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# TEXAS REGISTER

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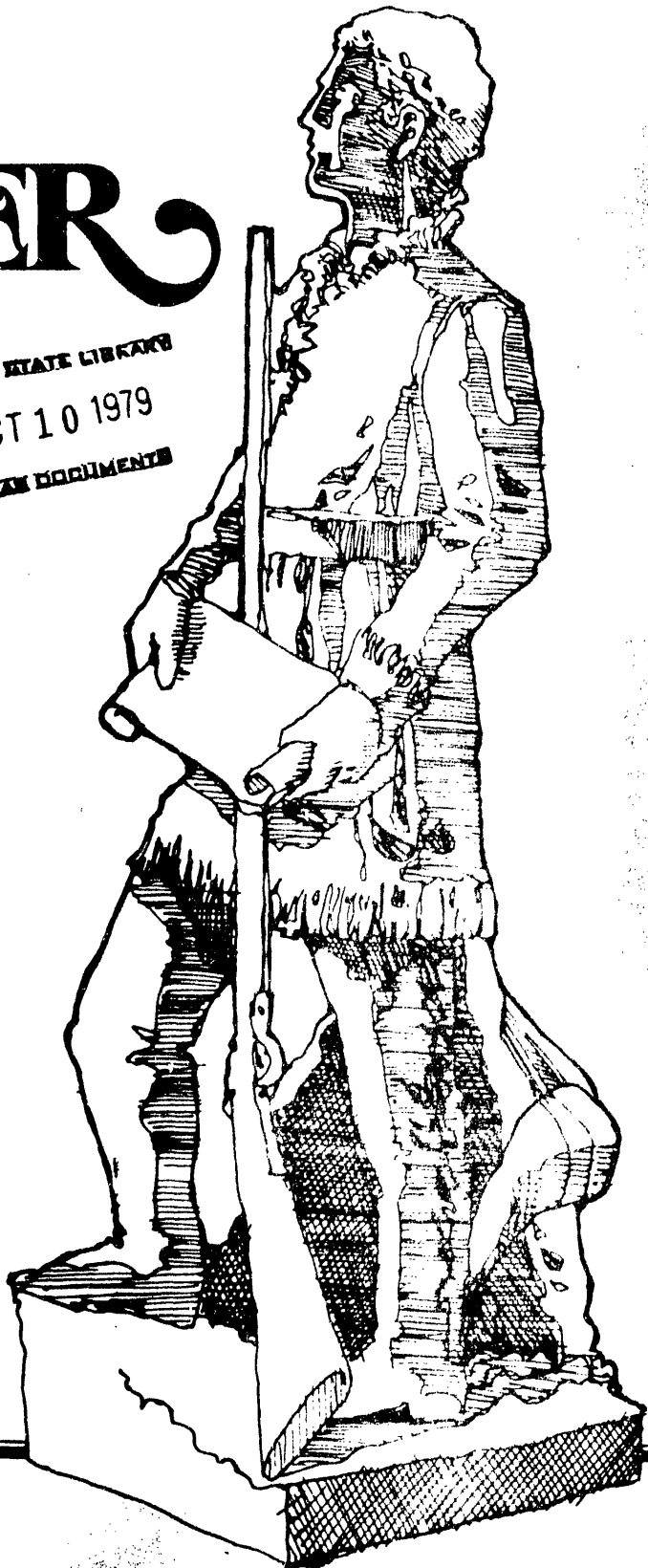
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Office of the Secretary of State

The Texas Department of Mental Health and Mental Retardation proposes rules governing the prescribing of psychoactive drugs (those drugs which exercise a direct effect upon the central nervous system and which are capable of influencing and modifying behavior, cognition, and affective state). To ensure the rational prescribing of psychoactive drugs to the department's clients, the proposed rules would require monthly audits of a sample of client records; would establish general treatment procedures that must be followed, including a physical examination and investigation of medical, psychiatric, and drug history, before the initiation of drug therapy; would require an audit of each client's treatment plan at regular intervals; would establish regulations concerning dosages and dose schedules of psychoactive drugs; would establish special procedures for treatment of pregnant women, children, adolescents, the elderly, alcohol abusers, and drug abusers; would specify laboratory tests to be done at least every six months; and would specify when and under what conditions psychoactive drugs may be prescribed for mentally retarded clients.

To provide a concise definition of recordkeeping requirements for pharmacies, the Texas State Board of Pharmacy proposes a rule detailing what records must be maintained by pharmacies, how these records are defined, and how the records should be maintained. The proposed rule outlines recordkeeping procedures for oral and written prescription orders; outlines procedures for recording controlled substance prescription orders and dangerous drug prescription orders; establishes how records of distribution (including records of theft, loss, and destruction of controlled substances) should be kept; and outlines recordkeeping procedures for pharmacies maintaining records in a data processing system.

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

*Artwork: Gary Thornton*

## TEXAS REGISTER

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

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- 3580 *RQ-175 (concerning whether an individual appointed by commissioners court to fill vacancy in sheriff's office must comply with appointment and training requirements of Texas Commission on Law Enforcement Officer Standards and Education)*

### Open Records Decisions

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

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

## Requests for Opinions

### Summary of Request for Opinion RQ-173

Request from James Warren Smith, Jr., county attorney, Frio County.

**Summary of Request:** Can a defendant and/or his attorney execute a "waiver," waiving the jurisdictional requirement that a justice of the peace can only sit within his precinct for the adjudication of a suit, when further joined in its execution by both the prosecutor and the justice of the peace?

Doc. No. 796354

### Summary of Request for Opinion RQ-174

Request from G. L. "Lynn" Tate, commissioner, Texas Department of Labor and Standards, Austin.

**Summary of Request:** Does the above-quoted prescriptive language of Section 18(f) of the Texas Manufactured Housing Standards Act preempt the certification and other requirements of Article 9116 as they relate to transporters of manufactured housing?

Doc. No. 796355

### Summary of Request for Opinion RQ-175

Request from Fred Toler, executive director, Texas Commission on Law Enforcement Officer Standards and Education, Austin.

**Summary of Request:**

(1) Must an individual appointed by the commissioners court to fill a vacancy in the office of sheriff until the next general election comply with the appointment and training requirements established by the Texas Commission on Law Enforcement Officer Standards and Education under the provisions of Section 6, Article 4413(29aa), Vernon's Texas Civil Statutes, and if so, can he be prosecuted for the misdemeanor offense provided in Section 6(e), Article 4413(29aa), Vernon's Texas Civil Statutes, for his failure to comply with the appointment requirements, or, for his failure to complete the training within the time prescribed by law?

(2) If an individual appointed by the commissioners court to fill a vacancy in the office of sheriff until the next general

election complies with the appointment requirements but fails to complete the training requirement established by the Texas Commission on Law Enforcement Officer Standards and Education under the provisions of Section 6, Article 4413(29aa), Vernon's Texas Civil Statutes, within the time required by that statute, may he be removed from office under the provisions of Article 5, Section 24, Vernon's Annotated Texas Constitution, or otherwise?

Doc. No. 796356

## Open Records Decisions

### Summary of Open Records Decision

#### ORD-227

Request from Mike Atkins, county attorney, Ector County, concerning whether financial statements reflecting income and expenses of lessee of county airport are public under the Open Records Act.

**Summary of Decision:** Financial statements reflecting income and expenses of a lessee of a county airport are public under the Open Records Act since they involve the performance of a governmental function.

Issued in Austin, Texas, on September 18, 1979.

Doc. No. 796357

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

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



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.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

## Texas Adult Probation Commission

### Standards 608.01.00

The Texas Adult Probation Commission proposes to amend Rule 608.01.00.010(g) to assure adequate documentation of business use of personally owned automobiles is maintained in probation departments. The commission proposes to add subsection (r) to Rule .010 to allow judicial districts to establish more than one probation department in multicounty districts under certain conditions as authorized by the 66th Legislature. The commission also proposes to amend Rule .020(a) to allow judicial districts to waive the one-year experience requirement for new probation officers under certain conditions as authorized by the 66th Legislature. Subsection (h) is being added to Rule .080 to protect public monies by requiring probation department employees with access to monies be covered by honesty bonds.

There are no fiscal implications to these rules (source: Texas Adult Probation Commission staff).

Comments are invited and should be sent in writing to the executive director, Texas Adult Probation Commission, P.O. Box 12427, Austin, Texas 78711.

These amendments are proposed under the authority of Articles 42.12 and 42.121, Texas Code of Criminal Procedure.

#### .010. Administration.

(a)-(f) (No change.)

(g) Automobile allowance (Article 42.12, Section 10(e), (h)). Probation departments should establish an automobile allowance for the use of personal automobiles on official business by authorized department personnel to be paid from judicial district funds. Personal automobile allowance should not be less than the state allowance per mile. Flat rate monthly payment based on approximate mileage computed at not less than the current state rate per mile is not prohibited.

*Departments paying flat rate monthly allowances should maintain written documentation within the probation department of business mileage. This documentation should include the officer's name, month, and officer's signature. The form should also contain the date, beginning odometer reading, ending odometer reading, total miles driven, and purpose of trips for each business day. These forms should be available for review by TAPC auditors.*

(h)-(q) (No change.)

(r) *Multidepartment districts. Judicial districts composed of more than one county may apply to the Texas Adult Probation Commission for authorization to establish more than one probation department within that judicial district. The application should explain how the creation of more than one department will promote:*

(1) *administrative convenience; or*

(2) *economy; or*

(3) *improved probation services and other reasons, if any.*

*The application should indicate the financial impact and the approval of all district judges hearing criminal cases of the judicial district or districts affected by the change.*

#### .020. Probation Officers.

(a) Eligibility (Article 42.12, Section 10(c), (d), (e)). All probation officers should meet the statutory requirements. *Judicial districts may apply to TAPC for exemption of the one year of experience required in Subdivision (B), Subsection (C). The application should document that reasonable efforts were made to employ a probation officer with one year experience and state why, in their opinion, the efforts were unsuccessful. Probation officers requiring a waiver under the rule should be hired at a salary lower than the entry level salary of probation officers with experience.*

(b)-(d) (No change.)

#### .080. Fiscal.

(a)-(g) (No change.)

(h) *Honesty bond. Probation departments should insure that all public monies are protected by requiring that all employees with access to monies are covered by honesty bonds. The fee for these bonds may be paid from the judicial district adult probation fund.*

Issued in Austin, Texas, on September 24, 1979.

Doc. No. 796368

Don R. Stiles

Executive Director

Texas Adult Probation Commission

Proposed Date of Adoption: November 2, 1979

For further information, please call (512) 475-1374.

## Texas Department of Agriculture

### Seed Division

#### General Requirements 176.83.20

The Texas Department of Agriculture is proposing to adopt Rule 176.83.20.014 under the general requirements of the seed certification standards which were promulgated by the State Seed and Plant Board to effect rules and guidelines for sale of bulk certified seed.

The Texas Department of Agriculture has determined that the proposed rule will cause no fiscal change.

Public comment on the proposed rule is invited. Comments may be submitted by telephoning Don Ator, director, Seed Division, Texas Department of Agriculture, (512) 475-2038, or by writing to the Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

Adoption of Rule .014 is proposed under the authority of Article 67b, Texas Civil Statutes.

**.014. Bulk Sales.**

(a) Certified seed of the certified class only may be sold in bulk provided the identity of the seed is carefully maintained and the seed is handled in a manner which prevents a mixture. All requirements other than even weight bagging must be met prior to date of sale.

(b) Bulk sales are authorized as follows:

(1) A maximum of two sales with a maximum of one delivery; the delivery to be made by the certified seed grower or producer directly to the consumer.

(2) Seed sold in bulk is not eligible for further increase under the certification program.

(3) Bulk seed sold outside the State of Texas cannot be recognized or referred to as certified seed.

(4) Certification labels will be issued for seed intended for bulk sale with the net weight left blank. The seller must write in the net weight in ink at the time of sale.

(5) A certification label must be affixed to the shipping order or bill of lading and the sales invoices in such a way as to prevent easy removal and reattachment.

(6) When delivery is made, a check of the bin or receiving vehicle must be made to determine if it is clean. If it is not clean, this should be noted on the shipping order and on the invoice.

(c) The certified seed grower shall provide a copy of the shipping order or bill of lading to the consumer upon delivery and an invoice to the dealer purchaser; a copy of each to be forwarded to the director, Seed Division, within 30 days. The following information must be included on the invoice:

- (1) kind and variety;
- (2) field lot and/or contract grower;
- (3) weight of seed;
- (4) date of transaction;
- (5) certified seed grower's name and address;
- (6) buyer's name and address;
- (7) consumer or delivery point.

Issued in Austin, Texas, on September 20, 1979.

Doc. No. 796401      Reagan V. Brown  
                                  Commissioner  
                                  Texas Department of Agriculture

Proposed Date of Adoption: November 2, 1979  
 For further information, please call (512) 475-2038.

## Texas Education Agency

### Student Services

#### Transportation Special Provisions 226.34.64.010

The Texas Education Agency proposes to amend Rule 226.34.64.010, concerning special transportation provisions

for certain educational programs. The amendment deletes all material in the administrative procedure section of the rule. This material will be found, in revised form, in proposed new Rules .020 and .030. Reference to transportation for the migrant education program is being deleted. The extended day schedule, for which this transportation was provided, is no longer part of the migrant education program.

The Texas Education Agency does not anticipate the proposed amendment will have state or local fiscal implications.

