

# TEXAS REGISTER

## In This Issue...

Emergency amendments concerning the teacher education review process adopted by the Texas Education Agency; effective date—October 17 ..... 3919

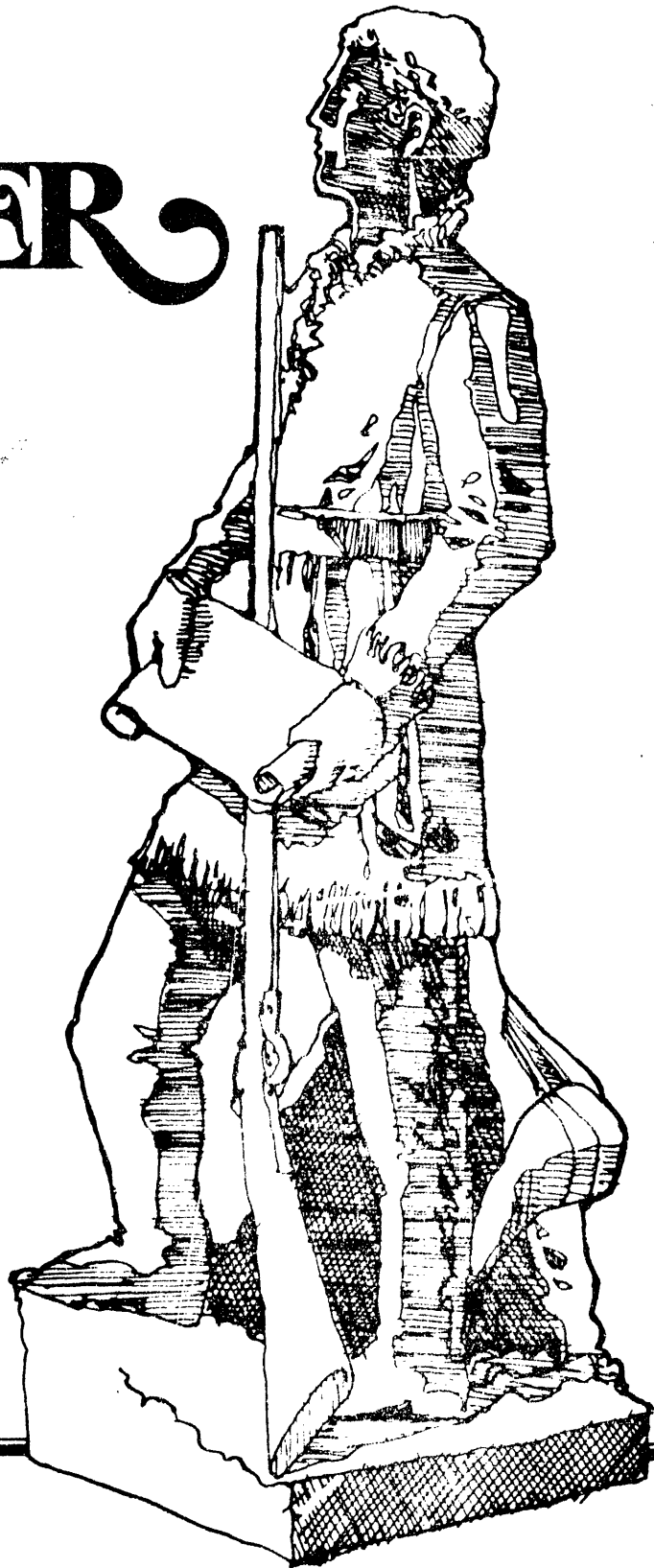
Comptroller of public accounts proposes amendments clarifying sales tax rules; proposed date of adoption—November 26 ..... 3932

Amendments to rules and rates governing the insuring of automobiles and standard provisions for automobile policies proposed by the State Board of Insurance; proposed date of adoption—November 26 ..... 3837

Department of Mental Health and Mental Retardation proposes amendments to its rules governing the use of restraint and seclusion in departmental facilities; proposed date of adoption—November 26 ..... 3942

Public hearing concerning proposed rules governing standards in the practice of pharmacy; hearing date—November 27 ..... 3955

Publication schedule for November and December ..... 3957



Office of the Secretary of State

# NOTES ON THE ISSUE

The Texas Education Agency adopts on an emergency basis amendments to its rules concerning teacher education. Effective October 17, 1979, the teacher education review process is now administered under the direction of the new Commission on Standards for the Teaching Profession. Clarification of regulations relating to the teacher education process governs the approval or disapproval of institutions undertaking the preparation of teachers; individual teacher education programs in such institutions; and licenses and degrees for salary purposes under the Public Education Compensation Plan, which are based upon credit earned in approved teacher education institutions. These amendments and new rules are also proposed for permanent adoption in this issue.

The Texas Department of Mental Health and Mental Retardation proposes to amend its rules concerning the use of restraint and seclusion in departmental facilities. The proposed amendment clarifies that the various techniques used for prevention and management of aggressive behavior are considered to be a form of restraint. The proposed amendment also provides that whenever physical restraint, drug restraint, or seclusion is utilized more than twice in any given month on a patient or resident, the patient or resident's interdisciplinary team will develop a behavior modification program and/or design other types of therapeutic intervention to change the problem behavior.

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

*Artwork: Gary Thornton*



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

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except March 9, June 1, November 27, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711, telephone (512) 475-7886. The *Register* contains executive orders of the governor, summaries of attorney general's opinions and summaries of requests for opinions, emergency rules, proposed rules, and adopted rules of state agencies, notices of open meetings, and miscellaneous notices of general interest to the public of Texas. Subscriptions are \$40 for units of Texas state government and nonprofit schools and libraries in Texas, and \$60 for all others. Six month subscriptions are also available for \$30 and \$45, respectively. Back issues, when available, are \$1.50 each.

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

HOW TO CITE: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

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*Volume 4, Number 81, October 26, 1979*

## The Governor

### Appointments

- 3916 *Texas Alcoholic Beverage Commission*
- 3916 *Texas Animal Health Commission*
- 3916 *Texas Advisory Commission on Intergovernmental Relations*
- 3916 *Texas Mining Council*
- 3916 *Texas Board of Licensure for Nursing Home Administrators*
- 3916 *Pecos River Compact Commission*
- 3916 *State Board of Registration for Professional Engineers*
- 3916 *Texas State Board of Public Accountancy*
- 3916 *Radiation Advisory Board*
- 3916 *Texas Rehabilitation Commission*
- 3917 *State Board of Vocational Nurse Examiners*

## The Attorney General

### Requests for Opinions

- 3918 *RQ-195 (concerning City of Houston election to amend charter)*
- 3918 *RQ-196 (concerning legality of contract between county and private company)*

### Opinions

- 3918 *MW-69 (concerning failure to fund Office of Public Interest in General Appropriations Act)*
- 3918 *MW-70 (concerning whether state may contract to operate recreational facilities developed in federally owned park)*

## Emergency Rules

### Texas Education Agency

- 3919 *Teacher Education*

### Railroad Commission of Texas

- 3930 *Transportation Division*

### Office of the Secretary of State

- 3931 *Elections Division*

## Proposed Rules

### Comptroller of Public Accounts

- 3932 *Tax Administration*

### Texas Education Agency

- 3935 *Teacher Education*

### State Board of Insurance

- 3937 *Rating and Policy Forms*

### Texas Department of Mental Health and Mental Retardation

- 3938 *Texas Board of MH/MR*
- 3942 *Client (Patient) Care*

### Railroad Commission of Texas

- 3944 *Oil and Gas Division*

## Adopted Rules

### Comptroller of Public Accounts

- 3945 *Tax Administration*

### Texas Department of Mental Health and Mental Retardation

- 3945 *Client (Patient) Care*

### Texas Real Estate Commission

- 3945 *Practice and Procedure*

### Office of the Secretary of State

- 3946 *Elections Division*

## Open Meetings

- 3948 *State Aircraft Pooling Board*
- 3948 *State Banking Board*
- 3948 *Texas Cosmetology Commission*
- 3948 *Texas Health Facilities Commission*
- 3949 *State Board of Insurance*
- 3949 *Texas State Library and Archives Commission*
- 3949 *Board of Pardons and Paroles*
- 3949 *Texas Parks and Wildlife Department*
- 3949 *Texas State Board of Pharmacy*
- 3950 *Public Utility Commission of Texas*
- 3950 *Railroad Commission of Texas*
- 3952 *Texas Rehabilitation Commission*
- 3952 *Board for Lease of State-Owned Lands*
- 3952 *Texas Surplus Property Agency*
- 3952 *University of Texas at Austin*
- 3952 *State Board of Veterinary Medical Examiners*
- 3953 *Texas Water Commission*
- 3953 *Regional Agencies*

## In Addition

### Comptroller of Public Accounts

- 3954 *Administrative Decision*

### Texas Energy and Natural Resources Advisory Council

- 3954 *Statement of Program Intent*

### Texas Health Facilities Commission

- 3954 *Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate*

### Texas Industrial Commission

- 3955 *Notice to All State Exporters of Small Business Advisory Service Hot Line*

### Texas State Board of Pharmacy

- 3955 *Public Hearing on Proposed Rules*

### State Purchasing and General Services Commission

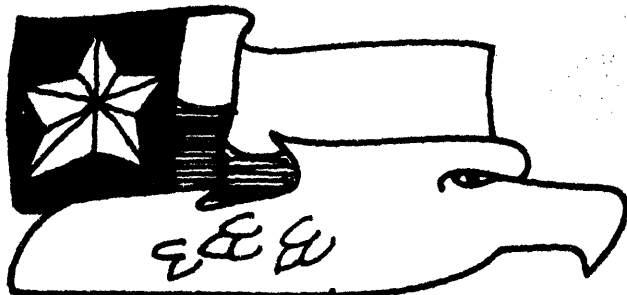
- 3956 *Changes Effected by Legislature*

### Senate

- 3956 *Special Committee of Delivery of Human Services in Texas*

### Texas Register

- 3956 *Publication of Index*
- 3957 *November and December Publication Schedule*



## Appointments

### Texas Alcoholic Beverage Commission

*As member and chairman for a six-year term to expire November 15, 1979:*

Louis M. Pearce, Jr.  
10 Briar Hollow Drive, No. 38  
Houston, Texas 77027

Mr. Pearce will be filling the unexpired term of Tom Gordon of Abilene, Taylor County, who resigned.

### Texas Animal Health Commission

*For a six-year term to expire September 6, 1985:*

James D. Sartwelle  
2200 Southwest Freeway, No. 102  
Houston, Texas 77098 (livestock marketing)

Mr. Sartwelle is replacing J. R. Taylor of Amarillo, Potter County, whose term expired.

### Texas Advisory Commission on Intergovernmental Relations

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

Edward J. Drake  
2001 Bryan Tower, Suite 820  
Dallas, Texas 75201 (private citizen member)

Mr. Drake is replacing James Neal Martin of San Antonio, Bexar County, whose term expired.

### Texas Mining Council

*For two-year terms to expire May 8, 1981:*

George M. Hail, Jr.  
1726 Augusta Drive, Suite 106  
Houston, Texas 77057 (public member)

Mr. Hail is replacing Gary Pogue of Kenedy, Karnes County, whose term expired.

John H. Montgomery  
Manager, Lignite Department  
DOW Chemical USA, Texas Division  
P.O. Box 758  
Fairfield, Texas 75840 (mining industry)

Mr. Montgomery is being reappointed.

### Texas Board of Licensure for Nursing Home Administrators

*For a six-year term to expire January 31, 1981:*

Dr. Ed Lefeber  
200 University  
Suite 1011, Smith Professional Building  
Galveston, Texas 77550 (physician)

Dr. Lefeber is filling the unexpired term to Dr. Millington of Nixon, Gonzales County, who resigned.

### Pecos River Compact Commission

*To be commissioner for a two-year term to expire January 23, 1981:*

Larry A. Vick  
202 Travis  
Houston, Texas 77002

Mr. Vick is replacing Russell B. McGowen, Jr., of Pecos, Pecos County, whose term expired.

### State Board of Registration for Professional Engineers

*For a six-year term to expire September 26, 1985:*

Edwin H. Blaschke  
1524 Park Drive  
Channelview, Texas 77530

Mr. Blaschke is being reappointed.

### Texas State Board of Public Accountancy

*Pursuant to Senate Bill 797, 66th Legislature, Regular Session, for a four-year term to expire January 31, 1983:*

James J. Pendergast, Jr.  
P.O. Box 704  
San Marcos, Texas 78666

Mr. Pendergast is being appointed to a new position, representing the general public.

*For a six-year term to expire January 31, 1985:*

Michael Lancaster Wilson  
P.O. Box 688  
Galveston, Texas 77553

Mr. Wilson is being appointed to a new position, representing the general public.

### Radiation Advisory Board

*For a six-year term to expire April 16, 1985:*

Ralph Lewin Buell  
APB Building, Dow Chemical USA  
Freeport, Texas 77541 (industry)

Mr. Buell is being reappointed.

### Texas Rehabilitation Commission

*For a six-year term to expire August 31, 1985:*

Dr. Anne Rinker Race  
5223 Harry Hines Boulevard  
Dallas, Texas 75235

**Dr. Race is replacing Dr. J. E. Miller of Dallas, Dallas County, whose term expired.**

### **State Board of Vocational Nurse Examiners**

*For a six-year term to expire September 6, 1985:*

**Jessica Harden**  
4514 Lyons Avenue  
Houston, Texas 77020 (hospital administrator)

**Ms. Harden is replacing Gordon H. Russell of Hale Center, Hale County, whose term expired.**

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 797017      William P. Clements, Jr.  
Governor of Texas

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

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

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

## Requests for Opinions

### Summary of Request for Opinion RQ-195

Request from Susan McBee, chairwoman, House Committee on Elections, house of representatives, Austin.

#### *Summary of Request:*

- (1) Can the City of Houston call and hold a second election on the question of again amending its charter within two years of the adoption of an amendment?
- (2) Would a charter amendment adopted at an election held during the time prohibited by law have any legal effect after the expiration of the two-year period?
- (3) Can an initiative ordinance categorize certain properties on the basis of date of last reappraisal and thereafter prohibit any increase in ad valorem taxes on such property until all other property in the city is reappraised?
- (4) Can an initiative ordinance require that property be taxed at a previous value when the constitution and statutes require that property be taxed according to a different value?

Doc. No. 797051

### Summary of Request for Opinion RQ-196

Request from Tom O'Connell, McKinney.

#### *Summary of Request:*

- (1) May a county legally enter into a contract for the purchase of road materials from a company when said company is in turn paying a county commissioner royalties or other monies for some of these road materials?
- (2) Are the actions of a county commissioner in accepting payment for road materials from a private company which in turn sells those road materials to the county legal or illegal under our law?

Doc. No. 797052

## Opinions

### Summary of Opinion MW-69

Request from Harvey Davis, executive director, Texas Department of Water Resources, Austin, concerning the failure of the 66th Legislature to fund the Office of Public Interest in the General Appropriations Act.

*Summary of Opinion:* The Department of Water Resources is required to have an office of public interest advocate.

Doc. No. 797053

### Summary of Opinion MW-70

Request from Charles D. Travis, executive director, Texas Parks and Wildlife Department, Austin, concerning whether the state may contract to operate and maintain for an indefinite period recreational facilities developed in a federally owned park.

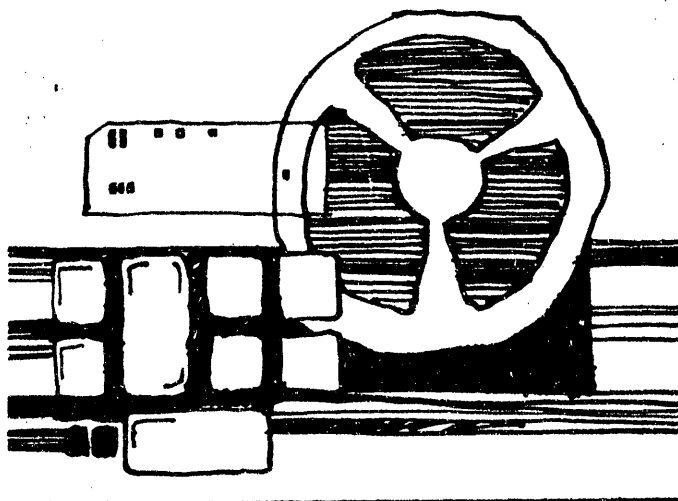
*Summary of Opinion:* The Department of Parks and Wildlife may not enter into an unconditional contract to make expenditures from funds to be appropriated in the future. However, there are procedures by which the department may enter into contracts with terms exceeding two years.

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

Doc. No. 797054

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

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



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

**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 Education Agency

### Teacher Education

#### The Teacher Education Review Process 226.61.01

The Texas Education Agency has adopted amended Rule 226.61.01.010, concerning teacher education, on an emergency basis. The proposed amendment clarifies that regulations relating to the teacher education process shall govern the approval or disapproval of (1) institutions engaged in the preparation of teachers, (2) individual teacher education programs in such institutions, and (3) licenses and degrees for salary purposes under the Public Education Compensation Plan which are conferred by or based upon credit earned in an approved teacher education institution. The teacher education review process shall be administered through the Texas Education Agency at the direction of the Commission on Standards for the Teaching Profession.

This amendment is adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession.

This amendment is promulgated under the authority of Section 13.032, Texas Education Code.

##### .010. General Provisions.

###### (a) Policy.

(1) *The legally constituted authorities of Texas have the responsibility for insuring an adequate supply of qualified and competent teachers for the state public school system. These policies and procedures relating to the teacher education process shall govern the approval or disapproval of:*

(A) *institutions engaged in the preparation of teachers;*

(B) *individual teacher education programs in such institutions; and*

(C) *licenses and degrees for salary purposes according to the state compensation pay plan for educational personnel, which are conferred by or based upon credit earned in an approved teacher education institution.*

(2) The teacher education *review* process shall include the identification, the coordination of preparation and performance, and the development and continuous reevaluations of programs and institutions concerned with preparing teachers. The process shall be administered through the Texas Education Agency *at the direction of the Commission on Standards for the Teaching Profession* [with the advice of the State Board of Examiners for Teacher Education]. The development of the quality of teacher education is a major responsibility of the Texas Education Agency and shall be in accordance with law.

(b) Administrative procedure. The Division of Teacher Education of the Texas Education Agency has the primary responsibility for administering the teacher education program.

Doc. No. 797034

## Standards for Teacher Education Institutions 226.61.03

The Texas Education Agency has adopted amended Rule 226.61.03.010, concerning standards for teacher education institutions, on an emergency basis. These standards are recommended by the Commission on Standards for the Teaching Profession and approved by the State Board of Education. All institutions, branches, clusters, centers, or similar organizational arrangements operating teacher education programs in Texas must be approved by the Commission on Standards for the Teaching Profession. It is proposed that the text of the administrative procedure section of the rule be deleted.

This amendment is adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession. The standards listed in subsection (a) of the rule shall serve as interim standards while the Commission on Standards for the Teaching Profession completes studies and makes recommendations as it was charged to do by the 66th Legislature.

This amendment is promulgated under the authority of Section 13.032, Texas Education Code.

##### .010. General Provisions.

(a) Policy. Standards which shall be met by colleges and universities to be approved teacher education institutions *are recommended by the Commission on Standards for the Teaching Profession and* [are] approved by the State Board of Education with the advice and assistance of the commissioner of education. These standards shall be known as Standards for Teacher Education [and shall be as follows]. *All institutions, branches, clusters, centers, or similar organizational arrangements operating teacher education programs in Texas must be approved by the Commission on Standards for the Teaching Profession in accordance with one of the following:*

(1) *Standards for Teacher Education in Texas, 1955, Standards 1-8 inclusive, as amended.*

(2) *Texas Standards for Teacher Education and Certification, June 1972 as amended in 1973. Institutions which exercise this option for undergraduate programs must meet fully Standard 7 of the 1955 standards as amended. Institutions which offer graduate programs*



must meet fully Standard 8 of the 1955 standards as amended.

