applicable to major resource system grants shall follow the general principles established in Federal Management Circular 74-4, July 18, 1974, with the following modifications:

(1) If a city has an indirect cost allocation plan currently in effect with a federal agency, that rate, when ap-

plied, may not exceed 7.0% [5.0%] of the total direct expenses incurred under the grant.

(2) If there is no cost allocation plan currently in effect, the city may claim 10% of direct salaries (excluding fringe benefits, overtime, holiday premiums) if that amount does not exceed 7.0% [5.0%] of the total direct expenses incurred under the grant.

(3) Depreciation and use charges for [the use of] buildings or capital improvements, library materials, and equipment may only be included as indirect costs.

*§1.58 (351.20.04.018). Property Inventory.* On behalf of a major resource system, a major resource center shall maintain and submit an inventory of all real and nonexpendable personal property purchased and valued at more than \$50 and all films and videotapes purchased with state or federal funds. The director of the local library having possession of state property shall be considered an "agency head" and the system member library shall be considered an "agency" under **Article 601b, Section 8, Property Accounting**, [House Bill 753, Chapter 35663, State Property Accounting-Responsibility.] and where system property disappears whether through theft or other cause as a result of the failure of the library director, property manager, or system employee entrusted with the property in writing to exercise reasonable care for its safekeeping, such persons shall be pecuniarily liable to the state for the loss sustained by the state. In the event that a library withdraws or fails to qualify for system membership, all property and library materials on inventory purchased with federal or state funds shall be disposed of according to instructions from the state librarian. Such instructions may require that the property be returned to the **Texas State Library and Archives** [Library and Historical] Commission or transferred to a system member library. This section shall not be interpreted so as to hold the library system or library staff responsible for the normal wear or loss of films, videotapes, and equipment due to use or loss while in circulation or transit.

*§1.60 (351.20.04.020). Performance Reporting.* On behalf of a major resource system, a major resource center must collect and report program performance measures, accompanied by a narrative report, that conform to the **Texas State Library and Archives** [Library and Historical] Commission's Program Performance Report as required by the Legislative and Governor's Budget Boards.

Doc. No. 806527

### Minimum Standards for Accreditation of Public Libraries in the State Library System

The Texas State Library is proposing to amend §§1.71, 1.74, and 1.80 (351.20.05.001, .004, and .010). The proposed change to §1.71 (.001) is to minimize the change in population assigned to a library due to changes in county funding patterns. The change to §1.74 (.004) would define how the maintenance of effort on the local library level is to be determined. The change to §1.80 (.010) would provide probational accreditation to all libraries rather than only those accredited in 1979.

The proposed amendments have no fiscal implications for units of local governments of the state.

Public comments on the proposed amendments are invited, and persons should submit their comments in writing to Dorman Winfrey, director and librarian, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

A public hearing to consider these amendments has been scheduled for October 8, 1980, 10 a.m., in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin. Those wishing to make oral comments may do so at the hearing.

The amendments are proposed under authority of Article 5446a, Texas Civil Statutes.

*§1.71 (351.20.05.001). Definition of Population Served.* For a city and/or county spending public monies for public library service, the population served by a public library is the population in the most recent decennial census or official population estimate of the U.S. Department of Commerce, Bureau of Census. Calculations will be based upon the following:

(1) In counties with one or more public libraries that do not spend any county funds, each library is credited with serving only the city population in which it is located.

(2) In counties with only one public library **and** that **library** spends county funds, the library is credited with serving the entire county population.

(3) In counties with two or more public libraries and only one library spends county funds, the library that spends county funds is credited with serving its city population and all the county population living outside cities with public libraries.]

(3)(4) In counties with **one** [two] or more **public** libraries that spend both city and county funds, the libraries that spend county funds are credited with serving their city population plus a percentage of the population living outside the cities. **This** [The] percentage is the ratio of each city's population to the total of all the [cities'] populations [that spend county funds] **of cities with public libraries within the county.**

(4)(5) In counties with a county library and one or more city libraries that spend county funds, the city libraries that spend county funds are credited with serving their city populations plus a percentage of the county population living outside the cities. The percentage is the ratio of each city's population to the county population. The county library serves all county residents not served by a city library.

*§1.74 (351.20.05.004). Local Operating Expenditures.* A public library **must demonstrate local effort on an annual basis by maintaining or increasing local operating expenditures or per capita local operating expenditures. Expenditures for the current reporting year shall be compared to the average of local operating expenditures or to the average of per capita expenditures for the three preceding years.** [may not decrease its annual local operating expenditures as measured by a three-year average.] Libraries that expend at least \$10 per capita or \$50,000, whichever is greater, are exempt from this membership criterion. A public library shall have minimum local operating expenditures of \$5,000.

*§1.80 (351.20.05.010). Probational Accreditation of Library.* A public library that has been fully accredited [or provisionally accredited in state fiscal year 1979] may be granted probational accreditation for three years if the library fails to meet not more than one of the requirements in §1.81 (.011). [Probational accreditation may not be granted

to libraries falling below the minimum requirement for annual per capital local operating expenditures. To regain full system membership, a library must equal or exceed its previous level of effort on the deficient requirement. To achieve full system membership, a library must meet the requirements in §1.81 (.011).

Doc. No. 806528

## Grants: System Operation, Incentive Establishment, and Equalization

The Texas State Library is proposing to amend §1.92 (351.20.06.002) which defines the incentive grant category under the Library Systems Act. The proposed amendment would reduce the eligibility requirement for incentive grants during the second and third years.

The proposed amendment has no fiscal implications for units of local governments of the state.

Public comments on the proposed amendment are invited, and persons should submit their comments in writing to Dorman Winfrey, director and librarian, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

A public hearing to consider these amendments has been scheduled for October 8, 1980, 10 a.m., in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin. Those wishing to make oral comments may do so at the hearing.

The amendment is proposed under authority of Article 5446a, Texas Civil Statutes.

§1.92 (351.20.06.002). *Incentive Grants.* Incentive grants are to encourage libraries to join together into larger units of service in order to meet criteria for major resource system membership. System member libraries joining together into a county or multicounty library system may be eligible for incentive grants. [The library system as a unit will be eligible for incentive grants in three consecutive years provided that services to new geographic areas are added after the first and then second years.]

Doc. No. 806529

## System Advisory Council

The Texas State Library is proposing to amend §§1.112, 1.116, and 1.121 (351.20.07.002, .006, and .011). The proposed amendments provide no substantive changes but only add the feminine gender and reflect the name change of the State Library's governing commission.

The proposed amendments have no fiscal implications for units of local governments or the state.

Public comments on the proposed amendments are invited, and persons should submit their comments in writing to Dorman Winfrey, director and librarian, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

A public hearing to consider these amendments has been scheduled for October 8, 1980 (10 a.m.), in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin. Those wishing to make oral comments may do so at the hearing.

The amendments are proposed under authority of Article 5446a, Texas Civil Statutes.

§1.112 (351.20.07.002). *Advisory Council Election.* The governing body of each member library of the system shall annually elect or appoint a lay representative for the purpose of electing council members. A lay representative may be any person not employed as a staff member by the public library he or she is to represent. Each governing body may also elect or appoint an alternate lay representative who may perform the duties of the representative in his *or her* absence. An alternate lay representative may not be elected to the Advisory Council. Thereafter, the representatives in an annual meeting shall elect members of their group to fill council vacancies arising due to expiration of terms of office. The term of office for representatives and alternates shall be the state fiscal year.

§1.116 (351.20.07.006). *Council Officers, Not Reappointed as Library Representative.* A representative is elected to council September 1, and once elected to council represents the system. Therefore, the representative shall complete his *or her* council term of three years even though the council member may be replaced as the official representative of the member library. The major resource center representative and council member, however, may be replaced at any time. If the council member is replaced as the official representative, the new representative may vote in behalf of his *or her* library at the annual meeting of representatives to fill council vacancies. No individual library in the system shall have more than one representative on the system advisory council.

§1.121 (351.20.07.011). *Review Procedures.*

(a) Public libraries, system advisory councils, and major resource centers may request in writing review by the state librarian of decisions related to accreditation for system membership, or to rules and regulations promulgated by the *Texas State Library and Archives* [Library and Historical] Commission. Following such a review, a dissatisfied party may appeal in writing to the commission.

(b) Public libraries and system advisory councils may request in writing, review by the state librarian or decisions made by major resource centers and system advisory councils as appropriate. Following such a review, a dissatisfied party may appeal in writing to the *Texas State Library Archives* [Library and Historical] Commission.

Issued in Austin, Texas, on August 21, 1980.

Doc. No. 806530 William D. Gooch  
Assistant State Librarian  
Texas State Library and Archives  
Commission

Proposed Date of Adoption: October 3, 1980  
For further information, please call (512) 475-6656.

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## NONCODIFIED

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## Texas Department of Human Resources

### 24-Hour Care Licensing

The Department of Human Resources proposes new rules concerning its child-placing agency (24-hour care and adop-



tion) and agency home minimum standards while it concurrently repeals rules regarding these standards which no longer reflect the department's policy and procedure.

These rule changes include requirements in the form of standards designed to "ensure adequate supervision of children by capable, qualified, and healthy personnel." The standards are proposed in response to concern regarding the employment of persons in direct child care or child-placing activity who have been convicted of serious offenses or who have been indicted, or against whom official criminal complaints have been accepted. Minimum standards for child-caring institutions already include these requirements. In order to offer equal protection to children in foster care placement, the department is now proposing the addition of these rules in order to ensure protection for children from those individuals whose past life experiences might result in their being detrimental to the best interests of children. In addition, the proposed rules correct errors which were inadvertently made in existing standards as well as clarify existing requirements for placement of children into substitute care in both emergency and nonemergency situations.

When the department's board approved the existing child-placing agency minimum standards it instructed the Licensing Division to do a curriculum study to determine if the current educational requirements requiring the employee to have the MSW with two years of child-placing experience are minimum requirements. This request represents a response to the large number of requests the department received asking that the educational requirements of the department be broadened to include disciplines other than social work.

The staff has completed its review of this matter by comparing the requirements of the four programs within the state which offer a master's degree in social work and the requirements for selected graduate degrees in other fields offered by 21 Texas institutions of higher learning. Empirical studies comparing the performance in similar positions of workers with a master's degree in social work and those without were also used.

The curricula comparison identified some key components of graduate social work education and comments on the issue, both in support of and against proposing a broader educational requirement, spoke of appropriate academic preparation in conjunction with supervised experience for child-placing activities. The empirical studies did not demonstrate significant differences in the performance of workers with the master's in social work degree and those without when occupying similar positions. Based on this information, it does not appear that there is adequate justification for a minimum standard requiring only the master's in social work degree.

Rather than establishing rules which specified acceptable degrees other than the master's in social work, the department has determined that the academic requirement shall be satisfied by requiring at least a master's degree which includes course work in the areas of interpersonal helping skills and understanding the needs of children.

The remainder of the rules regarding standards for child-placing agencies (24-hour care and adoption) which have not been affected by the changes stated above are being repealed and reintroduced in new ordinal position to comply with the format requirements of the *Texas Register*.

The department has determined that the proposed rule changes will have no impact on recipient caseloads and therefore will have no fiscal implications for the state or for local units of government.

A hearing to accept public comments on the proposals will be held on September 24, 1980, in Room B1, 706 Banister Lane, Austin, beginning at 9 a.m. Written comments are also invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—217, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 60 days of publication in this *Register*.

### Standards for Child-Placing Agencies (24-Hour Care and Adoption) 326.91.01.001-.023, .025

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

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

- .001. *Legal Basis for Operation.*
- .002. *Governing Body Responsibilities.*
- .003. *Fiscal Accountability.*
- .004. *Personnel Policies.*
- .005. *Qualifications and Responsibilities.*
- .006. *Training.*
- .007. *Admission Policies.*
- .008. *Services to Biological Parents.*
- .009. *Intake for Substitute Care.*
- .010. *Plan of Service.*
- .011. *Foster Family Care.*
- .012. *Children's Rights.*
- .013. *Medical and Dental Care.*
- .014. *Foster Home Study.*
- .015. *Adoptive Readiness Review.*
- .016. *Adoptive Home Study.*
- .017. *Post Placement Supervision.*
- .018. *Subsequent Adoptive Placements.*
- .019. *Case Records.*
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Doc. No. 806531

### 326.91.01.026-.051

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

- .026. *Legal Basis for Operation.* Child-placing agencies (other than those owned by a sole proprietor) shall make available documentation of their legal basis for operation to the Licensing Branch of the Texas Department of Human Resources. The Licensing Branch shall be notified of any changes in the legal basis for operation. The legal basis for operation shall be documented in one of the following ways:

(1) a corporation shall make available a copy of the Articles of Incorporation and Certificate of Incorporation; or

(2) child-placing agencies operated by state agencies or other governmental entities shall make available documentation of enabling legislation and a copy of a constitution or bylaws if such exists; or

(3) child-placing agencies operated by a partnership or association shall make available partnership agreements or documents reflecting the existence or creation of an association.

*.027. Governing Body Responsibilities.*

(a) All facilities shall have a governing body that is responsible for and has authority over the policies and activities of the child-placing agency. If a child-placing agency is owned by a partnership or association, the partners or association shall be regarded as the governing body for the purpose of this subsection. If a child-placing agency is owned by a sole proprietor, the responsibilities imposed on a governing body by this subsection shall be borne by that proprietor. If a child-placing agency is operated as a public-supported child-placing agency, the responsibilities imposed on a governing body shall be borne by the persons legally delegated by the authority of the legislature. Child-placing agencies that are owned corporately shall provide the Licensing Branch with a list of names, addresses, and titles of the officers and/or executive committee of the governing body. Child-placing agencies that are owned jointly or individually shall provide the department with a list of names and addresses of the partners or owner. The Licensing Branch shall be notified of any changes.

(b) The governing body shall be responsible for policies and programs, for ensuring adequate financing, and for ensuring compliance with minimum standards. The agency shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to agency staff.

*.028. Fiscal Accountability.*

(a) Every child-placing agency shall maintain complete financial records. Books shall be audited annually by a certified public accountant. A copy of the accountant's statement of income and disbursements and the opinion letter from the audit report shall accompany the license application for licensed facilities.

(b) New agencies shall submit a letter from a certified public accountant stating that the bookkeeping system will be set up so that an audit can be made at the end of each fiscal year.

(c) New child-placing agencies shall submit a 12-month budget to the Licensing Branch when the signed application is submitted.

(d) New child-placing agencies shall have predictable funds sufficient for the first year of operation. They shall have reserve funds or documentation of available credit, equal to the operating costs for the first three months.

*.029. Reports and Records.*

(a) Any serious incident involving a child shall be reported immediately to the parents or managing conservator. Documentation of notification to the child's parents or managing conservator shall be included in the child's record.

(b) The child-placing agency shall complete written incident reports concerning serious occurrences involving staff or children. Each report shall include the date and time of oc-

currence, the staff member or children involved, the nature of the incident, and the circumstances surrounding it.

(c) The following types of serious occurrences shall be reported to the Licensing Branch within 24 hours or the next working day: suicide attempts, incidents of cruel or abusive treatment, incidents which critically injure or permanently disable a child, and death of a child.

(d) Absences without permission shall be reported to the parents or managing conservator when it is determined that the child is a runaway. Documentation of notification to the child's parents or managing conservator shall be included in the child's record.

(e) The child-placing agency shall submit reports to the Licensing Branch concerning any impending change that would necessitate a change in the conditions of the license.

(f) The agency's records shall be available at the agency office(s) and open for review by the Licensing Branch during the hours of operation.

(g) The agency shall ensure that case records are kept confidential and inaccessible to unauthorized persons. Information in case records shall only be disclosed for direct and authorized services to the child or the administration of the agency.

(h) Agencies shall maintain complete case records for 10 years. After 10 years, at least the following shall be retained:

- (1) any health records that physicians advise will be of medical importance to the child;
- (2) information concerning the termination of parental rights or the court order;
- (3) copy of the adoption decree.

(i) Agencies which cease placing children shall advise the department concerning the arrangements made to safeguard the records. Record storage shall be arranged with the department or another child-placing agency, or some other department-approved arrangement shall be made for the safekeeping of records.

(j) The license shall be displayed at the agency.

*.030. Personnel Policies.*

(a) Child-placing agencies shall have written job descriptions which specify what duties employees are expected to perform. A copy of job descriptions shall be available for review by the Licensing Branch.

(b) If volunteers or sponsoring families are used, child-placing agencies shall have written policies stating the qualifications for volunteers or sponsoring families and the procedure for selecting these individuals or families. A copy of the policies and procedures shall be available for review by the Licensing Branch.

(c) The child-placing agency shall reassign or remove from direct child care activities or child-placing activities any employee against whom is returned:

(1) an indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act;

(2) an indictment alleging commission of any misdemeanor classified as an offense against the person or family, or of public indecency;

(3) an official criminal complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family, or of public indecency.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24-hours or the next working day.

**.031. Personnel Qualifications and Responsibilities.**

(a) No one may serve as a staff member working with children who has been convicted within the preceding 10 years of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act, or of any misdemeanor classified as an offense against the person or family or of public indecency, unless the director of licensing has ruled that proof of rehabilitation has been established.

(b) The personal qualifications of employees shall be verified.

(1) At least three references shall be obtained for each potential employee prior to employment. Information obtained from the references shall be written and filed whether the interview is conducted in person or by telephone.

(2) Each employee shall submit a statement to the child-placing agency providing information concerning any felony and/or misdemeanor convictions within the preceding 10 years and any pending criminal charges.

(c) Persons whose behavior or health status endangers the children shall not be allowed at the agency.

(d) The child-placing agency staff shall include a person with the following qualifications and responsibilities:

(1) This person shall have a minimum of:

(A) a master's degree in social work and one year of supervised experience in child-placing; or

(B) a master's degree which includes graduate level course work in interpersonal helping skills and understanding the needs of children and two years of supervised experience in child-placing.