Public comment on the proposed amendment is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Section 16.005, Chapter 16, Subchapter F, and Section 21.460, Texas Education Code.

#### *.010. Special Transportation Provisions for Certain Educational Programs.*

(a) Policy. Special transportation provisions for educational programs shall be established by the commissioner of education when directed by law or when *the commissioner* [he] deems necessary. These programs shall include but not be limited to *vocational, bilingual*, [migrant education] and special education for *handicapped students* [exceptional children (Exceptional Pupil Eligibility, Policy 226.34.62.020; Special Transportation Exceptional Pupils, Policy 226.35.72.100; and Special Transportation Provisions for Day School Pupils, Policy 226.15.03.090)].

(b) Administrative procedure. The special provisions which are made for transporting *students* [pupils] in the following programs are: [found in *Administrative Procedures 34.64.020-.030*.

(i) Special education. A public school district having a special program may provide services for pupils who are visually handicapped, orthopedically handicapped and other health impaired, auditorially handicapped, trainable mentally retarded, educable mentally retarded, emotionally disturbed, language and/or learning disabled, and multihandicapped. The transportation program for exceptional children must be operated in accordance with the following guidelines and requirements:

[(A) Application.

(i) Each district participating in exceptional children transportation for the first time shall file an initial application for exceptional children transportation with the Transportation Section of the Texas Education Agency on or before September 15 for the current year.

(ii) All districts participating in an exceptional children transportation program shall file with the Texas Education Agency a final application which shall be due annually on or before June 15. A district shall certify that students being served shall meet the statutory requirements for this service. If a district shall desire to operate a part of the exceptional children program in the fourth quarter of the current school year, in lieu of another quarter, a supplement to the application including a list of students being

transported on June 15, or the nearest school day, shall be filed on or before July 1.

[(iii) School district, in completing the final request for funds for the exceptional children transportation report, will apply only for the amount of the actual cost of transportation not to exceed \$278 in 1977-78 and \$292 in 1978-79 and thereafter per eligible pupil.

[(B) Routes. Each bus route operated by a school district shall be planned to provide the transportation service required by each eligible pupil. These services shall be transportation from the child's home to school and return to home. When a child is picked up or delivered to a different address, a request must be made in writing and be on file. The system of routes shall be substantiated by a narrative description of each route including the address of each pupil pick-up point, the time elapsed from the first pupil pick-up to the last pupil discharged, the number of miles covered by each route, the number of exceptional and regional day school deaf pupils on each route, and a map or series of maps showing the course of each route. The most direct route to serve eligible students between home and school should be established.

[(C) General guidelines and requirements.

[(i) It is interpreted that the legislative intent for special transportation was for the school district to own and operate suitable special vehicles for eligible exceptional children.

[(ii) Children eligible for special education and who can utilize regular transportation services shall be transported, if eligible (Regular Pupil Eligibility, Policy 226.34.62.010) on regular routes.

[(iii) Buses may be funded only once from Foundation Program funds.

[(iv) Buses shall transport only eligible exceptional pupils as defined in Policy 226.34.62.020.

[(v) Private or contract transportation consisting of nonschool-owned vehicles may be used in some instances with prior approval of the Texas Education Agency.

[(vi) Care shall be exercised in finding and removing any hazards to children. The safety and comfort of the pupils transported shall be protected.

[(vii) Special modification of equipment as well as the type of equipment chosen should be a major consideration for the safety of the children being transported.

[(viii) In some cases, schools may wish to consult the child's family physician for advice about transportation requirements for the protection of the child.

[(ix) Schools may not use vehicles such as pickups or open vehicles as special transportation. Small buses are considered to be most feasible. Each route load will depend on the number and kind of pupils transported. Precaution should be observed to prevent overcrowding of special buses.

[(x) In very unusual cases where specific needs can most feasibly be met, private or contract transportation for certain eligible exceptional children may be made. The best interest of the child and parent must be given serious consideration in making such arrangements. Each contract shall be retained by the school district for review and audit.

[(xi) In emergency situations, a special education vehicle should be available for eligible handicapped pupils.

[(xii) Special education vehicles may be used to transport eligible exceptional children on field trip travel. In

using these vehicles for this field trip activity, the district's Exceptional Children Transportation Fund must be reimbursed at a rate based on the actual cost per mile as approved by the local board of trustees.

[(xiii) Pupils attending a regional day school for the deaf may be transported with exceptional children on a per pupil cost basis from funds provided by the Regional Day Schools for the Deaf Program only when this transportation does not change the services required for eligible exceptional pupils (Transportation Allocation, Policy 226.41.07.070).

[(2) Vocational education student. Eligible vocational education students may be transported by bus under the following conditions:

[(A) Notification of the transportation of vocational education students shall be made to the Texas Education Agency on the appropriate forms by September 20. Special requests should be made for programs initiated during the school year.

[(B) A separate application is made for the reimbursement of funds for the transportation of vocational education students (Transportation Allocations, Policy 226.41.07.080).]

Doc. No. 796358

## 226.34.64.020, .030

The Texas Education Agency proposes to adopt new Rules 226.34.64.020 and .030, concerning transportation for handicapped students and for students in vocational or bilingual programs. Services to handicapped students may be provided to eligible students by district-operated buses and/or private transportation provided by parents or their agents. It is interpreted that the legislative intent for special transportation was for the school district to own and operate suitable school buses for eligible handicapped students. Private transportation provided by parents or their agents may be used with prior approval of the Texas Education Agency on an annual basis. The need for this type of transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases. Notification of the transportation of vocational and bilingual education students must be made annually to the Texas Education Agency by September 20 each year. Final applications for funds are due on June 1.

The Texas Education Agency does not anticipate the proposed adoption of new Rules .020 and .030 will have state or local fiscal implications.

Public comment on the proposed adoption is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rules are proposed under the authority of Section 16.005, Chapter 16, Subchapter F, and Section 21.460, Texas Education Code.

.020. *Transportation for Handicapped Students.*

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. A public school district having an education program for handicapped students may provide services for students who are rendered eligible under Policy and Administrative Procedure Series 35.70. Services may be provided to eligible students by the following methods: district-operated buses and/or private transportation provided by parents or their agents. The transportation program for handicapped children must be operated in accordance with the following guidelines and requirements:

(1) Application.

(A) All bus routes shall be approved by the lawful designated authority and the commissioner of education. All requests for additional district-operated routes shall be on forms furnished by the Texas Education Agency and received by the Transportation Section of the Texas Education Agency on or before December 22 of the current school year. There must be a complete route description for each route requested.

(B) Notification of the transportation of eligible handicapped students by private transportation provided by parents or their agents shall be made annually to the Texas Education Agency on appropriate forms by September 20. Special requests should be made for programs initiated during the school year.

(C) All districts participating in a transportation program shall file with the Texas Education Agency a final application which shall be due annually on or before May 15. A district shall certify that students being served shall meet the statutory requirements for this service. If a district desires to operate a part of the handicapped children program in the fourth quarter of the 1979-80 school year, in lieu of another quarter, a supplement to the application including a list of students being transported on June 15, or the nearest school day, shall be filed on or before July 1. No student is eligible for special transportation for more than 175 days of any school year.

(2) Routes.

(A) Each bus route operated by a school district shall be planned to provide the transportation service required by each eligible student. These services shall be transportation from the child's home to school and return to home. When a child is picked up or delivered to a different address, a request must be made in writing and be on file.

(B) The system of routes, both private and district operated, shall be substantiated by a narrative description of each route including the number of miles covered by each route and the number of handicapped and regional day school deaf students on each route.

(C) School bus routes for the following school year shall be established and approved by the legally designated authority by June 1 as required by Section 16.202(b)(2), Texas Education Code, and route descriptions furnished annually to the Transportation Section of the Texas Education Agency for each route operated by school-owned buses.

(D) If notification of revised routes is not received by June 1, the program for the following school year will be approved in keeping with the route mileages rendered on the annual student transportation report for the current year.

(E) The nearest practical route to serve eligible students between home and school should be established for district-operated buses.

(3) General guidelines and requirements.

(A) It is interpreted that the legislative intent for special transportation was for the school district to own and

operate suitable school buses for eligible handicapped children.

(B) Buses shall transport only eligible handicapped students as defined in Policy 34.62 and Policy and Administrative Procedure Series 35.70.

(C) Private transportation provided by parents or their agents may be used in some instances with prior approval of the Texas Education Agency on an annual basis. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(D) If transportation is provided by an agent of the parent, a signed statement of parental authorization must be on file in the student's eligibility folder for each school year the service is provided.

(E) Special modification of equipment as well as the type of equipment chosen should be a major consideration for the safety of the children being transported.

(F) School buses used to transport eligible handicapped students must meet state and federal specifications and must be purchased in keeping with Section 21.161, Texas Education Code. Small buses are considered to be most feasible. Each route load will depend on the number and kind of students transported. Precaution should be observed to prevent overcrowding of special buses.

(G) In emergency situations, a special bus should be available for eligible handicapped students.

(H) Special buses may be used to transport eligible handicapped children on field trip travel. In using these vehicles for field trip activities, the district's Handicapped Children Transportation Fund must be reimbursed at a rate based on the actual cost per mile for the operation of the special buses to transport handicapped students to and from school. The extracurricular rate for handicapped student transportation should be included in the local board of trustees' policy relevant to extracurricular travel.

(I) Students attending a regional day school for the deaf may be transported with handicapped children on a per student cost basis from funds provided by the Regional Day Schools for the Deaf Program only when this transportation does not change the services required for eligible handicapped students.

*.030. Vocational and Bilingual Services.*

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. Eligible vocational and bilingual education students may be transported by bus under the following conditions:

(1) Notification of the transportation of vocational and bilingual education students shall be made annually to the Texas Education Agency on appropriate forms by September 20. Special requests should be made for programs initiated during the school year.

(2) Services provided to vocational and/or bilingual students shall be on a campus-to-campus basis for either the full school day or any part of the school day.

(3) Forms for final application for funds shall be mailed to the districts on or before May 1.

(4) A final application for funds for vocational and/or bilingual transportation shall be due annually on or before June 1.

Doc. No. 796359



### Transportation Administration 226.34.65.010

The Texas Education Agency proposes to amend Rule 226.34.65.010, concerning transportation, by deleting material now in the administrative procedure section of the rule. Revisions of this material appear in proposed new Rules .020-.060.

The Texas Education Agency does not anticipate the proposed amendment will have state or local fiscal implications.

Public comment on the proposed amendment is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Section 16.005 and Chapter 16, Subchapter F, Texas Education Code.

#### .010. *Procedures for the Administration of Student (Pupil) Transportation Services.*

(a) Policy. The commissioner of education shall establish procedures relating to the administration of *student* (pupil) transportation services.

(b) Administrative procedure. The procedures established by the commissioner of education for the administration of pupil transportation services are: *found in Administrative Procedures 34.65.020-.090.*

(1) Purchase of vehicles. Purchases of buses, bus chassis, bus bodies, for school districts participating in the Foundation School Program are made by the district's board of trustees and approved by the local lawful authority through requisition approved by the commissioner of education and the State Board of Control. Purchases of tires and tubes are made by the district's board of trustees and approved by the local lawful authority through requisition approved by the State Board of Control. The requisition must contain certification as to the funds that will be available to pay for the article or articles. School districts that receive no Foundation School Program allocations may or may not elect to purchase buses, tires, and tubes through the State Board of Control.

(2) Sale of equipment. Schools that participate in the Foundation School Program must follow the procedures established by the State Board of Control when desiring to sell used buses.

(3) Operation of school buses. Procedures which must be followed for the operation of school buses are:

(A) The board of trustees or the county school board of a school district shall be responsible for operating the transportation program under its jurisdiction in accordance with applicable motor vehicle operation laws and regulations, both state and federal.

(B) The board of trustees of any school district or county school board providing transportation of pupils to and from school shall employ or contract with a responsible person or firm to provide operators for the buses in compliance with the provisions of this section.

(C) No driver shall be employed who is not at least 18 years of age, licensed as a chauffeur, has undergone an an-

nual physical examination which reveals his physical and mental capabilities to safely operate a school bus, and whose driving record is acceptable according to the standards developed jointly by the Central Education Agency and the Texas Department of Public Safety, and be certified at least every three years.

(D) Each driver shall be required to give bond in an amount determined by the board, but not less than \$2,000, payable to the employing board and conditioned upon the faithful and careful discharge of his duties for the protection of the pupils under his charge and the faithful performance of his contract with the board.

(E) The school district board shall require all drivers to bring their vehicle to a dead stop before crossing railway tracks.

(F) Bus driver contracts and bonds must be executed between the county or district board of trustees and the bus driver. Copies of both instruments must be available for audit.

(G) School bus driver training shall be provided as follows:

(i) The curriculum for school bus driver training will be developed by Texas Education Agency and approved by the Department of Public Safety.

(ii) Bus driver training will be administered by the regional educational service centers.

(iii) Regional educational service centers will be allocated funds on the basis of an approved program plan.

(iv) The Transportation Section of the Texas Education Agency will monitor a training program through surveys and reports submitted by each regional educational service center.

(v) By September 1, 1977, the driver of a school bus shall have in possession a certificate stating he or she has completed, or is enrolled in, a school bus driver training course on school bus safety.

(4) Payment of insurance premiums from transportation funds. Transportation funds may be used to pay premiums for district insurance coverage for personal injury and property damage liability in the operation of a school district-owned vehicle approved for the transportation of pupils to the extent set out in the Tort Claims Act (Application of Tort Claims for School District, Policy 226.23.06.140).