(3) *A combination of the Institutional Standards, 1955 or 1972, and the 1955 Program Standards.*

[Note: The Standards for Teacher Education Institutions are being studied and a revision is an expected product. The revised standards will be included here when they are approved by the State Board of Education. Only the standards related to the approval of teacher education institutions will be located here. Generally, this is the material presently in Standards I-VI and the first portion of VII. Until adoption of the expected revised standards, the standards in the Texas Education Agency Bulletin 651, Standards for Teacher Education in Texas as amended, are effective and valid in accordance with applicable law.]

(b) Administrative procedure. *(Reserved for expansion.)* [Standards for Teacher Education are regularly reviewed for any changes needed. Review and change are based on staff analysis, professional and associational scrutiny, advisory group synthesis, and recommendations of the commissioner of education prior to submission to the State Board of Education. Approved changes in standards are incorporated in appropriate documents to supersede or replace previous standards. Those changes are given wide dissemination to all teacher education institutions, presidents, deans, personnel directors, superintendents, and the Texas Education Agency staff.]

Doc. No. 797035

## The Institutional Review Process 226.61.04.010, .020

The Texas Education Agency has adopted amended Rules 226.61.04.010 and .020, concerning the procedure for review of institutions for teacher education programs and activities and the recognition of degrees for teacher certification purposes, on an emergency basis. The proposed amendment to Rule .010 defines the role of the Commission on Standards for the Teaching Profession in this area. The Texas Education Agency assists in the review process as requested by the Commission on Standards for the Teaching Profession, as directed by the State Board of Education and the commissioner of education. Most of the text of the administrative procedure section of Rule .020 is deleted. This material concerned procedures for institutional approval. The procedures are set out, in revised form, in proposed new Rules .021-.029.

These amendments are adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession.

These amendments are promulgated under the authority of Section 13.032, Texas Education Code.

**.010. Institutional Review [Institution Approval] in General.**

(a) Policy. *The Commission on Standards for the Teaching Profession shall be responsible for approving or disapproving institutions for teacher education programs and activities and the recognition of degrees for teacher certification purposes.* [The Texas Education Agency shall be responsible for approving institutions for teacher educa-

tion programs and activities and the recognition of degrees for teacher certification purposes.]

(b) Administrative procedure. The staff of the Texas Education Agency, the Division of Teacher Education having primary responsibility, assists in the review [approval] of teacher education institutions as requested by the *Commission on Standards for the Teaching Profession, as directed by the State Board of Education and the commissioner of education* [law, requested by the State Board of Examiners for Teacher Education, and as directed by the State Board of Education].

**.020. Review [Approval] of an Institution Requesting Approval [which Requires a Degree for Completion] of the Teacher Education Program.**

(a) Policy. *The review process for an institution requesting approval of a teacher education program shall be administered by the Texas Education Agency in accordance with applicable law and administrative procedures approved by the State Board of Education.* [The approval process for an institution which provides degrees with its teacher education program shall be directed by the Texas Education Agency in accordance with applicable law and administrative procedures approved by the State Board of Education.]

(b) Administrative procedure. *Administrative procedures for approval or disapproval of institutions are found in 61.04.021-.029.* [The procedures for securing approval are as follows:

(1) An institution desiring approval shall file an application with the Texas Education Agency, listing the teacher education program for which approval is desired.

(2) The applying institution will receive from the agency 10 sets of schedules pertaining to the program for which approval is desired.

(3) A visiting team appointed by the commissioner of education will review the schedules and visit the institution for the purpose of reviewing and reporting on the education program. The size and composition of the team will be in keeping with the nature and scope of the program being reviewed; however, the visiting team membership shall consist of representatives from a similar type institution, at least one member from the Board of Examiners, at least one Texas Education Agency staff member, and other appropriate professional personnel.

(4) The commissioner of education, with the advice of the State Board of Examiners for Teacher Education, will use all the information submitted about an institution as the basis for making his recommendation to the State Board of Education. If the recommendation is unfavorable, the applying institution may file a formal protest with the State Board of Education. The expenses incurred by the visiting team are borne by the Texas Education Agency.

[Reference Attorney General's Opinion M-386, April 29, 1969.

]Institutions placed on the approval list shall make annual reports to the Texas Education Agency. The agency will use the recommendations of the State Board of Examiners as the basis for requesting information regarding compliances with the standards. All teacher education institutions shall be visited every five years, or more often if deemed necessary by the state commissioner of education. If an institution on the approved list proposes to make changes in its teacher education program, a schedule shall be prepared describing the



proposed additions, deletions, or alterations. The changes will be approved or disapproved by the state commissioner of education until the next regularly scheduled visit of the institution's teacher education program. If an institution desires to withdraw from or is not approved for a program, it will submit to the Texas Education Agency a list of those students of junior and senior standing presently enrolled in the program so that recommendations for certification for those students will be honored. No new students shall be accepted in the particular program which is being withdrawn or denied.

[Reference Bulletin 651, Texas Education Agency, Standards for Teacher Education in Texas, November 1964.

[It is provided that a person from the Division of Teacher Education be assigned the responsibility of making periodic on-the-spot checks of certification records of each college campus to determine accuracy and clarify procedures. The procedures for a college making initial application for teacher education programs are as follows:

(1) An application shall be preceded by a letter of intent from the president to the institution, setting forth the declaration of the governing board of the institution to prepare teachers according to the adopted standards. The letter is to include a year-by-year plan for institutional development to meet standards fully and should be accompanied by letters from local school superintendents outlining their intent to cooperate with the institution in the program of teacher preparation with specific communications channels established.

(2) A statement of progress from the Southern Association of Colleges and Schools, with a specific date scheduled for an institutional visiting team shall also be included. Dates when on-campus consultative visits were made by representatives of the Southern Association of Colleges and Schools shall be given. A statement that the college is making satisfactory progress toward accreditation, from the advisory committee of the Southern Association of Colleges and Schools, which visits the college during the year the first class is to be graduated, shall be on file. Before a junior college in transition to senior college status can be approved to prepare teachers as a four-year institution, it must have Southern Association of Colleges and Schools accreditation as a junior college.

(3) Applications shall be processed according to the present policy. A self-study shall be developed, and a favorable report from a visiting team from the Texas Education Agency shall be on file.

(4) Upon recommendation of the State Board of Examiners for Teacher Education, the commissioner of education shall issue a memorandum to the director of the Division of Teacher Education, listing the certificate programs for which the institution is tentatively approved and authorizing the director to honor for a three-year period the recommendations of the institution for certificates to its graduates upon his review of the official college transcripts of each student.

(5) In the event the institution is not approved during or at the end of the three-year period, no phase-out privilege should be allowed.

(6) Any graduate from the program not covered by nor included in the memorandum from the commissioner of education must have the recommendation of an approved institution.]

Doc. No. 797036

## 226.61.04.021-.029

The Texas Education Agency has adopted Rules 226.61.04.021-.029, concerning procedures for review of institutions for teacher education programs and activities on an emergency basis. Institutions desiring approval must apply to the Texas Education Agency. Institutions must reapply for approval near the end of each approval period (Rule .021). Rule .022 describes the composition and function of the visiting team. The Commission on Standards for the Teaching Profession will use all information submitted about an institution as the basis for making decisions concerning approval or disapproval. Approval may be with or without conditions (Rule .023) for a period of from one to five years (Rule .024). When conditions at an institution are so critical that immediate corrections are necessary, or so unstable that time is needed for the institution to take action to stabilize the conditions, action on approval of a given institution may be deferred (Rule .025). Rule .026 describes provisions for students of junior standing or above enrolled in institutions which withdraw from or are disapproved for teacher education. Rule .027 requires annual reports from institutions on the approval list. Rules .028 and .029 address changes in teacher education programs made by institutions on the approved list, and procedures for the initial application for approval.

These rules are adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession.

These new rules are promulgated under the authority of Section 13.032, Texas Education Code.

### .021. Application for Approval.

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

(1) An institution desiring initial approval shall file an application with the Texas Education Agency, listing the teacher education program for which approval is desired. Institutions must reapply for approval near the end of each approval period.

(2) The applying institution shall submit to the agency schedules pertaining to the program for which approval is desired.

### .022. The Visiting Team.

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

(1) A visiting team appointed by the commissioner of education will review the schedules and visit the institution for the purpose of reviewing and reporting on the education program. The visiting team verifies the institutional self-study; reviews the institution's programs; prepares a report to the Commission on Standards for the Teaching Profession noting strengths, weaknesses, and concerns with regard to the institution's program; recommends corrective action which should be taken by the institution to strengthen its program; and proposes to the Commission on Standards for the Teaching Profession its recommendation on approval or disapproval and in the case of approval the length of time and conditions of approval, if any.

(2) The size and composition of the team will be in keeping with the nature and scope of the program being reviewed; however, the visiting team membership shall consist of representatives from a similar type institution, at least

one Texas Education Agency staff member, and other appropriate professional personnel.

(3) The expenses incurred by the visiting team are borne by the Texas Education Agency.

## **.023. Decision concerning Approval.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure.

(1) The Commission on Standards for the Teaching Profession will use all the information submitted about an institution as the basis for making decisions concerning approval or disapproval. Institutions may challenge the report and recommendations of the visiting team to the Commission on Standards for the Teaching Profession.

(2) Approval may be either with or without specific conditions which are to be met by the institution during the years between the visit.

(A) Approval without conditions. Approval without conditions is given when the institution being evaluated is considered to be meeting the standards fully and when no deficiencies are identified. Normally, this approval would be for the maximum time of approval; however, in certain situations the approval without conditions might be for a period of time shorter than that of maximum approval.

(B) Approval with conditions. Approval with conditions is given when it is considered that the programs of the institution being evaluated do not meet the standards fully and/or when it is considered that the institution should take specific corrective action within a specified period of time. The conditions to be met by the institution shall be specified along with the time line for the institution to report its action to the Commission on Standards for the Teaching Profession. It is understood that approval with conditions means that the approval of the institution after the first reporting period depends upon its satisfying the Commission on Standards for the Teaching Profession that it is successfully correcting the conditions specified in the team's findings. Failure on the part of the institution to satisfy the Commission on Standards for the Teaching Profession shall bring the matter of the institution's approval back to Commission on Standards for the Teaching Profession for reconsideration.

## **.024. Time of Approval.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. Approval of an institution of higher education for preparing professional school personnel is given for a period of from one to five years. The years and conditions of approval which are to be met by the institution are based upon the team's evaluation of the programs of preparation at the institution at the time of the visit.

## **.025. Deferred Status.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. When conditions of teacher education at an institution are judged to be so critical that immediate corrections are necessary or when conditions are judged to be so unstable that time is needed for the institution to take action to stabilize the conditions, action on approval of a given institution may be deferred. Deferment would be until the next meeting of the Commission on Standards for the Teaching Profession or until another specified meeting. Upon recommendation, the chief administrator of the institution would be invited to meet with the Commission on Standards for the Teaching Profession regarding the conditions noted. During the intervening time, the teacher

education staff of the Texas Education Agency, the chair of the team which visited the institution, or other entity designated by the Commission on Standards for the Teaching Profession shall work with the administration of the institution in the development of a satisfactory plan and commitment for upgrading the conditions noted. The plan and commitment shall become the basis for discussion when the chief administrator meets with the Commission on Standards for the Teaching Profession. A maximum of one year deferral time may elapse after which the institution shall automatically become disapproved, or approval shall be discontinued, if it has not taken action to meet the standards regarding the conditions noted.

## **.026. Provision for Students Already Enrolled in Institutions Which Withdraw Or Are Disapproved.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. If an institution desires to withdraw from or is disapproved for teacher education, it will submit to the Texas Education Agency a list of those students of junior standing or above presently enrolled in the program so that recommendations for certification for those students will be honored. Recommendations from institutions and applications for certificates from students admitted to the teacher education program after the disapproval date will not be honored.

Reference Bulletin 651, Texas Education Agency, Standards for Teacher Education in Texas, November 1964.

## **.027. Annual Reports.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. Institutions placed on the approval list shall make annual reports to the Texas Education Agency. The Commission on Standards for the Teaching Profession may request additional information from institutions regarding compliance with the standards.

## **.028. Changes in Teacher Education Program.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. If an institution on the approved list proposes to make changes in its teacher education program, a schedule shall be prepared describing the proposed additions, deletions, or alterations. Such changes will be approved or disapproved by the Commission on Standards for the Teaching Profession until the next regularly scheduled visit of the institution's teacher education program by an evaluation team.

## **.029. Initial Application for Approval.**

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure.

(1) An application shall be preceded by a letter of intent from the chief administrative officer of the institution, setting forth the declaration of the governing board of the institution to prepare teachers according to the adopted standards. The letter is to include a year-by-year plan for institutional development to meet standards fully and should be accompanied by letters from local school superintendents outlining their intent to cooperate with the institution in the program of teacher preparation with specific communications channels established.

(2) A statement of progress from the Southern Association of Colleges and Schools, with a specific date scheduled for an institutional visiting team shall also be included. Dates when on-campus consultative visits were made by representatives of the Southern Association of Colleges

and Schools shall be given. A statement that the college is making satisfactory progress toward accreditation, from the Advisory Committee of the Southern Association of Colleges and Schools, which visits the college during the year the first class is to be graduated, shall be on file. Before a junior college in transition to senior college status can be approved to prepare teachers as a four-year institution, it must have Southern Association of Colleges and Schools accreditation as a junior college.

(3) Applications shall be processed according to current policy. A self-study shall be developed, and a favorable report from a visiting team from the Texas Education Agency shall be on file.

(4) The Commission on Standards for the Teaching Profession shall publish a list of certificate programs for which the institution is tentatively approved. The Texas Education Agency will accept for a one- to five-year period the recommendations of the institution for certificates for its graduates.

Doc. No. 797037

### Hearings before the Commissioner of Education for Contested Cases Arising from the Commission on Standards for the Teaching Profession 226.61.06

The Texas Education Agency has adopted Rules 226.61.06.010, .020, .030, .040, .050, .060, .070, .080, .090, .100, .110, .120, .130, .140, .150, .160, .170, .180, .190, .200, .210, .220, .230, .240, .250, .260, .270, .280, .290, .300, .310, .320, .330, .340, .350, .360, .370, .380, .390, .400, .410, .420, .430, .440, .450, .460, .470, and .480, concerning hearings before the commissioner of education for contested cases arising from the Commission on Standards for the Teaching Profession on an emergency basis. Under the proposed rules, a request for a hearing must be submitted within 15 days after receipt of notice of the action about which the party requesting the hearing is dissatisfied. The rules set out procedures for notice of hearing, service and filing of pleading, the holding of a prehearing conference, the order of procedure at the hearing, the proposal for decision, and other matters.

These rules are adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession.

These new rules are promulgated under the authority of Section 13.032, Texas Education Code.

**.010. Nature of Hearings and Appeals.** Should an applicant be dissatisfied with the denial of approval by the commission or should a party be dissatisfied with conditions imposed by the commission upon continued approval, the party may request a hearing before the commissioner of education under the Administrative Procedure and Texas Register Act and these rules. Should the party be dissatisfied with the final order of the commissioner after said hearing, the order may be appealed to the State Board of Education under the procedures provided by these rules. Nothing contained in these rules shall deprive any party of any legal remedy.

### **.020. Definitions.**

(a) "Commission" means the Commission on Standards for the Teaching Profession.

(b) "Agency" means the Central Education Agency.

(c) "Board" means the State Board of Education.

(d) "Commissioner" means the state commissioner of education.

(e) "Party" means an agency, institution of higher education, out-of-state institution of higher education, or person who has appeared in a contested case or who has filed timely notice of interest to appear, and who has not been dismissed or excluded by the commissioner or hearing officer.

(f) "Contested case" means a proceeding in which the legal rights, duties, or privileges of a party are to be determined by the commissioner and/or the board.

(g) "Hearing officer" means any person appointed by the commissioner to conduct hearings on matters within the agency's jurisdiction.

(h) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the agency.

(i) "Pleading" means written allegations filed by a party requesting or opposing action by the commissioner or the board.

(j) "Petitioner" means the commission in its capacity as a party.

(k) "Respondent" means any party against whom action has been taken by the commission.

(l) "Intervenor" means any party otherwise not defined.

(m) "Applicant" means a party seeking approval from the commission.

(n) "Licensee" means a party who is the holder of approval from the commission.

**.030. Object of Rules.** The purpose of these rules is to provide for a simple and efficient system of procedure before the commissioner to ensure uniform standards of practice and a fair and expeditious determination of causes arising from the Commission on Standards for the Teaching Profession.

**.040. Request for Hearing.** Should a party be dissatisfied with any of the actions of the commission as described in the rule entitled Nature of Hearings and Appeals, the party may by certified mail or personal service request a hearing with the commissioner within 15 days after receipt of notice of said action.

**.050. Notice of Hearing.** Upon receipt of a request for hearing, the commissioner shall send a notice of hearing to all parties, by certified mail, setting a hearing date, and said notice of hearing shall include:

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

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

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

(4) a short and plain statement of the matters asserted.

**.060. Scope of Rules. Extensions:** Unless otherwise provided by statute, the filing of any pleading may be extended by order of the hearing officer, upon written motion duly filed with the hearing officer prior to the expiration of the applicable period of time for the filing of the same, showing good cause for such extension of time and that the need therefor is

not caused by the neglect, indifference, or lack of diligence of the movant. A copy of said motion shall be served upon all other parties or record to the proceeding contemporaneously with the filing thereof. Any party may file written pleadings contesting a motion to extend, serving all other parties contemporaneously with the filing thereof.

**.070. Agreements To Be in Writing.** No stipulation or agreement between the parties, their attorneys, or representatives with regard to any matter involved in any contested case shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of the hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate any right or privilege afforded by these rules, unless precluded by law. No stipulation or agreement shall be enforced unless signed by the attorney of record, if any, for each party to the stipulation or agreement.

**.080. Service of Pleadings.**

(a) **Service of pleadings.** A copy of any reply, answer, motion, or other pleading filed by any party in any proceeding subsequent to the institution thereof shall be mailed by certified mail or otherwise delivered by the party filing the same to every other party of record. If any party has appeared in the proceeding by attorney or other representative authorized under this rule to make appearances, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for the entry of any order by the hearing officer striking the reply, answer, motion, or other pleading from the record.

(b) **Certificate of service.** A certificate by the party, attorney, or representative who files the pleading, stating that it has been served on the other parties, shall be prima facie evidence of such service. The following form of certificate will be sufficient in this connection:

I hereby certify that I have this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, served copies of the foregoing pleading upon all other parties of record to this proceeding, by the state the manner of service. Signature.

**.090. Conduct and Decorum.** All parties, witnesses, attorneys, or other representatives shall comport themselves in all proceedings with proper dignity, courtesy, and respect for the commission, the commissioner, the hearing officer, the board, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of party shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Texas State Bar.

**.100. Classification of Parties.** Parties to proceedings before the commissioner are petitioners, respondents, and intervenors. Regardless of errors as to designations in their pleadings, the parties shall be accorded their true status in the proceeding.

**.110. Parties in Interest.** Any party in interest may appear in any proceeding before the commissioner. All appearances shall be subject to a motion to strike upon a showing that the party has no justiciable or administratively cognizable interest in the proceeding. Any person, public official, or department of the State of Texas or any of its political subdivisions, shall be permitted to intervene in support of or opposition to all or part of the relief sought in any contested case by filing at least 10 days in advance of the hearing date,

a petition in intervention showing its interest and the basis for its position in the case and at the hearing may present any relevant and proper testimony and evidence bearing upon the issues involved in the particular proceeding. In all proceedings the commission is a party in interest.