(2) This person shall assume professional responsibility for reviewing and approving, prior to placement in nonemergency situations, the placement of children in out-of-home care when the placements are made by a person with lesser qualifications. This person shall document approval by initialing and dating the case record. Responsibilities shall include:

(A) approval of admission of a child into the child-placing program;

(B) review of the intake study for completeness and appropriateness of plan;

(C) approval of the selection of the facility or adoptive home for the child's placement;

(D) review and approval of any subsequent placements into substitute care, including selection of a facility;

(E) approval of studies on foster families and adoptive families.

(e) Any additional staff engaged in child-placing shall meet one of the following qualifications:

(1) a master's degree in social work; or

(2) a master's degree which includes graduate level course work in interpersonal helping skills and understanding the needs of children and one year of supervised experience in child-placing; or

(3) a master's degree and two years of supervised experience in child-placing; or

(4) a bachelor's degree in social work from an accredited college or university and two years of supervised experience in child-placing; or

(5) a bachelor's degree from an accredited college or university and three years of supervised experience in child-placing; or

(6) a bachelor's degree from an accredited college or university and current direct supervision from a person meeting one of the above qualifications.

(f) Staff members who have contact with children shall have an examination for tuberculosis within 12 months prior to employment. Re-examination shall be in accordance with recommendations of local public health authorities or the regional office of the Texas Department of Health.

**.032. Training.**

(a) The child-placing agency shall provide specific job orientation to all new staff.

(b) At least 15 hours of in-service training shall be provided annually for all staff working with children.

(1) In-service training for all staff working with children shall be documented. This shall include the date, the subject, and the name of the person who conducted the training.

(2) If the policy of the child-placing agency permits physical punishment of children in care, in-service training for child-placing agency staff shall include alternatives to physical punishment.

(c) The child-placing agency shall provide orientation to all new foster parents.

(d) The child-placing agency shall provide at least 15 hours of training annually for each foster family unit.

(1) Training provided shall be documented in the agency records.

(2) If the policy of the child-placing agency permits physical punishment of children in foster care, training provided to foster parents shall include alternatives to physical punishment.

**.033. Staff Records.** Personnel records shall be maintained for each employee of the child-placing agency whose work relates to child-placing activities or work with the natural parents. These records shall contain information on:

(1) qualifications for the position;

(2) tuberculosis test reports for all staff having contact with children;

(3) pre-employment references;

(4) conviction record statement;

(5) date of employment;

(6) date and reason for separation;

(7) forwarding addresses of separated employees.

**.034. Admission Policies.**

(a) The child-placing agency shall have written policies stating what services are offered by the agency and who is eligible for these services. A copy of these policies shall be submitted to the Licensing Branch when the signed application is submitted.

(b) The agency shall accept for placement only those children who meet the conditions outlined in the agency's policies. The conditions of the license shall be observed.

(c) The child-placing agency shall have legal authority to arrange for placement of a child before making the placement. The following constitutes that authority:

(1) a copy of a court order naming the agency managing conservator, or

(2) an agreement signed by the parent(s) or managing conservator authorizing the agency to place the child.

(d) No child shall be denied services because of race.

(e) The agency shall have written reimbursement policies for services to biological parents, adoptive applicants, and adoptive parents. Copies of these policies and procedures shall be available for review by the Licensing Branch. The annual income from adoption reimbursement fees shall not exceed the child-placing agency's annual expenditures for providing services to children, children's biological parents, adoptive applicants, and adoptive parents.

(f) The agency shall have full control of and responsibility for its placements. Agencies shall not act as agents for unlicensed agencies, institutions, or individuals.

### .035. Services to Biological Parents.

(a) If the agency operates a maternity service subject to licensing by the Texas Department of Health or a local governmental unit, that license shall be a prerequisite for a child-placing license. Licensure by MH/MR or the Texas Department of Health shall not constitute an exemption for child-placing activities.

(b) An agency shall not exert undue pressure on parents to place a child in substitute care or to relinquish the child for adoption.

(c) The reasons for the parent's decision to place their child into substitute care or to relinquish the child for adoption shall be documented in the child's record.

### .036. Intake for Substitute Care.

(a) Except in an emergency placement, a written intake study shall be completed by a qualified child-placing agency staff member prior to placement in substitute care.

(b) A person meeting the qualifications described in these rules, shall review the intake study for completeness prior to placement, to determine if the placement is appropriate. Staff reviewing intake studies shall sign or initial and date those studies.

(c) The intake study shall be filed in the child's record and shall include at least the following information:

- (1) a description of family circumstances making the placement necessary;
- (2) the child's developmental and medical history;
- (3) the parent's or managing conservator's expectation of placement;
- (4) the child's understanding of placement;
- (5) a description of the child's personality, behavior, and interests;
- (6) the child's school history;
- (7) history of previous placements;
- (8) a statement about the child's legal status;
- (9) a statement of the child's needs;
- (10) the immediate and long-range goals of the placement;
- (11) name of family member or managing conservator primarily responsible for the relationship with the agency and the child.

(d) The intake process shall include a discussion about placement with the child and his or her parents or managing conservator. This discussion shall be documented in the child's record.

(e) A child shall have a medical examination by a licensed physician within 30 days prior to placement or within 30 days after placement. A child being transferred from an agency who has had a medical examination within the past year is exempt. This shall be documented by an ex-

amination report signed and dated by a licensed physician. This report shall be in the child's record.

(f) Children three years old or older shall have a dental examination by a licensed dentist or a dental hygienist working under the supervision of a licensed dentist within one year before placement or arrangements shall be made for one within 30 days after placement. Documentation of the arrangement or of the dental exam shall be in the child's medical record.

(g) Children shall be tested for tuberculosis according to the recommendations of local public health authorities or the regional office of the Texas Department of Health in the county in which the child has been living.

(h) Unless the agency is the managing conservator at the time of placement, there shall be a written agreement between the agency and the child's parents or managing conservator. A copy of the agreement shall be in the child's record. The agreements shall include:

- (1) authorization for the agency to care for the child;
- (2) a Medical Consent form signed by a person authorized to give consent by the Texas Family Code.

(i) The following written information shall be provided to the parents or managing conservator at the time of placement or prior to placement:

- (1) the agency's rules regarding visits, gifts, mail, and telephone calls;
- (2) information on the nature and frequency of reports to the child's parents or managing conservator;
- (3) the agency's discipline policies;
- (4) the agency's policy or program concerning religious training;
- (5) the person or office the parents or managing conservator can contact if they feel that the child's rights have been violated;
- (6) information regarding trips.

(j) Accurate and current records shall be maintained for each child in foster care. In addition to other required documentation, each child's record must include:

- (1) name;
- (2) date of birth;
- (3) place of birth;
- (4) sex;
- (5) religion;
- (6) names and addresses of parents, brothers, and sisters;
- (7) names and addresses of other persons who have a significant relationship with the child.
- (8) date of intake;
- (9) birth certificate or other document which establishes identity. Records without these documents shall reflect correspondence generated at least every three months to obtain such;
- (10) a copy of the court order related to managing or possessory conservatorship;
- (11) date of discharge.

### .037. Placement into Substitute Care.

(a) The following are requirements for nonemergency placements into substitute care:

(1) Social, medical, psychological, and school history as it relates to the child's needs and plans for care and management shall be shared with the foster parents or staff person at the child care facility prior to placement. This shall be documented in the child's record.

(2) Children over six months of age shall visit in the foster home or child care facility before placement. This visit shall be documented in the child's record.

(3) A person meeting the qualifications described in these rules shall review the intake study and the foster home study, prior to placement, to determine the most appropriate placement for the child. Staff reviewing the studies shall sign or initial and date the studies.

(4) When a child-placing agency is using the agency home of another child-placing agency, there shall be a written agreement between the agencies for each child. A copy of the agreement shall be on file with both agencies and shall specify:

(A) the agency which will provide on-going work with the child and his or her natural family;

(B) that the agency placing the child shall give intake information to the agency supplying the foster home so an appropriate home can be selected;

(C) the agency which will maintain the child's record or which portion of it;

(D) that the agency providing the foster home shall continue to supervise the home to ensure compliance with standards;

(E) that the agency placing the child shall supply the foster parents a Medical Consent form for medical care of the child signed by the parent or other person authorized to consent.

(b) The following are requirements for emergency placement into substitute care. An intake study shall be completed within 30 days. By the end of the 30-day period the intake study shall be reviewed and approved by a person meeting the qualifications described in these rules.

(1) The agency shall document the conditions that make the emergency placement necessary.

(2) The agency shall document that the intake study was initiated within five days of admission.

(3) Social, medical, psychological, and school history as it relates to the foster child's needs and plans for care and management shall be shared with the foster parents or staff person at the child care facility as soon as the intake study is completed. This shall be documented in the child's record.

#### .038. Plan of Service.

(a) Within 30 days after intake, an initial plan of service shall be developed by the child-placing agency after conferring with the child and the child's parents or managing conservator. The plan shall be filed in the child's record with copies or a summary given to the child's parents or managing conservator.

(1) The plan of service shall specify the child's needs and the way these needs shall be met.

(2) The plan shall include the objectives of placement and the estimated length of stay.

(3) The plan of service shall be shared with foster parents or child care facility personnel.

(b) There shall be a conference every six months for the purpose of reviewing and updating the plan. The conference shall include a representative of the agency, the foster parents, the child's parents or managing conservator, and the child. Results of the conference shall be filed in the child's case record.

(1) The child's parents or managing conservator shall be notified of the conference in advance. Documentation of notification of the child's parents or managing conservator shall be included in the child's record.

(2) The updated plan shall note achieved or changed objectives. A copy or summary shall be given to the child's parents or managing conservator and to the foster parents or child care facility personnel.

(3) The names of persons included in the review shall be listed. If those listed in this standard did not participate, a copy of the updated plan shall be sent for their response.

(c) The agency, the foster parents, the child, and/or the child's parents or managing conservator may request an update of the plan of service at any time. This review shall be granted within two weeks from the date of request.

(d) The agency shall be responsible for the supervision of children in placement.

(1) The agency shall be responsible for quarterly contacts with all children in placement.

(2) Contacts shall be documented in the child's record.

(e) The child-placing agency shall obtain professional consultation and treatment for children with developmental disabilities and/or problems of adjustment in the social, home, and/or school environment. Any record of specialized testing or treatment shall be documented in the child's record.

#### .039. Subsequent Placement.

(a) The following are requirements for nonemergency subsequent placement:

(1) A child shall not be moved from one foster home or child care facility to another without:

(A) the documented approval of the appropriate supervisory personnel;

(B) one or more preplacement visits for children over six months old;

(C) the documented discussion between staff and the child of the circumstances making the move necessary;

(D) the child's understanding of and response to the move shall be documented in the child's record.

(2) The child's plan of service shall note any changes necessary because of the move.

(3) Social, medical, psychological, and school history as it relates to the child's needs and plans for care and management shall be shared with the foster parents or staff person at the child care facility prior to placement. This shall be documented in the child's record.

(b) The following are requirements for emergency subsequent placement:

(1) Social, medical, psychological, and school history as it related to the child's needs and plans for care and management shall be shared with the foster parents or staff person at the child care facility at the time of placement. This shall be documented in the child's record.

(2) Appropriate supervisory personnel shall review the record and note approval within 10 days after placement.

(3) The child's plan of service shall note any changes necessary because of the move.

(4) A child shall not be moved from one foster home or child care facility to another without discussion between staff and the child of the circumstances making the move necessary. This discussion shall be documented in the child's record.

#### .040. Foster Family Care.

(a) The agency shall ensure that individuals on trips are properly fed, lodged, and supervised; and that safety precautions, medical care, and programming are provided.

(b) The agency shall see that each child is supplied with personal clothing suitable to the child's age and size. It shall be comparable to the clothing of the children in the community. Children shall have some choice in selecting their clothing.

(c) Money earned by a child or received as a gift or allowance shall be his or her personal property. A child's money shall be accounted for separately from the child-placing agency's or the foster family's funds. A child shall not be required to use earned money to pay for room and board, unless it is a part of the treatment plan and approved by the parents or managing conservator and the child-placing agency.

(d) The agency shall arrange an education appropriate for each child.

(e) The child-placing agency shall provide for social and educational needs of the children.

(f) The child-placing agency shall ensure that recreational activities are available to every child in care.

(g) The child-placing agency shall ensure that agency homes encourage and arrange for children to participate in community functions and recreational activities. Children shall be encouraged to form friendships with persons outside the agency home.

#### .041. *Children's Rights.*

(a) Contacts between the child and his or her parents or managing or possessory conservator shall be allowed while the child is in care unless the rights of the parents have been terminated by court order. The frequency of contact shall be based on the needs of the child and shall be determined with the participation of his or her parents or managing or possessory conservator. Any limitations shall be filed in the child's case record.

(1) Children shall not be denied their right to privacy in writing, sending, or receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(2) Children shall be allowed to send and receive mail and have telephone conversations with their family members or the managing conservator unless the best interests of the child or a court order necessitates restrictions.

(3) If restrictions on communication or visits are necessary, these restrictions shall be evaluated monthly by the child-placing staff. These monthly evaluations shall be documented in the child's record giving reasons for restriction.

(4) If limits are put on communication or visits for practical reasons, these shall be determined with the participation of the child and his or her family or managing conservator. These limitations shall be filed in the child's record.

(b) The child-placing agency shall have clearly written policies regarding visits, gifts, telephone calls, and mail between the child and his or her parents or managing or possessory conservator. These policies shall be available for review by the Licensing Branch.

(c) The child-placing agency shall not place a child in a position of having to acknowledge his or her dependency, destitution, or neglect. The child-placing agency shall not require a child to make statements regarding his or her background or dependence on the agency.

(d) The child-placing agency shall not require a child to make public statements to acknowledge gratitude to the agency.

(e) The child-placing agency shall not require a child to perform at public gatherings.

(f) Pictures, reports, or identification that humiliates, exploits, or invades the privacy of a child and his or her parents or managing conservator shall not be made public. The agency shall not use reports or pictures from which children can be identified without written consent from the child (if he or she can read and write) and his or her parents or managing conservator.

(g) The child-placing agency shall have written policies for the discipline of children in foster care. Discipline shall be individualized to fit the needs of the child. Copies of the discipline policies shall be provided to staff, foster parents, and to the children's parents or managing conservators. Copies of the child-placing agency's discipline policy shall be submitted to the Licensing Branch with each application for a license and at any time a change is made in policy.

(1) Only foster parents or other adult caregivers shall punish children.

(2) Children shall not be subjected to cruel, harsh, unusual, or unnecessary punishment.

(3) A record shall be kept of the physical punishment administered to children and the imposition of restrictions on children to the agency home that exceed 24-hours. This shall be recorded in the child's record.

(4) Children shall not be subjected to verbal remarks that belittle or ridicule them or their families.

(5) Children shall not be denied food, mail, or visits with their families as punishment.

(6) Children shall not be threatened with the loss of foster home placement as punishment.

(7) No child of any age shall be shaken.

(8) If the policy of the child-placing agency permits spanking children less than five years old, spanking shall only be administered with an open hand on a child's buttocks or hands.

(9) Physical holding as a form of restraint shall be used only to protect the child from injury to self or others. The use of physical holding and the length of time used shall be recorded in the child's case record. Mechanical restraints shall not be used.

(10) Children in care shall not be placed in a locked room.

#### .042. *Medical and Dental Care.*

(a) The child-placing agency shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems, including procedures to be followed in an emergency.

(1) Copies of the policies and procedures shall be available for review by the Licensing Branch.

(2) Copies of the policies and procedures shall be provided to each foster family.

(b) All children shall be examined annually by a licensed physician. Documentation of the examination signed by a licensed physician shall be filed in the child's medical record.

(c) All children three years old or older shall have a dental examination by a licensed dentist or a dental hygienist working under supervision of a licensed dentist at least once a year. Documentation of the examination shall be filed in the child's medical record.

(d) When medical or dental treatment is required, the child-placing agency shall ensure that it is provided.

(e) The child-placing agency shall comply with laws, rules, and regulations regarding immunization of children. Current immunization records shall be maintained for each child at the facility. Children's immunization records shall include the birthdate, the immunization status, the number of doses, and the dates each immunization was received. A machine or handwritten copy of the immunization record is acceptable. Handwritten copies shall bear the signature of the responsible staff member copying the information. Compliance with this standard shall be measured by the presence of one or more of the following in each child's record:

(1) A written and dated record that the child has been immunized against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella. This record shall have a rubber stamp or signature of the physician or health personnel and shall specify the type, number of doses, and dates given as required by law.

(2) A written and dated statement from a licensed physician or other authorized health personnel that immunizations against at least one of the above mentioned diseases have begun. The immunization cycle shall be completed as soon as is medically feasible. A current immunization record shall be on file at the agency.

(3) A certificate signed by a physician, duly registered and licensed under the Medical Practice Act, stating the physician's opinion that the required immunization would be injurious to the health and well-being of the child or any member of his or her family or household.

(4) An affidavit signed by the parent or managing conservator of the child stating that the vaccination or immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the child is an adherent or member.

(5) A written and dated statement for a child enrolled in a public school program signed by the parents or managing conservator stating that the child's immunization record is on file at the school the child attends and that all immunizations are current. The name of the school shall be included on the statement.

(f) Each child's medical record shall include a report of tuberculosis testing as often as recommended by the Texas Department of Health.

(g) Each child's medical record shall include a record of each visit to a physician or dentist and recommended treatment.

(h) Each child's medical record shall include a record of medications and treatment received by the child.

#### .043. Discharge.

(a) The following persons shall be involved in planning the discharge of a child:

- (1) the child;
- (2) the child's parents or managing conservator;
- (3) agency staff;
- (4) the foster parents.

Before discharging a child, the agency shall review the objectives of the plan of service and determine which objectives have been met.

(b) In the event of an emergency discharge and the agency is unable to plan for the discharge with the persons listed in subsection (a) of this rule, the agency shall document circumstances surrounding the emergency discharge in the child's record.