(5) Use of buses. Regulations for the use of buses are as follows:

(A) Vehicles owned, operated, or maintained in whole or in part with Foundation School Program funds are limited to the transportation of children who are enrolled in and attending public free schools of Texas, and teachers and other personnel employed by school districts except as provided in subparagraph (B) below. State funds are not provided to any school district or county that fails to recognize these limitations.

(B) The use of school buses for school-sponsored extracurricular activities and field trips, including 4-H Club activities when approved by the board of school trustees, is considered a part of the regular school program. The unit concerned, either the county or the district, shall establish appropriate regulations for the use of school buses for extracurricular activities and field trips. Such regulations must be in written form and are subject to review and approval by the commissioner of education. A copy of the regulations must be available when transportation audits are conducted by members of the Texas Education Agency field

audit staff. The regulations shall include a provision for reimbursing the district or county transportation fund for the cost of extracurricular and field trip travel. The reimbursement rate must be based on the actual cost per mile, including bus depreciation, for the operation of the regular school buses in the county or district. A trip ticket should be used in connection with each bus for each date the bus is used for such travel.

(ii) Provided, however, the cost of extracurricular and field trip travel or a portion thereof may be paid from the appropriated district allocation in the county or district transportation fund under the following conditions:

(I) The district allocation in the respective transportation fund, county or district, has an unencumbered balance as of August 31 of any school year after all the operational costs and school bus purchase payments which are due for the year have been paid.

(II) Where all school buses used on regular school bus routes are fully paid for, there shall be set up a reserve fund for the replacement of equipment based on current replacement costs and the life expectancy of presently owned school buses. The amount set aside for said school bus purchase reserve fund shall be considered encumbered and not a part of the free balance available as of August 31.

(III) The unencumbered or free balance available to each district in the county or district transportation fund as of August 31 may be used to defray the cost of all or a part of extracurricular or field trip school bus travel for the following school year. State transportation funds received during a school year may not be used for such extracurricular or field trip travel during that year.

(IV) The use of transportation fund balances, as heretofore described, for the payment of extracurricular or field trip school bus travel must be approved by the respective governing board of school trustees, county or district.

(B) School districts or county school boards governing a county-wide transportation system may contract with governmental agencies or nonprofit organizations for the use of school buses for the transportation of senior citizens or handicapped persons under the following provisions:

(i) A contract shall be on file in the administrative office of the district.

(ii) The district or county transportation fund shall be reimbursed for the cost of contracted transportation. The reimbursement rate must be based on the actual cost per mile, including bus depreciation, for the operation of the regular school buses in the county or district. A trip ticket should be used for each bus on each date the bus is used for travel under this provision.

(iii) Money received from the contracts shall be deposited in the school district's transportation fund account.

(iv) The use of school buses for transportation of senior citizens or handicapped persons shall not interfere with provisions of normal school transportation services.

(6) Reports to determine transportation costs.

(A) Commencing with the first Wednesday in September, and continuing on the first Wednesday of each succeeding month, the district shall count the number of eligible pupils actually riding the bus on each route operated. If school is not held on the first Wednesday of any month, the next regular school day shall be used. Counts are to be taken both in the morning and afternoon, and the larger of the two counts be reported.

(B) The district shall also determine the total miles of operation required to transport the eligible resident bus pupils to and from school on the first Wednesday of each month or on the next regular school day if school is not in session on Wednesday. The mileage reported must be in keeping with the mileage on the route description, as approved by the legally designated authority, for each route operated.

(C) The noon-day kindergarten transportation programs should be considered as regular transportation and reported as such. In reporting the mileage traveled, please report the actual mileage traveled either to school or from school.

(D) The odometer of all buses shall be recorded on September 1, 1977.

(E) A report of the number of eligible pupils and route miles shall be submitted to the Transportation Section of the Texas Education Agency prior to December 16 and May 19 of the current school year.

(F) Prior to October 1, 1978, and 1979, the district shall submit a report of the actual total cost of transporting school children for the previous school year. The cost shall include the total base costs for transporting students for maintenance, operation, salaries, depreciation, etc., including combined state and local expenditures for each school district.

Doc. No. 796360

226.34.65.020, .030, .040, .050, .060, .070, .080, .090

The Texas Education Agency proposes to adopt new Rules 226.34.65.020, .030, .040, .050, .060, .070, .080, and .090, concerning transportation. Rules .020-.060 represent, in revised form, material previously covered by Rule .010. As a result of Senate Bill 350, school bus drivers are no longer required to be bonded in the amount of \$2,000 (Rule .030). Rule .060 provides that school districts may contract with nonschool organizations for the use of school buses under certain conditions set out in the rule. Previously, this practice was limited to contracts with governmental agencies or nonprofit organizations for the transportation of senior citizens or handicapped persons. Rules .070, .080, and .090 set out methods for determining student counts and route mileages for density grouping purposes and for funding purposes, as well as the method for determining costs on a per-mile basis.

The Texas Education Agency does not anticipate the proposed adoption of these rules will have state or local fiscal implications.

Public comment on the proposed adoption of the new rules is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rules are proposed under the authority of Section 16.005 and Subchapter F, Chapter 16, Texas Education Code.

**.020. Purchase of Vehicles.**

- (a) Policy. (Reserved for expansion.)
- (b) Administrative procedure.

(1) Purchase requisitions for the purchase of a motor vehicle, bus, body or bus chassis must be approved by either the county school board when funded under law or the board of trustees of a school district and by the commissioner of education.

(2) Purchase requisitions for the purchase of tires and tubes must be approved by the county superintendent or the chief administrative office of a school district.

(3) The requisition must contain certification as to the funds that will be available to pay for the article or articles.

(4) School districts that receive no Foundation School Program allocations may elect not to purchase buses, tires, and tubes through the State Board of Control.

**.030. Sale of Equipment.**

- (a) Policy. (Reserved for expansion.)
- (b) Administrative procedure. Schools that participate in the Foundation School Program must follow the procedures established by the State Board of Control when selling used buses.

(b) Administrative procedure. Schools that participate in the Foundation School Program must follow the procedures established by the State Board of Control when selling used buses.

**.040. Operation of School Buses.**

- (a) Policy. (Reserved for expansion.)
- (b) Administrative procedure.

(1) The county board of trustees or the school board of a school district shall be responsible for operating the transportation program under its jurisdiction in accordance with applicable motor vehicle operation laws and regulations, both state and federal.

(2) The board of trustees of any school district or county board providing transportation of students to and from school shall employ school bus drivers in compliance with the provisions of this subsection.

(3) All drivers employed to transport school children shall:

- (A) be at least 18 years of age;
- (B) be licensed as a chauffeur;
- (C) have undergone an annual physical examination completed on forms furnished by the Texas Education Agency which reveals the driver's physical and mental capabilities to operate a school bus safely;

(D) have an acceptable driving record in accordance with the standards developed jointly by the Texas Education Agency and the Texas Department of Public Safety; and

(E) be certified as having completed a state-approved school bus driver's training course at least every three years or possess a valid enrollment certificate.

(4) The school district board shall require all drivers to bring their vehicles to a dead stop before crossing railway tracks.

(5) School bus driver training shall be provided as follows:

(A) The curriculum for school bus driver training will be developed by Texas Education Agency and approved by the Department of Public Safety.

(B) Bus driver training will be administered by the regional education service centers.

(C) Regional education service centers will be allocated funds on the basis of an approved program plan.

(D) The Transportation Section of the Texas Education Agency will monitor a training program through surveys and reports submitted by each regional education service center.

**.050. Payment of Insurance Premiums from Transportation Funds.**

- (a) Policy. (Reserved for expansion.)
- (b) Administrative procedure.

(1) Transportation funds may be used to pay premiums for fire, theft, collision, comprehensive, insurance coverage of school district-owned vehicles approved for the transportation of students.

(2) Transportation funds may be used to pay premiums for district insurance coverage for personal injury and property damage liability in the operation of a school district-owned vehicle approved for the transportation of students to the extent set out in the Tort Claims Act (Application of Tort Claims Act to School District, Policy 23.06.140).

**.060. Use of Buses.**

- (a) Policy. (Reserved for expansion.)
- (b) Administrative procedure.

(1) Vehicles owned, operated, or maintained in whole or part with Foundation School Program funds are limited to the transportation of children who are enrolled in and attending public free schools of Texas, and the necessary personnel employed or appointed by school districts except as provided in paragraph (5) below. State funds are not provided to any school district or county that fails to recognize these limitations.

(2) The use of school buses for school-sponsored extracurricular activities and field trips, including 4-H Club activities when approved by the board of school trustees, is considered a part of the regular school program. The unit concerned, either the county or the district, shall establish appropriate regulations for the use of school buses for extracurricular activities and field trips. Such regulations must be in written form and are subject to review and approval by the commissioner of education. A copy of the regulations must be available when transportation audits are conducted by members of the Texas Education Agency field audit staff.

(3) The regulations shall include a provision for reimbursing the district or county transportation fund, regular or handicapped, for the cost of extracurricular and field trip travel. The reimbursement rate must be based on the actual cost per mile, including bus depreciation, for the operation of the regular or handicapped school buses in the county unit or district. A trip ticket shall be used in connection with each bus for each date the bus is used for such travel.

(4) Provided, however, the cost of extracurricular and field trip travel or a portion thereof may be paid from the district allocation in the county or district transportation fund under the following conditions:

(A) The district allocation in the respective transportation fund, county or district, has an unencumbered balance as of August 31 of any school year after all the operational costs and school bus purchase payments which are due for the year have been paid.

(B) Where all school buses used on regular school bus routes are fully paid for, there shall be set up a reserve fund for the replacement of equipment based on current replacement costs and the life expectancy of presently owned school buses. The amount set aside for said school bus

purchase reserve fund shall be considered encumbered and not a part of the free balance available as of August 31.

(C) The unencumbered or free balance available to each district in the county or district transportation fund as of August 31 may be used to defray the cost of all or a part of extracurricular or field trip school bus travel for the following school year. State transportation funds received during a school year may not be used for such extracurricular or field trip travel during that year.

(D) The use of transportation fund balances, as heretofore described, for the payment of extracurricular or field trip school bus travel must be approved by the respective governing board of school trustees, county or district.

(5) School districts or county school boards governing a countywide transportation system may contract with non-school organizations for the use of school buses under the following provisions:

(A) A contract shall be on file in the administrative office of the district.

(B) The district or county school board governing a countywide transportation system may provide services relating to the maintenance and operation of the buses in accordance with the terms of the contract.

(C) The contract shall be written to include the total cost of operation, including the depreciation factor, for each bus involved.

(D) The district or county transportation fund shall be reimbursed for the cost of contracted transportation. A trip ticket shall be used for each bus on each date the bus is used for travel under this provision.

(E) Money received from the contracts shall be deposited in the school district's transportation fund account.

(F) The use of school buses for transportation of nonschool organizations shall not interfere with provision of normal school transportation services.

*.070. Method for Determining Student Counts and Route Mileages for Density Grouping Purposes.*

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure.

(1) Commencing with the first Wednesday in September and continuing the first Wednesday of each month through the first Wednesday in February, the district shall count and record the number of students who ride the bus and reside at least two miles from the school they attend.

(A) Counts are to be taken in the morning and afternoon with the larger of the two counts to be recorded.

(B) A student should be counted on only one bus if he or she rides two or more buses in reaching school.

(C) If school is not in session on the first Wednesday of the month, the next regular school day shall be used in making student counts.

(D) The school district shall maintain a list of actual bus riders on the first Wednesday of each month for each route operated. The list shall include the name of the student being served, the school he or she attends, his or her grade, the number of the bus route providing the service, and the trip number. The list must be available for examination by members of the Transportation Section and/or members of the Field Audit Division of the Texas Education Agency.

(2) The district shall also determine the total daily miles required for each route operated to transport the two-mile eligible bus students to and from school on the first Wednesday in February.

(A) The noon-day kindergarten transportation program should be considered as regular transportation and reported as such on separate forms. In reporting the mileage traveled, the actual route description mileage, either to or from school, shall be reported.

(B) The mileage reported must be in keeping with the mileage on the route description, as approved by the legally designated authority, for each route operated.

*.080. Method for Determining Costs on a Per-Mile Basis.*

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure.

(1) Prior to October 1, the district shall submit a report of the actual cost of transporting school children for the previous school year. The costs shall include the total base costs for transporting students for maintenance, operation, salaries, depreciation, etc., including combined state and local expenditures for each school district.

(2) The odometer reading of all buses, regular and handicapped students, shall be recorded on September 1.

*.090. Method of Reporting Student Counts and Route Mileages for Funding Purposes.*

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure.

(1) Prior to March 15, the district shall report the average number of two-mile eligible bus riders, as well as the average number of students being transported who reside in hazardous areas as defined by Section 16.206 of the Texas Education Code, for each state-approved route operated. The students transported shall be determined for each route operated by averaging the students actually transported on the first Wednesday of September, October, November, December, January, and February.

(2) Prior to March 15, the district shall report the number of miles required to transport two-mile eligible bus students, as well as those students rendered eligible under the law who reside in hazardous areas, for each route operated.

(A) The mileage reported must be in keeping with the approved route description mileage as operated on the first Wednesday in February for each route operated.

(B) Route descriptions for each route operated, as approved by the legally designated authority, must accompany the annual student transportation report.

(C) The district shall submit separate route descriptions for both hazardous and two-mile eligible bus students to the Transportation Section of the Texas Education Agency for review and approval.