**.120. Appearances.** Any party may appear and be represented by an attorney at law authorized to practice law before the Supreme Court of the State of Texas. Any person except a corporation may appear on his or her own behalf, or by a bona fide full-time employee or by an elected or appointed officer of a governmental agency. A corporation, partnership, or association may appear and be represented by any bona fide officer, partner, or full-time employee. The hearing officer may require any person appearing in a representative capacity to provide such evidence of this authority as the hearing officer may deem necessary.

**.130. Hearing Officers.** The commissioner may hear contested cases, or appoint a hearing officer to hold hearings and prehearing conferences, rule on motions, receive or not receive evidence, prepare proposals for decision, and perform all other duties concerning contested cases which are not required by statute to be performed by the commissioner.

**.140. Classification of Pleadings.** Pleadings filed with the commissioner in contested cases shall be petitions, answers, replies, exceptions, motions, and notices of hearings. Regardless of any error in the designation of the pleading, it shall be accorded its true status in the proceeding in which it is filed.

**.150. Form and Content of Pleadings.**

(a) **Typewritten or printed.** Pleadings and briefs shall be written, typewritten, or printed upon paper 8-1/2 inches wide and 14 inches or 11 inches long with an inside margin of at least one inch wide, and exhibits annexed thereto shall be folded to the same size. Reproductions are acceptable, provided all copies are clear and permanently legible.

(b) **Content.** Pleadings shall state their object, and shall contain a concise statement of the facts in support of the same, and shall be signed by the party or a representative authorized by these rules.

(c) **Signature and address.** The original of every pleading shall be signed in ink by the party filing the paper, or by the party's authorized representative. Pleadings shall contain the address of the party filing the document or the name, telephone number, and business address of the representative.

**.160. Examination by a Hearing Officer.** Upon the filing of any pleading with a hearing officer, the hearing officer may examine the same and determine its sufficiency under these rules. If the hearing officer shall find that the pleading does not comply in all material respects with these rules, it shall be returned to the person who filed it, along with a statement of the reasons for rejecting the same. The person who filed such pleading shall thereafter have the right to file a corrected pleading, provided that the filing of such corrected pleading shall not be permitted to delay any hearing unless the hearing officer shall determine that such delay is necessary in order to prevent an injustice or to protect the public interest and welfare.

**.170. Motions.** Any motion relating to a pending proceeding shall, unless made during a hearing, be written, and shall set forth the relief sought and the specific reasons and grounds therefor. If based upon matters which do not appear

of record, it shall be supported by affidavit. Any motion not made during the hearing shall be filed with the hearing officer, who shall act upon the motion at the earliest practical time.

**.180. Amendments.** Amendments to any pleading offered within 14 days of the date set for the hearing or thereafter shall be permitted only after written consent of the hearing officer is obtained. Copies of all amendments, whenever filed, must be sent by the party offering the amendment to each party of record; and the hearing officer may, upon his or her own motion or the motion of any interested party having filed notice of intention to appear at said hearing, postpone or delay the hearing to a later date if the amendment materially alters the pleading on file.

**.190. Incorporation by Reference of Commission or Agency Records.** Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in those official files and records of the agency or commission which are public record. This rule shall not relieve any petitioner of the necessity of alleging in detail, if required, facts necessary to sustain the burden of proof imposed by law.

**.200. Prehearing Conference.**

(a) In any proceeding, the hearing officer, on his or her own motion or the motion of the party or petitioner, may direct the parties, their attorneys, or representatives to appear before him or her at a specific time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

- (1) the simplification of issues;
- (2) the possibility of making admissions of certain averments of fact or stipulations concerning the use by any party of matters of public record, to the end of avoiding unnecessary introduction of proof;
- (3) the procedure at hearing;
- (4) the limitation, where possible, of the number of witnesses;
- (5) such other matters as may aid in the simplification of the proceedings, and the disposition of the matters in controversy, including settlement of such issues as are in dispute.

(b) Action taken at the conference shall be recorded in an appropriate manner by the hearing officer, unless the parties enter into a written agreement approved by the hearing officer.

**.210. Motions for Continuance.** Hearings may be continued on the commission's own motion or upon a motion for continuance filed by a party not less than five days prior to the designated date that the matter is to be heard. The party moving for a continuance must do so in writing and demonstrate good cause for the continuance. Copies of motions for continuance must be sent to all parties of record or their attorneys. In the event a continuance is ordered, the hearing officer shall promptly send notice of said continuance, such notice setting a new date for the hearing. The hearing officer need not hold a hearing on the motion for continuance. If the hearing cannot be held on the date for which it was set because a previously scheduled hearing is still in progress, no formal order for continuance shall be necessary. In such event, the parties and the hearing officer shall cooperate in holding the delayed hearing on the earliest possible date.

**.220. Place and Nature of Hearing.** All hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Austin, Texas, unless for good and sufficient cause the commissioner shall designate another place of hearing in the interest of the public.

**.230. Joint Hearings.** A motion for consolidation of two or more proceedings must be in writing, signed by the movant, the movant's attorney, or representative, and filed with the commissioner or hearing officer prior to the date set for hearing. No two or more proceedings shall be consolidated or heard jointly without the affirmative consent of all parties to all such proceedings, unless the hearing officer or commissioner shall find that the two or more proceedings involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expense, delay, or substantial injustice.

**.240. Presiding Officer.**

(a) Hearings will be conducted by the commissioner or a hearing officer, who shall have the authority to administer oaths, to examine witnesses, to rule on motions, and to rule upon admissibility of evidence in amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

(b) If the presiding hearing officer dies, becomes disabled, or withdraws or is removed from employment from the case at any time before the final decision thereof, the commissioner may appoint another presiding hearing officer who may perform any functions remaining to be performed without the necessity of repeating any previous proceedings in the case.

**.250. Order of Procedure at Hearing.**

(a) The petitioner shall present its case, the respondent or respondents shall next present its or their case, and the petitioner shall then present its case in rebuttal. In those cases where there is more than one petitioner, the petitioner whose pleading is deemed officially filed first shall present its case and the petitioners next in line shall then proceed with the respondent or respondents next proceeding and the petitioners presenting their case in rebuttal in the same order as their case in chief.

(b) The parties may be allowed, in the discretion of the hearing officer, to make opening or closing statements or both, with the petitioner or petitioners going first.

(c) In any case where a party is represented by more than one attorney, the hearing officer shall require such party to designate a lead counsel who shall conduct the case for that party. The hearing officer may allow substitution for the lead counsel.

(d) All witnesses at a hearing shall testify under oath.

(e) A party may conduct cross-examination if required for a full and true disclosure of the facts.

**.260. Transcript.** Proceedings, or any part of them, may be transcribed at the instance of the hearing officer or commission attorney, and must be transcribed upon the written request of any party.

**.270. Reporter.**

(a) When a party other than the agency makes a written request that proceedings be transcribed, the party shall state in writing his or her election to furnish a stenographic reporter or to utilize a reporter provided by the commissioner.

(b) If the party elects to furnish the stenographic reporter, the cost of the original transcript shall be assessed



to the party requesting the transcription. The original transcript shall be delivered to the hearing officer not more than 14 days after the close of the hearing. A stenographic reporter may sell a copy of the transcript if the stenographic reporter first submits a written request to the hearing officer containing:

- (1) the full name and address of the party requesting the copy;
- (2) the number of pages in the transcript;
- (3) the cost of the copy to the party.

Upon approval of the request by the hearing officer, the stenographic reporter shall furnish a copy to the requesting party. The hearing officer may exclude any stenographic reporter for late delivery or poor workmanship in previous hearings.

**.280. Corrections to the Transcript.** Suggested corrections to the transcript of the record may be offered within 10 days after the transcript is filed in the proceeding, unless the hearing officer shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record, the official reporter, and the hearing officer. If suggested corrections are not objected to, the hearing officer may direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the hearing officer, who shall determine the manner in which the record shall be changed, if at all.

**.290. Formal Exceptions.** Formal exceptions to rulings of the hearing officer during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing officer the action which is desired.

**.300. Briefs.** Briefs shall be filed when requested or permitted by the hearing officer. They shall conform, as near as may be, to the rules herein provided for forms of pleadings. The points involved shall be concisely stated. The evidence in support of each point shall be briefly summarized, and the argument and authority shall be organized and directed to each point in a concise and logical manner. Briefs shall contain a table of contents and authorities.

**.310. Dismissal without Hearing.** The hearing officer may entertain motions for dismissal without a hearing for the following reasons: failure to prosecute; unnecessary duplication of proceedings or res judicata; withdrawal, moot questions or stale petitions; lack of jurisdiction; failure to raise a material issue in the pleading; or failure to state a cause of action upon which relief may be granted.

**.320. Admissibility in General.** Rules of evidence shall be governed by Section 14, et seq., of the Administrative Procedure and Texas Register Act, Texas Revised Civil Statutes Annotated, Article 6252-13a.

**.330. Documentary Evidence.** Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. On request, parties shall be given an opportunity to compare the original and the copy. When numerous documents are offered, the hearing officer may limit those admitted to a number which are typical and representative, and may in his or her discretion require the abstracting of the relevant data from the documents and the presentation of the abstracts in the form of an exhibit; provided, however, that before making such requirement, the

hearing officer shall require that all parties of record or their representatives be given the right to examine the document from which such abstracts were made.

**.340. Official Notice.** In connection with any hearing held, official notice may be taken of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the commission's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data, and they must be afforded an opportunity to contest the material so offered. The special skills or knowledge of the commission and/or the Texas Education Agency staff may be utilized in evaluating the evidence.

**.350. Prepared Testimony.** In all proceedings and after service of copies upon all parties of record at such times as may be designated by the hearing officer, the prepared testimony of the witness upon direct examination, either in narrative or question-and-answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness being sworn and identifying the same. Such witness shall be subject to cross-examination, and the prepared testimony shall be subject to ruling by the commissioner or hearing officer on a motion to strike in whole or in part.

**.360. Limitation on Number of Witnesses.** The hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

**.370. Exhibits.**

(a) **Form.** Exhibits of documentary character shall be of such size as to not unduly encumber the files and records of the agency. There shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. Exhibits shall be limited to facts material and relevant to the issues involved in a particular proceeding.

(b) **Tender and service.** The original of each exhibit shall be tendered to the reporter to mark for identification; one copy shall be furnished to the hearing officer and one copy to each other party of record or the party's attorney or representative.

(c) **Excluded exhibits.** In the event an exhibit has been identified, objected to, and excluded, the hearing officer shall determine whether or not the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to the party. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, shall be endorsed by the hearing officer with his or her ruling, and shall be included in the record for the purpose only of preserving the exception.

(d) **Post-hearing offers.** No exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing, unless specifically directed by the hearing officer or by the commissioner, with service or copies of the late-filed exhibit on all parties of record and sufficient opportunity to all parties for the filing of objections.

**.380. Offer of Proof.** When testimony on direct examination is excluded by ruling of the hearing officer, the party offering such evidence shall be permitted to make an offer of proof by eliciting from the witness said testimony to be placed in a bill of exception, and such offer of proof shall be sufficient to preserve the point for review. When an objection to a questions asked on cross-examination is sustained, any error asserted may be preserved without making an offer of proof.

**390. Depositions.** Upon written request by a party, the commissioner or any hearing officer may issue a commission addressed to officers authorized by statute to take a deposition of witnesses. Such commissions shall be issued only after a showing of good cause and deposit of sums sufficient to ensure payment of expenses incidental to the deposition. The use of depositions in any proceeding shall be governed by the Administrative Procedure and Texas Register Act.

**400. Interrogatories.** At any time after a party has made appearance in a contested case, any other party may serve upon such party written interrogatories to be answered by the party served. The rules for interrogatories shall be those described in Rule 169 of the Texas Rules of Civil Procedure.

**410. Admissions of Facts and of Genuineness of Documents.** At any time after the respondent has made appearance in a contested case, a party may cause to be delivered to any other party or the party's attorney of record a written request for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth by the request. The rules for said request shall be those described in Rule 169 of the Texas Rules of Civil Procedure.

**420. Refusal to Make Discovery; Consequences.** If any party or an officer or managing agent of a party refuses to obey an order for discovery made under these rules, the commissioner may make such orders in regard to the refusal as are just, and among others, the following:

(1) an order that the matters regarding the character or description of the thing, or the contents of the paper, or any other designated facts shall be taken as established for the purposes of the action in accordance with the claim of the party obtaining the order;

(2) an order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents or things or items of testimony;

(3) an order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

**430. Subpoenas.**

(a) Subpoenas for the attendance of a witness from any place in the State of Texas at a hearing in a pending proceeding may be issued by the commissioner, or during the course or pendency of a hearing, by the hearing officer upon written request by a party or his or her own motion.

(b) Motions for subpoenas to compel the production of books, papers, accounts, or documents shall be addressed to the commissioner or hearing officer, shall be verified, and shall specify as nearly as may be the books, papers, accounts, or documents desired and the material and relevant facts to be proven by them. If the matter sought is relevant, material, and necessary and if requiring production of the same will not result in harassment, imposition, or undue inconvenience or expense to the witness, the commissioner, or during the course of pendency of the hearing, the hearing officer, may issue a subpoena compelling production of books, papers, accounts, or documents as deemed necessary.

(c) Such subpoenas shall be issued only after a showing of good cause and deposit of sums sufficient to ensure pay-

ment of expenses incident to the subpoenas. Witness fees shall be made in the manner prescribed in the Administrative Procedure and Texas Register Act.

**440. Proposal for Decision.** In all proceedings in which a hearing officer recommends action adverse to any party other than the commission, the hearing officer shall prepare and file with the commissioner a proposal for decision. The proposal for decision may contain a brief statement of the nature of the case and the issues and may also contain a concise and explicit discussion of the evidence. The proposal for decision shall contain findings of fact and conclusions of law based on the record. A copy thereof shall be served forthwith on each party or the party's attorney of record. Upon the expiration of the 20th day following the time provided for the filing of exceptions in these rules, the hearing officer's recommended order and the proposal for decision may be adopted by written order of the commissioner unless exceptions shall have been filed, in which case the commissioner may so adopt the hearing officer's recommended order after ruling on said exceptions.

**450. Filing of Exceptions and Replies.** Any party of record may, within 20 days after the date of service of the hearing officer's proposal for decision, file exceptions to the proposal for decision, and replies to such exceptions may be filed within 15 days after the date for filing of such exceptions. Any requests for extension of time within which to file exceptions or replies shall be filed with the hearing officer, and a copy thereof shall be served on all other parties of record by the party making such request. The hearing officer shall promptly notify the parties of his or her action upon the same and shall allow additional time only in extraordinary circumstances where the interests of justice so require.

**460. Form of Exceptions and Replies.** Exceptions and replies to a proposal for decision shall conform as near as may be to the rules herein provided for form of pleadings. The specific exceptions shall be concisely stated. The evidence relied upon shall be pointed out with particularity, and such evidence in the arguments shall be grouped under the exceptions to which they relate.

**470. Orders.** All orders of the commissioner shall be in writing and shall be signed by the commissioner. They shall incorporate the findings of fact and conclusions of law required by law, either in the body of the order or by reference to the hearing officer's proposal for decision. A copy of each order shall be served forthwith upon all parties to the proceeding.

**480. Motions for Rehearing.**

(a) Prior to the entry of the commissioner's order, if the commissioner concludes that substantial errors of procedure or the exclusion of evidence have so affected the record as to render it impractical to determine the case justly and fairly upon the record, the commissioner may order a rehearing.

(b) Unless extension or reduction be granted under the next paragraph, the time prescribed in this paragraph shall control. If a party wishes to file motion for rehearing, it must be filed with the commissioner within 15 days after the date of rendition of a final decision or order. Replies to a motion for rehearing, if any, must be filed with the commissioner within 25 days after the date of rendition of the final decision or order. A motion for rehearing is not a prerequisite to an appeal to the State Board of Education.



(c) The commissioner may by written order extend the period of time for filing a motion for rehearing and replies, except that an extension may not extend the period for the commissioner's action on the motion for rehearing beyond 60 days after the date of rendition of the commissioner's final decision or order. The parties may by agreement and with the approval of the commissioner reduce any of the times provided in this rule.

Doc. No. 797038

## Appeals to the State Board of Education for Contested Cases Arising from the Commission on Standards for the Teaching Profession 226.61.07

The Texas Education Agency has adopted Rules 226.61.07.010, .020, .030, .040, .050, and .060, concerning appeals to the State Board of Education for contested cases arising from the Commission on Standards for the Teaching Profession, on an emergency basis. Any party who has been aggrieved by a final order of the commissioner of education under Rules 226.61.06.010-.480 may appeal that decision to the State Board of Education. The appeal must be filed within 15 days of the commissioner's decision or, if a motion for rehearing has been filed, within 15 days from the date the motion for rehearing is overruled by the commissioner or by operation of law. Notice of hearing must be mailed to all parties of record within 30 days of receipt of the notice of appeal. The decision of the State Board of Education shall be rendered within 60 days from the date the hearing on the appeal is closed.

These rules are adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession.

These new rules are promulgated under the authority of Section 13.032, Texas Education Code.

### .010. Procedure for Appeal.

(a) Any party who has been aggrieved by a final order of the commissioner of education under these rules may appeal that decision to the State Board of Education.

(b) The aggrieved party must file an appeal with the commissioner within 15 days after the date of the commissioner's decision, or if a motion for rehearing has been filed, within 15 days from the date the motion for rehearing is overruled by the commissioner or by operation of law.

(c) A copy of the appeal request shall be sent by the appellant to all parties of record before the commissioner.

(d) The record of appeal to the board shall consist of the following:

(1) the transcript of the hearing made before the commissioner or hearing officer;

(2) pleadings of record;

(3) the final decision of the commissioner, and the proposal for decision of the hearing officer;

(4) evidence offered at the hearing before the commissioner;

(5) other items or record designated by any party in the notice of appeal to the State Board of Education, or otherwise designated in writing within 15 days of the date the notice of appeal is submitted to the commissioner;

(6) the commissioner shall certify the materials set forth above to the board within 10 days of the receipt of the notice of appeal.

.020. *Notice.* The board shall, through the commissioner, cause notice of hearing to be mailed by certified mail to all parties of record of the date and time for hearing, said notice to be mailed within 30 days from receipt of the notice of appeal.

.030. *Testimony and Evidence.* Appeals to the board shall be considered on the record made before the commissioner and any briefs filed by the parties. No new evidence will be received. If the appealing party desires to submit a brief, it must be filed with the notice of appeal. Reply briefs must be filed within 15 days from the date the notice of appeal was filed with the commissioner. Briefs shall be filed with the commissioner of education in at least 25 copies.

### .040. Decisions

(a) The decision of the State Board of Education shall be rendered within 60 days from the date the hearing on the appeal is closed.

(b) In the event the board shall decide to reverse the decision of the commissioner, a motion, either made orally and placed in the minutes of the board or presented in written form and made a part of the minutes of the board, shall be adopted. The motion shall include findings of fact and conclusions of law in sufficient detail to show the basis for the board's decision. A copy of the board's decision shall be mailed within 10 days to all parties of record.

### .050. Rehearing.

(a) A motion for rehearing must be filed with the board within 15 days after the date of the rendition of a final decision or order. Replies to a motion for rehearing must be filed with the board within 25 days after the rendition of the final decision or order, and the board's action on the motion must be taken within 45 days of the date of the rendition of the final decision or order. If the board does not act within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order.

(b) The board may by written order extend the period of time for filing the motion for rehearing and reply, except that an extension may not extend the period for the board's action on the motion for rehearing beyond 60 days after the date of rendition of its final decision or order. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order granting the extension, or in the absence of a fixed date 60 days after the date of the final decision or order.

(c) The board may rule on a motion for rehearing or extend the period of time for filing the motion for rehearing and reply at a meeting or by mail, telephone, telegraph, or other suitable means of communication.