(c) The agency shall not discharge a child to anyone other than the parent or managing conservator except on written authorization from the parent or managing conservator.

(d) The discharge plan for the child shall be recorded in his or her record. The circumstances surrounding the discharge shall be documented in the case record. The date, name, address, and relationship of the person to whom the child is discharged shall be recorded.

#### .044. Foster Home Study.

(a) Each foster home study, based on at least one home visit, shall include written documentation of the following:

(1) Discussion with the applicants about their feelings about their parents and childhood, about themselves now, and about the quality of their marital relationship.

(2) Discussion with the applicants about their feelings about children including:

(A) feelings about natural parents of children in substitute care and understanding of separation and placements;

(B) feelings about child-rearing, including discipline.

(3) Composition of the household.

(4) Discussion with applicants about the attitudes of extended family concerning foster parents.

(5) Discussion with the applicants about their motivation for foster parenting.

(6) Recommendation about the children with which the family can and cannot work effectively. If the home is approved, recommendation about the age and number of children to be served.

(b) The following documentation shall be obtained:

(1) Documentation that adult members of the household and any employees of the foster family have had a tuberculosis test within 12 months before the home is used for children. Any additional testing shall be based on recommendations of the Texas Department of Health or local public health authorities.

(2) Children of the foster family shall be tested for tuberculosis according to the recommendations of the Texas Department of Health or local public health authorities.

(3) Fire inspection report showing approval of the home. If fire inspections are not available, a department fire safety checklist may be completed.

(4) Health inspection report showing approval of the home. If health inspections are not available, a department health inspection checklist may be completed. When the checklist is filled out by responses of "yes" or "not applicable," this constitutes compliance with health safety standards.

(5) Sketch of the floor plan of the home showing room dimensions and purposes of rooms.

(c) All foster home studies shall be done by a person qualified as a child-placing agency staff member.

(d) Prior to issuance of the agency home verification there shall be documentation of supervisory approval of the home, including the number, age, and sex of the children for which the home is approved. Supervisory staff reviewing the foster home study shall initial the study and indicate the date approved.

(e) An agency home verification form shall be given to each approved agency home after the initial foster home study and after each validation study. The validation study shall document that the requirements outlined in Rules



326.91.02.017-.026 are met. A copy shall be placed in the agency home record.

(1) The agency shall not place a child into a home until that home has been studied and verified as an agency home. The agency shall not place more children in an agency home than the number for which the home is approved.

(2) All agency homes shall be re-evaluated every two years or whenever a change is made in the conditions of the verification certificate. The revalidation study shall document that the requirements outlined in Rules 326.91.02.017-.026 are met.

(f) All verifications and revocations shall be reported to the Licensing Branch on the forms supplied by the Licensing Branch. One copy of the completed form shall be retained in the foster home record.

(g) At the time the agency home is verified by the agency, the agency shall have a written agreement with the foster parents. As a minimum, this agreement shall specify:

(1) the financial agreement between the agency and the foster home;

(2) that the agency home shall not accept a non-relative child for 24-hour care from any source than through the child-placing agency;

(3) the agency's right to remove the child at the agency's discretion;

(4) that the child shall be released only with the consent of the agency;

(5) that visiting by the child's parents or relatives shall be arranged through the agency;

(6) the agency's responsibility for regular supervision of the foster home;

(7) agreements regarding visits of the child away from the home;

(8) that the foster parents shall notify the agency whenever they wish to take a foster child out of the county for an extended period of time.

Both the agency and the foster parents shall have a copy of this agreement. A copy of this agreement shall be filed in the foster home record.

(h) A Medical Consent form shall be provided to the foster parents at the time of the child's placement. Copies of the signed Medical Consent form provided to the foster parents shall be filed in the child's record or in the foster home record.

(i) Supervisory visits shall be made at least quarterly to each agency home in which children are placed. These visits shall be recorded in the foster home record. Supervisory visits are not required for homes considered inactive by the agency and in which no children are placed. Inactive homes shall be re-evaluated before additional placements are made.

(j) The Licensing Branch shall have the authority to visit and inspect the agency homes of the child-placing agency at all reasonable times.

**.045. Adoptive Services.** The agency's policies and procedures concerning adoptive services shall be in writing available for review by the Licensing Branch. These policies and procedures shall be available to prospective users of adoptive services.

**.046. Adoptive Readiness Review.**

(a) Prior to adoptive placement, the following shall be documented in the child's record:

(1) A medical examination report made by a licensed physician:

(A) within one month prior to placement for infants under two years old; or

(B) within three months prior to placement for children two years old or older.

(2) Physical development of the child including a record of any illness, feeding difficulty, or abnormality.

(3) A record of current immunizations.

(4) A record of the intellectual development to the extent available, including any problems noted and testing or treatment obtained.

(5) The name, age, nationality, religion, education, occupation, health history, and physical appearance of the biological parents of the child, to the extent available.

(6) Information on the education occupation, and health of the child's biological grandparents and aunts and uncles, to the extent available.

(7) The reason for surrendering the child and the attitudes of the biological parents toward placement.

(8) Statistical birth information or birth certificate.

(9) Verification of the child's legal status, including an affidavit of relinquishment signed by the child's biological parents, or a signed and dated court order permanently terminating parental rights.

(b) There shall be discussions with the child about adoptive planning, if the child is old enough to discuss it. These discussions shall be held within three months prior to placement. The following information shall be documented in the child's record:

(1) the child's thinking and feelings about his or her parents' inability to rear him or her;

(2) the child's capacity to relate to new parents;

(3) the child's capacity to develop within a family setting;

(4) the child's understanding of and consent for adoption, legally required of a child 12 years old or older.

**.047. Adoptive Home Study.**

(a) All adoptive home studies shall be done by a qualified staff member.

(b) The agency shall place a child for adoption only into a home which has been studied and approved by a licensed or certified child-placing agency.

(c) The adoptive home study shall determine and document:

(1) Discussion with the applicants about their feelings about their parents and childhood, about themselves now, and about the quality of their marital relationship, including feelings about the inability to have children, if applicable.

(2) Discussion with the applicants about their feelings about children, including:

(A) feelings about helping the child to understand adoption;

(B) feelings about biological parents of the adopted child;

(C) expectations for a child, if adopted;

(D) feelings about child rearing, including discipline.

(3) Discussion with the applicants about their motivation for adoption.

(4) That the adoptive applicant(s) are of such an age that they can meet the child's needs and best interests.

(5) That the adoptive applicant(s) shall have sufficient income and management ability to care for an adoptive child and meet his or her other needs.



(6) That the physical environment of the home is appropriate for good child care.

(7) Readiness of adoptive parents to adopt.

(8) Attitudes of extended family concerning adoption.

(d) The adoptive study process shall involve the following contacts which shall be documented in the adoptive home record:

(1) At least one individual interview with each applicant.

(2) Two or more additional interviews with the adoptive applicants, either jointly or as a family group, excluding initial orientation groups.

(3) Interview with any school-age child or other person living with the family.

(4) At least one visit to the home when all members of the household are present.

(5) At least three character references for adoptive applicants from persons who have knowledge of the applicants as a family unit.

(e) The adoptive applicants shall provide the agency with the following materials which shall be documented in the adoptive home record:

(1) Medical examinations within the past year for the adoptive applicants and any children or other persons in the home.

(2) Statement of income and extent of insurance coverage, if any.

(3) Verification of any present marriage and, if applicable, for previous marriages, divorces, or deaths of former spouses.

(f) If a child has not been placed with the adoptive applicants within one year from the time the adoptive home study is completed, the adoptive home study shall be brought up-to-date before a placement is made. The updated information shall document:

(1) at least one visit to the home when all household members are present;

(2) statement from the family of current income and extent of insurance coverage, if any;

(3) present quality of the marriage relationship, if applicable;

(4) current composition of the household;

(5) readiness of adoptive applicants for adoption;

(6) changes, if any, in physical environment of the home;

(7) change in kind of child(ren) they would be willing to consider.

(g) Prior to placing a child into the home, there shall be current (within the past year) medical examination reports in the adoptive home record for all household members.

#### .048. *Adoptive Placement.*

(a) Before placing a child into an adoptive home, a person meeting the qualifications described in these rules shall review the child's record and the adoptive home study to determine the appropriateness of that home for meeting the needs of that particular child(ren). The person making the review shall note approval and initial and date the child's record and the adoptive home record.

(b) Except in the case of an extremely pressing situation or in the placement of an infant under six months old, a child shall have a visit with the adoptive family prior to placement.

(1) A child two years old or older shall visit at least once in the home of the adoptive parents prior to placement except in the case of an extremely pressing situation.

(2) There shall be documentation in the child's record of what constitutes "an extremely pressing situation."

(3) These visits shall be documented in the child's case record.

(c) Before placing the child into a home, the agency shall have a written agreement with the adoptive parent(s). A signed copy of this agreement shall be given to the adoptive parent(s) and a copy shall be placed in the case record. The agreement shall specify the following:

(1) That the adoptive parent(s) and the agency agree to complete the adoption at a specified time.

(2) That the adoptive parent(s) agree to participate in supervision by the agency during the time prior to the completion of the adoption.

(3) That the adoptive parent(s) agree not to remove the child from Texas prior to the completion of the adoption without the agency's permission.

(4) That the adoptive parent(s) and the agency agree that the child can be removed and returned to the agency at the discretion of either the adoptive parents or the agency before the adoption is completed.

(5) An agreement regarding adoption reimbursement fees and schedule of payment.

(6) An agreement for subsidized adoptions, if any.

(d) A Medical Consent form for medical care of the child signed by a responsible person in the agency shall be given to the adoptive parent(s) at the time of the child's placement in the home. A copy of the signed Medical Consent form shall be filed in the child's record or in the adoptive home record.

(e) Before placing a child into a home, the agency shall discuss with the adoptive parent(s) information about the child and his or her biological parents. Written information shall also be given to the adoptive parent(s) prior to or at the time of placement and shall include:

(1) all available medical data;

(2) any known hereditary conditions;

(3) pertinent information, excluding identity, on the biological parents;

(4) any handicaps and their implications, including information from diagnostic personnel and, if applicable, the appropriate therapists.

(f) Documentation of information discussed and written material given adoptive parents shall be included in the adoptive home record. The child's medical record shall be given to the adoptive family's physician or the adoptive family and this shall be documented in the adoptive home record.

.049. *Postplacement Supervision.* The agency shall be responsible for the child until the court has entered the adoption decree. Postplacement supervision shall include:

(1) A minimum of five supervisory contacts with the adoptive parents within the first six months of placement. Two contacts shall be face to face. At least one of these contacts shall be in the adoptive home with the child and the adoptive parents. Contacts shall be documented.

(2) Documenting changes in the adoptive family in health, financial condition, or composition which may affect the child.

(3) Removing the child from the adoptive home if the placement is unsatisfactory.

(4) Supervision of the home shall be done by a qualified child-placing worker and documented in the adoptive home record.

(5) After the first six months of placement, the agency shall make quarterly contacts until the adoption decree is entered. After one year, and annually thereafter, the adoptive placement shall be evaluated if it has not been completed.

(6) The agency shall make every effort to see that the adoption is consummated as stipulated within the written agreement.

(7) Child-placing agencies receiving medical information on biological families of children after the child has been placed in adoption shall inform the adoptive families of the new information if it could have any relevance on the medical future of the child in placement.

#### .050. *Subsequent Adoptive Placements.*

(a) Before another placement is made into the adoptive home, the adoptive home study shall be brought up to date. The adoptive home study for a subsequent placement shall be in writing and shall include:

(1) One or more interviews with all members of the adoptive family.

(2) At least one visit to the home when all household members are present.

(3) Current (within one year) medical examination reports for all members of the household.

(4) Observation of the adjustment of the children in the family and how the children feel about the addition of another child.

(5) At least three references from persons knowing the family since the last child was adopted.

(6) That the adoptive applicant(s) have a sufficient income and management ability to care for another adoptive child and meet his or her needs.

(b) Before placing another child in the home, a person meeting the qualifications described in these rules shall review the updated adoptive home study and the child's record to determine the appropriateness of that home for meeting the needs of that particular child. The persons making the review shall note approval and initial and date the child's record and the adoptive home record.

.051. *Definitions.* The following are terms associated with minimum standards for child-placing agencies (24-hour care and adoption).

(a) "Child-placing agency" means a person other than the natural parents or guardian of the child who plans for the placement of or places a child in an institution, agency home, or adoptive home.

(2) "Dentist" refers only to a licensed dentist.

(3) "Discharge" means the release of a child from substitute care.

(4) "Emergency placement" means an emergency exists if: a child is in danger; a child is a danger to others; or a child is abandoned and does not have a place to stay.

(5) "Hospital" refers only to a licensed or accredited facility.

(6) "Physician" refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(7) "Psychologist" means psychologist as defined by the Psychologists' Certification and Licensing Act.

(8) "Study" means written results of the analysis of information gathered for making a decision about a specific matter.

(9) "Substitute care" means 24-hour care given to a child by a child care facility or by a person who is not related by blood, marriage, or adoption.

(10) "Sponsoring families" means volunteer(s) who assist the agency in providing for the needs of children in care.

(11) "Trip" means an excursion that is overnight or longer.

Doc. No. 806532

### Standards for Agency Homes (24-Hour Care and Adoption) 326.91.02.001-.008

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

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

.001. *Qualifications.*

.002. *Admission.*

.003. *Foster Child.*

.004. *Foster Home.*

.005. *Records.*

.006. *Emergency Reports.*

.007. *Other Requirements.*

.008. *Definition.*

Doc. No. 806533

### 326.91.02.017-.026

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

.017. *Foster Family Qualifications.*

(a) Foster parents and any employees involved in child care shall be responsible, mature, healthy adults capable of meeting the needs of children in care.

(b) At least three nonrelative references shall be obtained for the foster family and any employee involved in child care. Information obtained from references must be written and filed whether the interview is done in person or by telephone.

(c) No one who has been convicted within the preceding 10 years of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act, or of any misdemeanor classified as an offense against the person or family or of public indecency, may serve as a foster parent or as an employee in an agency home unless the director of licensing has ruled that proof of rehabilitation has been established.

(d) Each foster parent and all employees of an agency home shall submit a statement to the child-placing agency providing information concerning any felony and/or misdemeanor convictions within the preceding 10 years and of any pending criminal charges.

(e) Any foster parent or employee shall be reassigned or removed from contact with children if any of the following are returned:

(1) An indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act.

(2) An indictment alleging commission of any misdemeanor classified as an offense against the person or family, or of public indecency.

(3) An official criminal complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family, or of public indecency. Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch by the child-placing agency within 24-hours or the next working day.

(f) Persons whose behavior or health status endangers the children shall not be allowed at the agency home.

(g) Foster parents and any employees in the home shall have an examination for tuberculosis within 12 months before the home is used for children. Re-examination shall be in accordance with recommendations of local public health authorities or the regional office of the Texas Department of Health.

(h) Children of foster parents shall meet the same requirements for examination for tuberculosis as those for children in care.

(i) Each foster family unit shall participate in 15 hours of in-service training annually.

(j) The foster parents shall have a written agreement with the child-placing agency which states:

(1) the financial agreement between the agency and the home;

(2) that the agency home shall not accept a nonrelative child for 24-hour care from any source other than through the child-placing agency;

(3) the agency's right to remove the child at its discretion;

(4) that the child shall be released only with the consent of the agency;

(5) that visiting by the child's parents or relatives shall be arranged through the agency;

(6) the agency's responsibility for regular supervision of the home and care of the children;

(7) agreements regarding visits of the child away from the home;

(8) that the foster parents must notify the agency when they wish to take a child out of the county for an extended period of time. Both the agency and foster parents shall have a copy of this agreement.

#### .018. Admission.

(a) The agency home shall accept a child for foster care only through the child-placing agency. The sponsoring agency is responsible for the admission and discharge of all children in the home.

(1) An agency home shall not care for more than six children.

(2) Not more than two infants under 18 months old shall be cared for in any agency home. If two infants are in the home, not more than two other children under six years old shall be placed in the home. These numbers include the children of the foster family.

(b) The foster family shall not accept any individual 18 years old or older for care into the home who is not related to the foster family or the children in care.

(c) An agency home shall not release a child to any person without the consent of the agency.

(d) Verification of any agency home applies only to the location of the residence at the time the study is made. If the family moves, the agency shall not use that home until temporary verification for the new location can be issued. This approval is valid for only six months from the date of issuance and is not renewable. Verification of the agency home at the new address shall be completed before the expiration of the temporary verification or the agency shall not use that home.

#### .019. Daily Care.

(a) The foster parents shall cooperate with the child-placing agency in carrying out the plan of service for the foster child. The service plan shall be developed by the agency and shared with the foster parents. The foster parents shall attend the conference to update the plan of service.

(b) The home or agency shall see that each child is supplied with his or her own clothing suitable to the child's age and size. It shall be comparable to the clothing of other children in the community. Children shall have some choice in selecting their own clothing.

(c) Children shall be provided training in personal care, hygiene, and grooming. Each child shall be supplied with personal care, hygiene, and grooming equipment.

(d) Children shall be given guidance in managing their own money.

(e) Money earned by a child or received as a gift or allowance shall be his or her personal property.

(f) A child shall not be required to use earned money to pay for room and board, unless it is a part of the treatment plan and approved by the parent or managing conservator and the agency.

#### .020. Children's Rights.

(a) A child shall be allowed to bring personal possessions to the agency home and shall be allowed to acquire possessions of his or her own.

(b) Children shall not be denied their right to privacy in writing, sending, or receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(c) Discipline shall be consistent with the policies of the child-placing agency. There shall be no cruel, harsh, unusual, or unnecessary punishment. The foster parents shall keep a record of the physical punishment administered to children and the imposition of restrictions to the agency home that exceed 24-hours.

(1) Only foster parents and adult caregivers may punish a child.

(2) Children shall not be subjected to remarks which belittle or ridicule them or their families.

(3) Children shall not be denied food, mail, or visits with their families as punishment.