(3) Districts serving eligible bus students who ride the bus during the fourth quarter of the 1979-80 school year shall submit a supplement to the regular student transportation report prior to July 1, 1980. A student is eligible for school bus transportation for a maximum of 175 school days during any school year.

Issued in Austin, Texas, on September 24, 1979.

Doc. No. 796361 . A. O. Bowen  
Commissioner of Education

Proposed Date of Adoption: November 10, 1979  
For further information, please call (512) 475-7077.

## Texas Department of Mental Health and Mental Retardation

### Client (Patient) Care

#### Prescribing of Psychoactive Drugs 302.04.39

The Texas Department of Mental Health and Mental Retardation is proposing to adopt Rules 302.04.39.001-.007, which would contain regulations governing the prescribing of psychoactive medications for clients of the department. Proposed Rules .001-.007 are intended to establish rules and procedures for the rational prescribing of psychoactive medications for clients of the department. Rule .004 would require each facility's Medication Profile Committee to audit a sample of client records on a monthly basis to determine whether the requirements of Rules .001-.007 are being met. The proposed rule would also establish general treatment procedures including the requirement that a physical examination and medical, psychiatric, and drug histories be obtained before the initiation of drug therapy and the requirement that review and audit of each client's treatment plan be done at regularly designated intervals. Rule .004 would also establish regulations concerning dosages and dose schedules of psychoactive drugs and would require that special consideration be given by the physician to drug interactions, pregnancy, children, adolescents, the elderly, alcohol dependency, and drug abusers. Rule .005 would require laboratory screening of clients who are receiving psychoactive drugs at least every six months. Rule .006 would specify when and under what conditions psychoactive medications may be prescribed for and administered to mentally retarded clients.

The promulgation of proposed Rules .001-.007 will have no known fiscal implications for the state or for units of local government (source: Legal and Claims Division).

Public comment on the proposed adoption of Rules .001-.007 is invited. Persons may submit their comments by writing to John J. Kavanagh, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, or by telephone at (512) 454-3761.

Rules .001-.007 are proposed under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

**.001. Purpose.** The purpose of these rules is to establish rules and procedures for rational prescribing of psychoactive medications to the clients of this department.

**.002. Application.** These rules apply to all facilities under the jurisdiction of the Texas Department of Mental Health and Mental Retardation with the exception of those areas in facilities where special medication research projects are being conducted.

**.003. Definitions.** As used in these rules:

(a) "Facility" means a state mental hospital, a state school for the mentally retarded, a state human development center, the Rio Grande State Center for Mental Health and Mental Retardation, the Texas Research Institute of Mental Sciences, and their respective outreach, day care centers and clinics, and the Central Office of the Texas Department of Mental Health and Mental Retardation.

(b) "Client" means a person admitted to and residing in a residential facility of this department, referred to as a "resident client," or a person who engages the professional

services of this department without need for living-in services, referred to as a "nonresident client."

(c) "Licensed physician" means a person with a current license issued by the Texas State Board of Medical Examiners to practice medicine, with such license included in his or her personnel record at the time and who is in good standing with said state board.

(d) "Licensed registered pharmacist" means a person with a current license issued by the Texas State Pharmacy Board to practice pharmacy, with such license included in his or her personnel record at the time and who is in good standing with said state board.

(e) "Licensed registered nurse" means a person with a current license issued by the Texas State Board of Nurse Examiners to practice professional nursing, with such license included in his or her personnel record at the time and who is in good standing with said state board.

(f) "Licensed vocational/practical nurse" means a person with a current license issued by the Texas State Board of Vocational Nurse Examiners to practice vocational nursing, with such license included in his or her personnel record at the time and who is in good standing with said state board.

(g) "Medication or drug" means any of the group of substances that, when taken into a living organism, may modify one or more of its functions; is recognized as a medicine or remedy used for the treatment of illness or disease; and includes both those medicinal substances which can be obtained only when prescribed by a physician and those proprietary or patented medicinal substances obtainable without prescription.

(h) "Prescription" means a written direction for a therapeutic or corrective agent, specifically one for the preparation and use of a medication; a written order for dispensing drugs for an individual client signed by a physician.

(i) "Psychoactive drug" means one which exercises direct effect upon the central nervous system and which is capable of influencing and modifying behavior, cognition, and affective state. Drugs included in these guidelines are FDA and Executive Formulary and Therapeutics Committee-approved drugs of the following categories:

- (1) anti-psychotics;
- (2) anti-depressants;
- (3) agents for control of mania and depression;
- (4) anti-anxiety agents;
- (5) sedatives, hypnotics, and other sleep-promoting

drugs;

- (6) psychomotor stimulants.

(j) "Formulary" means that list of approved drugs promulgated by the Executive Formulary and Therapeutics Committee appointed by the commissioner who regularly meet to revise and update the list of agents used in department facilities.

(k) "Drug holidays" means one or two days of a given week in which the client is not administered psychoactive drugs.

(l) "Commissioner" means the commissioner of mental health and mental retardation.

(m) "Department" means the Texas Department of Mental Health and Mental Retardation.

(n) "PRN" means pro re nata (as occasion arises).

**.004. Subject Content.**

(a) Medication audit responsibility. The Medication Profile Committee established by commissioner's Rule 302.04.02.011 will be used as the vehicle of audit for this rule.

(1) The chief pharmacist at each facility will select a minimum of 30 client records per month for audit.

(2) The Profile Committee will review each record for appropriateness of drug regimen with particular attention to compliance with the provisions of these rules. At each meeting, the Profile Committee will prepare a summary of the number of deviations noted and the outcome of the review process in the following format:

Apparent Deviations	% of Total Examined	Acceptable Justification	Unacceptable Justification
12	30%	8	4
3	10%	2	1

These reports will be forwarded to the superintendent and the deputy commissioner for mental health or the deputy commissioner for mental retardation, as appropriate, and to the chairman of the Drug Formulary Executive Committee.

(3) The minutes or portion of the minutes applicable to the audit will be maintained in a file in the office of the clinical/medical director of each facility subject to outside inspection or review only upon authorization by the commissioner.

(4) Committees such as the Formulary or other duly appointed departmental body will, upon request by the commissioner, be authorized to review a representative number of minutes to determine facilities' compliance with these rules.

(b) Guidelines—general treatment procedures.

(1) A medical and psychiatric history, including a drug history, should be obtained and a physical examination done before initiation of drug therapy, except when the condition of the client dictates otherwise.

(2) Diagnostic impression with corresponding target symptoms and behavioral problems to be treated and the response to treatment shall be recorded in the client's problem-oriented record.

(3) The medications' effect on target symptoms and behavioral problems shall be evaluated and recorded at least weekly until stabilized. A longer time interval, not to exceed 30 days, shall be established when stabilized.

(4) Formal review and audit of the client's treatment plan is to be conducted at regularly designated intervals (quarterly, semiannually, annually) as required by Problem-Oriented Record System guidelines and by regulatory or accrediting agencies and/or when response to treatment dictates major revision of the treatment plan.

(c) Dosages and dose schedules of psychoactive drugs.

(1) Polypharmacy. Generally, only one psychoactive drug should be prescribed at any one time. Exceptions to this rule shall be recorded in the progress notes with explanation of usage. To be avoided are:

(A) simultaneous use of drugs in the same pharmacological class;

(B) simultaneous use of several drugs with similar action or dangerous interaction potential.

Drug combinations such as Triavil and Etrafon should not be used in the initial treatment of the patient. If the two drugs have to be used concurrently, they should be prescribed separately so they can be titrated to determine the optimum dosage. Then, if that has been established, for sake of convenience a fixed combination drug can be used

(2) Adequacy of initial dosage has to be individually determined. Periods of inpatient administration shall not exceed 30 days per prescription; for outpatients, not to exceed 90 days.

(3) Where therapeutic effect has not been attained and side effects remain minimal, dosage increases should be carried out until therapeutic response is evident or until the drug is shown to be ineffective.

(4) After the acute initial treatment period, when therapeutic response has occurred, dosage should be gradually reduced toward a minimum maintenance dose.

(5) Generally, patients should not be switched from one drug to another after short administration periods; to produce efficacy, a single drug should be tried for at least two to six weeks before a change is indicated.

(6) After stabilizing the patient on divided doses for one to six weeks, if physical condition permits, an attempt should be made to utilize the single dose where the pharmacology of the agents makes this appropriate; a morning or evening schedule may be appropriate.

(A) Notable exceptions should be lithium; others would be anti-depressants and central nervous system (CNS) stimulants in cardiac risk patients.

(B) Morning doses may be used in patients who exhibit a low incidence of side effects during the day.

(C) Conversely, with evening dosages, side effect complaints are reduced and sedative properties aid sleep.

(7) Dosage levels in excess of recommended maximum levels stated in the State Formulary must be justified by concurrence of a second opinion by a board-certified or board-eligible psychiatrist. This second opinion must be obtained from a physician not associated with the patient or the unit on which the patient resides.

(A) In general, the prolonged use of anti-anxiety agents, for example, chlordiazepoxide and diazepam, is not justified. The effectiveness of anti-anxiety agents may be short lived (a few days to a few weeks). Prolonged use may increase drug dependency and/or induce a therapeutic paradox. The maximum for use of anti-anxiety agents might well be that only that anxiety which markedly interferes with human performance should be drug treated and then only with drugs that are not tolerance or dependency forming. Anti-anxiety agents shall not be administered for a period exceeding three months.

(B) Neuroleptic drugs may be used in lower than usual dosages to treat anxiety when:

(i) history of drug abuse is present,

(ii) intolerance to anti-anxiety agents is present,

(iii) chronic anxiety not responding to minor tranquilizers is present.

(8) Low doses of anti-depressant or anti-psychotic medication must be reviewed to establish adequate chemical effect and justify need for continuing medication.

(9) Routine prophylactic use of atropine-like anti-parkinsonian agents is to be avoided. An anti-parkinsonian (anti-cholinergic) drug should only be prescribed after the appearance of extra-pyramidal tract symptoms and signs. If there is a clear cut past history of severe reaction to anti-psychotic drugs, the anti-parkinsonian drug may be given concurrently. Where management problems persist in patients on both anti-psychotic and anti-parkinsonian drugs, then the possibility of psychosis induced by the atropine-like action of the latter agents must be considered.

(10) Anti-parkinsonian drugs must be discontinued after three months to determine continued need.

(11) After a client has been initially stabilized at a maintenance drug level, use of psychoactive drugs on a PRN basis is not generally indicated. When a PRN dosage is used for a patient already on psychoactive drugs, then the attending physician must review the PRN usage on the next working day. Frequent PRNs may indicate undermedication and should call for re-evaluation of the routine dosage. Parenteral PRNs should match routine oral medication where possible.

(12) Before instituting lithium therapy, a complete assessment must be obtained:

(A) In the physical examination, special attention should be paid to cardiac, renal, and thyroid function. The appropriate laboratory studies should be done.

(B) Maintenance requirements:

- (i) regular assessment of serum lithium levels,
- (ii) assure daily adequate intake of fluids and salt.

(C) Careful monitoring of the patient is essential with lithium usage.

(D) Lithium carbonate requires special care in the elderly, the debilitated or physically ill, and multiply handicapped. Medical consultation and continued caution are necessary in these patients. Usually in the elderly the acute treatment and maintenance doses will be less than for younger age population. Special caution should be given to the dangers of drug interactions, particularly diuretics, salt restriction, and similar entities that affect renal clearance of the drug. The safe lithium blood level should not exceed 1.5 milliequivalents per liter.

(13) Simultaneous use of monoamine oxidase inhibiting drugs (MAOI) and tricyclic anti-depressants requires a medical and psychiatric consultation and must be initiated on an inpatient basis. The clinical medical director shall be responsible for giving final approval of the drug combination.

(14) Bedtime use of sedatives-hypnotics and minor tranquilizers:

(A) Concurrent bedtime use of such drugs with other psychoactive drugs must be carefully evaluated.

(B) An automatic stop order, not to exceed 14 days, for bedtime use of sedative-hypnotic and anti-anxiety is required.

(C) Documentation of failure of other interventions must be recorded in progress notes before such drugs can be reordered.

(15) Drug holidays are one or two days of a given week in which the client is not administered psychoactive drugs. Drug holidays are for the purposes of minimizing tardive dyskinesia, attempting to reduce maintenance dose required, or to assess the need for continuing medication. Patients stabilized on psychoactive medication for a period of at least six months should have a drug-free trial period (unless the onset of the psychosis has been recent) if they have not had one in the past. A drug-free period should be attempted:

(A) Every six months.

(B) By gradual reduction over at least a two- or three-week period until the patient is off medication or has recurrence of target symptoms.

(C) If patient gets totally off medication without recurrence, the patient should be kept off medication until symptoms recur.

(16) A periodic examination for tardive dyskinesia at the time of drug holiday or periodic physical examination is recommended. Several rating scales are available for this purpose, such as the Abnormal Involuntary Movement Scale (AIMS), the Simpson, and others.

(17) Specific guidelines are to be reviewed annually and revised by Formulary Committee.

(d) Special considerations.

(1) Drug interactions. Drug effects, side effects, and interactions must all be considered when prescribing drugs. The psychoactive drug groups particularly have significant actions such as anticholinergic, epileptogenic, hepatotoxic, sedative, and tardive dyskinesia inducing properties. It is incumbent upon each physician to be fully aware of these actions and interactions and to call upon the services of other professions as need. A written second professional opinion is required where there is markedly increased potential for adverse reaction due to patient's medical condition or drug interaction.