(d) A motion for rehearing is a prerequisite to an appeal from the board's decision.

.060. *Administrative Finality.* For purposes of appeal, administrative finality shall be considered to have occurred upon the exhaustion of all administrative remedies available before the State Board of Education, in addition to those available before the commissioner.

Doc No. 797039

## Teacher Education Programs and Institutions 226.61.96

The Texas Education Agency adopts on an emergency basis amendments to Rules 226.61.96.030, .040, .041, and .050. The amendment to Rule .030 deletes descriptions of functions of the State Board of Education and the State Board of Examiners for Teacher Education and refers instead to Policy 61.02 (rule category 226.61.02), which addresses the responsibilities of the new Commission on Standards for the Teaching Profession. Rule .040 concerns alternative sets of standards for approval of teacher education institutions. Under the amendment, alternative (4), "an experimental plan which has been institutionally developed" is deleted. The amendment to Rule .041 occurs in Subsection (a)(2)(K)(iv) and provides that programs shall be approved by the Commission on Standards for the Teaching Profession, rather than by the State Board of Education. Rule .050 is amended to change two references to other Texas Education Agency regulations, whose numbers have recently been changed. These changes occur in Standard VII, Subsection (a)(2)(B), the provisional certificate for teachers of young children, ages three to eight, and Standard VII, Subsection (a)(2)(D)(iv), bilingual education. The changes in Rule .050 are editorial only.

These amendments are adopted on an emergency basis in order to ensure that there is no lapse in implementing the role of the new Commission on Standards for the Teaching Profession.

These amendments are promulgated under the authority of Section 13.032, Texas Education Code.

### .030. Organization and Procedures for Approval of Teacher Education Programs—June 10, 1972.

(a) The certification of teachers and other school personnel is based upon approval by the *Commission on Standards for the Teaching Profession* [State Board of Education] of institutions of higher learning for teacher preparation and of specific programs offered by the institutions. Although the certification of teachers and other school personnel is legally a responsibility of the state, it is desirable that the state have continuous advice and counsel from the total profession, the schools, and the institutions of higher learning involved in teacher education in order that the total teacher education teacher certification process may be kept responsive to the needs of the state. To facilitate such a process, the following organization and procedures operate.

#### (b) State Board of Education.

(1) Membership (statutory)—one member elected from each congressional district established by law to serve for a term of six years (Texas Education Code: Section 11.21; Section 11.22).

(2) Functions related to teacher education and certification (statutory). *Refer to Policy 61.02.*

[(A) to prescribe rules and regulations for certification (Texas Education Code: Section 13);

[(B) to approve institutions for teacher education (Texas Education Code: Section 13);

[(C) to approve programs for certification (Texas Education Code: Section 13).]

(c) *Commission on Standards for the Teaching Profession* [State Board of Examiners for Teacher Education]. *Refer to Policy 61.02.*

#### [(1) Membership.

[(A) Number—27 members:

[(i) state commissioner of education, ex officio, chairman, voting;

[(ii) six public school teachers and instructional support personnel;

[(iii) four public school administrators including at least one personnel director;

[(iv) five representatives-at-large of organized professional organizations;

[(v) two college/university presidents or appropriate alternates;

[(vi) four deans or heads of education;

[(vii) two college/university teachers;

[(viii) two college/university certification officers;

[(ix) one liaison staff member from the Coordinating Board, Texas College and University System, nominated by the commissioner of higher education.

[(B) Appointed by the state commissioner of education.

#### [(2) Term of office:

[(A) two years;

[(B) one-half of membership appointed each year;

[(C) eligible for not more than one successive reappointment.

#### [(3) Functions:

[(A) to inventory, review, and make recommendations on agency standards required of approved colleges/universities, agency procedures used in approving college/university programs, and agency administration of teacher certification;

[(B) to evaluate and report on college/university practices in their application of teacher education standards;

[(C) to serve as an advisory body on approval of individual colleges/universities applying for teacher education;

[(D) to serve as an advisory body on approval of programs of teacher education applied for by individual colleges/universities;

[(E) to serve as the initial appeals body for teacher education and certification;

[(F) to review teacher education and certification and recommend changes to improve teacher preparation in Texas;

[(G) to analyze current public reports containing recommendations on teacher education and certification in order to establish any relevancy such recommendations may have toward improving teacher preparation in Texas.]

(d) (No change.)

### .040. Applicable Standards for Approval of Teacher Education Institutions.

(a) Institutions seeking approval or reapproval for preparing teachers and other school personnel may choose, from among several alternatives, a set of standards to be used as a basis for the approval of that institution. The alternatives are as follows: [detailed in the letter given below:

[To: Presidents and Teacher Preparation Colleges/Universities and Deans of Education (1/15/74)

[Subject: Applicable Standards for Teacher Education and Certification.

[In Opinion H-197, the attorney general has ruled that

It is not within the authority of the State Board of Education or the State Commissioner of Education to stipulate that institutions seeking approval for teacher education programs must present performance-based applications, but the Board, with the advice of the Commissioner, may promulgate rules and regulations whereby institutions seeking such approval could choose between alternative plans for program approval (one or more of which might be "performance-based") and submit applications accordingly.

[Based on this opinion, institutions preparing teachers may, effective this date, elect from the following plans the alternate it chooses to develop in applying for program(s) or institutional approval. The alternative selected should be clearly identified in the application presented.]

(1) Standards for Teacher Education and Certification, 1955, as amended in 1961: Standards 1 through 5;

(2) Texas Standards for Teacher Education and Certification, June 1972, as amended in 1973: Standards 1 through 6;

(3) a combination of all, or any part(s), of the Standards cited in 1 and 2 above.

(4) an experimental plan which has been institutionally developed.]

*The alternative selected should be clearly identified in the application presented.*

(b) Programs submitted in each of the *three* [four] alternative plans are subject to [review and recommendations by the Board of Examiners for Teacher Education and subsequent final] approval by the *Commission on Standards for the Teaching Profession* [State Board of Education].

[Very truly yours,

[J. W. Edgar

[Commissioner of Education]

*.041. Standards for Teacher Education in Texas, 1955 as amended in 1961: Standards I through V.*

(a) Standard I: Basic Considerations.

(1) (No change.)

(2) To be approved for teacher education, a college or university shall:

(A)-(J) (No change.)

(K) Institutions are encouraged to develop and plan programs for that portion of their student body identified as exceptionally able students. Identification of the exceptionally able student in teacher preparation should include, in addition to academic achievement, factors such as emotional maturity and skill in human relations. The following principles shall serve institutions in constructing programs for exceptionally able students preparing for teaching:

(i)-(iii) (No change.)

(iv) Programs for exceptionally able students preparing to teach shall be [reviewed by the State Board of Examiners for Teacher Education and] approved by the *Commission on Standards for the Teaching Profession* [State Board of Education].

(v) (No change.)

(b)-(e) (No change.)

*.050. Program Requirements for Preparation of School Personnel—Standards for Teacher Education in Texas, 1955 as Revised through May 8, 1976: Standards VII and VIII.*

(a) Standard VII—Instructional Patterns: Teacher Education Programs at the Undergraduate Level.

(1) (No change.)

(2) Preparation in areas of specialization.

(A) (No change.)

(B) Provisional certificate, teachers of young children, ages three through eight. Teacher certification requirements for the provisional certificate, teachers of young children, ages three through eight, may be found in rule *Chapter 226.62.07* [226.62.20.040].

(C) (No change.)

(D) Bilingual education.

(i)-(iii) (No change.)

(iv) Requirements for bilingual endorsement.

Requirements for the bilingual education endorsement may be found in Rule *226.62.19.060* [226.62.24.060].

(No change in the rest of the rule.)

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

Doc. No. 797040

A. O. Bowen

Commissioner of Education

Effective Date: October 17, 1979

Expiration Date: February 14, 1980

For further information, please call (512) 475-7077.

## Railroad Commission of Texas

### Transportation Division

#### Emergency Peanut Authority 051.03.02

On October 17, 1979, the commission was advised by affidavit of the Southwestern Peanut Growers' Association that there is a critical shortage of transportation equipment for the current crop of peanuts being harvested. The combination of a record crop and continuous harvesting uninterrupted by weather conditions has overburdened normal storage facilities. Although currently certificated carriers are being used, those carriers are unable to supply sufficient equipment. If additional transportation facilities are not made available, the resulting deterioration of harvested peanuts will cause losses to farmers of two to three million dollars. This would have a critical impact upon the involved agricultural production capability in Texas.

The commission is satisfied that the current shortage of equipment available to transport uncooked peanuts has created an imminent peril to the public health, safety, and welfare as required by Section 5(d) of the Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Revised Civil Statutes, for adoption of an emergency rule.

Accordingly, emergency Rule 051.03.02.023 is promulgated pursuant to the above-referenced provisions and the authority vested in the commission by Article 911b, Texas Revised Civil Statutes.

*.023. Emergency Peanut Authority.*

(a) Beginning on October 18, 1979, and for 30 days thereafter unless extended by the commission, all carriers

with proof of insurance on file with the Railroad Commission of Texas as indicated by the presence of a valid cab card and plate or stamp issued by this commission are authorized to transport uncooked peanuts between any points in Texas.

(b) All carriers operating under this authority must comply with all applicable commission rates, rules, and regulations.

(c) All carriers operating under this authority shall keep a copy of this order in the cab of any vehicle used for such transportation.

(d) This rule shall take effect immediately upon filing with the secretary of state.

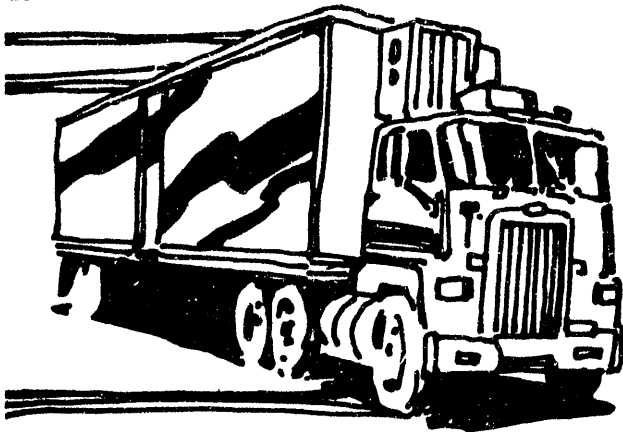
Issued in Austin, Texas, on October 18, 1979.

Doc. No. 797070 James E. (Jim) Nugent  
Commissioner  
Railroad Commission of Texas

Effective Date: October 18, 1979

Expiration Date: November 17, 1979

For further information, please call (512) 445-1331.



## Office of the Secretary of State

### Elections Division

#### Suffrage 004.30.05

The secretary of state as chief elections officer of the State of Texas is amending Rule 004.30.05.315, which prescribes the voter registration application form, on an emergency basis. Article 5.13a of the Election Code provides that the state shall pay for the postage incident to applications for voter registration but for no other purposes. The amendment prohibits use of the postage-free voter registration application for such unauthorized purposes. It is necessary to adopt this rule on an emergency basis in order to protect the public welfare by insuring that no unauthorized expenditure is made from the state's postage-free voter registration account.

This rule is promulgated under the authority of Articles 1.03 and 5.13a, Vernon's Texas Election Code.

#### .315. Voter Registration Application/Change Form.

(A) The secretary of state adopts by reference the Voter Registration Application/Change form which is attached hereto and made a part hereof for all purposes.

(b) No person shall mail the Voter Registration Application/Change form at state expense for any purpose other than making application to register a voter previously unregistered in his present county of residence.

Issued in Austin, Texas, on October 1, 1979.

Doc. No. 797071 George W. Strake, Jr.  
Secretary of State

Effective Date: October 18, 1979

Expiration Date: February 15, 1980

For further information, please call (512) 475-3091.

# PROPOSED RULES

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

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.

## Comptroller of Public Accounts

### Tax Administration

#### Sales Tax Division 026.02.20.006

The comptroller of public accounts is proposing to amend Rule 026.02.20.006. The proposed amendment clarifies certain portions of the rule and conforms them to present comptroller policy. In addition, the amendment (1) adds definitions of "retailer" and "place of business"; (2) adds the responsibilities of the seller, which were formerly a part of Rule .030; and (3) changes the amount of interest on penalties assessed against taxpayers who are more than 60 days delinquent from 6.0% per annum on the delinquent amount to 7.0% effective January 1, 1980.

The first two changes are definitions and clarifications of the present policy and would therefore have no fiscal impact. The probable revenue gain from implementing the provisions of the third change in 1980 and in the next four years are estimated as follows:

Year	Increased Revenue to General Fund
1980	\$1,482,000
1981	\$1,636,000
1982	\$1,800,000
1983	\$1,986,000
1984	\$2,187,000

Similar increases would continue as long as the rule is in effect (source: revenue estimating staff, Office of the Comptroller of Public Accounts).

Public comment on the proposed amendment is invited. Interested persons should submit their comments in writing to Jim Phillips, Drawer SS, Austin, Texas 78711.

The amendment is proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

.006. *Seller's Responsibilities—Permits, Collections, Payments, Discounts, Records Required, Suspension (Texas Taxation—General Annotated, Article 20.01(J); 20.02; 20.021(C), (D), (E); 20.031(B), (E); 20.05; 20.11) [Permits (20.021(C)(D)(E), 20.031(B)(E), 20.01(J)(S))].*

#### (a) Definitions.

(1) "Retailer" means and includes every seller, including a wholesaler, who sells, leases, or rents taxable items in this state or who transfers ownership of such items for a consideration.

(2) "Place of business" of the seller means an established outlet, office, or location operated by the retailer, his agent, or employee for the purpose of receiving orders for taxable items. A warehouse, storage yard, or manufacturing plant may not be considered a "place of business" of the seller unless three or more orders are received by the seller in a calendar year at such warehouse, storage yard, or manufacturing plant.

(3) "Engaged in business" means and includes any of the following:

(A) any seller maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through an agent, by whatever name called, an office, place of distribution, sales or sample room, warehouse, or storage place, or other place of business;

(B) any seller having any representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the seller for the purpose of selling, delivering, or taking orders for any taxable items;

(C) any promoter of a flea market, trade day, or other event involving the sales of taxable items will be considered a seller and shall be responsible for the collection and remittance of the sales tax collected by dealers, salespersons, or individuals at such events unless the participants hold active tax permits issued by the comptroller.

#### (b) Permits required.

(1) Every seller must apply to the comptroller for a tax permit for each place of business.

(2) Every out-of-state seller engaged in business in this state shall apply to the comptroller for a tax permit.

#### (c) Obtaining a permit.

(1) An application will be furnished by the comptroller and must be filled out completely. After the application is filled out and returned to the comptroller, together with whatever bond or other security is required under Rule .047—Bonds, a separate permit under the same account number will be issued to the applicant for each place of business. There will be no charge for the permit.

(2) The permit cannot be transferred from one owner to another. It is valid only for the person to whom it was issued and for the transaction of business only at the address shown on the permit. The permit need not be renewed. If a person operates two or more types of business under the same roof, he need have only one permit.

(3) The permit must be conspicuously displayed at the place of business for which it is issued. However, a person who has traveling salesmen operating from one central office needs only one permit, which must be displayed at the Central Office.

(4) All permits of the seller will have the same taxpayer number; however, each business location will

have a different outlet number. The outlet numbers assigned may not necessarily correspond to the number of business locations owned by a taxpayer.

**(d) Collection of the tax.**

(1) Each seller must collect the tax on each separate retail sale, in accordance with the bracket system contained in Article 20.021(A). Copies of the bracket system should be displayed in each place of business so both the seller and his customers may easily use them. Until collected, the tax is a debt of the purchaser to the seller.

(2) The sales tax applies to each total sale, not to each item of each sale. For example, if two items are purchased, each costing \$.07, the seller must collect the tax on the total selling price of \$.14.

(3) It is unlawful for any seller to advertise or hold out to the public that he will assume, absorb, or refund any portion of the tax, or that he will not add the tax to the selling price of the taxable items being sold.

**(e) Payment of the tax.**

(1) Each seller must remit tax on all receipts from the sales of taxable items less any applicable deductions. On or before the last day of the month following each reporting period, each person subject to the tax shall file a consolidated return together with his tax payment for all businesses operating under the same taxpayer number.

(2) The returns must be signed by the person required to file the report or by his duly authorized agent, but need not be verified by oath.

(3) The returns will be filed on forms prescribed by the comptroller. The fact that the seller does not receive the form from the comptroller for the filing of the return, does not relieve him of the responsibility of filing a return and payment of the required tax.

(4) For information on yearly and monthly filing of returns, see Rule .035—Yearly Filing of Reports and Rule .055—Monthly Reporting.

**(f) Records required.**

(1) Records must be kept for four years, unless the comptroller authorizes in writing a shorter retention period. Exemption and resale certificates must be kept for four years following the completion of the last sale covered by the certificate. Also see Rule .001—Records Required; Information Required and Rule .002—Auditing Taxpayers' Records.

(2) The comptroller or his authorized agent has the right to examine any records or equipment of any person liable for the tax, in order to verify the accuracy of any return made or to determine the tax liability in the event no return is filed.

**(g) Prepaying the tax; discounts.**

(1) Each seller may retain 1.0% of the amount due from him as reimbursement for his expenses in collecting the tax. In addition, a taxpayer who makes a prepayment based upon an estimate of his tax liability may retain an additional 2.0% of the amount due. The prepayment must be made on or before the 15th day of the second month (February, May, August, and November) of the quarter for which the tax is due. Monthly prepayments are due on or before the 15th day of the month and are also entitled to the additional 2.0% deduction.

(A) On or before the last day of the month following the quarter for which a prepayment was made, the taxpayer must file a return showing his actual

liability and remit any amount due in excess of the prepayment. If there is an additional amount due, the taxpayer may retain the 1.0% reimbursement provided that both the return and the additional amount due are timely filed. If the prepayment exceeded the actual liability, the taxpayer will be mailed an overpayment notice.

(B) If a taxpayer does not file a quarterly or monthly return together with payment on or before the due date, he forfeits all discounts and incurs a mandatory 5.0% penalty. After the first 30 days delinquency, an additional mandatory penalty of 5.0% is assessed against the taxpayer, and after the first 60 days delinquency, interest begins to accrue at the rate of 6.0% per annum (7.0% per annum effective January 1, 1980).

*Example of taxpayer who prepays and files a timely sales tax return:* John Doe estimates that he will sell \$100,000 worth of taxable items during January, February, and March. Before February 15th, Mr. Doe files an estimated tax return with the comptroller and sends a check to the state for \$3,880 (\$4,000 estimated tax less 3.0% discount). In April, Mr. Doe files his quarterly return showing that the actual tax liability for the quarter is \$4,100. Mr. Doe remits \$99 with his final return (\$100 excess over prepayment less his 1.0% discount).

**(h) Resale and exemption certificates.**

(1) Any person selling taxable items in this state must collect a tax on the taxable items so sold unless he receives a resale, exemption, or direct payment exemption certificate.

*Note:* Simply having numbers in file without properly completed certificates does not relieve the seller from collecting tax.

(2) A seller may accept a resale certificate only from a purchaser who is in the business of reselling the taxable items within the geographical limits of the United States of America, its territories, and possessions. See Rule .005—Sales for Resale. To be valid, the resale certificate must show the number from the purchaser's tax permit.

(3) A seller may accept an exemption certificate in lieu of the tax on sales of items that will be used in an exempt manner or on sales to exempt entities. See Rule .007—Exemption Certificates. There is no exemption number. An exemption certificate does not require a number to be valid.

(4) The burden is on the person claiming an exemption to show that he is entitled to the exemption. The seller must act in "good faith" in the acceptance of resale or exemption certificates.

(5) Direct payment permit holders are entitled to issue an exemption certificate when purchasing all taxable items, other than those purchased for resale. The direct payment exemption certificate must show the purchaser's direct payment permit number.