(4) Any discipline or control shall be appropriate to the child's age and developmental level.

(5) Children shall not be threatened with the loss of foster home placement.

(6) No child of any age shall ever be shaken.

(7) If the policy of the child-placing agency permits spanking children younger than five years old, spanking

shall only be done with an open hand on the child's buttocks or hands.

(d) Children shall not be placed in a locked room.

(e) Physical holding as a method of restraint shall be used only when necessary to protect the child from injury to self or others.

(1) The use of holding and the length of time used shall be reported to the agency and recorded in the child's case record.

(2) Mechanical restraints shall not be used.

#### .021. Nutrition.

(a) Children shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for proper growth and development.

(b) All milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

#### .022. Environment.

(a) An agency home shall comply with all applicable fire, health, and safety laws, ordinances, and regulations.

(1) The agency home or agency shall request the necessary inspections and comply with any resulting requirements.

(2) The fire inspections shall meet or exceed regulations set by the State Fire Marshal.

(3) The health inspections shall meet or exceed regulations set by the Texas Department of Health.

(4) Written documentation that all fire, health, and safety laws, ordinances, and regulations are met shall be on file at the home or the agency. Copies shall be given to the department on request.

(5) If local health and fire inspections are not available, department fire and health checklists shall be completed.

(b) The home and yard shall be maintained, repaired, and cleaned so that they are not hazardous to the children in care:

(1) outdoor areas shall be well-drained;

(2) windows and doors used for ventilation shall be screened;

(3) equipment and furniture shall be safe for children;

(4) the agency home shall ensure that children in care are provided adequate protection from inflammable and poisonous substances;

(5) explosive materials, firearms, and projectiles such as darts, arrows, and B-Bs shall be stored out of the children's reach.

(c) Animals shall be vaccinated and treated as recommended by a licensed veterinarian to protect the health of the children. Documentation of vaccinations and treatment shall be on file by the agency home.

(d) The foster parents shall take measures to keep the house and grounds free of rodents, insects, and stray animals.

(e) Comfortable sleeping arrangements shall be provided.

(1) Each child shall have his or her own bed, except that two children of the same sex may share a double bed.

(2) Children shall not regularly sleep in a room with an adult. However, in the case of an infant under one year of age, it is permissible for the child to sleep in the room of the foster parent.

(3) A child over six years old shall not share a bedroom with a person of the opposite sex.

(4) Sleeping rooms shall provide adequate opportunities for rest and privacy.

(5) Linens shall be changed at least once a week or when soiled.

(f) A sleeping room shall have at least 40 square feet for every person. Bedrooms for single occupancy shall have at least 80 square feet. A sketch of the floor plan showing the dimensions and the purpose of all rooms and specifying where foster children and household members will sleep shall be submitted as documentation for this standard.

(g) There shall be storage space for each child's clothing and personal belongings.

.023. Medical. The agency home shall comply with the following rules regarding the storage and administration of medications:

(1) All medications shall be given by the foster parents or an adult staff member except when a child is participating in a medically approved self-medication program. Medication shall be given according to the instructions on the label.

(2) Prescription medication shall be in the original container labeled with the child's name, a date, instructions, and the physician's name.

(3) All medications shall be kept out of the reach of children or in a locked storage area.

(4) Medication requiring refrigeration shall be separated from food in a designated container.

(5) Medication shall be disposed of when a child leaves the home or when the medication is out of date.

.024. Records. Each visit to the physician and dentist shall be reported to the agency and recorded in the child's record. The record shall include the diagnosis, treatment, and prescribed medicine.

#### .025. Emergency Reports.

(a) Anything serious that happens to a child shall be reported immediately to the responsible agency.

(b) Absences from the home without permission shall be reported to the agency as soon as it is known that the child is a runaway or has been taken from the home by an unauthorized person.

(c) Any disaster or emergency situation, such as damage or injury caused by fire or severe weather, shall be reported as soon as possible to the child-placing agency.

#### .026. Other Requirements.

(a) The following reports shall be submitted to the child-placing agency at the time of the first verification and every two years thereafter:

(1) Approved fire inspection report: date of inspection, findings, and recommendations.

(2) Approved health and sanitation report: date of inspection, findings, and recommendations.

(b) The Licensing Branch shall have the authority to visit and inspect the agency home at all reasonable times.

(c) A copy of the current agency home verification, or certification of the agency must be available at the home.

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

Doc. No. 806534 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Proposed Date of Adoption: November 1, 1980  
For further information, please call (512) 441-3355.

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."

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## CODIFIED

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## TITLE 22. EXAMINING BOARDS

### Part XVIII. State Board of Podiatry Examiners

#### Chapter 371. Examinations

These sections are amended under the authority of Articles 4569, 4570, and 6252-13a, Texas Civil Statutes.

*§371.3 (396.15.00.003). Qualifications of Applicants.*

(a) All applicants shall have attained the age of 21 years and be of good moral character.

(b) All applicants shall have completed the number of college courses required by Article 4570(b)(3), Texas Civil Statutes, and graduated from a reputable school of podiatry.

(c) All applicants shall have successfully completed a course in cardiopulmonary resuscitation within the year previous to the examination and provide a certification to that effect.

(d) The applicant shall submit evidence sufficient for the secretary-treasurer to determine that the applicant has met all the requirements of this section and any other information reasonably required by the board.

*§371.4 (396.15.00.004). Qualifications of Examinees.*

(a) An applicant, to be eligible to take the examination given by the board, must not only meet the requirements of §371.3 (.003) above, but must also be prepared to demonstrate to the secretary-treasurer and the board that such application is not disqualified from taking the examination for any of the reasons set forth in Article 4570(d)(1)-(18), Texas Civil Statutes.

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

*§371.7 (396.15.00.007). Written Examination.*

(a) The subjects the examinee shall be examined in on the written portion of the examination are anatomy, chemistry, dermatology, materia-medica, pathology, physiology, microbiology, orthopedics, diagnosis, and podiatry, limited in their application to ailments of the human foot.

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

Doc. No. 806523

## Chapter 373. Identification of Practice

This amendment to §373.6 (396.20.00.006) is adopted under the authority of Articles 4568a and 1528e, Section 8, Texas Civil Statutes.

*§373.6 (396.20.00.006). Trade Names and Assumed Names.*

(a) (No change.)

(b) The board shall approve a trade name or assumed name which:

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

(3) Complies with §375.3 (396.25.00.022) of the rules and regulations of the board.

(c) If a name is disapproved, the board shall notify in writing the party requesting the ruling on the name and set forth the reasons for disapproval.

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

Issued in Austin, Texas, on August 21, 1980.

Doc. No. 806524

Joe C. Littrell, D.P.M.

Secretary-Treasurer

State Board of Podiatry Examiners

Effective Date: September 15, 1980

Proposal Publication Date: June 3, 1980

For further information, please call (512) 476-6331.

## Chapter 375. Conduct

The following sections are promulgated 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 fees 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). Product 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 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.

**§375.8 (396.25.00.027). Relationships with Other Practitioners.** 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 fee 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, canceled, 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.

Doc. No. 806526

The State Board of Podiatry Examiners has adopted the repeal of 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. The proposed repeal was published in the June 20, 1980, issue of the *Texas Register* (5 TexReg 2437).

The repeal is adopted pursuant to the authority of Articles 4568, 4570, and 4573, Vernon's Texas Civil Statutes.

Issued in Austin, Texas, on August 21, 1980.

Doc. No. 806525

Joe C. Littrell, D.P.M.

Secretary-Treasurer

State Board of Podiatry Examiners

Effective Date: September 15, 1980

Proposal Publication Date: June 20, 1980

For further information, please call (512) 476-6331.

## Part XXII. Texas State Board of Public Accountancy

### Chapter 507. Employees of the Board.

The Texas State Board of Public Accountancy has adopted §507.5 (403.43.00.101) concerning duties of the executive director of the board with changes in grammar and sentence structure for clarification.



This section is proposed for adoption under authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§507.5 (401.43.00.101). Duties of Executive Director.**

(a) The executive director shall be responsible for receiving, filing, and processing all applications, requests, and notices which are required by law or by these rules to be filed with the board. Upon receipt of any document for filing, the executive director shall insure that it is complete and shall inform the person filing the document of any deficiency. Upon receipt of any application requesting board action, the executive director shall review the application and shall indicate thereon a recommendation for board action and shall cause the application to be brought to the attention of the board, the chairman, or a committee designated by the board. With respect to those matters upon which the executive director has recommended approval, the board may approve them by reference. The duties of the executive director imposed by this rule may be discharged through other members of the staff.

(b) The executive director shall also be responsible for the assignment and coordination of duties to and among the staff in order to discharge the duties of the board and shall have such duties with respect to fiscal matters as the board may assign, together with such other duties and responsibilities as the board may, from time to time, delegate.

Doc. No. 806542

## Chapter 509. Rulemaking Procedures

The Texas State Board of Public Accountancy has adopted §§509.1-509.5 (401.44.00.100, .200, .300, .400, and .500) concerning the procedure by which rules of the board are adopted, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes Article 41a-1, 1979).

**§509.1 (401.44.00.100). Rulemaking.** Proposed amendments, deletions, or additions to the board's rules may be made by any board member by filing same with the executive director. A copy of the proposed amendment, deletion, or addition shall be furnished each board member prior to the next regular or special board meeting. Upon approval by a majority of those present (a quorum must be in attendance), the proposed amendment, deletion, or addition to the board's rules will be adopted in accordance with the Administrative Procedure and Texas Register Act.

**§509.2 (401.44.00.200). Suspension of Rules.** In any case in which a public emergency or imperative public necessity so requires, the board may suspend the operation of these rules to the extent authorized by law, stating its reasons therefor in writing.

**§509.3 (401.44.00.300). Invalid Portions.** If any subcategory, section, subsection, sentence, clause, or phrase of these sections is for any reason held invalid, such decision shall not affect the validity of the remaining portions of these sections. The board hereby declares that it would have adopted these subcategories, sections, subsections, sentences, clauses, or

phrases thereof irrespective of the fact that any one or more of the subcategories, sections, subsections, sentences, clauses, or phrases be declared invalid.

**§509.4 (401.44.00.400). Effective Date.** The board rules shall govern all matters initiated after they take effect; and shall also govern all matters pending on the effective date, except to the extent that the board shall determine that application to a particular matter would not be feasible or would work a substantial injustice, in which event the procedure in effect prior to the effective date of these sections applies.

**§509.5 (401.44.00.500). Rules, Identification, and Format.** The board reserves the right to revise the format of these rules whether to comply with statutory requirements or to facilitate the distribution of easily readable rules.

Doc. No. 806543

## Chapter 511. Certification as CPA

### General Information

The Texas State Board of Public Accountancy has adopted §511.1 (401.45.01.100), concerning certification as a certified public accountant of Texas, with changes in grammar and sentence structure for clarification.

This section is promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§511.1 (401.45.01.100). Certification as Certified Public Accountant.** The certificate of a "certified public accountant" shall be granted by the board to any individual who qualifies under the Act.

Doc. No. 806544

### Certification by Examination

The Texas State Board of Public Accountancy has adopted §§511.21-511.27 (401.45.02.100, .200, .300, .400, .500, .600, and .700), concerning applications to take the examination for certification as a certified public accountant, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§511.21 (401.45.02.100). Application.** All applications for certification by examination shall be made on forms prescribed by the board and shall also be in compliance with board rules and law. Each applicant shall submit with his initial application, and as instructed thereafter, references from three certified public accountants or other substantial and representative business or professional individuals. Preferably, the references should be submitted by Texas residents who have known the applicant for five years or more. A character reference should not be submitted by a relative of the applicant or by a person having a financial or business connection with the applicant, other than that of client or employer. Each applicant must also submit authenticated copies of transcripts showing compliance with the applicable education requirements.



**§511.22 (401.45.02.200). Liability.** Each applicant must sign a statement on the application which states that if the applicant's examination papers are lost, the limit of liability for which the board may be held responsible will be the amount of the exam fee.

**§511.23 (401.45.02.300). Submission of Application.** All applications for the November examination shall be submitted to the executive director by September 1 and all applications for the May exam shall be submitted by March 1. The official postmark on the mailing envelope is the controlling date. Application forms not accompanied by the proper fee or required documents shall not be considered complete. The withholding of information, a misrepresentation, or any untrue statement on the application or supplemental documents will be cause for rejection of the application. If an applicant declines a board request to provide additional information for an application for examination, the application will be referred to the board for consideration with documentation of such declination.

**§511.24 (401.45.02.400). Correspondence with Reference.** The board may correspond directly with any individual serving as a reference for an applicant in order to seek clarification or amplification of the original statements contained in the character reference.

**§511.25 (401.45.02.500). Independent Investigation.** Any board member may make an independent investigation of an applicant's qualifications and report findings to the board.

**§511.26 (401.45.02.600). Prior Applications.** All applications shall be tested by reference to the experience and education requirements in effect on the date the application was submitted.

**§511.27 (401.45.02.700). Continuing Qualifications.** Any applicant whose application to take the examination for a certificate as a certified public accountant was approved prior to September 1, 1979, and any applicant whose application to take the exam is thereafter approved, shall continue to be qualified to take the exam so long as the qualifications under which the original application was approved continue to be met and subject to such limitations on the number of examinations that an applicant may take.

Doc. No. 806545

## Educational Requirements

The Texas State Board of Public Accountancy has adopted §§511.51-511.53, 511.55-511.59 (401.45.03.100, .200, .300, .500, .600, .700, .800, and .900) concerning the educational requirements for certification as a certified public accountant of Texas.

These sections are promulgated under the authority of Section 6 of Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§511.51 (401.45.03.100). General Rule.** Unless exempted by the Act, every applicant for the examination must have completed the education requirements contained in the Act prior to submitting his application.

**§511.52 (401.45.03.200). Recognized Colleges and Universities.** In passing upon the qualifications of an applicant, the board shall recognize degrees conferred by and give credit for courses taken at colleges and universities whose credits would be accepted as transfers by the University of Texas or any institution of equivalent standing. Correspondence schools and business colleges do not meet this test. If, however, an applicant meets the educational requirement in effect when application is made for the CPA examination, except as to the number of semester hours in accounting and related subjects, the board may then take into consideration any credits gained with a correspondence school or business college as a supplement to the college credits that would be recognized by the University of Texas or any institution of equivalent standing.

**§511.53 (401.45.03.300). Transcript Substitute.** When a college or university submits a statement to the effect that a person has completed the requirements for a particular degree and also informs the board of the date the degree will be issued, the board may accept such a statement and approve the person's application on the basis of the degree named in such statement provided all other requirements are met.

**§511.55 (401.45.03.500). Qualification under Current Act.** A person must meet one of the following education and experience requirements in order to qualify for the examination under the Public Accountancy Act of 1979.

(1) If an applicant holds a master's degree with a major in accounting, or business administration, or the equivalent, or a five-year professional degree in accounting, or an LLB degree, or the JD degree, and has also completed at least 50 semester hours in the study of accounting and related business subjects with at least 30 of the 50 hours in accounting, he or she will be eligible to apply for the entire examination. However, one year of qualifying experience is required before a certificate will be issued.

(2) If an applicant holds a baccalaureate degree (the BBA degree, for example) or its equivalent, and has also completed at least 50 semester hours in the study of accounting and related business subjects with at least 30 of the 50 hours in accounting, he or she will be eligible to apply for the entire examination. However, two years of qualifying experience are required before a certificate will be issued.

(3) If a person has acquired credit for at least 60 semester hours with at least 20 of the hours in accounting in a recognized college, he or she will be eligible to apply for the entire examination. However, six years of qualifying experience under the supervision of a certified public accountant (not necessarily one in public practice) are required before the certificate will be issued.

**§511.56 (401.45.03.600). Requalifying at Higher Level.** A candidate for the CPA examination may at any time apply to requalify at a higher educational level and, if approved, such candidate may sit for the examination under the provision of the law applicable to that educational level. A person may also apply to requalify after having passed all parts of the CPA examination prior to achieving the higher educational level.

**§511.57 (401.45.03.700). Definition of Accounting Courses.** The board will accept as accounting courses all passing semester hours (without repeat) shown on official transcripts in the following subject areas:

(1) accounting (including elementary accounting, intermediate accounting, advanced accounting, cost accounting, management accounting, income tax accounting, governmental accounting, fiduciary accounting, accounting systems, and accounting consulting);

(2) auditing;

(3) CPA coaching course on auditing, practice, and theory (if offered for credit);

(4) any other course which is principally accounting in nature but which may be designated by some other name and the verification of which is obtained in writing from the particular college or university.

**§511.58 (401.45.03.800). Definitions of Related Business Subjects.**

(a) The board will accept as related business subjects all passing semester hours (without repeat) shown on official transcripts in the following areas:

(1) commercial law;

(2) CPA coaching course on commercial law (if offered for credit);

(3) economics;

(4) management;

(5) marketing;

(6) banking;

(7) communications;

(8) mathematics (as it pertains to business);

(9) statistics;

(10) report writing;

(11) finance;

(12) data processing;

(13) other areas related to accounting.

(b) The board may treat one or more of the related business subjects as an accounting course if the accounting nature of the course is substantiated by the particular college or university, in writing, as being primarily accounting.

**§511.59 (401.45.03.900). Quarter System.** Credit for hours taken at recognized colleges and universities using the quarter system shall be counted as 2/3 of a semester hour for each hour of credit received under the quarter system.

Doc. No. 806546

## CPA Examination

The Texas State Board of Public Accountancy has adopted §§511.71-511.86 (401.04.100, .200, .201, .300, .400, .500, .600, .601, .602, .700, .701, .800, .801, .802, .803, .900) with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§511.71 (401.45.04.100). Examination Time and Place.** The board shall administer the examination for a certificate as a certified public accountant twice annually during the months of May and November in such cities in Texas as the board shall designate.