(2) Pregnancy. All drugs not essential to the well-being of the mother or fetus during pregnancy must be eliminated. If clinical state of the patient mandates the continued use of psychotropic drugs, consultation with an obstetrician and another psychiatrist should be obtained. Also, the patient or, when legally permissible, a responsible relative (spouse), should be so informed of the potential adverse effects on the fetus.

(3) Children. In some cases where large doses of psychoactive drugs not recommended for pediatric use are warranted, justification and evidence of consultation with a child psychiatrist must be documented in the record.

(4) Adolescents. The department's Formulary should be consulted for recommendations with special attention to contraindications, drug interactions, and weight criteria.

(5) Elderly. As a general rule, older patients need lesser dosages of lithium, neuroleptic, and anti-depressant drugs, and toxic effects may occur in older patients at smaller dose levels because of differences in body mass, decreased rate of metabolism, and increased receptor site sensitivity. Many elderly patients have additional medical problems such as hypertension, dehydration, and so forth that may complicate treatment so the overall physical condition of the patient must be considered before prescribing psychoactive drugs. Drug/drug interactions are also to be closely considered as older patients are often taking other medications for physical problems.

(6) Alcohol dependency. Careful attention should be given to the physical condition and the hazards of drug dependence when prescribing psychoactive drugs to this group of patients.

(7) Drug abusers. Special caution should be used in prescribing psychoactive drugs to persons with history of recent drug abuse. Some substances may produce severe interactions with some major tranquilizers.

#### .005. *Laboratory Surveillance.*

(a) Screening laboratory procedures is essential when using psychoactive drugs because the use of such drugs is accompanied by a significant risk of hematological, renal, or hepatic injury. There is no consensus concerning the appropriate intervals for such screening, and certain drugs seem to present higher risk of toxic effects on blood, renal, and hepatic organs than others. All clients shall have the basic screening prior to initiation of therapy with psychoac-

tive drugs. Except in emergencies, these tests should include at least:

- (1) hemoglobin;
  - (2) white blood cell count with differential;
  - (3) wide screen biochemical test (such as SMA 12) to assess liver and renal damage;
  - (4) other pretreatment laboratory tests such as T3, T4, and EKG shall be done where specific drug reaction problems are known (lithium, etc.).
- (b) The hospital, school, or other facility shall establish intervals of laboratory screening of clients on psychoactive drugs as the clinical/medical director of that facility determines; the longest interval shall be six months. The screening procedures shall be monitored.

**.006. Qualification of MR Client Needs for Psychoactive Drugs.**

(a) Psychoactive medication is initiated only for patients with a psychoactive diagnosis for which this medication is indicated and recorded in the medical record. In general, mental retardation with behavioral disturbance is not a "psychotic disorder" and the necessity for the use of psychoactive drugs in the retarded client must be substantiated either:

- (1) by a psychiatric diagnosis by a psychiatrist of psychosis or neuroses concomitant to the retardation; or
- (2) by a recorded, clearly defined need for psychoactive drug use adjunctive to other nonmedical behavior management procedures; or
- (3) by a clearly defined and recorded need of a client for a short-time bedtime sedative. In this usage, the rules concerning the use of sedative hypnotics must be followed.

(b) Except for crisis or emergency situations, psychoactive medications are initially prescribed only after the following:

- (1) support and counseling have been provided around adjustment to the new environment;
- (2) behavioral baselines are obtained;
- (3) the diagnosis and/or need for adjunctive use in behavior management plan is substantiated by diagnostic data recorded in the medical record;
- (4) the behavior and diagnosis for which the medication is indicated has been reviewed in an interdisciplinary meeting in which treatment alternatives have been reviewed and considered.

**.007. Distribution**

(a) These rules shall be distributed to all members of the Texas Board of Mental Health and Mental Retardation; assistant commissioners, deputy commissioners, directors, and section chiefs of Central Office; and superintendents and directors of all department facilities.

(b) The superintendent or director of each department facility shall provide a copy of these rules to each physician who provides medical care to clients of the facility and to other appropriate staff members.

Issued in Austin, Texas, on September 24, 1979.

Doc. No 796367      John J. Kavanagh, M.D.  
 Commissioner  
 Texas Department of Mental Health and  
 Mental Retardation

Proposed Date of Adoption: November 2, 1979  
 For further information, please call (512) 454-3761, ext. 241.



## Texas State Board of Pharmacy Fraud, Deceit, and Misrepresentation in the Practice of Pharmacy 393.11.00

The Texas State Board of Pharmacy proposes Rule 393.11.00.002, concerning the records to be maintained by a pharmacy. The purpose of this rule is to provide a clear, concise statement of what records must be maintained by a pharmacy, how those records are defined, and how those records shall be maintained. This rule governs, in conjunction with Sections 5 and 6 of the Texas Dangerous Drug Law and Rule .001(f) of the regulations governing fraud, deceit, and misrepresentation in the practice of pharmacy, the recordkeeping requirements of a pharmacy.

It has been determined by staff review that there are no fiscal implications for state or local governments.

Public comment on proposed Rule .002 may be submitted in writing to Fred S. Brinkley, Jr., executive director/secretary, Southwest Tower, Suite 1121, 211 East 7th Street, Austin, Texas 78701.

Pursuant to the authority of Article 4542a, Texas Revised Civil Statutes, the Texas State Board of Pharmacy proposes Rule .002.

**.002. Records to be Maintained by a Pharmacy.** The records to be maintained by a pharmacy pursuant to Sections 5 and 6 of the Texas Dangerous Drug Law and Rule .001(f) of the regulations governing fraud, deceit, and misrepresentation in the practice of pharmacy shall include, be defined, and maintained as follows:

(1) Prescriptions. The term "prescription" means a written order, and in cases of emergency, a telephonic order, by a practitioner (or his agent as designated in writing to the pharmacist) to a pharmacist for a dangerous drug for a particular patient; in case of a controlled substance, the term "prescription" means a written order or, in cases of emergency, a telephone order by a practitioner to a pharmacist for a particular patient. All prescriptions shall:

(A) If a written order, state the date of issue and be signed on such date; if an oral prescription permitted by law, be promptly reduced to writing in ink or indelible pencil or typewriter by the pharmacist, and such written reduction shall contain all information required by this section except for the signature of the prescribing individual practitioner;



(B) Bear the full name and address of the patient and, if such drug is for an animal, the species of such animal;

(C) Bear the name, address of the practitioner and, if for a controlled substance, the DEA registration of the practitioner. (A practitioner may sign a prescription in the same manner as he would sign a check or legal document, e.g., J. H. Smith or John H. Smith). If an oral order is not permitted, prescriptions shall be reduced to writing with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. (The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these regulations);

(D) Bear the name, quantity, and strength of the controlled substance or dangerous drug prescribed; and

(E) Bear the directions for use of such controlled substance or dangerous drug.

(2) Original prescription records.

(A) Original prescriptions written or telephonically ordered by a practitioner shall be maintained by the pharmacy in consecutive numerical order for a period of two years from the date of filling or the date of the last refill dispensed. A telephonic prescription order may only be taken by a pharmacist or an intern under the direct supervision of a pharmacist. Telephonic prescription orders shall be initialed by the pharmacist transcribing the order. The pharmacist dispensing the original written or telephonic prescription order shall date and initial such order at the time of initial dispensing. If a telephonic prescription order bears the signature of one pharmacist, it shall be deemed to have been received and dispensed by the pharmacist whose signature appears on such prescription.

(B) If a pharmacy maintains prescription records in a data processing system, a hard-copy of the prescription, as defined in paragraph (1) of these regulations, shall be retained on file in consecutive numerical order for a period of two years from the date of filling or the date of the last refill dispensed. Hard-copy prescription orders as used in this paragraph means the original written prescription order or original oral prescription order reduced to writing by the pharmacist and shall include the original prescription number; date of issuance of the original prescription order by the practitioner; full name and address of the patient; name, address, and if for a controlled substance, the DEA registration number of the practitioner; and the name, strength, dosage, form, quantity of the controlled substance or dangerous drug prescribed (and quantity dispensed if different from the quantity prescribed), the total number of refills authorized by the prescribing practitioner, directions for use, and be signed and dated by the dispensing pharmacist.

(C) If prescriptions are entered into a data processing system by a nonpharmacist, the pharmacist shall verify the accuracy of the prescription information entered into the system, prior to dispensing of the controlled substances or dangerous drugs. In addition to conforming to subparagraph (B) of this paragraph, the hard-copy shall include the signature of the pharmacist verifying the information entered into the data processing system by a nonpharmacist. The pharmacist who signs the prescription shall be deemed responsible for its accuracy.

(D) Original hard-copy prescription records shall be filed in the manner specified by the Texas Controlled Substances Act:

(i) records of controlled substances listed in Schedules I and II shall be maintained separately from all records of the pharmacy;

(ii) records of controlled substances listed in Schedules III through V shall be maintained separately from all other records of the pharmacy; and

(iii) records of noncontrolled substances (i.e., dangerous drugs) shall be maintained separately from all other records of the pharmacy.

(E) Confidentiality of patient prescription information entered into a data processing system shall be maintained, with only the following having access to the data:

(i) the pharmacy entering the information into the date processing system; and

(ii) law enforcement and health regulatory agencies.

(3) Refills of prescriptions—controlled substances or dangerous drugs.

(A) Prescription refills shall be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription. If there are no refill instructions on the original prescription (which shall be interpreted as no refills authorized) or if all refills authorized on the original prescription have been dispensed, additional quantities of controlled substances or dangerous drugs may only be authorized by the prescribing practitioner, which shall then be a new and separate prescription.

(B) Each time a prescription is refilled a record of such refill shall be made on the back of the prescription, initialed, and dated by the pharmacist as of the date of dispensing, and shall state the amount dispensed. If the pharmacist merely initials and dates the back of the prescription, he shall be deemed to have dispensed a refill for the full face amount of the prescription. In this and subsequent subparagraphs, if initials or an identification code of a pharmacist is used, a permanent log shall be maintained by the pharmacy of the initials or identification code which will identify the pharmacist by name. The initials or identification code shall be unique to insure that each pharmacist can be identified, i.e., identical initials or identification codes cannot be used.

(C) If a pharmacy maintains prescription records in a data processing system:

(i) A hard-copy printout of all original prescriptions and of the refill history for Schedule III, IV, or V controlled substance prescription orders and dangerous drug prescription orders shall be produced daily. The hard-copy printout shall include but is not limited to the following

(I) prescription number;

(II) date of initial dispensing if an original prescription or if a refill, the date of refilling, and the total number of refills dispensed to date for that prescription order;

(III) full name of the patient;

(IV) the prescribing practitioner's name;

(V) the name, strength, dosage form, and quantity of the controlled substance or dangerous drug dispensed; and

(VI) the initials or identification code of the dispensing pharmacist;

(ii) If not immediately retrievable, the following shall also be included on the hard-copy printout:

- (I) patient's address;
- (II) prescribing practitioner's address; and
- (III) prescribing practitioner's DEA registration number if the prescription is for a controlled substance;

(iii) Each individual pharmacist who fills or refills a prescription order shall verify that the data indicated on the daily hard-copy printout is correct, by dating and signing this document in the same manner as he would sign a check or legal document (e.g., J. H. Smith or John H. Smith). The above document shall be maintained in a separate file at the pharmacy for a period of two years from the dispensing date. If a data processing system is used, the pharmacy utilizing such system shall have in its possession and available for inspection a hard-copy printout of the controlled substances or dangerous drug prescription order refill data within 72 hours of the date on which the original prescription or refill was dispensed. The hard-copy printout shall be verified and signed by each pharmacist who is involved with the dispensing of drugs no later than seven days from the date of such dispensing; and

(iv) Such data processing system must be capable of producing a hard-copy printout of all original prescriptions and refill data required to be maintained under these regulations: within 48 hours (e.g., original prescriptions and a refill by refill audit trail for any specified strength and dosage form of any controlled substance or dangerous drug by either brand or generic name or both). A hard-copy printout shall include but is not limited to the prescription number; date of dispensing; full name and address of the patient; name, address, if the prescription is for a controlled substance, the DEA registration number of the practitioner; the name, strength, dosage form, and quantity of controlled substance or dangerous drug dispensed; and the initials or identification code of the dispensing pharmacist. The address of the patient and the address and DEA number of the prescribing practitioner is not required on the hard-copy printout if such information is immediately retrievable from the data processing system. In any centralized data processing system employed by a user pharmacy, the central record keeping location must be capable of sending the printout to the pharmacy within 48 hours. If requested by a law enforcement or regulatory agent, the user pharmacy shall verify the capacity of the data processing system to transmit the hard-copy printout within 48 hours. In the event that a pharmacy which employs a data processing system experiences system down time, an auxiliary procedure must insure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for on-line data entry as soon as the data processing system is available for use again.

(D) When filing refill information for original prescription orders for Schedule III, IV, or V controlled substances or dangerous drugs, a pharmacy may use only one of the two systems described in subparagraph (B) or (C) of this paragraph.

(4) Other records to be maintained by a pharmacy. In addition to the original prescription and refill records to be maintained as required by paragraphs (2) and (3) of these regulations, the following shall also be maintained by a pharmacy.

- (A) Records of receipt as follows:

(i) copy 3 of DEA order form (DEA 222C) which has been filled, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(ii) original suppliers' invoices upon which is clearly recorded the actual date of receipt of the controlled substances or dangerous drugs by the pharmacist or other responsible individual;

(iii) original suppliers' summary of monthly controlled substances purchases, if provided by the supplier;

(iv) original suppliers' credit memos; and

(v) biennial inventory of controlled substances required by DEA.