**(i) Suspension of permit.**

(1) If a person fails to comply with the Sales Tax Law or the rules and regulations issued by the comptroller, the comptroller may suspend the person's permit or permits.

(2) Before a permit is suspended, the person is entitled to a hearing before the comptroller to show cause why his permit or permits should not be suspended. The comptroller shall give the person at least 20 days notice.



which shall be in accordance with the requirements of Rule 026.01.01.014—Notice of Setting.

(3) After a permit has been suspended, a new permit will not be issued to the same person until such person has posted sufficient security and satisfied the comptroller that he will comply with both the provisions of the law and the comptroller's rules and regulations.

(a) Types of permits.

(1) Every person desiring to engage in business in the State of Texas who sells, leases, or rents taxable items in this state or who causes ownership of such properties to be transferred must make an application with the comptroller of public accounts for a limited sales tax permit for each place of business.

(2) Every out-of-state retailer engaged in business in this state as defined in Article 20.031 (B) of the Limited Sales, Excise, and Use Tax Act shall file with the comptroller an application for a use tax permit and obtain a certificate of authority from the comptroller.

(b) "Engaged in business" defined. Persons engaged in business in this state, as used above, means and includes any of the following:

(1) any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse, or storage place, or other place of business;

(2) any retailer having any representatives, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any taxable items;

(3) any promoter of a flea market, trade day, or other event involving the sales of tangible personal property will be considered to be a retailer and shall be responsible for the collection and remittance of the sales tax collected by dealers, salesmen, or individuals at such events unless the participant shall hold an active sales or use tax permit issued by the comptroller.

(c) Procedure.

(1) After filling out the application and returning it to the comptroller, together with a bond or other security as described in Rule .047, a separate permit under the same account number will be issued to the applicant for each place of business. There will be no charge for the permit. The application will be furnished by the comptroller and must be filled out completely.

(2) The permit issued is not assignable. It is valid only for the person to whom it was issued and for the transaction of business only at the place designated on the permit and need not be renewed. Where a person maintains two or more types of business under the same roof, he need have only one permit.

(3) The permit must be conspicuously displayed at the place for which it is issued.

(d) Suspension or revocation of permit.

(1) Whenever a person fails to comply with the Limited Sales, Excise, and Use Tax Act or the rules and regulations issued thereunder, the comptroller may revoke or suspend the person's permit or permits.

(2) Prior to revocation or suspension of the permit, the person is entitled to a hearing before the comptroller to show cause why his permit or permits should not be revoked or suspended. The comptroller shall give the person at least

20 days notice, which shall be in accordance with the requirements of Rule 026.01.01.014—Notice of Setting.

(3) After a permit has expired or has been suspended or revoked, a new permit will not be issued to the same person until such person has posted sufficient security and satisfied the comptroller that he will comply with both the provisions of the law and the rules and regulations issued thereunder.)

Doc. No. 797086

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the comptroller of public accounts, LBJ Building, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The comptroller of public accounts is proposing to repeal Rules 026.02.20.030, .050, and .063. The materials contained in Rule .030 are being revised and incorporated into Rule .006. Both rules concern sales tax permits; therefore, they are being consolidated into a single rule. Rule .050, relating to processing, rebuilding, and reconditioning, and Rule .063, relating to custom manufacturing, have been incorporated into Rule .020—Manufacturing, Custom Manufacturing, Fabricating Process.

There are no fiscal implications expected as a result of the proposed repeals (source: revenue estimating staff, Office of the Comptroller of Public Accounts).

Public comment on the proposed repeals is invited. Interested persons should submit their comments in writing to Jim Phillips, Drawer SS, Austin, Texas 78711.

## 026.02.20.030

The repeal of Rule .030 is proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

.030. Responsibilities of a Seller (20.01, 20.021, 20.03, 20.031, 20.05, 20.11).

## 026.02.20.050

The repeal of Rule .050 is proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A) (1969).

.050. Processing, Rebuilding, Reconditioning (20.01(K)(2)(a), 20.04(E), 20.04(R)).

## 026.02.20.063

The repeal of Rule .063 is proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A) (1969).

.063. Custom Manufacturing.

Doc. Nos. 797087-797089

## 026.02.20.069

The comptroller of public accounts is proposing to amend Rule 026.02.20.069 to read the same as motor vehicle Rule 026.02.06.041—Moveable Specialized Equipment.



There are no significant fiscal implications expected from the proposed amendment (source: revenue estimating staff, Office of the Comptroller of Public Accounts).

Public comment on the proposed amendment is invited. Persons should submit their comments in writing to Jim Phillips, Drawer SS, Austin, Texas 78711.

This amendment is proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

**.069. Moveable Specialized Equipment.**

(a) (No change.)

(b) Moveable specialized equipment.

(1) A unit designed and built specifically to perform a specialized function which does not include transporting property separate from itself or persons other than the driver is not a motor vehicle. Examples of moveable specialized equipment meeting these criteria are *motorized cranes, motorized oil well servicing units, and mobile auto crushers* [a mobile auto crusher and a super loop carnival ride].

(2) (No change.)

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 797090      Bob Bullock  
Comptroller of Public Accounts

Proposed Date of Adoption: November 26, 1979  
For further information, please call (512) 475-3825.

## Texas Education Agency

### Teacher Education

(Editor's note: The Texas Education Agency proposes for permanent adoption the new rules and the amendments to existing rules, which it adopts on an emergency basis in this issue. The texts of the amended and new rules appear in the Emergency Rules section.)

The Texas Education Agency proposes to amend existing rules and to adopt new rules in its chapter of rules entitled Teacher Education.

The Texas Education Agency does not anticipate the proposed amendments or new rules in Chapter .61, Teacher Education, will have state or local fiscal implications.

Public comment on the proposed amendments and 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*.

### The Teacher Education Review Process 226.61.01

The Texas Education Agency proposes to amend Rule 226.61.01.010, concerning teacher education. The proposed amendment clarifies that regulations relating to the teacher

education process shall govern the approval or disapproval of (1) institutions engaged in the preparation of teachers, (2) individual teacher education programs in such institutions, and (3) licenses and degrees for salary purposes under the Public Education Compensation Plan which are conferred by or based upon credit earned in an approved teacher education institution. The teacher education review process shall be administered through the Texas Education Agency at the direction of the Commission on Standards for the Teaching Profession.

This amendment, also adopted on an emergency basis, is proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.

Doc. No. 797041

### Standards for Teacher Education Institutions 226.61.03

The Texas Education Agency proposes to amend Rule 226.61.03.010, concerning standards for teacher education institutions. These standards are recommended by the Commission on Standards for the Teaching Profession and approved by the State Board of Education. All institutions, branches, clusters, centers, or similar organizational arrangements operating teacher education programs in Texas must be approved by the Commission on Standards for the Teaching Profession. It is proposed that the text of the administrative procedure section of the rule be deleted.

This amendment, also adopted on an emergency basis, is proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.

Doc. No. 797042

### The Institutional Review Process 226.61.04.010, .020

The Texas Education Agency proposes to amend Rules 226.61.04.010 and .020, concerning the procedure for review of institutions for teacher education programs and activities and the recognition of degrees for teacher certification purposes. The proposed amendment to Rule .010 defines the role of the Commission on Standards for the Teaching Profession in this area. The Texas Education Agency assists in the review process as requested by the Commission on Standards for the Teaching Profession, as directed by the State Board of Education, and the commissioner of education. Most of the text of the administrative procedure section of Rule .020 is deleted. This material concerned procedures for institutional approval. The procedures are set out, in revised form, in proposed new Rules .021-.029.

These amendments, also adopted on an emergency basis, are proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.\*

Doc. No. 797043

### 226.61.04.021-.029

The Texas Education Agency proposes to adopt Rules 226.61.04.021-.029, concerning procedures for review of in-

stitutions for teacher education programs and activities. Institutions desiring approval must apply to the Texas Education Agency. Institutions must reapply for approval near the end of each approval period (Rule .021). Rule .022 describes the composition and function of the visiting team. The Commission on Standards for the Teaching Profession will use all information submitted about an institution as the basis for making decisions concerning approval or disapproval. Approval may be with or without conditions (Rule .023) for a period of from one to five years (Rule .024). When conditions at an institution are so critical that immediate corrections are necessary, or so unstable that time is needed for the institution to take action to stabilize the conditions, action on approval of a given institution may be deferred (Rule .025).

Rule .026 describes provisions for students of junior standing or above enrolled in institutions which withdraw from or are disapproved for teacher education. Rule .027 requires annual reports from institutions on the approval list. Rules .028 and .029 address changes in the teacher education programs made by institutions on the approved list, and procedures for the initial application for approval.

These new rules, also adopted on an emergency basis, are proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.

Doc. No. 797044

## Hearings before the Commissioner of Education for Contested Cases Arising from the Commission on Standards for the Teaching Profession 226.61.06

The Texas Education Agency proposes to adopt Rules 226.61.06.010, .020, .030, .040, .050, .060, .070, .080, .090, .100, .110, .120, .130, .140, .150, .160, .170, .180, .190, .200, .210, .220, .230, .240, .250, .260, .270, .280, .290, .300, .310, .320, .330, .340, .350, .360, .370, .380, .390, .400, .410, .420, .430, .440, .450, .460, .470, and .480, concerning hearings before the commissioner of education for contested cases arising from the Commission on Standards for the Teaching Profession. Under the proposed new rules, a request for a hearing must be submitted within 15 days after receipt of notice of the action about which the party requesting the hearing is dissatisfied. The rules set out procedures for notice of hearing, service and filing of pleadings, the holding of a prehearing conference, the order of procedure at the hearing, the proposal for decision, and other matters.

These new rules, also adopted on an emergency basis, are proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.

Doc. No. 797045

## Appeals to the State Board of Education for Contested Cases Arising from the Commission on Standards for the Teaching Profession 226.61.07

The Texas Education Agency proposes to adopt Rules 226.61.07.010, .020, .030, .040, .050, and .060, concerning appeals to the State Board of Education for contested cases arising

from the Commission on Standards for the Teaching Profession. Any party who has been aggrieved by a final order of the commissioner of education under Rules 226.61.06.010-.480 may appeal that decision to the State Board of Education. The appeal must be filed within 15 days of the commissioner's decision or, if a motion for rehearing has been filed, within 15 days from the date the motion for rehearing is overruled by the commissioner or by operation of law.

Notice of hearing must be mailed to all parties of record within 30 days of receipt of the notice of appeal. The decision of the State Board of Education shall be rendered within 60 days from the date the hearing on the appeal is closed.

These new rules, also adopted on an emergency basis, are proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.

Doc. No. 797046

## Teacher Education Programs and Institutions 226.61.96

The Texas Education Agency proposes to amend Rules 226.61.96.030, .040, .041, and .050, concerning standards for teacher education programs and institutions. The proposed amendment to Rule .030 deletes descriptions of functions of the State Board of Education and the State Board of Examiners for Teacher Education and refers instead to Policy 61.02 (Rule Chapter 226.61.02) which addresses the responsibilities of the new Commission on Standards for the Teaching Profession.

Rule .040 concerns alternative sets of standards for approval of teacher education institutions. Under the proposed amendment, alternative (4) "an experimental plan which has been institutionally developed" is deleted. The amendment to Rule .041 occurs in subsection (a)(2)(K)(iv) and provides that programs shall be approved by the Commission on Standards for the Teaching Profession, rather than by the State Board of Education.

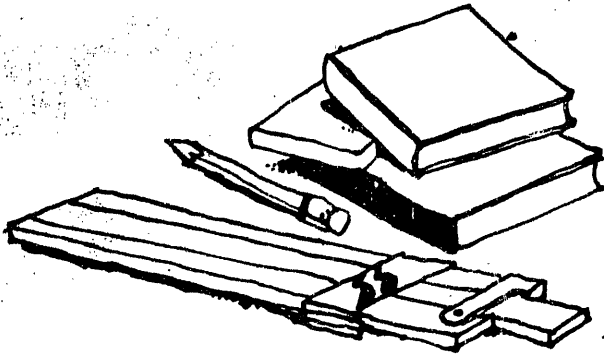
Rule .050 is amended to change two references to other Texas Education Agency regulations, whose numbers have recently been changed. These changes occur in Standard VII, subsection (a)(2)(B), the provisional certificate for teachers of young children, ages three to eight, and Standard VII, subsection (a)(2)(D)(iv), bilingual education. The changes in Rule .050 are editorial only.

These amendments, also adopted on an emergency basis, are proposed for permanent adoption under the authority of Section 13.032, Texas Education Code.

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

Doc. No. 797047      A. O. Bowen  
Commissioner of Education

Proposed Date of Adoption: January 12, 1980  
For further information, please call (512) 475-7077.



## State Board of Insurance

### Rating and Policy Forms

#### Fixing Rate of Automobile Insurance 059.05.01

The State Board of Insurance proposes to amend, effective January 1, 1980, Rule 059.05.01.001, which adopted by reference the Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements. The proposed amendment is adoption of a new Endorsement 158R—amendatory endorsement—family protection coverage, protection against uninsured motorists, and insurance against uninsured motorists (uninsured/underinsured motorists coverage) to replace the current Endorsement 158P with the same title. The primary purpose of the amendment is to comply with Senate Bill 642, Acts of the 66th Legislature, Regular Session. In addition, the new Endorsement 158R clarifies the "trust agreement" provisions as it relates to underinsured motorists insurance and makes changes in the definition of "hit and run" vehicle and in the "conditions" section respecting the reporting requirements and right of inspection of an insurer prior to the time repairs are made to any property damaged for which coverage would be afforded under the property damage provisions of uninsured/underinsured motorists coverage.

The proposed amendment has no known fiscal effects for the state or for units of local government (source: State Board of Insurance staff).

Public comment on the proposed amendment is invited and may be submitted in writing to D. E. O'Brien, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

This amendment is proposed pursuant to the authority of Articles 5.01 and 5.06, Texas Insurance Code.

.001. *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements.* The State Board of Insurance adopts by reference the attached Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements as amended in *January 1980* [October 1979]. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 797018

#### Policy Forms and Endorsements 059.05.06.001

The State Board of Insurance proposes to amend, effective January 1, 1980, Rule 059.05.06.001, which adopted by reference the Standard Provisions for Automobile Policies Written on and after October 1, 1974. The changes are in the insuring agreements relating to uninsured/underinsured motorists coverage and appear on pages 34-36, 59-61, and 69-71. The changes to the standard provisions are required by the provisions of Senate Bill 642, Acts of the 66th Legislature, Regular Session. In addition, the revisions clarify provisions relative to underinsured motorists coverage and revise the definition of "hit and run" vehicle to qualify the time for reporting an occurrence caused by a "hit and run" vehicle. Other editorial changes are made in that definition. A copy of the revised pages as they will read if the proposed changes are adopted is attached.

The proposed amendment has no known fiscal effects for the state or for units of local government (source: State Board of Insurance staff).

Public comment on the proposed amendment is invited and may be submitted in writing to D. E. O'Brien, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

This amendment is proposed pursuant to the authority of Article 5.06 of the Texas Insurance Code.

.001. *Standard Provisions for Automobile Policies Written on and after October 1, 1974.* The State Board of Insurance adopts by reference the attached Standard Provisions for Automobile Policies Written on and after October 1, 1974, as amended in *January 1980* [April 1979]. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 797019

#### 059.05.06.002

The State Board of Insurance proposes to amend, effective January 1, 1980, Rule 059.05.06.002, which adopted by reference the Standard Provisions for Automobile Policies Written on and after April 1, 1955. The amendment revises the standard provisions by deleting Endorsement 158P as it appears on pages 119-122 and replaces the deleted endorsement with Endorsement 158R. The amendment is proposed as a result of the provisions of Senate Bill 642, Acts of the 66th Legislature, Regular Session. In addition, the new Endorsement 158R clarifies the provisions of the underinsured motorists protection and makes changes in the definition of "hit and run" vehicle respecting the reporting requirements and the right of inspection of an insurer prior to the time that repairs are made to any property damaged by a "hit and run" vehicle. A copy of the revised pages as they will read if the proposed changes are adopted is attached.

The proposed amendment has no known fiscal effects for the state or for units of local government (source: State Board of Insurance staff).

Public comment on the proposed amendment is invited and may be submitted in writing to D. E. O'Brien, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

This amendment is proposed pursuant to the authority of Article 5.06 of the Texas Insurance Code.

**.002. Standard Provisions for Automobile Policies Written on and after April 1, 1955.** The State Board of Insurance adopts by reference the attached Standard Provisions for Automobile Policies Written on and after April 1, 1955, as amended in *January 1980* [April 1979]. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on October 2, 1979.

Doc. No. 797020      Pat Wagner  
                                  Chief Clerk  
                                  State Board of Insurance

Proposed Date of Adoption: November 26, 1979  
 For further information, please call (512) 475-3486.

## Texas Department of Mental Health and Mental Retardation

### Texas Board of MH/MR

#### Definition of Terms 302.01.01

The Texas Board of Mental Health and Mental Retardation is proposing to amend Rule 302.01.01.001, which contains definitions for words and phrases used in the rules and basic and general policies of the board. The proposed amendment to Rule .001 would add a title to the rule and would add language to subsection (a) of the rule which defines the word "department." The new language would add the following positions and entities to the enumeration of positions and entities of which the Texas Department of Mental Health and Mental Retardation consists: a deputy commissioner for community services, the San Antonio State School, Rusk State School, the Skyview Maximum Security Unit, the Waco Center for Youth, and the Laredo State Center for Human Development. The reference to the Austin State School Annex would be deleted by the proposed amendment. The purpose of the proposed amendment is to reflect statutory changes and to make the rule current. The proposed amendment to Rule .001 was approved by the board at its September 21, 1979, meeting.

Promulgation of the proposed amendment to Rule .001 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 amendment 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.

The amendment to Rule .001 is proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

**.001. Definition of Terms.** As used in these rules and basic and general policies of the Texas Board of Mental Health and Mental Retardation:

(a) "Department" means the Texas Department of Mental Health and Mental Retardation which shall consist of a Texas Board of Mental Health and Mental Retardation, a commissioner of mental health and mental retardation, a deputy commissioner for mental health services, a deputy commissioner for mental retardation services, a deputy commissioner for community services, a staff under the direction of the commissioner and the deputy commissioners, and the following facilities and institutions together with such additional facilities and institutions as may hereafter by law be made a part of the department:

- (1)-(2) (No change.)
- (3) the San Antonio State Hospital *and the San Antonio State School*;
- (4)-(5) (No change.)
- (6) the Rusk State Hospital, *Rusk State School, and the Skyview Maximum Security Unit*;
- (7)-(9) (No change.)
- (10) the Austin State School [and its Austin State School Annex];
- (11)-(27) (No change.)
- (28) *The Waco Center for Youth;*
- (29) *The Laredo State Center for Human Development.*
- (b)-(h) (No change.)

Doc. No. 797022

#### Organization 302.01.02

The Texas Board of Mental Health and Mental Retardation is proposing to amend Rule 302.01.02.001, which describes the organization, membership, terms of office, the chairman, the vice-chairman, and committees of the board. The proposed amendment to Rule .001 would amend subsection (e)(5) of the rule to indicate that the name of the Committee to Examine Appointees Requiring Board Approval has been changed to Personnel Committee. The proposed amendment was approved by the board at its September 21, 1979, meeting.

The promulgation of the proposed amendment to Rule .001 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 amendment 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.

The amendment to Rule .001 is proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

**.001. Members; Terms of Office; Chairman; Vice-Chairman; Committees.**

- (a)-(d) (No change.)
- (e) Standing committees of the board are as follows:
  - (1)-(4) (No change.)
  - (5) *Personnel Committee* [to Examine Appointees Requiring Board Approval].