**§511.72 (401.45.04.200). Uniform Examination—Subjects.** The board shall utilize the uniform CPA examination available from the American Institute of Certified Public Accountants covering the following subjects:

(1) theory of accounts;

(2) accounting practice;

(3) auditing; and

(4) commercial law affecting public accounting.

**§511.73 (401.45.04.201). Exemption for Attorneys.** Any candidate who meets the applicable educational requirements under the Act and who is duly enrolled as an attorney by the Supreme Court of Texas shall be given credit for the subject "commercial law affecting public accounting" without taking the written examination therefor. The application for the exemption shall be made on a form prescribed by the board.

**§511.74 (401.45.04.300). Mechanical or Other Aids.** Candidates for the CPA examination may not use a machine, typewriter, a translation dictionary, or any other aid during the examination, except that the board will rule on exceptions for physically handicapped applicants who submit petitions with adequate supporting documentation.

**§511.75 (401.45.04.400). Change of Examination Site.** Candidates shall designate in their applications the location at which they prefer to take the examination. The board will assign candidates to an examination site; and after such assignment, the candidate may not thereafter change examination sites without written authorization from the board.

**§511.76 (401.45.04.500). Refund Policy.**

(a) Refunds of examination fees will be made only in hardship cases and for cause acceptable to the board.

(b) No partial refunds of the examination fee will be made.

**§511.77 (401.45.04.600). Grading.** Grading of the examination shall be accomplished by the American Institute of Certified Public Accountants, subject to the approval by the board. A grade of at least 75% on each subject shall be required as a passing grade for the entire examination. Not later than the 30th day after the day on which the board receives a candidate's grades from the grading authority, the candidate will be notified of the grades. In no event will any information concerning a candidate's performance on the examination be given to anyone other than the candidate unless the board has written authorization to do so.

**§511.78 (401.45.04.601). Copy of Questions and Answers.** Within 180 days following the release of an examination results, any candidate who sat for that examination may request a copy of the questions and answers thereto made by him or her on the examination, with the grade clearly shown, together with a copy of the solutions to such questions. All requests for copies of questions and answers shall be made upon a form prescribed by the board and must be received within 180 days after the grades are mailed to the candidate. A fee as determined by the board shall be charged.

**§511.79 (401.45.04.602). Request for Regrade.** An unsuccessful candidate who thinks his examination warrants a passing grade and who has obtained a copy of the examination and the suggested solutions may submit a written request for the board to review the examination paper.

**§511.80 (401.45.04.700). Re-Examination upon Failure of All Subjects.** A candidate who fails all parts of the examination shall have the right to apply for additional examinations. Application shall be made upon forms prescribed by the board and submitted to the executive director. The applica-

tion shall include a statement by the applicant that he or she continues to meet all examination requirements of the Act and these sections and shall be accompanied by the requisite fee. The application must be accompanied by three character references if more than two years have passed since the candidate last made application for examination.

**§511.81 (401.45.04.701). Partial Re-Examination.**

(a) Application for partial re-examination shall be made on the form prescribed by the board, shall be accompanied by the requisite fee, and shall be submitted to the executive director. The application shall show that the candidate remains qualified in all respects to sit for the examination for a certificate as a certified public accountant. The application shall be accompanied by three character references if more than two years have passed since the candidate last made application for examination.

(b) A candidate who had, prior to September 1, 1979, received credit for any one subject of the examination shall, subject to the approval of his application for re-examination, have the right to be re-examined on the remaining subjects only at subsequent examinations held by the board, except the candidate must pass the remaining subjects within the next 10 consecutive examinations after September 1, 1979, or forfeit all credits held at the end of such 10 consecutive examinations.

(c) A candidate who, after September 1, 1979, shall pass in a single examination two or more subjects, shall have the right, subject to approval of his application for re-examination, to be re-examined on the remaining subjects only at subsequent examinations held by the board, except the candidate must pass the remaining subjects within the next 10 consecutive examinations after passing two or more subjects or forfeit all credits received at the end of such 10 consecutive examinations.

(d) A candidate who, on September 1, 1979, was registered with the board as a public accountant and who shall receive a first credit for one or more subjects at a single examination after September 1, 1979, shall have the right, subject to the approval of his application for re-examination, to be re-examined on the remaining subjects within the next 10 consecutive examinations after passing one or more subjects, or forfeit all credits received at the end of such 10 consecutive examinations.

(e) A candidate who, on September 1, 1979, had received credit for two or more subjects of the examination shall have the right, subject to the approval of his application for re-examination, to be re-examined on the remaining subjects only at subsequent examinations held by the board, and is entitled to an unlimited number of re-examinations on the remaining parts of the examination.

(f) For the purposes of this section, the subject "accounting practice" shall count as two subjects on examinations taken after September 1, 1979, but not on earlier examinations.

(g) When a candidate shall have received credit for all subjects, subject to the time limitations imposed by the Act and this section, the candidate shall then be considered to have passed the examination and may make application for certification as a certified public accountant.

**§511.82 (401.45.04.800). Application for Transfer of Credits.**

A candidate for the examination as a certified public accountant may make application to the board for the receipt of credit for his satisfactory completion of a written examina-

tion given by the licensing authority of another state. Applications shall be made on a form prescribed by the board, shall be accompanied by the requisite fee, shall be submitted to the executive director, and shall include written authorization from the candidate for the board to solicit and receive information relating to his application and his grades made on the examination taken under the jurisdiction of another state.

**§511.83 (401.45.04.801). Granting of Credit.** In order for the board to grant credit to a candidate for his satisfactory completion of a written examination given by the licensing authority of another state, the candidate must have received credit for two or more subjects of the uniform CPA examination at a single sitting, in accordance with the following.

(1) For the purposes of this section, the subject "accounting practice" counts as two subjects on examinations taken after September 1, 1979.

(2) If the board accepts transfers of credit for two or more subjects, it will also accept transfers of credit for subjects passed at subsequent examinations.

(3) The candidate must have passed the uniform CPA examination, and the grades made by him on the subjects under consideration must have been the ones reported to the Examining Board by the American Institute of Certified Public Accountants.

(4) A candidate for the examination for a certificate as a certified public accountant who seeks to receive credit for subjects taken at an examination administered by the licensing authority of another state must submit written proof, in the form of transcripts or certified statements, that at the time of taking the examination in the other state he met the educational requirements in effect in this state at that time.

**§511.84 (401.45.04.802). Partial Examination upon Transfer of Credit.**

(a) A candidate allowed credit for two or more subjects taken prior to September 1, 1979, has the right to be examined on the remaining subjects only and shall be entitled to an unlimited number of re-examinations on the remaining parts of the examination.

(b) All other candidates receiving credit for examination subjects taken in another state are eligible to sit for all remaining subjects. A candidate who has received transfer credits shall thereafter have the right to be examined on the remaining subjects only, except that the candidate must pass the remaining subjects within the next 10 consecutive examinations after he or she received credit for two or more subjects in another state.

**§511.85 (401.45.04.803). Processing Fee.** Candidates making application for a transfer of credits toward the CPA certificate shall pay a processing fee equal to the actual cost of establishing a file for the candidate, and if his credits are accepted by the board, he must then pay the same re-examination fee paid by other candidates having the same number of credits. If the board accepts credits in auditing, law, theory, and practice, and the candidate otherwise qualifies for the CPA certificate, he or she must pay the same annual license fee as all other persons to whom annual licenses are issued in that particular calendar year plus the processing fee charged for transferring credits.

*§511.86 (401.45.04.900). Re-Examination, Loss of Credit.* Candidates who have earned the right to partial re-examination and who fail to pass the remaining subjects of the examination within the applicable time limits, if any, shall lose the right to partial re-examination and must sit for the entire examination upon later application.

Doc. No. 806547

## Experience Requirements

The Texas State Board of Public Accountancy has adopted §§511.121-511.123 (401.45.05.100, .200, and .300), concerning the experience requirements for certification as a certified public accountant, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

*§511.121 (401.45.05.100). Application for Approval of Experience.* Each candidate for certification as a certified public accountant by examination shall submit to the executive director an application for approval of experience. The application shall be made on a form prescribed by the board and may be made either before or after completion of the examination requirement.

*§511.122 (401.45.05.200). Acceptable Experience.*

(a) Eighteen hundred hours of public accounting experience is considered the equivalent of one full year of experience.

(b) Experience in the practice of public accountancy under the supervision of a certified public accountant or public accountant shall be acceptable upon certification of the experience by the supervising certified public accountant or public accountant.

(c) The experience requirement of the Act may be satisfied by accounting experience of a nonroutine nature which continually requires independent thought and judgment on important accounting matters and which is comparable to accounting experience in the public practice under the supervision of a certified public accountant or public accountant if approved by the board.

(d) The experience requirement of the Act and these rules may be satisfied by experience in the activities prescribed in subsections (b) or (c) above or in a combination of the two, except as noted below.

(e) If an applicant does not have a baccalaureate or masters degree, but has made application for the examination based upon a high school diploma and subsequent college study, experience must be of a nonroutine accounting nature and under the supervision of a certified public accountant but not necessarily one who is in public practice. An applicant with such experience does not have to be an employee of the certified public accountant but he must be continually and directly under the supervision of the certified public accountant. Such applicant may be under the continuous and direct supervision of the certified public accountant who audits the records of the applicant's employer, upon certification by the auditing certified public accountant of his or her supervision.

*§511.123 (401.45.05.300). Comparable Experience.*

(a) Experience in the following position shall be deemed to be comparable to experience gained in the practice of public accountancy under the supervision of a certified public accountant or public accountant upon certification by the person supervising the candidate that the experience was of a nonroutine accounting nature which continually required independent thought and judgment on important accounting matters:

(1) experience with a federal agency or department as an accountant or auditor at grade 7 or above;

(2) teaching of accounting on a full-time or part-time basis in an accredited college or university;

(3) accounting experience with the State of Texas in Salary Group 11 or above;

(4) experience as a special agent-accountant with the FBI;

(5) experience gained under a chartered accountant of a recognized accounting body;

(6) military accounting experience.

(b) Experience in other positions may be approved by the board as experience comparable to experience gained in the practice of public accountancy under the supervision of a certified public accountant or public accountant upon certification by the person or persons supervising the candidate that the experience was of a nonroutine accounting nature which continually required independent thought and judgment on important accounting matters. Experience for which approval is sought under this subdivision must be described in detail and the applicant must inform the board of all certified public accountants or public accountants having knowledge of the applicant's accounting experience.

Doc. No. 806548

## Certification by Reciprocity

The Texas State Board of Public Accountancy has adopted §§511.141-511.143 (401.45.06.100, .200, and .300), concerning certification of certified public accountants by reciprocity, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

*§511.141 (401.45.06.100). Application for Certification by Reciprocity.* An individual holding a valid certificate in good standing as a certified public accountant issued by any state or territory or its equivalent issued by any foreign country may make application for certification as a certified public accountant under this Act upon a form prescribed by the board and submitted to the executive director. The application must be accompanied by the requisite fee and shall include written authorization from the applicant empowering the board to obtain all information concerning the applicant's qualifications and present standing.

*§511.142 (401.45.06.200). Requirements for Certification by Reciprocity.* An application for certification by reciprocity may, in the discretion of the board, be granted if the board determines that:

(1) The applicant has passed the uniform CPA examination prepared by the American Institute of Certified Public Accountants and that the examination was graded by that body.

(2) The applicant has completed the minimum education requirements equivalent to those in effect in this state when such original certificate was issued. The board shall test credits, diplomas, and degrees earned from institutions in the United States by the standards applicable to education requirements for certification by examination. Credits, degrees, or diplomas earned in a foreign country shall be individually analyzed by the board.

(3) The applicant has completed the minimum experience requirements equivalent to those in effect in this state when such original certificate or its equivalent was issued; and

(4) The applicant is over 18 and possesses good moral character.

**§511.143 (401.45.06.300). Issuance of Certificate.** If the board approves the application for certification by reciprocity, a certificate as a certified public accountant shall be issued to the applicant.

Doc. No. 806549

## Certification

The Texas State Board of Public Accountancy has adopted §§511.161-511.164 (401.45.07.100, .200, .300, and .400), concerning final certification of persons qualifying to receive a certificate as a certified public accountant of Texas, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

**§511.161 (401.45.07.100). Application.** Any candidate who has successfully completed the requirements for certification as certified public accountant, whether by examination or reciprocity, may make application for certification as a certified public accountant on a form prescribed by the board and submitted to the executive director. The application shall be accompanied by an oath signed by the candidate stating that he or she will support the Constitution of the United States and of this state and the laws thereof and will comply with the rules of professional conduct promulgated by the board. Upon approval of the application, the board shall issue a certificate as a certified public accountant to the candidate.

**§511.162 (401.45.07.200). Certificates.** All certificates shall be issued in the name of the board and shall bear the signatures of all board members.

**§511.163 (401.45.07.300). Replacement Certificates.** Replacement certificates may be issued by the board in appropriate cases and upon payment by the certified public accountant of the actual cost, as determined by the board, of the replacement certificate.

**§511.164 (401.45.07.400). Names on Certificates.** Words or abbreviations such as "Jr." or "II" do not have to appear on an applicant's certificate or the board's records even though such words or abbreviations are part of the applicant's legal name.

Doc. No. 806550

## Chapter 513. Registration

### Registration of CPAs of Other States and Persons Holding Similar Titles in Foreign Countries

The Texas State Board of Public Accountancy has adopted §§513.1-513.6 (401.46.01.100, .200, .300, .400, .500, and .600), concerning the registration of certified public accountants of other states or persons holding similar titles in foreign countries, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

**§513.1 (401.46.01.100). Application.** An individual holding a valid certificate in good standing as a certified public accountant issued by any state or territory, or its equivalent issued by any foreign country may make application for registration upon a form prescribed by the board and submitted to the executive director. The application must be accompanied by the requisite fee and shall include written authorization empowering the board to obtain all information concerning the applicant's qualifications and the requirements for licensing by that state, territory, or foreign country.

**§513.2 (401.46.01.200). Approval by the Board.** An application for registration as a certified public accountant of a state or territory or the equivalent thereto of a foreign country may, in the discretion of the board, be granted if it determines the standards met by the applicant in the other jurisdiction were at least as high as the standards of this state at the time of granting a certificate as a certified public accountant. In making this determination, the board shall consider:

- (1) the examination requirement in effect in such jurisdiction at the time the certificate or its equivalent was issued to the applicant;
- (2) the education requirement in effect in such jurisdiction at the time the certificate or its equivalent was issued to the applicant;
- (3) the experience requirements in effect in such jurisdiction at the time the certificate or its equivalent was issued to the applicant;
- (4) the age and moral character of the applicant.

**§513.3 (401.46.01.300). Registration.** Upon approval of the application, the board shall register the applicant in the permanent records of the board. The registrant shall be allowed to use the title "Certified Public Accountant of \_\_\_\_\_" (indicating the state or territory which issued his certificate), or may use the title held in a foreign country, provided that the country of origin is indicated.

**§513.4 (401.46.01.400). Prior Registrations.** Individuals who, on September 1, 1979, are registered with the board as public accountants or certified public accountants of another state, territory, or foreign country need not register again, but the board shall maintain a record of their registration, and they shall be considered registered under this Act.

**§513.5 (401.46.01.500). Restrictions concerning Members of Partnerships and Corporations.** Registration under Section 14 of the Act and this section shall not qualify the registrant to be a partner of a partnership, shareholder, officer, or direc-

tor of a corporation which is registered with the board. This status requires certification under Sections 12 or 13.

**§513.6 (401.46.01.600). Display of Registration.** Each individual registered as a certified public accountant of another state or as a person holding a similar title in a foreign country and who holds a current license to practice public accountancy shall prominently display the registration issued to him or her by the board. No individual shall display a registration unless that person holds a current license issued by the board.

Doc. No. 806551

## Registration of Partnerships

The Texas State Board of Public Accountancy has adopted §§513.21-513.27 (401.46.02.100, .200, .300, .400, .500, and .600), concerning the registration of partnerships to practice public accountancy in Texas, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

**§513.21 (401.46.02.100). General Rule.** Every partnership engaged in the practice of public accountancy in this state must register with the board and must hold a license issued by the board.

**§513.22 (401.46.02.200). Application.** Application for registration of a partnership shall be made on a form prescribed by the board and submitted to the executive director. The application for registration must be accompanied by the requisite fee and shall be made upon the affidavit of a general partner of the partnership who holds a license to practice public accountancy in this state. The affidavit must set forth the partnership name and the post office address within the state; the address of the principal office of the partnership wherever it is located; and the name, residence, and post office address of each general partner of the firm.

**§513.23 (401.46.02.300). Types of Registration.**

(a) Partnership of certified public accountants. A partnership composed solely of individuals holding certificates as certified public accountants from other states, not comprised solely of certified public accountants of Texas, may register as a partnership of certified public accountants provided that:

- (1) at least one general partner holds a valid certificate as a certified public accountant from the board; and
- (2) each partner personally engaged within this state in the practice of public accountancy, other than temporary practice, holds a certificate as a certified public accountant issued by the board; and
- (3) each resident manager in charge of an office of the partnership holds a certificate as a certified public accountant issued by the board.

(b) Partnership of public accountants. A partnership which has one or more general partners who are public accountants of any state may register only as a partnership of public accountants. A partnership of public accountants must meet the same requirements specified for partnerships of certified public accountants in subsection (a) of this sec-

tion, except that the individuals there specified may be either certified public accountants or public accountants.

(c) Partnerships which have at least one general partner who is a public accountant must register as a partnership of public accountants and may not be registered as a partnership of certified public accountants.

**§513.24 (401.46.02.301). Restrictions.** All partners in any partnership registered in this state must be individuals and no other partnership or corporation may be a partner.

**§513.25 (401.46.02.400). Notices.** A partnership registered under this Act shall give notice to the board within 30 days after the admission, withdrawal, or death of a partner.

**§513.26 (401.46.02.500). Partnership Names.**

(a) No partnership will be permitted to register and obtain a license under this Act unless the firm name contains the personal name or names of one or more individuals who are present or previous members of the partnership. No trade or descriptive words indicating character or grade of service offered may be used or included in the firm name.