(The above set out records of receipt shall be maintained for a period of two years in a manner specified by the Texas Controlled Substances Act);

(B) Records of controlled substances listed in Schedules I and II shall be maintained separately from all records of the pharmacy;

(C) Records of controlled substances listed in Schedules III through V shall be maintained separately from all other records of the pharmacy. If controlled substances in Schedules III through V and dangerous drugs are listed on the same record of receipt, the controlled substance shall be asterisked, redlined, or in some other manner readily identifiable apart from all other items appearing on the record;

(D) Records of noncontrolled substances (i.e. dangerous drugs) shall be maintained separately from all other records of the pharmacy; and

(E) Records of distribution, which include:

(i) DEA and/or DPS reports of theft or significant loss of controlled substances;

(ii) reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency; and

(iii) Schedule V exempt narcotic Register Book.

(The above set out records of distribution shall be maintained for a period of two years from the date prepared); and

(5) Permit to maintain central records. Any pharmacy who intends to use a centralized system provided in subparagraph (C) of paragraph (3) of these regulations must first apply for a permit to maintain central records as required by Section 1304.04(a) of the Federal Controlled Substances Act and submit a copy of the permit received from DEA to the Board of Pharmacy.

Issued in Austin, Texas, on September 21, 1979.

Doc. No. 796366

Priscilla Jarvis  
Director of Operations and  
Administrative Services  
Texas State Board of Pharmacy

Proposed Date of Adoption: November 2, 1979

For further information, please call (512) 478-9827.

## Railroad Commission of Texas

### Gas Utilities Division

#### Substantive Rules 051.04.03

The Gas Utilities Division of the Railroad Commission of Texas is proposing to adopt Rule 051.04.03.040. This rule is proposed to prohibit owners of mobile home parks who purchase natural gas through master meters and subse-

quently distribute that gas to mobile home residents at the mobile home park from selling or reselling such gas to those mobile home residents at a profit. The rule further requires the mobile home park owners affected to keep accurate records of amounts billed to mobile home residents for natural gas used and the cost of that gas to the mobile home park owner, and to make those records available to mobile home residents upon request.

This rule has no fiscal impact on any unit of state or local government according to the staff of the Gas Utilities Division, as it can be adequately administered by the present staff of the Gas Utilities Division of the Railroad Commission.

Public comment on the proposed rule is invited. Persons should submit their comments in writing to Joseph J. Piotrowski, Jr., director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days subsequent to publication of the rule in the *Texas Register*.

This rule is proposed pursuant to Texas Revised Civil Statutes Annotated, Article 6053, Section 1(a) (Vernon Session Laws 1979).

#### .040. Gas Distribution in Mobile Home Parks.

##### (a) Definitions.

(1) "Mobile home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

(2) "Mobile home resident" means an occupant of a mobile home in a mobile home park who is responsible for the payment of rentals.

(3) "Domestic use" means the use of natural gas for cooking, clothes drying, space heating, or water heating.

(4) "Master meter" means a single large-volume gas measurement device by which gas is metered and sold to a single purchaser who distributes the gas to one or more additional persons downstream from that meter.

(b) Prohibition. In the absence of any city ordinance, charter, franchise agreement, or service rule to the contrary, each owner, operator, or manager of a mobile home park who purchases natural gas through a master meter and who thereafter delivers that gas through a submeter to an individual mobile home or homes situated on a space rented to a mobile home resident to whom gas is delivered for domestic purposes shall not sell or resell natural gas to a mobile home resident at a profit. Any sale or resale made by such owner, operator, or manager shall be based solely on the average cost of gas on a volumetric basis to the owner, operator, or manager and on the amount of usage by the mobile home resident. No other expenses of the owner, operator, or manager of the mobile home park for any item other than the actual cost of gas delivered to the mobile home resident may be billed to such mobile home resident through the sale or resale of gas to the mobile home resident.

(c) Record keeping. Adequate records shall be kept by the owner, operator, or manager of such mobile home park in connection with sales or resales of natural gas to mobile home residents. These records shall be made available to the mobile home resident by the owner, operator, or manager of

the mobile home park at the mobile home park during normal business hours. Such records should include the following:

- (1) billings from the supplier of the gas to the owner, operator, or manager of the mobile home park;
- (2) proof of payment by the owner, operator, or manager of the mobile home park;
- (3) individual accounts for each mobile home resident showing:
  - (A) billing date and due date;
  - (B) the date of submeter reading and the reading on the mobile home resident's submeter, if any;
  - (C) volumes consumed by the mobile home resident;
  - (D) amount billed to the mobile home resident;
  - (E) amounts paid by the mobile home resident.

(d) Enforcement. The records specified herein shall be subject to inspection and audit by the Railroad Commission of Texas or its agents. Violations shall be subject to enforcement pursuant to Texas Revised Civil Statutes Annotated, Articles 6062 and 6063 (1962).

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796324

Joseph J. Piotrowski, Jr., Director  
Gas Utilities Division  
Railroad Commission of Texas

Proposed Date of Adoption: November 2, 1979

For further information, please call (512) 445-1100, ext. 1523.

## Texas Water Development Board Waste Discharge Permits

(Editor's note. The Texas Water Development Board proposes for permanent adoption the amendments to rules and the new rule, which it recently adopted on an emergency basis. The texts of the new and amended rules were published in the September 4 issue (4 TexReg 3137).)

The Texas Water Development Board proposes to adopt the new rule and amendments to rules in Subchapters .05, .10, and .20 of Chapter .25 of the Texas Water Development Board rules in order to effectuate House Bill 1794 regarding the requirement of public hearings on waste discharge permit applications. The rules provide for commission action on applications both with and without hearing and set out the procedure for requesting a public hearing. The rules allow the renewal of permits for confined animal feeding operations without the necessity of holding a public hearing. Notice of renewals must be provided 45 days before commission action. The rules require the applicant to submit an affidavit which includes the source of the list of landowners affected while the executive director is to determine the area of potential impact of the discharge.

The general counsel of the department has determined that the proposed new rule and amendments will have no fiscal impact to the state or units of local government. No local units of government have been consulted in this estimate. However, the rules are essentially the same as the previous rules covering this area, with alterations primarily for purposes of complying with House Bill 1794.

Public comment on the proposed new rule and amendments to Subchapters .05, .10, and .20 of Chapter .25 is invited. Persons should submit their comments in writing to Susan Plettman, staff attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, by November 13, 1979.

**Procedure for Obtaining Waste Discharge Permits  
156.25.05**

The amendments to Rules 156.25.05.003, .010, and .011 and new Rule .017 are proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

Doc No 796362

**Amendment with Consent 156.25.10**

The amendment of Rule 156.25.10.003 is proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

Doc No. 796363

**Public Hearing, Notice 156.25.20**

The amendment of Rule 156.25.20.003 is proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

Issued in Austin, Texas, on September 20, 1979.

Doc. No. 796364      Bruce Bigelow  
                                 General Counsel  
                                 Texas Department of Water Resources

Proposed Date of Adoption: on or about November 13, 1979  
For further information, please call (512) 475-6658.

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

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

## Comptroller of Public Accounts

### Tax Administration

#### Practice and Procedure 026.01.01

Under the authority of Texas Taxation—General Annotated, Article 1.10 (Vernon 1969), the comptroller of public accounts has adopted Rules 026.01.01.006, .010, .027, .038, and .039 to read as follows:

**.006. Representation and Participation.** In a contested case, a party may represent himself at any stage of proceedings or a party may be represented by his authorized representative at any stage. Proceedings are not open to the public. Any person desiring to observe or participate at any stage of proceedings who is not a party, not employed by a party, or not called as a witness must obtain the permission of an administrative law judge and the agreement of all parties.

**.010. Statement of Grounds Due Date.** The statement of grounds is due on the date specified in the comptroller's request letter unless a more definite or detailed basis of agency action has been requested; in that event it is due 20 days from the day the more definite or detailed statement is dated. If a petitioner requires more time to prepare his statement of grounds, a date mutually agreeable to petitioner and the hearings attorney can be established and confirmed by letter. If no agreement can be reached, petitioner must file a motion for extension of the due date. Failure to submit the statement of grounds on or before the due date may result in a motion to dismiss filed by the hearings attorney. (See Rule .040 below, in this subchapter.)

**.027. Proposed Decision.** An administrative law judge shall prepare a proposed decision within 30 days after the record is closed. The proposed decision shall set out each finding of fact and conclusion of law necessary to the decision. The proposed decision will be served on the parties, and any party adversely affected may file exceptions and briefs within 15 days, serving copies on all other parties. If a party so files, the other parties shall have 15 days after the filing to reply. Thereafter, the proposed decision will be reviewed in light of the exceptions, briefs, and replies.

**.038. Joint Hearings.** A party may file a written motion to have two or more cases joined for purposes of hearing, whether on written submission or oral; or an administrative law judge may, on his own motion, join two or more cases. Proceedings involving more than one taxpayer shall not be joined if any party objects. A motion for joinder should state the basis for joinder.

**.039. Severance.** Where two or more cases have been joined for purposes of hearing, a party may move to sever. Severance should be granted unless the hearing involves an issue which cannot be fully determined in the absence of one or more of the parties.

Issued in Austin, Texas, on September 26, 1979.

Doc No 796407      Bob Bullock  
Comptroller of Public Accounts

Effective Date    October 17, 1979  
Proposal Publication Date    August 24, 1979  
For further information, please call (512) 475-1398.

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*.

## State Aircraft Pooling Board

**Tuesday, October 2, 1979, 1:30 p.m.** The State Aircraft Pooling Board will hold an emergency meeting in Conference Room G-B, John H. Reagan Building, Austin. According to the agenda, the board will consider the leasing and purchasing of state aircraft, guidelines for the form of lease and lease-purchase contracts for state aircraft, discussion of scheduling office operations, and discussion of manifest forms.

Additional information may be obtained from Barbara Mitchell, John H. Reagan Building, Room G-12, Austin, Texas, telephone (512) 475-8301.

Filed: September 25, 1979, 1:51 p.m.  
Doc No 796391

## Texas State Board of Dental Examiners

**Wednesday, October 17, 1979, 3:30 p.m.** The Texas State Board of Dental Examiners will meet in the board meeting room, Hilton Inn, Dallas. The meeting includes the following: meeting with Doctors Gribble, Fieldsmith, Harle, Chandler, and Senator Meyer to discuss National Health Service Corporation dental offices in the South Texas area and HEW regulations concerning Headstart dental programs; discussion of Title XIX EPSDT and denture programs; federal dental programs, the board's rules and regulations; report on the conference with attorney general; pit and fissure sealant guidelines; and the September 1979 examinations.

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

Filed: September 27, 1979, 9:18 a.m.  
Doc No 796430

## Texas Education Agency

**Friday and Saturday, October 12-13, 1979, 10 a.m.** The State Board of Education Parent Advisory Council for Migrant Education of the Texas Education Agency will meet

in the Student Union Ballroom, Texas A&I University, Kingsville. According to the agenda, the board will consider the following: minutes; review of parliamentary procedure; report on 1977-1978 District Migrant Program evaluations; report on migrant programs 1979-1980; and suggestions for 1980-1981 State Plan for Migrant Education based on 1979-1980 state plan.

Additional information may be obtained from Frank Conteras, 201 E. 11th Street, Austin, Texas, telephone (512) 475-6523.

Filed: September 26, 1979, 2:58 p.m.  
Doc. No. 796413

## Finance Commission of Texas

**Tuesday, October 9, 1979, 10 a.m.** The Savings and Loan Section of the Finance Commission of Texas will meet in the Savings and Loan commissioner's office, 1004 Lavaca Street, Austin, to consider the following: review the emergency regulations for adoption as permanent rules; consider new rules and regulations; and review budget and personnel assignment.

Additional information may be obtained from L. Alvis Vandygriff, 1004 Lavaca, Austin, Texas, telephone (512) 475-7991.

Filed: September 24, 1979, 2:56 p.m.  
Doc No. 796369

## Texas Department of Health

**Tuesday, September 25, 1979, 1:30 p.m.** The Advisory Council on Youth Camp Safety of the Texas Department of Health held an emergency meeting in Room 803, Texas Department of Health, 1100 W. 49th Street, Austin. According to the agenda summary, the meeting included a review of the 1979 camping season, day camp policy statement, and the Texas Department of Health licensing procedures. This meeting is being posted under the emergency provisions of the open meeting law because item 1, "A review of the 1979 camping season," was not complete until a few days prior to the meeting, and it is of urgent public necessity that the Advisory Council be advised immediately of the 1979 camping season in order to let the Texas Board of Health know if it has to take prompt action at the October board meeting regarding more effective health and sanitary conditions for children at youth camps.

Additional information may be obtained from Jimmie D. Dickens, 1100 W. 49th Street, Austin, Texas 78756, telephone (512) 458-7521.

Filed: September 24, 1979, 4:29 p.m.  
Doc. No. 796371

**Tuesday, October 9, 1979, 9 a.m. and 2:30 p.m.** The Texas Department of Health will hold a hearing at 9 a.m. in Corporation Court, Police Building, Marsh Lane and Valley View Lane, Farmers Branch, to consider Application 1312 of the city of Farmers Branch to locate a solid waste disposal site near Hebron; at 2:30 p.m., a hearing will be held in the Commissioners Courtroom, Harrison County Courthouse,

Marshall, to consider Application 305 of Harrison County to locate a solid waste disposal site near Uncertain; additionally at 2:30 p.m., a hearing to consider Application 306 of Harrison County to locate a solid waste disposal site near Woodlawn.