Doc. No. 797023

### Procedures 302.01.03.001

The Texas Board of Mental Health and Mental Retardation is proposing to amend Rule 302.01.03.001, which contains requirements for meetings of the board. The proposed amendment to Rule .001 would designate the present text of the rule as subsection (a) and would add a new subsection (b) to the rule. The new subsection would provide that minutes of all board meetings shall be maintained, but minutes of committee meetings of the board need not be maintained. The proposed amendment would reflect the present practice of the board and would satisfy a requirement of new Joint Commission on the Accreditation of Hospitals standards. The proposed amendment was approved by the board at its September 21, 1979, meeting.

The promulgation of the proposed amendment to Rule .001 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 amendment 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.

The amendment to Rule .001 is proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

#### .001. Meetings.

(a) The Texas Board of Mental Health and Mental Retardation is required by law to hold at least *four* [six] regular meetings per year in the state capital. Meetings shall be announced by the chairman. Five members of the board constitute a quorum for the transaction of business. Meetings of the board shall be announced and conducted as required by Article 6252-17, Vernon's Annotated Civil Statutes.

(b) *Minutes of all board meetings shall be maintained. Minutes of committee meetings of the board need not be maintained.*

Doc. No. 797024

### 302.01.03.005

The Texas Board of Mental Health and Mental Retardation proposes to adopt Rule 302.01.03.005, which would specify the procedure to be followed by individuals or organizations that desire to appear and make a presentation to the board. Proposed Rule .005 would require an individual or organization to make a written request to the chair of the board in order to appear and make a presentation to the board. The proposed rule would specify the address to which the written request must be sent and would specify that the written request must state the subject matter to be presented and must be accompanied by an outline of the proposed presentation. The proposed rule would also provide that normally the request must be made at least 30 days prior to the board meeting for which the agenda item is requested and that the chair of the board will notify the person making the request of the decision regarding that request. Proposed Rule .005 was approved by the board at its September 21, 1979, meeting.

The promulgation of proposed Rule .005 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 this new rule 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.

Rule .005 is proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

#### .005. Agenda Items.

(a) Any individual or organization that wishes to appear before the board shall make a request to do so in writing to the chair of the board at this address: Chair, Texas Board of Mental Health and Mental Retardation, P.O. Box 12668, Capitol Station, Austin, Texas 78711.

(b) Such request shall state the subject matter to be presented and shall be accompanied by an outline of the proposed presentation.

(c) Normally, such request shall be made at least 30 days prior to the board meeting for which the agenda item is requested.

(d) The chair of the board shall notify the party requesting to be placed on the agenda of the board of the decision regarding that request.

Doc. No. 797025

### Duties 302.01.04.004, .009, .010

The Texas Board of Mental Health and Mental Retardation proposes to amend Rules 302.01.04.004, .009, and .010 of its rules concerning the duties of the board. The proposed amendment to Rule .004, which deals with unexpended balances, would delete the language in the rule which states that all unexpended balances not otherwise restricted may be allocated to any institution other than the Central Office for purposes approved by the board and would substitute in its place language to provide that all unexpended balances not otherwise restricted may be expended upon approval by the board only for repair of gas lines, steam lines, insulation, and other energy-saving equipment. The proposed amendment to the rule is necessary because Appropriation Act rider provisions have been changed which require the amendment.

The proposed amendment to Rule .009, which deals with appropriation transfers, would delete the present text of the rule and would substitute in its place language which would state the appropriation transfer authority of the department as specified by the current appropriation act. The proposed amendment to the rule is necessary because of changes in the Appropriation Act provisions.

The proposed amendment to Rule .010, which deals with the appointment of the commissioner, would designate the present text of the rule as subsection (a), would add a new subsection (b) to provide that the commissioner must be a physician licensed to practice in this state and must have proven administrative experience and ability, and would add a new subsection (c) to state the duties and responsibilities of the commissioner. The proposed amendment is necessary to comply with new Joint Commission on the Accreditation of Hospitals standards and to make the rule consistent with state law. The board approved the proposed amendments to Rules .004, .009, and .010 at its September 21, 1979, meeting.

The promulgation of the proposed amendments to Rules .004, .009, and .010 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 amendments 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.

The amendments to Rules .004, .009, and .010 are proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

**.004. Unexpended Balances.** All unexpended balances not otherwise restricted may be expended upon approval by the board only for repair of gas lines, steam lines, insulation, and other energy saving equipment allocated to any institution other than the Central Office for purposes approved by the board.

**.009. Appropriation Transfers.**

(a) An amount not to exceed 5.0% per year of any item of appropriation made to the Texas Department of Mental Health and Mental Retardation, or to an institution under the jurisdiction of the department, may be transferred to another item of appropriation of the department upon the advance written approval by the Texas Board of Mental Health and Mental Retardation, following a written request by the commissioner, whenever such board deems that such transfers are necessary to make the most effective and economical use of funds appropriated to the department and institutions or agencies under its jurisdiction. Such transfers:

- (1) may be made only for the purpose of providing direct client services;
- (2) may not be used for such purposes as administration, construction, or services which only indirectly affect client services;
- (3) shall only be made to provide for changes in the number of clients served by a program or an institution; and
- (4) shall be in proportion to the change in numbers of clients served by a program, or an institution.

[Transfers may be made between items of appropriations for particular schools or particular hospitals upon written approval by the board whenever the board deems such transfers necessary to meet unanticipated institutional population changes or unanticipated physical plant operating costs].

(b) The Texas Board of Mental Health and Mental Retardation may transfer funds appropriated for the payment of utility expenses at an institution under the board's control to other institutions' appropriations items for utilities. Transfers may be made from one subitem to another subitem within the Central Office Central Administration Program, program administration support services, and technical administration support services appropriations.]

(c) Out of the appropriations to the Central Office of the Department of Mental Health and Mental Retardation for items No. 1., Central Administration Program, and No. 2., Program Administration Services, unless otherwise specifically restricted, the department may transfer such amounts as may be necessary from one subitem to another subitem only within each particular program, except that no transfers shall be made into or out of item

**1.i. Aircraft Operations.** Such transfers may be made only upon the advance written approval of the Board of Mental Health and Mental Retardation.

**.010. Appointment of Commissioner.**

(a) The board shall appoint a qualified person to serve as commissioner. The commissioner holds office at the pleasure of the board.

(b) To be qualified for the office of commissioner, a person must be a physician licensed to practice in this state and must have proven administrative experience and ability.

(c) The responsibilities of the commissioner shall include but not necessarily be limited to the following:

- (1) to serve as the state mental health authority;
- (2) to document the department's goals and objectives;
- (3) to develop procedures to implement the department's goals and objectives;
- (4) to document a state planning process;
- (5) to develop a written description of the administrative organization of the department and lines of authority and a table of organization;
- (6) to exercise all departmental administrative, rulemaking, and decisional powers consistent with the basic and general policies of the board;
- (7) to assign department staff to participate in the JCAH accreditation process at departmental facilities;
- (8) to assure the establishment of bylaws, rules and regulations, and an organizational chart for department facilities that are consistent with board policy;
- (9) to review general findings of and specific recommendations from evaluation studies of the department facilities;
- (10) to review and approve all utilization review plans for departmental facilities;
- (11) to review annual internal audit reports;
- (12) to assure that each department facility develops a program manual which describes the facility's goals and objectives and the mechanisms to be used in achieving those goals and objectives;
- (13) to delegate to the head of each department facility the responsibility for creation of an appropriate administrative and clinical structure to meet the needs of patients and clients entrusted to the care of the department. To this end, the head of each facility is responsible for:

(A) the organization of a set of clinical bylaws, rules, and regulations which establishes responsibility and accountability for the clinical staff of the facility;

(B) the overall operation of the program, including the control, utilization, and conservation of the physical and financial assets of the program and the recruitment and direction of staff;

(C) the biennium review and, if needed, the revision of the bylaws, rules, and regulations mentioned in (A) above;

(D) the annual review of the facility goals and objectives and documentation of said review;

(E) the preparation of and presentation of an annual summary of the facility's progress in meeting its goals and objectives to the commissioner through the offices of the deputy commissioners;



(F) *the preparation of programmatic manuals which describes the operation of the facility and all areas of its functioning.*

Doc. No. 797026

### 302.01.04.005, .007, .008

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, or in the Texas Register Division Office, 503E Sam Houston Building, Austin.)

The Texas Board of Mental Health and Mental Retardation proposes the repeal of Rules 302.01.04.005, concerning the department's reserve fund, .007, concerning treatment and hospitalization services to employees of the department injured in the performance of their duties, and .008, concerning the procedure that must be followed for a teacher at a state school for the retarded to receive board, room, and laundry without charge in return for their performing other duties as assigned by the superintendent. When originally promulgated, Rules .005 and .008 reflected authority granted to the board by Appropriation Act riders. The riders granting that authority were not included in the current Appropriation Act; therefore, the board no longer has the authority stated in Rules .005 and .008, and those rules must be repealed.

Subsequent to the promulgation of Rule .007, the board promulgated Rule 302.01.05.006, which contains the rules governing the treatment and hospitalization of employees injured in the performance of their official duties which were contemplated by Rule .007. Therefore, Rule .007 is surplusage and should be repealed. The proposed repeal of Rules .005, .007, and .008 was approved by the board at its September 21, 1979, meeting.

The repeal of Rules .005, .007, and .008 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 repeal 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.

The repeal of Rules .005, .007, and .008 is proposed under the authority of Section 2.11 of Article 5547-202, Texas Civil Statutes.

- .005. *Reserve Fund.*
- .007. *Services to Employees.*
- .008. *Special Assignments.*

Doc. No. 797027

### Basic and General Policies of the Board 302.01.05.003

The Texas Board of Mental Health and Mental Retardation proposes to amend Rule 302.01.05.003, which contain the board's basic and general policies concerning gifts, grants,

and donations. The proposed amendment to Rule .003 would delete the word November in subsection (c) of the rule and would substitute the word December in its place. The effect of the proposed amendment would be to extend the reporting time by one month for the written report by the commissioner to the board concerning the results and benefits realized by the department from each gift, grant, or donation received during the preceding fiscal year. The proposed amendment would also delete subsection (d) from the rule. Subsection (d) allows research investigators to be paid compensation as budgeted in research grants in which they are working up to 50% of the salaries for the research investigators appropriated by the state. The current Appropriation Act specifically prohibits the practice authorized in subsection (d); therefore, subsection (d) must be deleted. The board approved the proposed amendment to Rule .003 at its September 21, 1979, meeting.

The promulgation of the proposed amendment to Rule .003 will have no known fiscal implications to the state or to units of local government (source: Legal and Claims Division).

Public comment on the proposed amendment is invited. Persons may submit their comments by writing to John J. Kavanagh, M.D., commissioner, P.O. Box 12668, Austin, Texas 78711, or by telephone at (512) 454-3761.

The amendment to Rule .003 is proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

#### .003. *Gifts, Grants, and Donations.*

(a)-(b) (No change)

(c) Gifts, grants, and donations accepted by the department shall be reported to the board with the request for the board's approval of quarterly budgets resulting from acceptance of such grants, gifts, and donations. In addition, the commissioner shall report in writing to the board no later than *December* [November] 1 the results and benefits realized by the department from each gift, grant, or donation received during the preceding fiscal year.

(d) In addition to salaries provided research investigators by state appropriations, such employees may be paid compensation as budgeted in research grants in which they are working; provided such additional compensation shall in no case exceed 50% of the salaries for the investigators appropriated by the state.

Doc. No. 797028

### 302.01.05.015, .016

The Texas Board of Mental Health and Mental Retardation proposes to adopt Rules 302.01.05.015, concerning board approval of departmental facilities' goals and objectives, and .016, concerning orientation and continuing education for board members. Proposed Rule .015 would provide that the board will annually review and approve each departmental facility's overall goals and objectives and the results of the evaluation of these goals and objectives as provided by the commissioner. The purpose of the proposed rule is to comply with new Joint Commission on the Accreditation of Hospitals standards.

Proposed Rule .016 would provide for the orientation of new board members and for the continuing education of all board



members concerning the general operation of the Texas Department of Mental Health and Mental Retardation. The proposed rule would also require the chief of legal services for the department to notify board members of changes in laws and the enactment of new laws that relate to the conduct of the board or its members. The proposed rule also specifies which laws each board member is to receive copies of. The proposed rule would require the chief of legal services to advise the board regarding the requirements of relevant laws and to refer all debatable questions of interpretation of the laws to the Attorney General of Texas. The purpose of the proposed rule is to comply with new Joint Commission on the Accreditation of Hospitals standards. The purpose of subsection (e) of the proposed rule is to comply with House Resolution 167 of the 66th Regular Session of the Texas Legislature. Proposed Rules .015 and .016 were approved by the board at its September 21, 1979, meeting.

The promulgation of proposed Rules .015 and .016 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 the new rules 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 .015 and .016 are proposed under the authority contained in Section 2.11 of Article 5547-202, Texas Civil Statutes.

**.015. Approval of Facility Goals.** The board shall annually review and approve each department facility's overall goals and objectives and the results of the evaluation of these goals and objectives as provided by the commissioner.

**.016. Orientation and Continuing Education.**

(a) At the earliest convenient time after assuming office, each newly appointed member of the board shall be briefed by the commissioner regarding the general operation of the department.

(b) Each member of the board shall be responsible to periodically visit designated department facilities for the purpose of reviewing their general operation and management and reporting their conclusions to the entire board.

(c) The commissioner shall apprise the board of mental health and mental retardation related workshops and educational meetings which the commissioner believes would be of special interest to the members. The members of the board are encouraged to attend such programs as they feel will assist them in the discharge of their duties.

(d) The commissioner shall from time to time report to the board on departmental issues as requested by the board and on other relevant issues that the commissioner determines would assist the board in the discharge of its duties.

(e) Pursuant to the provisions of House Resolution 167, 66th Regular Session of the Texas Legislature, each member of this board shall be furnished a copy of the following constitutional provisions and state statutes:

- (1) Article XVI, Sections 12, 33, and 40, Texas Constitution;
- (2) Chapters 36 and 39, Penal Code as amended;
- (3) Articles 5996-5996g, Vernon's Texas Civil Statutes;
- (4) Article 6252-9b, Vernon's Texas Civil Statutes;

- (5) Article 6252-17, Vernon's Texas Civil Statutes;
- (6) Article 6252-17a, Vernon's Texas Civil Statutes.

The chief of legal services for the department shall immediately notify the members of this board of the modification of any of the aforesaid laws and further shall advise this board of the existence or enactment of any additional laws that relate to the conduct of business by this board or its members. Copies of any such amendments or additional laws shall be promptly furnished each member of this board. The chief of legal services for the department shall advise this board regarding the requirements of all such laws as necessary and shall refer all debatable questions of interpretation of these laws to the Attorney General of Texas. Any member of this board appointed subsequent to the promulgation of this rule shall be furnished a copy of the aforesaid body of laws on or before the first regular meeting of this board after such appointment.

Doc. No. 797029

## Client (Patient) Care

### Restraint and Seclusion 302.04.06

The Texas Department of Mental Health and Mental Retardation is proposing to amend Rules 302.04.06.003, .004, and .006 of its rules governing the use of restraint and seclusion in departmental facilities. The proposed amendment to Rule .003 would add language to subsection (b) of the rule, which defines the term "restraint," to make clear that the various techniques for prevention and management of aggressive behavior, such as but not limited to take-down procedures, are considered to be a form of restraint.

The proposed amendment to Rule .004 would add a new subsection (f), which would provide that whenever physical restraint, drug restraint, or seclusion is utilized more than twice in any given month on a patient or resident, the patient or resident's interdisciplinary team shall develop a behavior modification program and/or design other types of therapeutic intervention to alleviate the problem behavior. The proposed amendment to Rule .006 would add language to subsection (c) of the rule to make clear that no physician's order for drug restraint, physical restraint, or seclusion shall be in force for longer than 24 hours in mental health facilities and for longer than 12 hours in mental retardation facilities and that reinstatement of such restraint or seclusion within any 24-hour or 12-hour period does not require a physician's order. Standing or "p.r.n." orders are not valid. The purpose of the proposed amendments is to clarify the procedures that must be followed whenever a patient or resident of a departmental facility is to be restrained or secluded.

The promulgation of the proposed amendments to Rules .003, .004, and .006 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 amendments 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.

The amendments to Rules .003, .004, and .006 are proposed under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

**.003. Definitions.**

(a) (No change.)

(b) "Restraint" means the application of any physical device, or the application of physical body pressure by another person, to the body of a patient or resident in such a way as to limit or control the physical activity of the patient or resident. *The various techniques for prevention and management of aggressive behavior, such as but not limited to take-down procedures, are considered to be a form of restraint.*

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

**.004. Conditions for Use of Restraint or Seclusion.**

(a)-(e) (No change.)

(f) *Whenever physical restraint, drug restraint, or seclusion is utilized more than twice in any given month on a patient or resident, the patient or resident's interdisciplinary team shall develop a behavior modification program and/or design other types of therapeutic intervention to alleviate the problem behavior.*

**.006. Procedures Required to Initiate and Monitor Restraint and Seclusion Unless Excepted by Rule .005 of These Rules [This Rule].**

(a)-(b) (No change.)

(c) *No order for drug restraint, physical restraint, or seclusion shall be in force for longer than 24 hours in mental health facilities and for longer than 12 hours in mental retardation facilities. Reinstatement of such restraint or seclusion within any 24-hour or 12-hour period does not require a physician's order. Standing or "p.r.n." orders are not valid.*

(d)-(j) (No change.)

Doc. No. 797030

**Resident Deaths 302.04.14**

The Texas Department of Mental Health and Mental Retardation is proposing to amend Rule 302.04.14.007, which specifies the legal procedures that must be followed to obtain an order or consent to perform an autopsy on a deceased patient or resident of a departmental facility. The proposed amendment to Rule .007 would add a new subsection (e) to the rule. The new subsection would contain a recommended procedure to be used by departmental facilities when consent to perform an autopsy on a deceased patient or resident is obtained by telephone. The recommended procedure would suggest that when the consent is obtained by telephone there should be two witnesses listening to the telephone conversation and the contents of the conversation should be documented, signed, and witnessed. Also, permission to tape the telephone conversation during which consent is to be obtained should be requested. In addition, a follow-up consent by telegram should be obtained from the person who has given consent over the telephone. The purpose of the proposed amendment is to suggest a procedure to be used to substantiate and document a consent to perform an autopsy which is obtained during a telephone conversation.

Promulgation of the proposed amendment to Rule .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 amendment 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.

The amendment to Rule .007 is proposed under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

**.007. Autopsy.**

(a)-(d) (No change.)

(e) *When a consent for autopsy is obtained by the phone, there should be two witnesses listening to the telephone conversation, and the contents of the telephone conversation should be documented, signed, and witnessed. Also, permission to tape the telephone conversation during which consent for autopsy is to be obtained should be requested. A follow-up consent for autopsy by telegram should also be obtained from the person who has given consent for autopsy over the telephone. The purpose of this procedure is to substantiate and document a consent for autopsy obtained by telephone.*

Doc. No. 797031

**Practice and Procedure with Respect to Administrative Hearings of the Department Arising under the Mentally Retarded Persons Act of 1977 302.04.36**

The Texas Department of Mental Health and Mental Retardation is proposing to amend Rule 302.04.36.003, which states the applicability and scope of the department's rules governing practice and procedure with respect to administrative hearings of the department arising under the Mentally Retarded Persons Act of 1977. The proposed amendment to Rule .003 would add a new subsection (d) which would provide that the rules shall not apply when an administrative hearing is requested to contest a proposed discharge of a resident who is on a respite or an emergency admission and that no administrative hearing to contest a proposed discharge will be available when the resident who would be the subject of the hearing is on a respite or an emergency admission. The Mentally Retarded Persons Act of 1977 provides for three types of voluntary admissions to a residential care facility for the mentally retarded. The three types of voluntary admissions are regular voluntary admissions, emergency admissions, and respite admissions. Emergency and respite admissions are, by statute, time-limited admissions. Since such admissions are time limited, the department has taken the position that the time limits on such admissions may not be extended by the filing of a request for an administrative hearing. The proposed amendment would reflect the department's position.