(b) The board will not register two partnerships under the same name unless there are different individuals involved with identical surnames.

(c) The name of an employee may not be used as part of a partnership's firm name.

(d) A licensee may not form a partnership with an individual not licensed under this Act, but the licensee may have a working agreement with the nonlicensed individual and allow him to be compensated via a share in the profits of the firm.

(e) The partnership may continue to use the name of a deceased partner on its letterhead provided some indication is made which will show the partner is no longer living.

(f) If a partner dies or withdraws from a firm and there is no change in the firm name, the partnership will not be required to again register with the board.

(g) If, for any reason, there is a change in the name of a partnership, it must file a new application for registration.

(h) A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two years after becoming a sole practitioner if the partnership's license is maintained.

**§513.27 (401.46.02.600). Prior Registration.** Partnerships which, on September 1, 1979, were registered with the board need not register again, but shall be subject to all other provisions of these sections and to the Act.

Doc. No. 806552

## Registration of Corporations

The Texas State Board of Public Accountancy has adopted §§513.41-513.45 (401.46.03.100, .200, .300, .400, and .500) concerning the registration of corporations to practice public accountancy in Texas.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

**§513.41 (401.46.03.100). General Rule.** Every corporation engaged or to be engaged in the practice of public accountancy whose articles of incorporation are approved by the Secre-

tary of State and which meet the requirements of the Texas Professional Corporation Act and this Act, shall register with the board and obtain a license to practice public accountancy in Texas.

**§513.42 (401.46.03.200).** *Application for Registration of a Corporation.* Application for registration of a corporation shall be made upon a form prescribed by the board, shall be accompanied by the requisite fee, and shall be submitted to the executive director. Application shall be made upon the affidavit of an officer of the corporation, and shall set out the corporate name, post office address within the state, the address of the principal office of the corporation, together with the name, residence, and post office address of each shareholder, officer, and director of the firm.

**§513.43 (401.46.03.300).** *Partnership Rules Apply.* All rules and statutory requirements applying to public accounting partnerships shall also apply to public accounting corporations, and all rules and statutory requirements applying to partners of public accounting partnerships shall also apply to "incorporators," "stockholders," "officers," and "directors" of public accounting corporations, and all rules and statutory requirements governing employees or agents of public accounting partnerships shall also apply to employees or agents of public accounting corporations.

**§513.44 (401.46.03.400).** *Corporate Names.* In addition to other requirements of these sections with respect to the name of a public accounting corporation, the name of each professional corporation registered with this board must include one of the designations "professional corporation," "corporation," "incorporated," "company," or an abbreviation thereof, but if only one licensee is involved in the practice of the corporation, it cannot use the term "and company," "and associates," or any other term which is misleading to the general public, as a part of the corporate name. Further, the words "professional corporation" or "P.C." must appear in or with the firm name each time it is used.

**§513.45 (401.46.03.500).** *Prior Registration.* Corporations which, on September 1, 1979, were registered with the board need not re-register, but shall be subject to all other provisions of these sections and to the Act.

Doc. No. 806553

## Registration of Offices

The Texas State Board of Public Accountancy has adopted §§513.61-513.64 (401.46.04.100, .200, .300, and .400), concerning registration of offices of persons or firms practicing public accountancy in this state, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Civil Statutes, Article 41a-1, 1979).

**§513.61 (401.46.04.100).** *General Rule.* Each office established or maintained in this state for the practice of public accountancy by a certified public accountant or a partnership or corporation of certified public accountants or by a public accountant or a partnership or corporation of public accountants or by an individual registered under this Act, shall register with the board. No fee shall be charged for such registration.

**§513.62 (401.46.04.200).** *Application.* The application for registration of an office shall state that the resident person in charge of an office identified as the office of a certified public accountant is a certified public accountant of Texas, and that the resident person in charge of an office identified as the office of a public accountant is a certified public accountant or a public accountant of Texas. The resident person in charge of a public accounting office need not be a partner, incorporator, stockholder, officer, or director, but the person in charge must hold a license issued under the Act. No one person may be in charge of more than one office at the same time, and each person designated as the resident person in charge of an office must, in fact, have overall charge of and responsibility for the office during all hours of operation.

**§513.63 (401.46.04.300).** *Part-Time Office.* A licensee may practice with one or more offices open only on a part-time basis. Under these conditions, the licensee may display his name and the appropriate designation, "CPA" or "public accountant." Such a licensee must comply in all other respects with the sections governing the registration.

**§513.64 (401.46.04.400).** *Prior Registrations.* Offices which, on September 1, 1979, were registered with the board need not re-register but shall be subject to all other provisions of these sections and to the Act.

Doc. No. 806554

## Chapter 515. Replacement Licenses

The Texas State Board of Public Accountancy has adopted §515.7 (401.48.00.700) concerning the replacement of licenses issued to persons regulated by the board with changes in grammar and sentence structure for clarification.

This section is promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§515.7 (401.48.00.700).** *Replacement Licenses.* Replacement licenses may be issued by the board in appropriate cases and upon payment by the licensee of the actual cost of the replacement license.

Doc. No. 806555

## Chapter 519. Practice and Procedure

The Texas State Board of Public Accountancy has adopted §§519.1-519.25 (401.50.00.101, .102, .103, .104, .105, .106, .107, .108, .109, .110, .111, .112, .113, .114, .115, .116, .117, .118, .119, .120, .121, .122, .123, .124, and .125), governing practice and procedure before the board, with changes in grammar and sentence structure for clarification.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§519.1 (401.50.00.101).** *Filing of Documents.* All originals of petitions, complaints, motions, protests, replies, answers, notices, and other pleadings related to any proceeding pending or to be instituted before the board shall be filed with the executive director. They shall be deemed filed only when actually received by him, accompanied by the filing fee, if any, required by the Act or by these sections.



§519.2 (401.50.00.102). *Computation of Time.* In computing any period of time prescribed or allowed by these sections, by order of the board, or by any applicable statute, the period shall begin on the day after the act or the event considered, and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal state holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal state holiday.

§519.3 (401.50.00.103). *Extensions.* Unless otherwise provided by statute, the time for filing any pleading, except a notice of protest, may be extended upon written motion duly filed with the board. A copy of any such motion shall be served upon all of the parties of record to the proceedings contemporaneously with its filing thereof.

§519.4 (401.50.00.104). *Agreements To Be in Writing.* No stipulation or agreement between the parties and their attorneys or representatives with regard to any matter involved in any proceeding before the board shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing, or incorporated by an order bearing their written approval. This section does not limit the parties' ability to waive, modify, or stipulate any right or privilege afforded these sections unless provided by law.

§519.5 (401.50.00.105). *Service in Rulemaking Proceedings.* Service of a proposed section or amendment of any existing section shall be governed by Section 5(a), et seq., of the Administrative Procedure and Texas Register Act.

§519.6 (401.50.00.106). *Service in Nonrulemaking Proceedings*

(a) Where published notice is permitted or prescribed by these sections or by statute, it shall be made by incorporating it into the printed memorandum of notices circulated by the board to those persons entitled by law to receive such notices.

(b) Personal service. Where personal service of notice by the board is required, the board shall mail the same, certified or registered mail, to the last known place of address of the person entitled to receive such notice.

(c) Service of pleadings. A copy of any protest, reply, answer, motion, or other pleading filed by any party in any proceeding subsequent to the institution thereof shall be mailed or otherwise delivered by the party filing the same to every other party of record. If any party has appeared in the proceeding by attorney or other representative authorized under these sections to make an appearance, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for the entry of an order by the executive director or the board striking the protest, reply, answer, motion, or other pleading from the record.

(d) Certificate of service. A certificate by the party attorney, or representative who files a pleading, stating that it has been served on the other parties shall be prima facie evidence of such service. The following form of certificate will be sufficient in this connection: "I hereby certify that I have this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, served copies of the foregoing pleading upon all other parties to this proceeding, by (here state the manner of service). Signature."

§519.7 (401.50.00.107). *Conduct and Decorum.* Every party, witness, attorney, or other representative shall comport himself in all proceedings with proper dignity, courtesy, and respect for the board, the executive director, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the State Bar of Texas.

§519.8 (401.50.00.108). *Classification of Parties.* Parties to proceedings before the board are applicants, protestants, petitioners, complainants, respondents, and intervenors, regardless of errors as to designations in their pleadings, shall be accorded their true status in the proceedings.

§519.9 (401.50.00.109). *Appearances in Person or by Representative.* Any party may appear and be represented by an attorney at law authorized to practice law before the highest court of any state. Any person may appear on his own behalf or be represented by a bona fide full-time employee. A firm may appear and be represented by any bona fide officer, partner, or full-time employee. This right may be expressly waived.

§519.10 (401.50.00.110). *Classification of Pleadings.* Pleadings filed with the board through the executive director shall be applications, protests, petitions, complaints, answers, replies, motions for rehearing, and other motions. Regardless of any error in the designation of a pleading, it shall be accorded its true status in the proceeding in which it is filed.

§519.11 (401.50.00.111). *Form and Content of Pleadings.* Pleading shall be typewritten or printed upon paper 8-1/2 inches wide and 11 inches long, with an inside margin of at least one inch wide, and exhibits annexed thereto shall be folded to the same size. Reproductions are acceptable provided all copies are clear and permanently legible.

(1) Content. Pleadings shall state their object and shall contain concise statement of the facts in support of same; shall conform to and comply with applicable statutes; and shall be signed by the applicant or his authorized agent.

(2) Signature and address. The original of every pleading shall be signed in ink by the party filing the paper, or by his authorized representative. Pleadings shall contain the address of the party filing the document, or the name, telephone number, and business address of the representative. All pleadings which are the subject of an official form shall contain the information, allegations, and other matters designated in such official form and shall conform substantially to the form thereof.

(3) Form. All pleadings for which no official form is prescribed shall contain:

(A) the name of party seeking to bring about or prevent action by the board;

(B) the names of all other known parties in interest;

(C) a concise statement of the facts relied upon by the pleader;

(D) a prayer stating the type of relief, action, or order desired by the pleader;

(E) any other matter required by statute; and

(F) a certificate of service, as required by these sections.

(4) Filing fees. Each application, petition, or complaint which is intended to institute a proceeding before the



board shall be accompanied by a filing fee prescribed by law or these sections.

**§519.12 (401.50.00.112). Examination by the Executive Director.** Upon filing of any pleading with the executive director, he or his designated representative shall examine the same and determine its sufficiency under these sections. If he finds the pleading does not comply in all material respects with these sections, he shall return it to the person who filed it along with his statement of the reasons for rejecting the same. The person who files such pleading shall thereafter have the right to file a corrected pleading, provided that the filing of such corrected pleading shall not be permitted to delay any hearing unless the executive director shall determine that such delay is necessary in order to prevent injustice or to protect the public interest and welfare.

**§519.13 (401.50.00.113). Motions.** Any motion relating to a pending proceeding shall, unless made during a hearing, be written and shall set forth the relief sought and the specific reasons and grounds therefor. If based upon matters which do not appear of record, it shall be supported by affidavit. Any motion not made during a hearing shall be filed with the executive director, who with the advice of the chairman, shall act upon the motion at the earliest practicable time.

**§519.14 (401.50.00.114). Amendments.** Any pleading may be amended at any time upon motion, provided that the complaint or petition upon which notice has been issued shall not be amended so as to broaden the scope thereof.

**§519.15 (401.50.00.115). Publication of Notice in Non-rulemaking Proceedings.** The executive director shall publish notice of pleadings by which proceedings shall have been instituted in the agency. Said published notice shall not include, however, any proceeding in which personal service of notice is required by law. Said published notice shall set out the name and address of his attorney or other representative, shall contain a concise statement of the actions sought in the proceeding, referenced for jurisdiction and statutory authority, or substantive rule for action sought, and shall state that every person who desires to appear in opposition must file a notice of protest with the executive director within 15 days after the publication of said notice, with a copy of said notice of protest upon the party who instituted the proceeding, and that if no notice of protest shall have been received by the executive director within said 15 day period, the proceeding shall be processed and determined at the time and place certain therein stated. The date of publication of all such notices shall be the date on which they are published.

**§519.16 (401.50.00.116). Personal Service.** All notices for which personal service is required by law shall be addressed to the person entitled thereto, and shall set forth the names of all other parties, the nature and subject matter of the proceeding, and time and place of hearing, and any other matter required by law. The board shall mail the notice by certified or registered mail to the last known place of address of the person entitled to receive such notice.

**§519.17 (401.50.00.117). Motions for Postponement, Continuance, Withdrawal, or Dismissal of Matters before the Board.** Motions for postponement, continuance, withdrawal, or dismissal of matters which have been duly set for hearing, shall be in writing, shall be filed with the executive director, and distributed to all interested parties under a certificate of service not less than five days prior to the designated date that

the matter is to be heard. Such motion shall set forth under oath the specific grounds upon which the moving party seeks such action and shall make reference to all prior motions of the same nature filed in the same proceeding. Failure to comply with the above, except for good cause shown, may be construed as a lack of diligence on the part of the moving party, and at the discretion of the executive director may result in the dismissal of the matter in issue with prejudice to refiling. Once the matter has actually proceeded to a hearing pursuant to the notice issued thereon, no postponement or continuance will be granted by the board without the consent of all parties involved, unless the board shall have ordered such postponement or continuance.

**§519.18 (401.50.00.118). Place and Nature of Hearings.** All hearings conducted in any proceeding shall be open to the public and all testimony shall be made under oath. All hearings shall be held at the board office unless for good and sufficient cause the board shall designate another place of hearing in the interest of the public.

**§519.19 (401.50.00.119). Order of Procedure**

(a) In proceedings to revoke, suspend, or refuse to renew any license, certificate, or registration, the representative of the board shall first present the evidence against the accused. The accused may then present such answer and witnesses as may offer relevant evidence. The board's representative shall be permitted to close.

(b) In all other proceedings, the applicant, petitioner, or complainant, respectively, shall be entitled to open and close. The board in all cases shall determine at what stage intervenors will be permitted to offer evidence. After all parties have completed the presentation of their evidence, the board may call upon any party or the staff of the board for further material or relevant evidence upon any issue to be presented at further public hearing after notice to all parties of record.

(c) The board shall direct all parties to enter their appearances on the record. If exceptions to the form or sufficiency of the pleading have been filed in writing at least three days prior to the date of the hearing, they shall be heard, otherwise not. If exceptions are sustained, the board shall allow a reasonable time for amendment, subject to the provisions of these sections.

**§519.20 (401.50.00.120). Reporters and Transcript.** When a party makes a written request that proceedings be transcribed, the party shall state in writing an election to furnish his own stenographic reporter or to utilize a reporter employed by the board. Such written request must be received by the executive director not less than 15 days before the scheduled date of the hearing. The cost of the original transcript shall be assessed 1/2 ratably to the other parties. The original transcript shall be delivered to the executive director. The cost of copies of the transcript shall be paid by the requesting party. Suggested corrections to the transcript of the record may be offered within 10 days after the transcript is filed in the proceeding, unless the board shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record, the official reporter, and the board. If suggested corrections are not objected to, the board will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the board who shall then determine the manner in which the record shall be changed, if at all.

**§519.21 (401.50.00.121). Formal Exceptions.** Formal exceptions to the rulings of the board made at hearings shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the board the action which he desires.

**§519.22 (401.50.00.122). Dismissal without Hearing.** The board may entertain motions for dismissal without a hearing for the following reasons: failure to prosecute; unnecessary duplication of proceedings or res adjudicata; withdrawal, moot questions, or stale petitions; or lack of jurisdiction.

**§519.23 (401.50.00.123). The Record.** The record in any case shall include:

- (1) all pleadings, motions, and intermediate rulings;
- (2) evidence received or considered;
- (3) the statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings on them;
- (5) any decision, opinion, or report by the officer presiding at the hearing; and
- (6) all staff memoranda or data submitted to or considered by the board in making a decision.

**§519.24 (401.50.00.124). Show Cause Orders and Complaints.** The board either on its own motion or upon receipt of sufficient complaint, may in its own discretion, at any time after notice to all interested parties, including personal service upon the licensee, cite any person operating under its jurisdiction to appear before it at a public hearing, and to require him to show cause why his license should not be revoked or suspended or other action available to the board not be taken, for failure to comply with any applicable statute, or the rules, or orders of the board. All hearings in such proceedings shall be conducted in accordance with the provisions of these sections.

**§519.25 (401.50.00.125). Ex Parte Consultations.** Unless required for the disposition of ex parte matter as authorized by law, members or employees of the board assigned to render a decision or make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of fact or law with any party or his representative, except on notice and with opportunity for all parties to participate.

Doc. No 806556

## Chapter 521. Fee Schedule

The Texas State Board of Public Accountancy has adopted §521.7 (401.51.00.700), concerning a fee for the transfer of credits for portions of the uniform CPA examination taken in another state, with changes in grammar and sentence structure for clarification.

This section is promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Texas Civil Statutes, Article 41a-1).

**§521.7 (401.51.00.700). Fee for Transfer of Credits.** The processing fee for transfer of credits shall be \$75.

Issued in Austin, Texas, on August 21, 1980.

Doc. No. 806557      Bob E. Bradley  
Executive Director  
Texas State Board of Public  
Accountancy

Effective Date: September 15, 1980  
Proposal Publication Date: May 6, 1980  
For further information, please call (512) 451-0241.