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

Filed, September 24, 1979, 1:36 p.m.  
Doc. No. 796347

## State Board of Insurance

**Thursday, September 27, 1979, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance conducted an emergency hearing in Room 342, 1110 San Jacinto Street, Austin, to consider revoking the fire and casualty local recording agent's license of Alfred Ubando, doing business as Ubando Insurance Agency, San Antonio. The emergency hearing was warranted because of mistake in determining status.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed, September 24, 1979, 4:49 p.m.  
Doc. No. 796373

**Tuesday, October 2, 1979, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will hold an emergency meeting in Room 342, 1110 San Jacinto Street, Austin, to consider an application for original charter by Bancgroup Life Insurance Company, Hye.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed, September 26, 1979, 2:55 p.m.  
Doc. No. 796412

**Wednesday, October 3, 1979, 2 p.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider proposed HMO rules.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed, September 27, 1979, 9:19 a.m.  
Doc. No. 796429

The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, on the following dates to discuss the fire marshal's report.

**Wednesday, October 3, 1979, 2 p.m.**  
**Wednesday, October 10, 1979, 2 p.m.**  
**Wednesday, October 17, 1979, 2 p.m.**  
**Wednesday, October 24, 1979, 2 p.m.**  
**Wednesday, October 31, 1979, 2 p.m.**

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed, September 25, 1979, 8:55 p.m.  
Doc. Nos. 796378, 796380, 796382, 796384, & 796386

**Thursday, October 4, 1979, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto Street, Austin, concerning the reorganization of Wilkerson Funeral Service Insurance Company, to be reorganized as Funeral Director Life Insurance Company.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed, September 24, 1979, 4:50 p.m.  
Doc. No. 796374

**Thursday, October 4, 1979, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto Street, Austin, to consider revoking the group I legal reserve life insurance license of James R. Graham, Richardson.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed, September 24, 1979, 4:50 p.m.  
Doc. No. 796375

**Friday, October 5, 1979, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will hear a name protest in Room 342, 1110 San Jacinto Street, Austin, by North American Life Insurance Company, Houston, concerning North American Insurance Company, Richmond, Virginia.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed, September 24, 1979, 4:50 p.m.  
Doc. No. 796376

The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, on the following dates to discuss the commissioner's report and to conduct an executive session on personnel matters.

**Tuesday, October 9, 1979, 2 p.m.**  
**Tuesday, October 16, 1979, 2 p.m.**  
**Tuesday, October 23, 1979, 2 p.m.**  
**Tuesday, October 30, 1979, 2 p.m.**

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed, September 25, 1979, 10:43 a.m.  
Doc. Nos. 796379, 796381, 796383, & 796385

## Midwestern State University

*Friday, September 28, 1979, 2 p.m.* The Executive Committee of the Board of Regents of Midwestern State University held an emergency meeting in the board room of the Hardin Administrative Building, Wichita Falls, to consider a YMCA proposal for use of Midwestern land.

Additional information may be obtained from Dr. John G. Barker, Midwestern State University, Wichita Falls, Texas 76708, telephone (817) 692-6611, ext. 211.

Filed: September 27, 1979, 9:58 a.m.  
Doc. No. 796433

## State Board of Morticians

*Wednesday, October 3, 1979, 10 a.m.* The State Board of Morticians will conduct an emergency meeting at 1513 South IH 35, Austin. According to the agenda summary, the board will consider the following: progress report from the State Board of Control, Automated Services Division; one applicant requesting licenses by reciprocity from Iowa; Carl M. Johnson's statement concerning why he allowed his funeral director's license to lapse in September 1977; investigatory hearing on the complaint of Henry Williams vs. Community Funeral Home; Ed Palmer's report on the special committee meeting held on September 25, 1979, and the accreditation and curriculum study committee meeting held on September 26, 1979; Richard O. Moore embalmer's apprenticeship; investigative findings on the Davis Memorial Chapel, Watsonville, California vs. DeLeon Funeral Home, Pharr; McCammon's report on the current fee structure of the Dal Simpson Agency; McCammon's report on the Maria Elizondo case.

Additional information may be obtained from Ann Lloyd, 1513 South IH 35, Austin, Texas 78741, telephone (512) 442-6721.

Filed: September 27, 1979, 9:19 a.m.  
Doc. No. 796431

## Board of Pardons and Paroles

*Tuesday-Friday, October 9-12, 1979, 9 a.m. daily.* The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: September 26, 1979, 8:49 a.m.  
Doc. No. 796402

## Texas Parks and Wildlife Department

*Wednesday, September 26, 1979, 12:30 p.m.* The Texas Parks and Wildlife Commission held an emergency meeting in the Texas Parks and Wildlife Department Headquarters Complex, Building B, 4200 Smith School Road, Austin. According to the agenda, the commission discussed the Galveston Bay oyster season.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: September 26, 1979, 10:27 a.m.  
Doc. No. 796405

*Wednesday, October 10, 1979, 2 p.m.* The Resources Protection Branch of the Fisheries Division of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin. According to the agenda, the division will consider the application of F. L. Beck, trustee (agent—Fred C. Hayden, Jr.), to remove approximately 1,100 cubic yards of marl (total) from the Corpus Christi Ship Channel by means of dragline for the purpose of constructing a docking facility. The dredged material will be placed on the adjacent property of the applicant. The project is located at 1200 North Station Street, Port Aransas, Nueces County.

Additional information may be obtained from Chester Harris, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4831.

Filed: September 25, 1979, 1:52 p.m.  
Doc. No. 796390

## Public Utility Commission of Texas

*Wednesday, October 10, 1979, 2 p.m.* The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2818, application of Ingram Water Supply for a rate increase within Kerr County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 79757, telephone (512) 458-0100.

Filed: September 25, 1979, 8:53 a.m.  
Doc. No. 796387

## Railroad Commission of Texas

*Thursday, September 27, 1979, 2 p.m.* The Transportation Division of the Railroad Commission of Texas held an emergency meeting in Room 309, 1124 South IH 35, Austin. According to the agenda, the division considered the following: FRA grant agreements—planning assistance to provide \$100,000 (federal) to continue the rail planning process in Texas; and rehabilitation project assistance to provide \$1,178,128 for rehabilitation of the Missouri-Kansas-Texas Railroad Company's track between Wichita Falls and Burkburnett. This meeting is necessary on less than seven days' notice as a matter of urgent public necessity because of an October 1, 1979, deadline for executing grant agreements between the commission and the Federal Railroad Administration.



Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed September 26, 1979, 10 59 a.m.  
Doc No 796408

## Texas Rehabilitation Commission

*Wednesday, September 26, 1979, 9 a.m.* The board of the Texas Rehabilitation Commission met in emergency session at 118 East Riverside Drive, Austin, to consider approval of establishment grants and approval of plan for independent living.

Additional information may be obtained from Herbert Underwood, 118 East Riverside Drive, Austin, Texas 78704, telephone (512) 447-0236.

Filed September 25, 1979, 8 53 a.m.  
Doc. No 796388

## School Land Board

*Tuesday, October 2, 1979, 10 a.m.* The School Land Board will meet in Rooms 118 and 119 in the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. The meeting includes the following: opening of bids received for the oil and gas lease sale; one application for suspension of two state leases; one pooling application; one good faith claimant application; coastal public lands; coastal easements; cabin permit transfer request; coastal public lands report; cabin permit renewals, and consideration of approval of sale of small tracts.

Additional information may be obtained from Linda Fisher, 1700 N. Congress Avenue, Room 835, Austin, Texas 78701, telephone (512) 475-2071.

Filed September 24, 1979, 1 35 p.m.  
Doc No 796348

*Tuesday, October 2, 1979, 10 a.m.* The School Land Board has made an emergency addition to a meeting to be held in Conference Room 831 of the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. According to the agenda, the addition concerns one excess acreage application. The reason for emergency posting is that a well within 1.7 miles of said tract is being drained and it is necessary for a lease.

Additional information may be obtained from Linda Fisher, Stephen F. Austin Building, Room 835, 1700 N. Congress Avenue, Austin, Texas 78701, telephone (512) 475-2071.

Filed September 26, 1979, 11 21 a.m.  
Doc No 796409

## Texas State Soil and Water Conservation Board

*Tuesday-Thursday, October 2-4, 1979, 2 p.m., Tuesday-noon, Thursday.* The Texas State Soil and Water Conservation Board will meet in the Cha. o Room, Downtown Holiday Inn, El Paso, on Tuesday, to consider zone boundary changes in the Hall-Childress Soil and Water Conservation District

No. 109. On Wednesday and Thursday, the board will meet in the El Paso Civic Center, El Paso.

Additional information may be obtained from A. C. Spencer, 1002 First National Building, Temple, Texas, telephone (817) 773-2250.

Filed September 27, 1979, 9 58 a.m.  
Doc No 796432

## Teacher Retirement System of Texas

*Sunday, October 21, 1979, 10 a.m.* The Medical Board of the Teacher Retirement System of Texas will meet at 1001 Trinity, Austin. According to the agenda, the board will discuss a member's files that are due a re-examination report and those files on which the Medical Board had differing opinions.

Additional information may be obtained from James Preston, 1001 Trinity, Austin, Texas 78701, telephone (512) 477-9711, ext. 340.

Filed September 24, 1979, 3 48 p.m.  
Doc. No 796370

## Board of Vocational Nurse Examiners

*Monday-Wednesday, October 15-17, 1979, 8 a.m., 7 a.m., and 8:30 a.m., respectively.* The Board of Vocational Nurse Examiners will meet in the Sheraton Crest Inn, 111 E. First Street, Austin. According to the agenda summary, the board will consider the following:

- October 15, 1979 - business meeting and administrative hearing
- October 16, 1979 - state board examination in Municipal Auditorium
- October 17, 1979 - business meeting continued and administrative hearings

Additional information may be obtained from Waldeen D. Wilson, 5555 N. Lamar, Commerce Park, Building H, Suite 131, Austin, Texas 78751, telephone (512) 458-1203.

Filed September 26, 1979, 9 35 a.m.  
Doc No 796404

## Texas Water Commission

*Thursday, September 27, 1979, 10 a.m.* The Texas Water Commission met in emergency session at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission considered an application by Western Electric of Texas, Inc., for a temporary order pursuant to section 290.091 to authorize the discharge of approximately 100,000 gallons of water which flooded the company's Clark Blvd. industrial landfill.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed September 26, 1979, 4 31 p.m.  
Doc No 796423

**Monday, October 1, 1979, 10 a.m.** The Texas Water Commission has made an emergency addition to a meeting held in the Stephen F. Austin Building, 1700 N. Congress, Austin. According to the agenda summary, the emergency addition concerned Titus County Fresh Water Supply District No. 1 for approval of \$2,200,000 special project revenue bonds.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed September 26, 1979, 2:56 p.m.  
Doc No 796411

**Thursday, October 4, 1979, 9 a.m.** The Texas Water Commission will conduct a hearing in Room 119, Stephen F. Austin Building, Austin. According to the agenda, the commission will consider an application by the city of Santa Anna for an amendment to Permit 10274-01 to authorize a discharge of 150,000 gallons per day. The city wishes to amend the permit to allow a direct discharge to surface waters, but retain authorization to dispose of the effluent by irrigation.

Additional information may be obtained from Lee Mathews, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed September 25, 1979, 4:40 p.m.  
Doc No 796399

**Friday, October 5, 1979, 10 a.m.** The Texas Water Commission will conduct the following hearings at the Fonda Recreation Center, Sabine at Memorial, Houston: on application by Shutech, Inc., Freeport, for an amendment to Permit 91871 to authorize an increase in the discharge of wastewaters to a volume not to exceed an average of 825,000 gallons a day from its polyvinyl chloride plant; on request by the executive director of the Texas Department of Water Resources for an involuntary amendment to Permit 10932, held by Harris County, for the Bear Creek Park facility; on application by Larry Guthrie and Stephen Fincher, doing business as Red Dog 5, Houston, for a permit to authorize a new discharge of 2,000 gallons per day—the applicant proposes to install a plant for a proposed warehouse and office until the City of Houston can provide service; on application by Exxon Corporation, Exxon Company, Baytown Refinery, Baytown, for an amendment to Permit 00592 to authorize a discharge of a volume of wastewater not to exceed an average of 27,250,000 gallons per day from its oil refinery in Baytown, Harris County; on application by Texas Instruments, Inc., Stafford, for an amendment to Permit 01235 to authorize a discharge of a volume of wastewater not to exceed an average of 1,500,000 gallons per day from its electronics manufacturing plant in Fort Bend County.

Additional information may be obtained from Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed September 26, 1979, 4:32 p.m.  
Doc Nos 796424-28

**Friday, October 12, 1979, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue. According to the agenda summary, Maverick County WCID 1 must appear and show cause why the district should not be required to comply with the terms of Permit 996A.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed September 25, 1979, 2:34 p.m.  
Doc No 796392

## Regional Agencies

### Meetings Filed September 24, 1979

*The Permian Basin Health Systems Agency, Governing Body*, met in the conference room, West Texas Education Center, Midland Air Terminal, Midland, on September 24, 1979, at 7:30 p.m. Further information may be obtained from Harley Reeves, P.O. Box 6391, Midland, Texas, telephone (915) 563-1061.