The promulgation of the proposed amendment to Rule .003 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 amendment 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.

The amendment to Rule .003 is proposed under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, and Section 60 of Article 5547-300, Texas Civil Statutes.

**.003. Applicability and Scope of Rules.**

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

(d) *These rules shall not apply when an administrative hearing is requested to contest a proposed discharge of a resident who is on a respite or an emergency admission. No administrative hearing to contest a proposed discharge will be available when the resident who would be the subject of the hearing is on a respite or an emergency admission.*

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

Doc. No. 797032      John J. Kavanagh, M.D.  
Commissioner  
Texas Department of Mental Health and  
Mental Retardation

Proposed Date of Adoption: November 26, 1979  
For further information, please call (512) 454-3761, ext. 241.

## Railroad Commission of Texas

### Oil and Gas Division

#### Rules Having Statewide Application to Oil, Gas, and Geothermal Resource Operations within the State of Texas 051.02.02

The Railroad Commission of Texas is proposing to amend subsection (b)(2) of Rule 051.02.02.014, pertaining to the plugging of wells. The proposed amendment provides new procedures and guidelines for the administrative processing of exceptions to the commission's rule requiring the plugging of wells within 90 days after drilling or production operations have ceased.

The staff of the Railroad Commission has determined that the proposed amendment has no fiscal implications for the state or units of local government.

Public comment on the proposed amendment is invited. Comments may be submitted in writing to John G. Soule, general counsel, Oil and Gas, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be received for 30 days after publication of the proposed amendment in the *Texas Register*.

This rule is promulgated under the authority of Title III, Texas Natural Resources Code.

**.014. Plugging.**

(a) (No change.)

(b) Plugging report.

(1) (No change.)

(2) Plugging operations on each dry or *inactive* [abandoned] well must be commenced within a period of 90 days after drilling or production operations have ceased and shall proceed with due diligence until completed. For good cause, a *reasonable extension of time in which to start the plugging operations may be granted pursuant to the following procedures:* [the district director may grant a reasonable extension of time in which to start the operations.]

(A) *The director, Oil and Gas, may administratively grant an exception if the well is not causing pollution; and*

(i) *the operator has presented a viable plan for utilizing the well within a reasonable time; or*

(ii) *the operator posts a performance bond or other form of financial security in an amount acceptable to the staff to ensure that the commission will not have to plug the well with state funds.*

(B) *Any administratively granted exception is subject to review by the director, Oil and Gas, at any time.*

(C) *If the director, Oil and Gas, declines administratively to grant, to continue, or to extend an exception, the operator shall plug the well or request a hearing on the matter. After hearing, the examiner shall make a recommendation for final action by the commission.*

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

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 797094      John G. Soule  
General Counsel, Oil and Gas  
Railroad Commission of Texas

Proposed Date of Adoption: November 19, 1979  
For further information, please call (512) 445-1281.

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

#### Sales Tax Division 026.02.20.006

The Office of the Comptroller of Public Accounts has withdrawn from consideration for adoption the proposed amendment to Rule 026.02.20.006, Permits (20.021(C)(D)(E), 20.031(B)(E), 20.01(J)(S)). The text of the proposed amendment was published in the May 22, 1979, issue of the *Texas Register* (4 TexReg 1857).

Doc. No. 797091

#### 026.02.20.063

The Office of the Comptroller of Public Accounts has withdrawn from consideration for adoption the proposed amendment to Rule 026.02.20.063, Custom Manufacturing. The text of the proposed amendment was published in the March 10, 1978, issue of the *Texas Register* (3 TexReg 811).

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 797092      Judy Cunningham  
Assistant Director, Legal Services  
Comptroller of Public Accounts

Filed: October 19, 1979, 10:12 a.m.  
For further information, please call (512) 475-3825.

## Texas Department of Mental Health and Mental Retardation

### Client (Patient) Care

#### Admission Criteria for Vernon Center Adolescent Drug Treatment Unit 302.04.26

The Texas Department of Mental Health and Mental Retardation has adopted amendments to Rule 302.04.26.004 concerning admission to the Vernon Center Adolescent Drug

Treatment Unit with changes in the text proposed. In an effort to have the rule be consistent with the practices of Vernon Center, the rule has been reviewed and changed to provide that the Vernon Center Adolescent Drug Treatment Unit may accept indefinite commitments; voluntary admissions by persons who seek voluntary admission in order to fulfill a condition of probation or a condition of parole; provided, however, that the superintendent may admit a person on a voluntary basis even though the person is not seeking admission in order to fulfill a condition of probation or of parole if the superintendent determines that an emergency exists which threatens the life or health of the proposed patient; and admissions under orders of protective custody or under other valid court orders.

The amendments to Rule .004 are promulgated under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

**.004. Admission.** The Vernon Center Adolescent Drug Treatment Unit may accept the following types of admissions:

- (1) indefinite commitments;
- (2) voluntary admissions by persons who seek voluntary admission in order to fulfill a condition of probation or a condition of parole; provided, however, that the superintendent may admit, on a voluntary basis, a person who is not seeking admission in order to fulfill a condition of probation or a condition of parole if, in the sole and sound discretion of the superintendent, an emergency exists which threatens the life or health of the proposed patient; and
- (3) admissions under orders of protective custody or under other valid court orders.

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

Doc. No. 797033      John J. Kavanagh, M.D.  
Commissioner  
Texas Department of Mental Health and  
Mental Retardation

Effective Date: November 7, 1979

Proposal Publication Date: August 14, 1979

For further information, please call (512) 454-3761, ext. 241.

## Texas Real Estate Commission

### Practice and Procedure 402.02.00.004

Pursuant to the authority of Article 6573a, Vernon's Texas Civil Statutes, the Texas Real Estate Commission has adopted amendments to Rule 402.02.00.004 to read as follows:

**.004. Filing of Documents.** When a document is required to be filed in a contested case, rulemaking proceeding, or proceeding relating to a petition for declaratory ruling under these rules, it is deemed filed when received in the offices of the Texas Real Estate Commission, Austin, Texas.

Doc. No. 797075

#### 402.02.00.010

Pursuant to the authority of Article 6573a, Vernon's Texas Civil Statutes, the Texas Real Estate Commission has adopted amendments to Rule 402.02.00.010 to read as follows:

**.010. Adoption of Rules: Notice of Intent to Adopt Rules.** Prior to the adoption of any rule, the agency shall give at least 30 days notice of its intended action. Notice of the proposed rule will be filed with the secretary of state and with the lieutenant governor and the speaker of the house, and shall be mailed to any person making a timely written request therefor. If the appropriate standing committees of both houses of the legislature transmit to the agency statements opposing adoption of a rule, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the agency receives the committees' statements.

Doc. No. 797076

## 402.02.00.015

Pursuant to the authority of Article 6573a, Vernon's Texas Civil Statutes, the Texas Real Estate Commission has adopted amendments to Rule 402.02.00.015 to read as follows:

**.015. Contested Case: Disapproval of Licensure.** The agency shall give immediate written notice of its disapproval of an application for broker licensure to the applicant, and to the sponsoring broker and proposed salesman in the case of an application for salesman licensure. The applicant is entitled to a hearing if a request therefor is filed in writing within 10 days after the receipt of the notice of the disapproval of licensure. The hearing shall be held within 30 days after the request is filed, but may be continued by agreement of the parties. A sponsoring broker is not required to be a party to the request for hearing and to the proceeding before the agency. A hearing pursuant to this rule shall be held at a place designated by the agency. Failure to timely request a hearing waives judicial appeal, and the agency determination becomes final and unappealable.

Doc. No. 797077

## 402.02.00.029

Pursuant to the authority of Article 6573a, Vernon's Texas Civil Statutes, the Texas Real Estate Commission has adopted amendments to Rule 402.02.00.029 to read as follows:

**.029. Contested Case: Prerequisite to Judicial Review.** Except in the case of an emergency decision or order, a motion for rehearing is a prerequisite to judicial review. If the party filing the motion for rehearing is entitled to request a rehearing by the commission itself, and the party desires to make such a request, the party shall include in the motion for rehearing a request for a rehearing conducted by the members of the commission. A motion for rehearing that does not include an express request for a rehearing conducted by the members of the commission is deemed to be a request for a rehearing conducted by a presiding officer. If the party filing the motion for rehearing is entitled to request a rehearing by the commission itself but does not include such request in the motion for rehearing, the party need not file any additional motions for rehearing as a prerequisite for judicial review. A motion for rehearing must be filed within 15 days after the date of rendition of the final decision or order. Replies to a

motion for rehearing must be filed with the agency within 25 days after the date of rendition of the final decision or order. The presiding officer or the commission itself, as appropriate, must act on the motion within 45 days after the rendition of the final decision or order. The presiding officer or the commission itself, as appropriate, may, by written order, extend the period of time for filing, replying to, and taking action on a motion for rehearing, not to exceed 90 days after the date of rendition of the final decision or order. In the event of an extension of time, the motion for rehearing is overruled by operation of law on the date fixed by the written order of extension, or in the absence of a fixed date, 90 days after the rendition of the final decision or order. The presiding officer or the commission itself, as appropriate, may modify this schedule with the consent of the parties.

Issued in Austin, Texas, October 17, 1979.

Doc. No. 797078      Andy James  
Administrator  
Texas Real Estate Commission

Effective Date: November 8, 1979

Proposal Publication Date: August 17, 1979

For further information, please call (512) 475-6693.

## Office of the Secretary of State Elections Division

### Miscellaneous 004.30.01.211

The secretary of state as chief elections officer of the State of Texas is adopting Rule 004.30.01.211, which would prescribe for use by the clerk of each court having jurisdiction for the trial of felony crimes the required abstract of each unappealed conviction for a felony crime and each final conviction in appealed cases. Subdivision 3 of Article 5.18c of the Election Code requires each such clerk to furnish such abstracts to the registrar of voters not later than the 10th day of each month.

This rule is adopted under the authority of Articles 1.03 and 5.18c, Subdivisions 3 and 4, Vernon's Texas Election Code.

**.211. Abstract of Unappealed Conviction for a Felony Crime or Final Conviction in an Appealed Case.** The Abstract of Unappealed Conviction for a Felony Crime or Final Conviction in an Appealed Case is adopted by reference. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Doc. No. 797072

### 004.30.01.212

The secretary of state as chief elections officer of the State of Texas is adopting Rule 004.30.01.212, which prescribes the abstract of death certificate required to be used in cancelling the voter registrations of deceased persons. Article 5.18c, Subdivision 1 of the Election Code requires the local registrar of deaths to furnish such abstracts to the appropriate registrar of voters not later than the 10th day of each month.

This rule is adopted under the authority of Articles 1.03 and 5.18c, Subdivisions 1 and 4, Vernon's Texas Election Code.

**.212. Abstract of Death Certificate.** The abstract of death certificate is adopted by reference. Copies of the abstract may be obtained from the Elections Division of the Secretary of State's Office, P. O. Box 12887, Capitol Station, Austin, Texas 78711.

Doc. No. 797073

## Suffrage 004.30.05

The secretary of state as chief elections officer of the State of Texas adopts Rule 004.30.05.337, which prescribes the 1980-1981 Voter Registration Certificate form.

This rule is adopted under the authority of Articles 1.03 and 5.14a, Vernon's Texas Election Code.

### .337. 1980-1981 Voter Registration Certificate Form.

(a) The secretary of state adopts by reference the Voter Registration Certificate form which is attached hereto and made a part hereof for all purposes. The form is published by and available from the secretary of state, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

(b) The certificate has been designed to meet the content requirements of Article 5.14a, Subdivision 3, Vernon's Texas Election Code; bilingual requirements of the Federal Voting Rights Act; the mailing procedure prescribed by Article 5.14a, Subdivision 2(b), Vernon's Texas Election Code; regulations of the United States Postal Service regarding size, thickness of paper, address placement, and postage; and various other considerations, such as horizontal and vertical spacing for computers and typewriters. Therefore, to avoid any possible violations of state or federal law, no changes may be made without prior approval of the secretary of state.

(c) The overall size of the postcard mailout is no smaller than 3-1/2 inches by six inches and no larger than four inches by six inches. When the top portion is detached, the folded card measures 2-1/4 inches by six inches, which is wallet-sized.

(d) Color: The paper to be used is white 100-pound stock.

(e) Printing.

(1) Foldline portion. The name and return address of the registrar of voters are to be printed in the upper left-hand corner above the foldline.

(2) Front of certificate

(A) The name of the registrar of voters is to be printed in the space provided above "voter registrar." The name of the county will be printed directly below the words "voter registration certificate." Beneath the name and title of the registrar of voters, print the telephone number of the registrar.

(B) Use the "certificate number" already assigned to the voter.

(C) The "valid from" date on all cards issued to registered voters as of October 31, 1979, is March 1, 1980 (03/01/80).

(D) The voter's "name," "sex," and "election precinct number" must be provided as well as the "permanent residence address" and the "mailing address," if these two addresses are different. The mailing address is to be printed on the right-hand side of the card. The "permanent residence address," if different from the "mailing address," is to be printed on the left-hand portion.

(E) The area that the voter is to use for making changes or corrections has been moved from the front of the certificate to the back.

(F) The area for stamping party affiliation is placed vertically in the middle of the front of the certificate.

(G) The right half of the front of the certificate must be left blank, except for "mailing address," nonforwardable statement, and postage.

(3) Back of certificate. The text on the bottom half of the back of the certificate is required by law (Article 5.14a, Subdivision 3, Vernon's Texas Election Code). The upper half of the back is available for the use of the registrar of voters.

(f) Mailing. The four-inch by six-inch postcard may be mailed with either \$ .10 postage or \$ .15 postage. Since the Election Code requires that the certificate be mailed by non-forwardable mail with return postage guaranteed, those postcard certificates mailed for \$ .10 that are returned will cost another \$ .10 each. If the certificate is mailed with \$ .15 postage, the certificate will be returned at no extra charge. The same holds true if envelopes are used for mailing the certificates. In no case may the voter's tax statement be included in the same envelope. The determination of which amount of postage will ultimately be the more economical should be made by the registrar of voters.

(g) Mailing date. Article 5.14a, Subdivision 2(b), Vernon's Texas Election Code, provides that the voter registration certificate must be mailed between November 1 and November 15 to those persons on the rolls as of October 31, 1979.

(h) Duplicate certificate files. It is not necessary for the registrar to produce the white mass mailout certificate in duplicate so long as the registrar can verify that he did in fact mail a new certificate to each on the rolls. Article 5.14a, Subdivision 2(a), Vernon's Texas Election Code, requires a duplicate certificate file for the initial registration only.

(i) New registrations. Persons who register to vote after the mass mailout and before the effective date on this new white certificate are to be issued a current yellow certificate for use during this voting year. At the same time, the registrar may issue a new white certificate to these voters, instructing them about the effective date of the two certificates. The duplicate of the yellow certificate for the current voting year should be filed. It will not be necessary to make a duplicate of the white certificate for 1980-81 in this instance.

(j) Registration on or after March 1, 1980. For any person who registers on or after March 1, 1980, the registrar of voters is required to file and keep a duplicate certificate.

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

Doc. No. 797074      George W. Strake, Jr.  
Secretary of State

Effective Date: November 8, 1979

Proposal Publication Date: September 11 & October 18, 1979

For further information, please call (512) 475-3091.

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 23, 1979, 1:30 p.m.* The State Aircraft Pooling Board made an emergency addition to the agenda of a meeting held in Conference Room G-B, John H. Reagan Building, Austin. The addition was a discussion by Bob Armstrong of the General Land Office about the agency's need for an aircraft.

Additional information may be obtained from Barbara Mitchell, Room G-12, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-8301.

Filed: October 22, 1979, 10:41 a.m.  
Doc. No. 798031

## State Banking Board

*Tuesday, October 30, 1979, 2 p.m.* The State Banking Board will meet at 2601 North Lamar, Austin, to conduct a voting session.

Additional information may be obtained from O. A. Cassity III, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Filed: October 22, 1979, 11:52 a.m.  
Doc. No. 798035

## Texas Cosmetology Commission

*Sunday, November 4, 1979, 9 a.m.* The Texas Cosmetology Commission will meet in the Ramada Inn Convention Center, 1011 South Akard, Dallas, for "show cause" hearing on National Beauty Schools.

Additional information may be obtained from Ron Resech, 1111 Rio Grande, Austin, Texas 78701, telephone (512) 475-3304.

Filed: October 18, 1979, 3:41 p.m.  
Doc. No. 797079

## Texas Health Facilities Commission

*Thursday, October 25, 1979, 10 a.m.* The Texas Health Facilities Commission made an emergency addition to the

agenda of a meeting held in Suite 305 of The Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the addition concerned the following applications for consideration:

transfer of ownership order  
St. John's Hospital, San Angelo  
AH77-0222-016T(092579)  
St. John's Hospital, San Angelo  
AH77-0327-005T(092579)  
motion to amend certificate of need order  
The Good Shepherd Hospital, Longview  
AH77-1205-022A(091179)

Further information may be obtained from Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: October 22, 1979, 11:51 a.m.  
Doc. No. 798033

*Thursday, November 1, 1979, 10 a.m.* The Texas Health Facilities Commission will meet in Suite 305 of The Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications:

certificate of need  
Rosewood Zaragosa Clinic, Austin  
AO79-0604-007  
East Austin Multipurpose Health Center, Austin  
AO79-0604-011  
Memorial Hospital of Galveston County  
Texas City, AH79-0529-006  
Golden Triangle Convalescent Center  
Port Arthur, AN79-0601-003  
motion for rehearing on certificate of need  
East Fort Bend General Hospital  
Missouri City, AH79-0326-039  
exemption certificate  
Alice Physicians and Surgeons Hospital  
Alice, AH79-0914-018  
Texas Department of Health-Public Health Region 2  
Lubbock, AO79-0918-019  
Valley Hemodialysis Center, Inc.  
Brownsville, AS79-0912-009  
Valley Hemodialysis Center, Inc.  
McAllen, AS79-0829-017  
Pittsburg Medical and Surgical Hospital  
Pittsburg, AH79-0904-008  
Tidelands General Hospital, Channelview  
AH79-0920-005  
Scott and White Memorial Hospital, Temple  
AH79-0914-014  
Methodist Hospitals of Dallas, Dallas  
AH79-0924-032  
Methodist Hospitals of Dallas, Dallas  
AH79-0924-035  
Palo Pinto General Hospital  
Mineral Wells, AH79-0926-017  
amendment of certificate of need order  
Hurst General Hospital, Hurst  
AH78-0418-007A(090779)



Further information may be obtained from Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: October 22, 1979, 11:52 a.m.  
Doc. No. 798034

## State Board of Insurance

**Monday, October 29, 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, to consider charter amendment to increase capital—AOA Insurance Company, Austin.

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

Filed: October 18, 1979, 2:18 p.m.  
Doc. No. 797067

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, November 7, 1979, 2 p.m.**  
**Wednesday, November 14, 1979, 2 p.m.**  
**Wednesday, November 21, 1979, 2 p.m.**  
**Wednesday, November 28, 1979, 2 p.m.**

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

Filed: October 22, 1979, 9:41 a.m.  
Doc. Nos. 798023, 798025, 798027, & 798029

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, November 13, 1979, 2 p.m.**  
**Tuesday, November 20, 1979, 2 p.m.**  
**Tuesday, November 27, 1979, 2 p.m.**

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

Filed: October 22, 1979, 9:42 a.m.  
Doc. Nos. 798024, 798026, & 798028

## Texas State Library and Archives Commission

**Friday, November 9, 1979, 10 a.m.** The Texas State Library and Archives Commission will meet in the Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. According to the agenda, the commission will consider the following: report on the Texas county records inventory project; recommendation from the Library Systems Act Advisory Board deferred from the October 10 meeting; Library Services and Construction Act, Title III, revised criteria deferred from the October 10 meeting; and tour of the state library's records center.