## Chapter 523. Continuing Professional Education

### Continuing Professional Education Programs

The Texas State Board of Public Accountancy has adopted §§523.1-523.7 (401.60.01.100, 200, 300, 400, 500, 600, and 700), by which licensees may be guided in choosing and participating in programs designed to further professional competence and expertise in order that the public be provided with superior professional services.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§523.1 (401.60.01.100) Formal Continuing Education Programs.** To help insure that practitioners receive quality continuing education, appropriate standards are needed. With appropriate standards, programs are less likely to vary in quality of development, presentation, in measurement, and reporting of credits. Moreover, the large number of programs create measuring and reporting problems that suggest the need for nationally uniform standards. The purpose of this statement is to provide such uniform criteria. Throughout this statement, the term "programs" refers to both formal group and formal self-study programs. A group program is an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants. When a group program complies with the standards in this statement, it becomes a formal group program. All other group programs are informal. A self-study program is an educational process designed to permit a participant to learn a given subject without major interaction with an instructor. For a self-study program to be formal:

- (1) the sponsor must provide a certificate upon evidence of satisfactory completion, such as a completed workbook or examination; and

- (2) it must comply with the standards in this statement.

Sponsors are the organizations responsible for presenting programs and are not necessarily program developers; however, it is their responsibility to see that their programs comply with all the standards in this statement.

**§523.2 (401.60.01.200). Standards for CPE Program Development.** The fundamental purpose of continuing education is to increase the practitioner's professional competence. A professional person is one characterized as conforming to the technical and ethical standards of his profession. This characterization reflects the expectation that a person holding out to perform services of a professional quality needs to

be knowledgeable within a broad range of related skills. Thus, the concept of professional competence is to be broadly interpreted. It includes but is not restricted to accounting, auditing, taxation, and management advisory services. Accordingly, programs contributing to the development and maintenance of other professional skills should be recognized as acceptable continuing education programs. Such programs might include but not be restricted to the areas of communication, ethics, quantitative methods, behavioral sciences, statistics, and practice management.

§523.3 (401.60.01.300). *Program Objectives.* The stated program objectives should specify the level of the knowledge the participant should have attained or the level of competency he should be able to demonstrate upon completing the program. Program developers should clearly disclose that level of knowledge and/or skill which is expected to be imparted under a particular program. Such levels may be expressed in a variety of ways, all of which should be informative to potential participants. As an illustration, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced, or overview, which might be defined as follows:

(1) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area.

(2) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.

(3) An advanced level program teaches participants to deal with complex situations.

(4) An overview program enables participants to develop a perspective as to how a subject area relates to the broader aspects of accounting or brings participants up to date on new developments in the subject area.

§523.4 (401.60.01.400). *Evaluation and Experience Prerequisites.* All programs should clearly identify what prerequisites are necessary for enrollment. If no prerequisite is necessary, a statement to this effect should be made. Prerequisites should be specified in precise language so potential participants can readily ascertain whether they qualify for the program or whether the program is above or below their level of knowledge or skill.

§523.5 (401.60.01.500). *Program Developers.* Programs should be developed by individual (individuals) qualified in the subject matter and in instructional design. This standard is not intended to require that any individual program developer be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in a program's development, whether one or more persons are involved in that development. Mastery of the technical knowledge or skill in instructional design is a teaching plan that considers the organization and interaction of the materials as well as the method of presentation, such as lecture, seminar, workshop, or programmed instruction.

§523.6 (401.60.01.600). *Program Content.* The program developer must review the course materials periodically to assure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued where appropriate and obsolete materials should be deleted.

However, between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.

§523.7 (401.60.01.700). *Program Review.* Programs should be reviewed by a qualified person (persons) other than the preparer (preparers) to ensure compliance with the above standards. In order to ensure that programs meet the standards for program development, they should be reviewed by one or more individuals in the subject area and in instructional design, but both aspects of a program should be reviewed. However, it may be impractical to review certain programs, such as a short lecture given only once. In these cases, more reliance must be placed on the competence of the presenter.

Doc. No. 806558

## Continuing Professional Education Standards

The Texas State Board of Public Accountancy has adopted §§523.21-523.27 (401.60.02.100, .200, .300, .400, .500, .600, and .700), by which licensees may be guided in choosing and participating in programs designed to further professional competence and expertise in order that the public be provided with superior professional services.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a 1, 1979).

§523.21 (401.60.02.100). *Program Presentation Standards.* Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation, teaching method (methods), and recommended contact hours credit. In order for potential participants to most effectively plan their continuing education, the salient features of any program should be disclosed. Accordingly, brochures or other announcements should be available well in advance of each program and should contain clear statements concerning objectives, prerequisites (if any), experience level, program content, the nature and extent of advance preparation, the teaching method (methods) to be used, and the amount of credit the program is designed to qualify for.

§523.22 (401.60.02.200). *Instructors.* Instructors should be qualified both with respect to program content and teaching methods used. The instructor is a key ingredient in the learning process in any group program. Therefore, it is imperative that sponsors exercise great care in selecting qualified instructors for all group programs. A qualified instructor is one who is capable, through background, training, education, and/or experience, of providing an environment conducive to learning. He should be competent in the subject matter and skilled in the use of the appropriate teaching method (methods). Although instructors are selected with great care, sponsors should evaluate their performance at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

**§523.23 (401.60.02.300). Program Sponsors.** So that participants can expect programs to increase their professional competence, sponsors should encourage only those who have the appropriate education and/or experience to participate. The term "education and/or experience" in the standard also implies that participants will be expected to complete any advance preparation. An essential step in encouraging advance preparation is timely distribution of program materials. Although implementing this standard may be difficult, sponsors should make a significant effort to comply with the spirit of the standard by encouraging:

- (1) enrollment only by eligible participants,
- (2) timely distribution of materials, and
- (3) completion of any advance preparation.

**§523.24 (401.60.02.400). Learning Environment.** The number of participants and physical facilities should be consistent with the teaching method (methods) specified. The learning environment is affected by the number of participants and by the quality of the physical facilities. Sponsors have an obligation to pay serious attention to these two factors. The maximum number of participants for a case-oriented discussion program, for example, should be considerably less than for a lecture program. The seating arrangement is also very important. For a discussion presentation, learning is enhanced if seating is arranged so that participants can easily see and converse with each other. If small group sessions are an integral part of the program format, appropriate facilities should be available to encourage communications within a small group. In effect, class size, quality of facilities, and seating arrangements are integral and important aspects of the educational environment and should be carefully controlled.

**§523.25 (401.60.02.500). Evaluation.**

(a) All programs should include some means for evaluating quality. Evaluation should be solicited from both participants and instructors. The objective of evaluations is to encourage sponsors to strive for increased program effectiveness. Programs should be evaluated to determine whether:

- (1) objectives have been met;
- (2) prerequisites were necessary or desirable;
- (3) facilities were satisfactory;
- (4) the instructor was effective;
- (5) advance preparation materials were satisfactory;
- (6) the program content was timely and effective.

(b) Evaluations might take the form of pretests for advance preparation, posttests for effectiveness of the program, questionnaires completed at the end of the program, or later, oral feedback to the instructor or sponsor, and so forth. Instructors should be informed of their performance, and sponsors should systematically review the evaluation process to ensure its effectiveness.

**§523.26 (401.60.02.600). Program Measurement.** All programs should be measured in terms of 50-minute contact hours. The shortest recognized program should consist of one contact hour. The purpose of this standard is to develop uniformity in the measurement of continuing education activity. A contact hour is 50 minutes of continuous participation in a group program. Under this standard, credit is granted only for full contact hours. For example, a group program lasting 100 minutes would count for two hours; however, one lasting between 50 and 100 minutes would

count only for one hour. For continuous conferences and conventions, when individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three contact hours. For university or college courses, each semester hour credit should equal 15 hours toward the requirement. A quarter hour credit should equal 10 hours. Sponsors are encouraged to monitor group programs in order to accurately assign the appropriate number of credit hours for participants who arrive late or leave before a program is completed. Since credit is not allowed for preparation time for group programs, it should not be granted for the equivalent time in self-study programs. Self-study programs should be pre-tested to determine average completion time. One half of the average completion time is the recommended credit to be allowed. For example, a self-study program that takes an average of 800 minutes to complete is recommended for eight contact hours of credit.

**§523.27 (401.60.02.700). Credits for Instructors and Discussion Leaders.** When an instructor or discussion leader serves at a program for which participants receive credit and at a level that contributes to his or her professional competence, credit should be given for preparation and presentation time measured in terms of contact hours. Instructors and discussion leaders should receive credit for both preparation and presentation. For the first time they present a program, they should receive contact hour credit for actual preparation hours up to two times the class contact hours. If a course is rated as eight contact hours, the instructor could receive up to 24 contact hours of credit (16 hours for preparation and eight hours for presentation). For repetitious presentations the instructor should receive no credit unless he can demonstrate that the subject matter involved was changed sufficiently to require significant study or research. In addition, the maximum credit for preparation and presentation should not exceed 50% of the total credit an instructor or discussion leader accumulates in a reporting period. For example, if a discussion leader's state required 40 hours of continuing education yearly, and he actually taught 16 hours and took 30 hours to prepare, the most credit he could claim would be 20 hours.

Doc. No. 806559

## Continuing Professional Education Reporting

The Texas State Board of Public Accountancy has adopted §§523.41 and 523.42 (401.60.03.100 and .200), by which licensees may be guided in choosing and participating in programs designed to further professional competence and expertise in order that the public be provided with superior professional services.

These sections are promulgated under the authority of Section 6 of the Public Accountancy Act of 1979 (Vernon's Annotated Texas Statutes, Article 41a-1, 1979).

**§523.41 (401.60.03.100). Standards for CPE Reporting.**

(a) Participants in group or self-study programs should document their participation, including:

- (1) sponsor;
- (2) title and/or description of content;
- (3) date (dates);

- (4) location; and
- (5) number of contact hours.

(b) Documentation should be retained for an appropriate period. This standard is designed to encourage participants to document their attendance at a group program or participation in a self-study program. State laws or regulations may dictate the length of time to retain documentation. In the absence of legal specifications, a reasonable policy would be to retain documentation for five years from the date the program is completed. For self-study programs evidence of completion would normally be the certificate supplied by the sponsor.

§523.42 (401.60.03.200). *Sponsor's Record.*

(a) In order to support the reports that may be required of participants, the sponsor of group of self-study programs should retain for an appropriate period:

- (1) record of participation;
- (2) outline of the course (or equivalent);
- (3) date (dates);
- (4) location;
- (5) instructor (instructors); and
- (6) number of contact hours.

(b) Because participants may come from any state or jurisdiction, the appropriate time for the sponsor to retain this information is not dependent solely on the location of the program or sponsor. To satisfy the detailed requirements of all jurisdictions, a retention period of five years from the date the program is completed is appropriate. The record of attendance should reflect the contact hours earned by each participant, including those who arrive late or leave early.

Issued in Austin, Texas, on August 21, 1980.

Doc. No. 806560

Bob E. Bradley  
Executive Director  
Texas State Board of Public  
Accountancy

Effective Date: September 15, 1980

Proposal Publication Date: June 3, 1980

For further information, please call (512) 451-0241.

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 Conservation Foundation

**Monday, September 29, 1980, 10:30 a.m.** The Texas Conservation Foundation will meet at the Texas Historical Commission offices, 1511 Colorado, Austin. The foundation will consider minutes of the previous meeting; hear the executive director's report; take action on the nature conservancy proposal; and discuss disposition of McManus donation.

Information may be obtained from Mary Jane Hutchinson, 1300 Guadalupe, Austin, Texas 78701, (512) 475-0342.

Filed: August 25, 1980, 3:21 p.m.  
Doc. No. 806537

## Texas State Board of Dental Examiners

**Thursday, August 28, 1980, 2 p.m.** The Texas State Board of Dental Examiners conducted an emergency meeting in the board office, 718 Southwest Tower, 7th and Brazos, Austin. The purpose of the meeting was to discuss sunset review recommendations. This meeting was given emergency status because legal advice was to the effect that since more than a majority of the board may be present at the meeting, notice must be given. All persons interested in discussing the sunset recommendations were invited to attend. No rules, laws, amendments, disciplinary cases, or other board business was discussed and no action was taken.

Information may be obtained from Carl C. Hardin, Jr., 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701, (512) 475-2443.

Filed: August 26, 1980, 3:05 p.m.  
Doc. No. 806572

## Texas Education Agency

**Thursday and Friday, September 4 and 5, 1980, 10 a.m. and 8:30 a.m., respectively.** The Curriculum Study Panel of the Texas Education Agency will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda, the panel will consider the following: Thursday—review of issues (testimony) and advisory committee recommendations; review of task force alternatives for panel consideration;

detailed discussion and tentative decisions on panel recommendations; distribution of reactions of teacher organizations to advisory committee recommendations; discussion of curriculum in other states; legislative proposal on career education; Friday—reconsideration, discussion, and decision on panel recommendations.

Information may be obtained from J. B. Morgan, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077.

Filed: August 26, 1980, 11:36 a.m.  
Doc. No. 806576

## Texas Department of Health

**Wednesday and Thursday, September 24 and 25, 1980, 1:30 p.m. and 9 a.m., respectively.** The Texas Department of Health will conduct hearings at the following dates and addresses:

September 24—City Hall, Nixon

Application 915 of the City of Nixon to operate an existing Type II municipal solid waste disposal site located 1.2 miles south-southeast of the U.S. Highway 87 and State Highway 80 intersection in Nixon, on the west side of State Highway 80, in Wilson County.

September 25—City Hall, Goliad

Application 1406 of the City of Goliad to operate a proposed Type II municipal solid waste disposal site to be located 2.2 miles north-northwest of the U.S. Highway 59 and Highway 183 intersection in Goliad, 3/4 mile north of Manahuilla Street, on the west side of the extension of San Patricio Street, in Goliad County.

Information may be obtained from Jack C. Carmichael, 1100 W. 49th Street, Austin, Texas 78756, (512) 458-7271.

Filed: August 28, 1980, 9:58 a.m.  
Doc. No. 806609

## Texas Health Facilities Commission

**Friday, September 5, 1980, 9:30 a.m.** The Texas Health Facilities Commission will meet in the Jefferson Building, 1600 West 38th Street, Suite 305, Austin. According to the agenda summary, the commission will consider the following applications:

Certificate of Need

Vista Continuing Care Center, Pasadena  
AN79-1115-019

Metropolitan General Hospital, San Antonio  
AH80-0411-034

Metropolitan General Hospital, San Antonio  
AH80-0521-024

Declaratory Ruling

Harris Hospital-Methodist and Methodist Affiliated Hospitals, Ft. Worth, AH80-0612-012

Information may be obtained from O. A. Cassity, III, P. O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: August 26, 1980, 9:43 a.m.  
Doc. No. 806567

## Texas Historical Commission

**Wednesday, September 3, 1980, 9 a.m.** The Texas Antiquities Committee of the Texas Historical Commission will meet in Room 618, Stephen F. Austin Building, Austin. According to the agenda, the committee will consider approval of minutes; draft proposal by Ad Hoc Committee for cooperative project between industry and TAC for preservation of historic shipwrecks; agency rules on procedural matters; operating budget—fiscal year 1981; guidelines for designation of state archeological landmarks; Sam Houston House summary (not full hearing); permit and land transfer at Lubbock Lake Site; Platoro case update and related traveling exhibit items; inventory of shipwreck materials; U.S.S. Hatteras case update; status of antiquities permits, including reports received, permits extended, and problem permits (Texas Archeological Society); preliminary report on the 1980 Galveston Magnetometer Survey; and date for next meeting.

Information may be obtained from Curtis Tunnell, 105 West 16th Street, Austin, Texas 78711, (512) 475-6328.

Filed: August 26, 1980, 3:21 p.m.  
Doc. No. 806578

## Legislative Audit Committee

**Saturday, September 13, 1980, 11 a.m.** The Legislative Audit Committee has rescheduled a meeting from September 12, 1980, to the above date and time, in Room 301 of the State Capitol. The meeting concerns the progress report from the subcommittee on audit concerns.

Information may be obtained from George W. McNeil, P.O. Box 12067, Austin, Texas 78711, (512) 475-4115.

Filed: August 26, 1980, 2:43 p.m.  
Doc. No. 806574

## Legislative Budget Board

**Saturday, September 13, 1980, 9 a.m.** The Legislative Budget Board will conduct a rescheduled meeting in Room 301 of the State Capitol, to continue consideration of agency appropriations requests for the 1982-83 biennium.

Information may be obtained from Thomas M. Keel, P.O. Box 12666, Austin, Texas 78711, (512) 475-3426.

Filed: August 26, 1980, 11:37 a.m.  
Doc. No. 806579

## Merit System Council

**Friday, September 5, 1980, 9 a.m.** The Merit System Council will meet in 507 Brown Building, 8th and Colorado Streets, Austin, to conduct an appeal hearing.

Information may be obtained from Leo F. Brockmann, P.O. Box 1389, Austin, Texas 78767, (512) 477-9665.

Filed: August 25, 1980, 3:21 p.m.  
Doc. No. 806536

## Texas Parks and Wildlife Department

**Wednesday, September 3, 1980, 9 a.m.** The commission of the Texas Parks and Wildlife Department will meet at the Texas Parks and Wildlife Department Headquarters Complex, Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will consider game fish; proposed 1980 and 1981 red drum commercial harvest quota; monofilament net ban clarification; proposed bass "slot limit" restriction for Calaveras Lake; 1980 and 1981 Migratory Game Bird Regulations; quail bag limits; requests for funding local parks from the Land and Water Conservation Fund or the Texas Local Parks, Recreation, and Open Space Fund; Fairfield Lake State Recreation Area electric cable easement request, Freestone County, Washington-on-the-Brazos State Historical Park Water Supply Easement and Service Agreement, Washington County; Boat Launch Complex Improvement Project, Falcon State Recreation Area, Starr and Zapata Counties; San Jacinto Museum of History Association operating budget consideration, San Jacinto Battleground State Historical Park, Harris County; San Jacinto Monument major repair program analysis, San Jacinto Battleground State Historical Park, Harris County; Guadalupe River State Park residence funding, Comal/Kendall Counties; fiscal year 1981 Boat Ramp Construction Program; pending park donation offers; fiscal year 1981 operational plan and operating budget; legislative appropriations request, 1982-1983 biennium, second submission; departmental facility utilization by public employee organizations and associations.

Information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4954.