Doc No 796345

### Meetings Filed September 25, 1979

*The Brazos Valley Development Council, Executive Committee*, will meet at the Brazos Center, 3232 Briarcrest Drive, Bryan, on October 3, 1979, at 1:30 p.m. Further information may be obtained from Glen J. Cook, P.O. Drawer 4128, Bryan, Texas 77801, telephone (713) 822-7421.

*The Panhandle Regional Planning Commission, Texas Panhandle Employment and Training Planning Council*, met at the Chamber of Commerce Conference Room, Amarillo Building, Third and Polk, Amarillo, on September 27, 1979, at 3:30 p.m. Further information may be obtained from James Barrington, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

Doc No 796377

### Meetings Filed September 26, 1979

*The Bexar-Medina-Atascosa Counties Water Improvement District 1, Board of Directors*, met at the district office, Natalia, on October 1, 1979, at 8 a.m. Further information may be obtained from Clifford Mueller, P.O. Box 180, Natalia, Texas 78069, telephone (512) 663-2132.

*The Central Plains MHMR Center, Board of Trustees*, met at 2601 Dimmitt Road, Plainview, on September 27, 1979, at 6 p.m. Further information may be obtained from J. C. Thomas, 2700 Yonkers, Plainview, Texas 79072, telephone (806) 296-2726.

*The Education Service Center, Region XIV, Board of Directors*, will meet at 3001 North Third Street, Abilene, on October 4, 1979, at 5 p.m. Further information may be obtained from Thomas Lawrence, P.O. Box 3258, 3001 North Third Street, Abilene, Texas 79604, telephone (915) 677-2911.

**The Tri-Region Health Systems Agency, Concho Valley Maternal and Child Health Task Force**, will meet in the community room, San Angelo National Bank, 301 West Beauregard, San Angelo, on October 4, 1979, at 7 p.m. Further information may be obtained from Phyllis Duggan, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc No 796403

### Meetings Filed September 27, 1979

**The Deaf Smith County Fresh Water Supply District No. 1, Board of Supervisors**, met at the San Jose Church, San Jose Community Center, on October 1, 1979, at 8 p.m. Further information may be obtained from Robert Gallegos, Route 2, Box 20, 308 Raymond Street, Hereford, Texas 79045, telephone (806) 364-2218.

**The Education Service Center, Region XVIII, Joint Committee**, will meet at Region XVIII Education Service Center, Midland Air Terminal, Midland, on October 3, 1979, at 10:30 a.m. Further information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, telephone (915) 563-2380.

**The Education Service Center, Region XVIII, Board of Directors**, will meet at the Region XVIII Education Service Center Board Room, LaForce Blvd., Midland Air Terminal, on October 4, 1979, at 7:30 p.m. Further information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, telephone (915) 563-2380.

**The Tri-Region Health Systems Agency, Nortex Cardiovascular Task Force**, will meet at the Medicenter Psychiatric Hospital, 1505 8th Street, Wichita Falls, on October 11, 1979, at 7 p.m. Further information may be obtained from Taras Hetzel, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

**The Tri-Region Health Systems Agency, W. C. T. Subarea Advisory Council**, will meet at the West Central Texas COG Office, 1025 E. N. 10th and Judge Ely Boulevard, Abilene, on October 11, 1979, at 6:30 p.m. Further information may be obtained from Vic Rhoads, 2643 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc No. 796434

## Department of Banking

### Applications to Purchase Control of State Banks

Article 342.401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On September 21, 1979, the banking commissioner received an application to acquire control of Oakwood State Bank in Oakwood by Dr. C. J. Torno of Pasadena.

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

Issued in Austin, Texas, on September 21, 1979.

Doc No 796350      Robert E Stewart  
Banking Commissioner

Filed: September 24, 1979, 11:46 a.m.  
For further information, please call (512) 475-4451.

### Consultant Proposal Request

The Department of Banking (DOB) is requesting proposals for implementation of recommendations contained in a feasibility study conducted by Touche Ross and Company. The recommendations are for implementation of programs designed to enhance the ability of the department in examination of automated systems and internal control systems utilized by state banks. Proposals should be developed and submitted in accordance with the instructions and information contained in this request for proposals (RFP). DOB expressly reserves the right to reject any or all proposals. DOB will consider only proposals received by DOB staff on or before 5 p.m. October 24, 1979.

#### Background and Objectives.

##### (A) Description of the department

- (1) The Department of Banking is the chartering body and primary regulatory authority over the approximate 800 state chartered banks.
- (2) The DOB is under the jurisdiction of the Finance Commission of Texas which is comprised of nine members as appointed by the Governor of Texas.
- (3) The Finance Commission appoints the commissioner of banking who in turn appoints the deputy banking commissioner and all supporting staff.

##### (B) Background to project

- (1) A preliminary study was conducted by department personnel in latter 1978 to determine the need of the department to become actively involved in examination of automated systems utilized by state banks. As a result of that study, the department was authorized by the Finance Commission in November 1978 to retain the services of a professional consultant to conduct a formal feasibility study.
- (2) The accounting firm of Touche Ross and Company was selected to conduct the feasibility study. The results of

the study were presented in a final report to the Finance Commission, which adopted one of the five options of recommended action. The Finance Commission approved a program consisting of two phases: first, an expansion of evaluation of internal controls systems in state banks by commercial bank examiners, and second, a team of EDP specialists who will examine automated systems owned or utilized by state banks.

#### Project Requirements.

(A) Services required. The contractor selected will be required to assist the department in implementing the program and will include:

- (1) formal classroom and field training of selected EDP examiners;
- (2) design of audit techniques for facility and application reviews;
- (3) training and design of audit programs for use of a generalized audit software package;
- (4) design of report format, work programs, and questionnaires for both EDP and internal controls programs;
- (5) formal classroom and field training of selected commercial examiners in internal controls review;
- (6) design of training and training aides should be such that it can be utilized by DOB in an ongoing training program;
- (7) provide follow up evaluation and recommendations after both phases of the program have been implemented;
- (8) other services as may be necessary for successful implementation of both phases.

(B) Time frame for project. Selection of the contractor is expected to be completed by November 15, 1979. The contractor is expected to commence work no later than November 30, 1979. The estimated time for design, implementation of the program, and follow up evaluation should span 12 months.

(C) Anticipated level of effort. The contractor is expected to be involved on a daily basis in the design and training phases of the program.

#### Proposal Instructions.

(A) Contents of proposals. Proposals shall contain a statement of understanding of the project requirements; a detailed program of work, a timetable for completion of each phase; complete, detailed, and verifiable resumes of persons committed by the respondent to perform each aspect of the program and of the person to be in charge; a detailed, verifiable statement of the respondent's knowledge of and experience in similar programs, and full evidence to support the required capacity and reputation of the respondent. Those respondents not permitted by law to include money bids in their proposals shall so state, and shall be prepared to present detailed cost proposals if selected as the contractor.

##### (B) Proposal delivery instructions

- (1) Respondents are required to submit two copies of the proposal to the DOB on or before 5 p.m. October 24, 1979.
- (2) All proposals are to be submitted to DOB staff at 2601 North Lamar, Austin, Texas 78705.
- (3) All correspondence or calls should be directed to Gary Pool, assistant departmental examiner.

(C) Selection of contractor. Respondents will be ranked by DOB according to quality of proposals, with special emphasis on the knowledge, experience, and education in the various specialties needed for implementation of the programs committed by the respondent to the programs;

familiarity with the DOB and relevant issues; familiarity with objectives of the project; and proposed work plan.

(D) Type of contract. The contract entered into between DOB and the selected respondent will provide for a fixed price. Interim payments of stipulated amounts will be made upon completion, satisfactory to DOB, of each task required in the program. Ten percent of each payment will be withheld by DOB until final completion, satisfactory to DOB, of the entire program.

(E) Assistance to prospective respondents. Prospective respondents will be provided an opportunity to obtain from DOB any additional information they believe necessary for the informed preparation of a proposal. Only on October 10, 1979, at 2 p.m. CDT, will DOB provide substantive information to prospective respondents in addition to that provided in this RFP and attachments.

Two complete copies of the final report to the Finance Commission from Touche Ross and Company will be available for review by prospective respondents at the Banking Department. However, no additional copies will be available or will be furnished.

No additional substantive information will be provided, either publicly or privately, to prospective respondents by DOB at any other time, in order to assure that no prospective respondent may obtain a competitive advantage because of its acquisition from DOB of factual knowledge unknown to other prospective respondents.

To submit a proposal, send a representative(s) to the prospective respondents' conference with department representatives at 2 p.m. on October 10, 1979. This will be an opportunity to obtain additional information from the department to assist in developing a proposal.

In accordance with requirements of Article 6252-11c, Section 6(d), Vernon's Texas Civil Statutes, notification is given of the intent of the department to award the contract to Touche Ross and Company as a continuation of consulting services previously performed, unless a better offer is submitted.

Issued in Austin, Texas, on September 20, 1979.

Doc No 796349 Archie Clayton  
Assistant Banking Commissioner

Filed, September 24, 1979, 1:55 p.m.

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

## Comptroller of Public Accounts

### Administrative Decision

#### Summary of Administrative Decision 8191

For copies of the following opinion selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

**Summary of Decision:** Coloring dye which was purchased and injected into meat while the meat was being processed was exempt from sales and use tax under Texas Taxation—General Annotated, Article 20.04(E)(1)(b), as a material

used during processing for the purpose of producing a physical change in the meat.

Issued in Austin, Texas, on September 26, 1979.

Doc. No. 796406 Harriet Burke  
Hearings Section  
Comptroller of Public Accounts

Filed: September 26, 1979, 10:24 a.m.

For further information, please call (512) 475-2148.

## Lower Rio Grande Valley Development Council

### Consultant Contract Award

**Description of Study.** The Lower Rio Grande Valley Development Council has awarded a contract for consulting services regarding the work outlined in the first year work plan (Work Package No. 1), i.e., Task Series 2.0--Nonpoint Source Runoff and Task Series 3.0--Toxic Substances Studies. This (Work Package No. 1) is expected to determine through a site-specific sampling program the existence or absence and significance of nonpoint and toxic substance problems in the Lower Rio Grande Valley study area. The period of performance of this contract is from the date of contract execution (September 10, 1979) to September 30, 1980.

**Name of Private Consultant:** Black and Veatch Consulting Engineers, Dallas

**Terms of Contract.** The contract is dated September 10, 1979, and will terminate on September 30, 1980. The contract will not exceed the designated amount of \$30,000.

**Due Dates of Report: from Consultant.** Reports are due according to the following schedule

Reports	Dates
Project Design Reports	October 1, 1979
Quarterly Reports	October 16, 1979
	January 15, 1980
	April 15, 1980
	July 15, 1980
Draft Technical Reports	August 29, 1980
Final Technical Reports	September 23, 1980

Issued in McAllen, Texas, on September 20, 1979.

Doc No 796351 Robert A Chandler  
Executive Director  
Lower Rio Grande Valley Development Council

Filed September 24, 1979, 11:50 a.m.

For further information, please call (512) 682-3481.

## Texas Register

### Notice of Schedule Variation

As previously scheduled, in view of the Columbus Day holiday on October 8, 1979, deadlines for submission of documents for publication in the October 12 issue of the *Texas Register* have been changed. The deadlines for submission of documents for publication in that issue are as follows: noon Thursday Octo-

ber 4 (all copy except notices of open meetings), and noon Friday, October 5 (open meeting notices). The regular deadline schedule for submission of documents for publication will resume with the October 16 issue of the *Register*.

## 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 September 17-21, 1979.

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 actions; 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 September 21, 1979

Oxirane Chemical Co., Channelview, Harris County; wastewater treatment plant; south of Wallisville Road, east of the Missouri Pacific Railroad; 02041; amendment

E. J. Gilbert, doing business as G&G Trailer Park, Houston, Harris County; sewage treatment plant; 8243 Fairbanks North Houston Road; new permit

Raymond A. Clark, doing business as Clark's Mobile Home Village, Houston, Harris County; wastewater treatment plant; 7407 Miller Road, No. 2; new permit

H. Muehlstein and Co., Inc., Houston, Harris County; industrial wastewater plant; 13001 Alameda Road; new permit

Kickerillo Co., Houston, Harris County; sewage treatment plant; 8,700 feet east and 5,200 feet north of the intersection of Bammel Road and Stuebner-Airline Road; new permit

Amirali Damji, Houston, Harris County; sewage treatment plant; adjacent to the North Belt Highway at Morales Road; new permit

McDonalds Corp., Houston, Harris County; sewage treatment plant; 16100 block of Hempstead Highway and U.S. Highway 290; new permit

National Supply Co., Division of Armco, Inc., Houston, Harris County; wastewater treatment plant; 8400 Breen Road; new permit

W. A. Silvey, Jr., and Elton Porter, Jr., doing business as Las Palmas Mobile Home Community, Pasadena, Harris County; sewage treatment plant; north of Fairmont Parkway; new permit

City of Jersey Village, Houston, Harris County; sewage treatment plant; north side of White Oak Bayou; 10680; renewal

Issued in Austin, Texas, on September 21, 1979.

Doc. No. 796352      Mary Ann Helmer  
    Chief Clerk  
    Texas Water Commission

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 For further information, please call (512) 475-1311.

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EDITOR (Name and Address) William H. Lalla, P.O. Box 13824, Capitol Station, Austin, Texas 78711		
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