Filed: August 26, 1980, 10:43 a.m.  
Doc. No. 806570

**Wednesday, September 3, 1980, (in conjunction with 9 a.m. September 3 public hearing).** The commission of the Texas Parks and Wildlife Department will meet in the Texas Parks and Wildlife Department Headquarters Complex, Building B, 4200 Smith School Road, Austin. According to the agenda, the commission will consider proposed Aoudad Hunt, Caprock Canyons State Park, Briscoe County; park facilities design development review, Caprock Canyons State Park, Briscoe County; report on damage to parks and wildlife facilities from Hurricane Allen; report on Hackberry Park site developments.

Information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4954.

Filed: August 26, 1980, 10:43 a.m.  
Doc. No. 806571

## State Property Tax Board

**Thursday, September 11, 1980, 10 a.m.** The State Property Tax Board will meet in the conference room, 9501 North IH 35, Austin. According to the agenda, the Board will consider the report on the school district valuation study; discussion and adoption of the school district appraisal; adoption of rules of practice and procedure as amended; discussion of rules on open-space land valuation; report on litigation of state ad valorem suit and Attorney General Opinion Request 353;

status report on appraisal districts and implementation of Senate Bill 621; action on budgetary items; status reports from various divisions within the agency; executive session to discuss personnel matters.

Information may be obtained from Kenneth E. Graeber, 9501 North IH 35, Austin, Texas 78753, (512) 837-8622.

Filed: August 26, 1980, 1:40 p.m.  
Doc. No. 806575

## Public Utility Commission of Texas

**Friday, September 5, 1980, 9 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 3350—appeal of Ridgewood Village water system from the rate determination of the city of Westlake Hills.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 28, 1980, 9:57 a.m.  
Doc. No. 806604

**Tuesday, September 9, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Dockets 3383 and 3193—petition of Rusk County Electric Cooperative, Inc. for authority to change rates.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 28, 1980, 9:57 a.m.  
Doc. No. 806605

**Tuesday, September 9, 1980, 2 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Docket 3397—petition of Guadalupe Valley Electric Cooperative, Inc., for authority to change rates.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 28, 1980, 9:58 a.m.  
Doc. No. 806606

**Wednesday, September 10, 1980, 1 p.m.** The Hearings Division of the Public Utility Commission of Texas has rescheduled a hearing to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a hearing in Docket 3195—application of Douglas Utility Company for a rate increase within Harris County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 485-0100.

Filed: August 28, 1980, 9:58 a.m.  
Doc. No. 806607

**Tuesday, October 21, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3370—application of Community Public Service Company for a rate increase.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 25, 1980, 3:27 p.m.  
Doc. No. 806538

## School Land Board

**Tuesday, September 2, 1980, 10 a.m.** The School Land Board will meet in Conference Room 831 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider applications for suspensions; pooling applications; coastal public lands—staff recommendation for rebuilding and repairing cabins and other structures damaged by Hurricane Allen; easement applications; lease applications; adoption of resolution by the School Land Board for board member; coastal public lands—amendment to delinquent fee assessment procedures for unauthorized structures on coastal public lands, approved by the board on May 20, 1980.

Information may be obtained from Linda Fisher, 1700 North Congress Avenue, Stephen F. Austin Building, Room 835, Austin, Texas, (512) 475-2071.

Filed: August 25, 1980, 2:13 p.m.  
Doc. No. 806535

## Board for Lease of State-Owned Lands

**Wednesday, September 3, 1980, 4 p.m.** The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet in Room 201B, 4200 Smith School Road, Austin. According to the agenda, the board will consider utilities easements; bids received at the April 1, 1980, oil, gas, sulphur, and uranium lease sale on Mustang Island, (passed over by the board on June 5, 1980); and a pooling agreement.

Information may be obtained from Linda Fisher, 1700 North Congress Avenue, Stephen F. Austin Building, Austin, Texas 78701, (512) 475-2071.

Filed: August 26, 1980, 10:45 a.m.  
Doc. No. 806569

## Teacher Retirement System of Texas

**Friday, September 12, 1980, 9 a.m.** The Board of Trustees of the Teacher Retirement System of Texas will meet at 1001 Trinity, Austin. According to the agenda summary, the board will consider approval of minutes; investments for quarter and year ending August 31, 1980; discussions and recommendations at IAC meeting; action on IAC recommendations; interest assumption rate used by the actuary; cost estimates and actuary's comments on suggested benefit improvements; recommendations to the 67th Texas Legislature; certification of state contribution requirements for 1982 and 1983 biennium; of pending litigation; report of Member



Benefits Division; report from Audit Study Committee; and meet in executive session to discuss personnel.

Information may be obtained from Shari Cooper, 1001 Trinity, Austin, Texas 78701, (512) 477-9711, ext. 201.

Filed: August 28, 1980, 9:42 a.m.  
Doc. No. 806603

## Commission on Standards for the Teaching Profession

**Friday, September 12, 1980, 9 a.m.** The Interim Reports Committee of the Commission on Standards for the Teaching Profession will meet in the Riverside South fourth floor conference room, 158 East Riverside Drive, Austin. According to the agenda, the committee will consider interim reports submitted from teacher training institutions.

Information may be obtained from Elmer Russell, 201 East 11th Street, Austin, Texas 78701, (512) 475-0164.

Filed: August 26, 1980, 11:36 a.m.  
Doc. No. 806577

## Texas A&M University

**Monday, August 25, 1980, 7 p.m.** The Board of Regents of Texas A&M University made two emergency additions to the agenda of a meeting held at the Memorial Student Center, College Station. The additions concerned reports on the proposal for moving railroad tracks from the Texas A&M University campus and plans for improving Wellborn Road. Because the Board of Regents were in College Station and the architects involved in the project were also available, this addition was given emergency status to save time and funds for the State of Texas.

Information may be obtained from Robert G. Cherry, College Station, Texas 77843, (713) 845-4334.

Filed: August 25, 1980, 4:26 p.m.  
Doc. No. 806541

## Texas Water Commission

**Thursday, August 28, 1980, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the addition concerned the application by Crystal Chemical Company for Waste Disposal Well Permit 179—consideration of motions to review examiner's decision to change venue from Houston to Austin. Because the hearing is scheduled to resume in Austin on September 3, 1980, it was considered a necessity that the commission hear oral arguments on the motions as soon as possible.

Information may be obtained from Mary Ann Hefner, 1700 North Congress, Austin, Texas 78711, (512) 475-4514.

Filed: August 26, 1980, 9:18 a.m.  
Doc. No. 806564

## Regional Agencies

### Meetings Filed August 26, 1980

**The Bexar-Medina-Atascosa Counties Water Control and Improvement District One**, Board of Directors, will meet at the district office, Natalia, on September 2, 1980, at 8 a.m. Information may be obtained from Clifford Mueller, P. O. Box 180, Natalia, Texas 78059, (512) 663-2132.

Doc. No. 806573

### Meetings Filed August 28, 1980

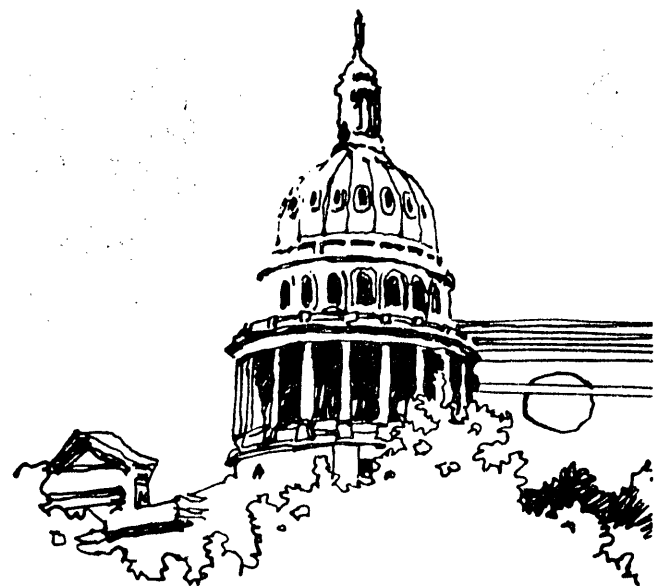
**The Ark-Tex Council of Governments**, Executive Committee, will meet at K-Bob's Restaurant, Highway 271 South, Mt. Pleasant, on September 4, 1980, at 5:30 p.m. The Board of Directors will meet in the Gold Room, Titus County Convention Center, Mt. Pleasant, on the same day, at 7 p.m. Information may be obtained from Vivienne Arvin, P.O. Box 5307, Texarkana, Texas 75501, (214) 794-3481.

**The Brazos River Authority, Board of Directors**, Administrative Policy Committee, will meet at 4400 Cobbs Drive, Waco, on September 4, 1980, at 10 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441.

**The Houston, Galveston Area Council**, Projects Review Committee, will meet at 3701 West Alabama, Houston, on September 2, 1980, at 9:30 a.m. Information may be obtained from Martha Pawley Grady, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200.

**The South Texas Development Council**, Regional Alcoholism Services Advisory Committee, will meet in the Conference Room, Building S-1, Laredo, on September 4, 1980, at 2 p.m. Information may be obtained from Armando Castillo, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

Doc. No. 806608



## Texas Department of Community Affairs

### Request for Proposal

**Notice of Invitation for Program Proposal.** The TDCA, under the authority of its enabling act, Article 4413 (201), Texas Revised Civil Statutes Annotated, announces a request for proposals (RFP) from its Children and Youth Services Division. TDCA is soliciting proposals to administer and deliver services to young children and their families in a broad range of program areas. Preference will be given to (1) direct services for children and families within small communities, and (2) innovative programs that meet documented community or statewide needs. Programs may serve children older than age six if children under six are also included. Examples of potential program areas are included in the proposal packet.

TDCA will accept, review, and select proposals for services during three funding cycles:

Cycle 1: Proposals for four- to nine-month programs will be received from September 5-October 24, 1980. Contracts will begin on or after December 1, 1980.

Cycle 2: Proposals for four- to six-month programs will be received from November 1, 1980-January 23, 1981. Contracts will begin on or after March 1, 1981.

Cycle 3: Proposals for four-month programs only will be received from February 1-March 21, 1981. Contracts will begin no later than May 1, 1981.

This announcement applies to Cycle 1 only; subsequent announcements for Cycles 2 and 3 will be forthcoming.

If TDCA chooses to enter into and execute any contract for services, the period of performance will begin no earlier than December 1, 1980, and shall not extend past August 31, 1981. Approximately \$130,000 total is available for funding programs in all cycles.

**Qualifications Desired by TDCA.** Applicants eligible to respond to this request should be public or private nonprofit organizations, including state and local governments, with appropriate expertise. Individuals and profit-making organizations are not eligible. Applicants must give evidence of capability to accomplish requested services and document applicants' legal authority to contract with TDCA to provide these services.

**Deadline for Submission of Proposals in Response to this Announcement.** Proposals submitted during this RFP cycle will not be accepted after 5 p.m. Friday, October 24, 1980, unless postmarked on or before October 22, 1980 (other cycle deadlines in January and March 1981). Proposals may be hand delivered up to the deadline to the Children and Youth Services Division, third floor, Texas Department of Community Affairs Building, 210 Barton Springs Road, Austin, on any workday between 8 a.m. and 5 p.m.

**Duration of Programs and Amount of Funding.** Programs for Cycle 1 should be proposed for a period of four to nine months, beginning on or after December 1, 1980, and ending on or before August 31, 1981. The total dollar allocation for projects funded in Cycle 1 is \$70,000. Monthly expenditures for each contract are anticipated to range from \$1,500-\$2,500. Proposals for continuation of existing programs will not be considered.

**General Information.** TDCA reserves the right to accept or reject any or all proposals submitted. TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement, and intends the material provided herein only as a means of identifying the various contractor alternatives and the general cost of the services desired by TDCA. TDCA intends to use responses hereto as a basis for further negotiation of specific program contracts. In the event that TDCA selects a contractor to provide the delivery of services described herein, TDCA will base its choice on factors such as demonstrated competence and

qualifications of the offeror and the reasonableness of costs. Other factors upon which selection will be based are included in the proposal package. This request does not commit TDCA to pay for any costs incurred prior to execution of a contract and is subject to availability of appropriated funds. Issuance of this material in no way obligates TDCA to award a contract or to pay cost incurred in the preparation of a response hereto. TDCA specifically reserves the right to vary all provisions set forth herein at anytime prior to execution of a contract where TDCA deems such variance to be in the best interest of the State of Texas, and to otherwise act as it determines in its sole discretion.

**Person to Contact.** To receive a proposal package, contact John Geistweidt, director, Children and Youth Services Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711, (512) 475-5833 or 1-800-252-9642.

Issued in Austin, Texas, on August 26, 1980.

Doc. No. 806581      Jeanne Marcus, Director  
Legal Division  
Texas Department of Community Affairs

Filed: August 26, 1980, 11:09 a.m.

For further information, please call (512) 475-5833.

## Texas Energy and Natural Resources Advisory Council

### Notice of Contract Award

The Texas Energy and Natural Resources Advisory Council hereby furnishes a notice of contract award. A description of the study is as follows:

To carry out the tasks set forth in Article III of the Cooperative Agreement DE-FCO7-791D12080 between the U.S. Department of Energy, Division of Geothermal Energy, and Texas Energy and Natural Resources Advisory Council, in the subregion of Hueco Tanks of Trans-Pecos, Texas/New Mexico.

The contractor is the University of Texas at El Paso/Department of Geological Sciences, El Paso, Texas 79968. The total value of the contract is \$96,828. The beginning date of the contract is August 20, 1980, and the ending date is August 31, 1981.

Project reporting is due in accordance with the procedure adopted pursuant to the above cooperative agreement.

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

Doc. No. 806563 Roy R. Ray, Jr., Manager  
Technology Development Section  
Texas Energy and Natural Resources  
Advisory Council

Filed: August 26, 1980, 9:19 a.m.  
For further information, please call (512) 475-5588.

## Executive and Legislative Budget Offices

### Amended Joint Budget Hearing Schedule

The following hearing has had a date change.

Agency	Date	Place
Department of Agriculture	From: 9 a.m. September 5	Senate Finance Room 301, Austin
	To: 9 a.m. September 4	

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

Doc. No. 806515 Jim Oliver  
Assistant Director  
Legislative Budget Board

Filed: August 25, 1980, 10:10 a.m.  
For further information, please call (512) 475-3426.

## 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 August 22-25, 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 informa-

tion 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.

Pleasant Manor Nursing Home of Waxahachie,  
Waxahachie (8/25/80)

AN80-0822-008

EC—To construct a building to be used for laundry purposes and utilize existing space currently being used for laundry as kitchen storage

Kelly Health Care, Inc., Houston (8/25/80)

AS80-0822-018

EC—To relocate the offices of Kelly Health Care, Inc., from 4242 Southwest Freeway in Houston to new offices in the Summit Tower, 11 Greenway Plaza in Houston, and increase office space by approximately 832 square feet

Issued in Austin, Texas, on August 26, 1980.

Doc. No. 806566 Linda E. Zatopek  
Hearing Officer  
Texas Health Facilities Commission

Filed: August 26, 1980, 9:44 a.m.  
For further information, please call (512) 475-6940.

## Texas Department of Human Resources

### Notice of Position Vacancy

The Texas Board of Human Resources is accepting applications through September 30, 1980, for the position of commissioner of human resources. The commissioner is the chief executive and administrative officer of the department. The person selected is subject to confirmation by 2/3 of the membership of the senate, and serves at the pleasure of the board.

To be eligible for appointment as commissioner, a person must be at least 35 years old, have been a resident citizen of Texas for at least 10 years prior to the appointment, have had experience as an executive or administrator, and not have served as an elected state officer during the six-month period preceding the appointment. Salary is negotiable.

Applications, with a complete resume, should be submitted to Texas Department of Human Resources, D. W. Bond, Jr.,

assistant commissioner for personnel services, P.O. Box 2960, Austin, Texas 78769.

Issued in Austin, Texas, on August 26, 1980.

Doc. No. 806561 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Filed: August 26, 1980, 9:19 a.m.

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

## Notice of Public Meeting

The Department of Human Resources will hold a public meeting to accept comments on the decision to return the administration of the Child Care Food Program and the Summer Food Service Program for Children to the United States Department of Agriculture (USDA). The meeting will be held on Monday, September 8, 1980, starting at 10 a.m. in Room 1B, 706 Banister Lane, Austin, Texas 78704.

Issued in Austin, Texas, on August 26, 1980.

Doc. No. 806568 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Filed: August 26, 1980, 9:19 a.m.

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

## 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 August 18-22, 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 August 22, 1980

Intercontinental Refining, Inc., Harris County; refinery and marine dock; 11500 Choate Road, approximately 500 feet west of State Highway 146, at Choate Road and Highway 146 intersection; new permit

Denka Chemical Corporation, Houston, Harris County; industrial rainfall treatment facility; east of intersection of Park Place Boulevard and Old Galveston Road at 8701 Park Place Boulevard; new permit

Pullman Incorporated, Pullman Trailmobile Division, Houston, Harris County; degassing and steam cleaning plant (of gasoline tankers); 10043 Wallisville Road; new permit

Dow Chemical, U.S.A. Dowell Division, Laredo, Webb County; oil and gas well service; in Tejas Industrial Park, east of IH 35 and the Missouri-Pacific Railway and northeast of intersection of Tejas Loop and Las Cruces Drive; new permit

City of Albany, Shackelford County; domestic sewage treatment plant; one mile southeast of intersection of U.S. Highways 283 and 180; 10035; amendment

City of Carmine, Fayette County; sewage system and treatment facilities; north of Carmine, approximately 0.8 mile due northwest of intersection of Highway 29 and Farm Road 458; new permit

City of Meridian, Bosque County; domestic sewage treatment facilities; north side of Bosque River, approximately 0.25 mile south of Bosque County Courthouse, South Erath Street; 10113-01; renewal

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

Doc. No. 806565 Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: August 26, 1980, 9:18 a.m.

For further information, please call (512) 475-1311.

**TAC Titles Affected in This Issue**

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