Additional information may be obtained from Dorman H. Winfrey, P.O. Box 12927, Austin, Texas 78711, telephone (512) 475-2166.

Filed: October 19, 1979, 9:24 a.m.  
Doc. No. 797085

## Board of Pardons and Paroles

**Monday-Friday, November 5-9, 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 this 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: October 19, 1979, 3:52 p.m.  
Doc. No. 798014

## Texas Parks and Wildlife Department

**Tuesday, October 30, 1979, 2 p.m.** The Fisheries Division of the Resources Protection Branch 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 City of Galveston for a permit to remove approximately 19,000 cubic yards of marl (total) from Bolivar Pass, west of the South Jetty, adjacent to the East Lagoon and Boddecker Drive, Galveston, for the purpose of dredging a boat channel. The dredged material would be used as fill on adjacent city property to construct a public parking area. (Corps of Engineers Public Notice 139914.)

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

Filed: October 19, 1979, 3:59 p.m.  
Doc. No. 798015

## Texas State Board of Pharmacy

**Friday, November 2, 1979, 1 p.m.-5 p.m.** The Texas State Board of Pharmacy will meet in Suite 1221, 211 East 7th Street, Austin, to consider the Sunset Advisory Commission report; examination process review; and review of Texas Health Data Cooperative.

Further information may be obtained from Priscilla Jarvis, Southwest Tower, Suite 1121, 211 East 7th Street, Austin, Texas.

Filed: October 19, 1979, 9:25 a.m.  
Doc. No. 797082

## Public Utility Commission of Texas

**Wednesday, October 31, 1979, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to consider a prehearing in Docket 2872: complaint of Waco Communications, Inc., against Mid-Texas Telephone Company.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 19, 1979, 1:31 p.m.  
Doc. No. 798009

**Wednesday, October 31, 1979, 2 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2844, application of Woodcreek Water Company, Inc., for a rate increase within Hays County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 22, 1979, 9:44 a.m.  
Doc. No. 798020

**Monday, November 5, 1979, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2871, complaint of Denton County Electric Cooperative, Inc., concerning rates of Brazos Electric Power Cooperative, Inc.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 22, 1979, 9:44 a.m.  
Doc. No. 798021

**Tuesday, November 27, 1979, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Dockets 2731 and 2828, appeals of the Lower Colorado River Authority from the rate ordinance of Kerrville and San Marcos.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 18, 1979, 3:41 p.m.  
Doc. No. 797064

**Monday, December 17, 1979, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2822, petition of San Jacinto Mall Company against Houston Lighting and Power Company.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 22, 1979, 9:44 a.m.  
Doc. No. 798022

## Railroad Commission of Texas

**Monday, October 22, 1979, 9 a.m.** The Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The emergency addition concerned consideration of the occupancy of the Ernest O. Thompson Building. The additional construction expense which would result from further delay required this matter to be considered on less than seven days notice as a matter of urgent public necessity.

Additional information may be obtained from James P. Grove IV, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: October 19, 1979, 11:45 a.m.  
Doc. No. 797097

**Monday, October 22, 1979, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. According to the agenda, the addition concerned notice of intended sale of natural gas pursuant to 18 Code of Federal Regulations, Section 284.202(b)(c), by Esperanza Transmission Company. Consideration on less than seven days' notice was required as a matter of urgent public necessity because the time periods established for action under federal law did not allow sufficient time for regular posting.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: October 19, 1979, 2:59 p.m.  
Doc. No. 798012

**Monday, October 22, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made the following emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The emergency addition concerned consideration of Gas Docket 7B-73, 841, application of Mercury Exploration Company for the adoption of field rules for the Jackie Grimm (Gardner) Field, in Nolan and Taylor Counties. This matter was considered on less than seven days notice as a matter of urgent public necessity in order to prevent the unnecessary drilling of wells.

Additional information may be obtained from John G. Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1281.

Filed: October 19, 1979, 11:44 a.m.  
Doc. No. 797098

**Monday, October 22, 1979, 9 a.m.** The Transportation Division of the Railroad Commission of Texas made an addition to the agenda of an emergency meeting held in Room 107, 1124 South IH 35, Austin. According to the agenda, the addition concerned consideration of applications of Missouri Pacific Railroad Company, et al, Docket 023546ZZR, and Sand and Gravel Motor Carriers Association, Docket 023559ZZT, to increase rates and charges based on increases in fuel expenses. Applications were considered on less than seven days' notice because it was alleged that failure to grant these applications immediately would result in a serious curtailment to transportation services, adversely affecting the public health, safety, and welfare of the citizens of Texas. These adverse effects created an urgent public necessity that the applications be considered immediately.

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

Filed: October 19, 1979, 11:44 a.m.  
Doc. No. 797099

**Monday, October 29, 1979, 9 a.m.** The Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. Following the regular agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act, respectively.

Additional information may be obtained from James P. Grove IV, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: October 19, 1979, 11:46 a.m.  
Doc. No. 798000

**Monday, October 29, 1979, 9 a.m.** The Railroad Commission of Texas has made additions to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The additions concern consideration of organizational and rate structure changes for the commission hearing reporters and interagency contract with the State Bar for seminar training.

Additional information may be obtained from James P. Grove IV, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: October 19, 1979, 11:45 a.m.  
Doc. No. 798002

**Monday, October 29, 1979, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider the following: Gas Utilities Dockets 2111, 2138, 2139, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 1977, 2159, word processing matters, and the director's report.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: October 19, 1979, 11:45 a.m.  
Doc. No. 798003

**Monday, October 29, 1979, 9 a.m.** The Liquefied Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin, to consider the director's report.

Additional information may be obtained from Guy G. Mathews, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1189.

Filed: October 19, 1979, 11:44 a.m.  
Doc. No. 798004

**Monday, October 29, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1307.

Filed: October 19, 1979, 11:45 a.m.  
Doc. No. 798005

**Monday, October 29, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the addition concerns consideration of category determinations under Sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1278.

Filed: October 19, 1979, 11:44 a.m.  
Doc. No. 798006

**Monday, October 29, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns consideration of the application of Baytec Operating Company, Inc., for the adoption of special field rules for the Tully (Paluxy) Field, Franklin County (Oil and Gas Docket 6-73, 805).

Additional information may be obtained from John G. Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1281.

Filed: October 19, 1979, 3:41 p.m.  
Doc. No. 798013

**Monday, October 29, 1979, 9 a.m.** The Surface Mining Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin, to consider approval of a memorandum of understanding between the Texas Department of Water Resources and the Railroad Commission of Texas regarding the coordination and regulation of waste discharge permits for surface coal mining and reclamation activities. The division will also consider the director's report.

Additional information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1178.

Filed: October 19, 1979, 11:44 a.m.  
Doc. No. 798007

**Monday, October 29, 1979, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider the following applications: amend authority, amend existing motor transportation regulation, new authority, truck rate, bus rate, motor brokers license, consolidate authority, divide authority, lease authority, name change, rail rate, reinstatement, voluntary suspension, director's report and status report on the Chicago, Rock Island, and Pacific Railroad Company.

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

Filed: October 19, 1979, 11:45 a.m.  
Doc. No. 798008



## Texas Rehabilitation Commission

**Friday, October 26, 1979, 10 a.m.** The board of the Texas Rehabilitation Commission will meet in emergency session at 118 East Riverside Drive, Austin, to consider the following items: communications; report of the commissioner; and approval of the operating budget for fiscal year 1980.

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

Filed: October 22, 1979, 9:45 a.m.  
Doc. No. 798030

## Board for Lease of State-Owned Lands

**Friday, October 26, 1979, 1:45 p.m.** The Board for Lease of Texas Parks and Wildlife Department of the Board for Lease of State-Owned Lands will meet in Room 831 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider bids received at the October 2, 1979, oil and gas lease sale.

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

Filed: October 18, 1979, 2:46 p.m.  
Doc. No. 797063

## Texas Surplus Property Agency

**Tuesday, October 30, 1979, 2 p.m.** The Governing Board of the Texas Surplus Property Agency will meet in the Executive Office Building, 411 West 13th Street, Austin, to consider the following items: approval of the purchase of a warehouse facility in Lubbock; receipt of the state audit report for the fiscal year ending August 31, 1978; and the executive director's report.

Additional information may be obtained from Robert A. Davis, Jr., P.O. Box 8120, Wainwright Station, San Antonio, Texas 78208, telephone (512) 661-2381.

Filed: October 22, 1979, 11:32 a.m.  
Doc. No. 798032

## University of Texas at Austin

**Monday, October 22, 1979, 3 p.m.** The Athletics Council for Men of the University of Texas at Austin will meet in Room 240, Bellmont Hall, San Jacinto Street, between 21st and 23rd Streets, to consider basketball ticket policy; additional position in business office; Olympic swimming trials budget; and lettering criteria. The council will also meet in executive session.

Additional information may be obtained from Haila Kauffman, P.O. Box 7399, Austin, Texas 78712, telephone (512) 471-1156.

Filed: October 18, 1979, 2:27 p.m.  
Doc. No. 797068

## State Board of Veterinary Medical Examiners

**Monday, November 12, 1979, 8 a.m.** The State Board of Veterinary Medical Examiners will meet in Parlor A at the Hilton Inn, 505 Avenue Q, Lubbock, to discuss general business, adopt proposed rules, and consider disciplinary actions.

Additional information may be obtained from T. D. Weaver, 603 Capital National Bank Building, Austin, Texas 78701, telephone (512) 475-3933.

Filed: October 19, 1979, 8:16 a.m.  
Doc. No. 797080

## Texas Water Commission

**Monday, October 22, 1979, 10 a.m.** The Texas Water Commission made an emergency addition to a meeting held in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission added consideration of a petition for creation of Harris County Municipal Utility District No. 189 for resetting of a hearing date.

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

Filed: October 18, 1979, 2:17 p.m.  
Doc. No. 797065

**Monday, October 29, 1979, 10 a.m.** The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the following: application for bond issues; release from escrow; use of surplus funds; approval of fire department plan for district; proposals for decision on water quality permits; amendments; renewals; final decision on water rights applications; consideration of application for approval of plans for construction of a levee project; order of 53rd Judicial District Court of Travis County; consideration of motion for rehearing; and application for filing and setting of a hearing date.

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

Filed: October 18, 1979, 2:18 p.m.  
Doc. No. 797066

## Regional Agencies

### Meetings Filed October 18, 1979

**The Coastal Bend Council of Governments, Membership,** will meet in the Central Jury Room, County Courthouse, 901 Leopard, Corpus Christi, on October 26, 1979, at 2 p.m. Further information may be obtained from John Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, telephone (512) 883-5743.

**The Panhandle Regional Planning Commission, Texas Panhandle Employment and Training Planning Council,** met in the Chamber of Commerce Conference Room, Amarillo Building, Third and Polk Street, on October 23, 1979, at 3 p.m. Further information may be obtained from Ola Kidd, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

Doc. No. 797069

### Meetings Filed October 19, 1979

**The North Texas Municipal Water District, Board of Directors,** met at the NTMWD Central Plant in Wylie, on October 25, 1979, at 4 p.m. Further information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, telephone (214) 442-2217, ext. 26.

**The Northeast Texas Health Systems Agency, Executive Committee,** will meet at the Marshall Civic Center, 2501 E. End Boulevard South, Marshall, on November 6, 1979, at 7 p.m. Further information may be obtained from Bayard S. Galbraith, 505 E. Travis Street, Suite 201, Marshall, Texas 75670, telephone (214) 938-8331.

**The Panhandle Regional Planning Commission, Texas Panhandle Employment and Training Alliance,** met in the Chamber of Commerce Conference Room, Amarillo Building, Third and Polk Streets, Amarillo, on October 25, 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.

**The Tri-Region Health Systems Agency, Nortex Cardiovascular Task Force,** will meet in the cafeteria, Mediacenter Psychiatric Hospital, 1505 Eighth Street, Wichita Falls, on November 1, 1979, at 7 p.m. Further information may be obtained from Dianna Spraberry, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 798010

## Comptroller of Public Accounts

### Administrative Decision

#### Summary of Administrative Decision 8124

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 furnished without charge and edited to comply with our confidentiality statutes.

**Summary of Decision:** A company, who purchased tangible personal property, retained it over two years, and entered the property on its records as an asset rather than as an inventory item, was not in the absence of evidence to the contrary holding the property for resale and owed sales and use tax on its purchase price.

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

Doc. No. 797084 Harriet Burke  
Hearings Section  
Comptroller of Public Accounts

Filed: October 19, 1979, 9:25 a.m.

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

## Texas Energy and Natural Resources Advisory Council

### Statement of Program Intent

**Description of Project Objective.** In accordance with the Texas Energy Development Act of 1977, Article 4413(47b), Vernon's Annotated Civil Statutes, as amended by Senate Bill 921, 66th Legislature, Regular Session, and pursuant to rules adopted for administration of the Energy Development Act, (2 TexReg 4836), TENRAC is soliciting proposals from individuals who are responding to the United States Department of Energy's (DOE) Program Opportunity Notice (PON) for Energy Integrated Farm System (PON No. CS01-79CS-40217). Copies of this PON are available for review through TENRAC and DOE. TENRAC proposes to offer cost sharing to one or more qualified Texas proposals submitted to DOE in response to the above mentioned PON.

**Description of Funding Considerations.** Funding for the selected proposal(s) will be on a cost sharing basis in an amount not to exceed \$250,000 in aggregate on the part of TENRAC.

**Evaluation of Review Criteria and Procedures.** Evaluation of submitted proposals will be in accordance with rules adopted for administration of the Energy Development Act cited above and in conjunction with the DOE. State funding shall be at the discretion of TENRAC and shall not necessarily be contingent on DOE's selection.

**Deadline and Addresses for Proposal Submission.** In order to be considered, proposals must be submitted to TENRAC no later than November 15, 1979.

**Target Date for Contract Award.** Selection of proposals for award of contract will take place on or before the targeted contract date set by DOE.

**Detailed Guidelines for Proposal Contents.** Proposals must follow the content and format as prescribed under the DOE PON. Ten copies of the proposal in the format described by the above referenced PON must be submitted to TENRAC.

**Designation of Contact Person for Additional Information.** For information, contact Robert V. Avant, Jr., coordinator of Biomass and Wind Programs, Texas Energy and Natural Resources Advisory Council, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-5588.

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 797095 Robert V. Avant  
Coordinator, Biomass and  
Wind Programs  
Texas Energy and Natural Resources  
Advisory Council

Filed: October 19, 1979, 9:48 a.m.

For further information, please call (512) 475-5588.

## Texas Health Facilities Commission

### Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings, exemption certificates, and transfers and amendments of certificates accepted October 10-16, 1979.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. When a request to become a party is mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, it must be postmarked no later than the day prior to the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, 315.17.05.010-.030, 315.18.04.010-.030, and 315.18.05.010-.030.



In the following list, the applicant and date of acceptance are listed first, the file number second, and the relief sought and description of the project third. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership, AMD indicates amendment of certificate, and CN indicates certificate of need

Nan Travis Memorial Hospital, Jacksonville (10/15/79)  
AH79-1015-031

EC—Addition of ultrasound equipment to the Radiology Department at Nan Travis Memorial Hospital

Irving Community Hospital, Irving (10/15/79)  
AH79-1015-022

EC—Installation of an elevator from the sixth floor to the seventh floor of the applicant facility

West Texas Hospital, Inc., Lubbock (10/12/79)  
AS79-1012-016

EC—Establish four beds of telemetry monitoring and install antenna system throughout the hospital, to be monitored by personnel in the cardiac care monitoring unit

Visiting Nurse Association of Dallas, Dallas (10/16/79)  
AS79-1016-027

EC—Relocate existing services of Meals on Wheels, geriatric nursing services, and the office of the health maintenance program administrator from three separate locations in Dallas to new offices at 5708 Reiger Avenue

Oak Cliff Medical and Surgical Hospital, Dallas (10/16/79)  
AH79-1016-021

DR—Remodel and repair buildings one and two of applicant's facility to bring it up in licensing and safety standards, with no expansion of existing services or increase in beds

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 797093 Dan R McNery  
General Counsel  
Texas Health Facilities Commission

Filed: October 19, 1979, 11 25 a.m.

For further information, please call (512) 475-6940.

## Texas Industrial Commission

### Notice to All State Exporters of Small Business Advisory Service Hot Line

The Texas Industrial Commission works closely with the federal government to help both established and potential Texas exporters seeking to expand their sales overseas. One particularly important agency is U.S. Export-Import Bank (Eximbank)—an independent U.S. government agency responsible for facilitating the export of U.S. goods and services through export credit guarantee and insurance programs.

As part of the president's national export policy, Exim has enhanced its small business advisory service and installed a toll-free "hot line" to provide on-the-spot advice and assistance in answering questions about export financing. Effective export financing arrangements can be as important as price, quality of product, and delivery terms in successfully making an overseas sale. Small businesses, especially those exporting for the first time, often require assistance in their search for competitive export financing.

For answers to questions about which Eximbank financing program could be most effectively used in particular export activities, how to apply for Exim assistance, where to find export credit insurance, or how to make maximum use of complimentary assistance programs offered by other U.S. government agencies, call the "hot line" number—(800) 424-5201. An Exim business affairs officer will provide assistance.

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 798016 Tim Shaffner  
Texas Industrial Commission

Filed: October 19, 1979, 9:49 a.m.

For further information, please call (512) 472-5059.

## Texas State Board of Pharmacy

### Public Hearing on Proposed Rules

The Texas State Board of Pharmacy will conduct a public hearing beginning at 9 a.m. November 27, 1979, in Room 100B of the John H. Reagan Building, Austin. The purpose of the hearing is to receive testimony regarding the following proposed rules:

**Procedure.**—Hearings for the Revocation, Cancellation, or Suspension of a License or Permit, Rules 393.01.01.008-.087 (4 TexReg 3678)

**Fraud, Deceit, and Misrepresentation in the Practice of Pharmacy—Records To Be Maintained by a Pharmacy, Rule 393.11.00.002 (4 TexReg 3592)**

**Pharmacies—Operational Standards, Rule 393.06.00.013 (4 TexReg 475)**

**Licensing Requirements for Pharmacists, Rules 393.15.00.001-.019 (4 TexReg 3078)**

The board has determined that the above rules are necessary to help insure that the practice of pharmacy in Texas is conducted in a manner which protects the health and safety of the citizens of Texas.

Requests for copies of the proposed rules mentioned above should be addressed to Priscilla Jarvis, Texas State Board of Pharmacy, 211 East 7th Street, Suite 1121, Austin, Texas 78701.

The public hearing will be conducted in compliance with the Texas Open Meetings Law. The public is encouraged to attend the hearing and to present evidence or opinions regarding the proposed rules. Written testimony is encouraged. The board would appreciate receiving a copy of all written testimony at least 10 days before the hearing. The testimony and questions regarding the public hearing should be addressed to Fred S. Brinkley, Jr., R.Ph., executive director/secretary, Texas State Board of Pharmacy, 211 East 7th Street, Suite 1121, Austin, Texas 78701. Oral testimony will be limited to a maximum of 10 minutes per individual. Persons representing organizations of 20 persons or more may be granted additional time for testimony provided that a request for such additional time is made not less than seven days prior to the hearing. For purposes of scheduling, the following agenda will be utilized insofar as possible:

- 9 a.m.-10 a.m.—Rules of Procedure  
(Rules 393.01.01.008-.087)
- 10 a.m.-11 a.m.—Licensing Requirements for Pharmacists  
(Rules 393.15.00.001-.019)
- 11 a.m.-noon—Operational Standards for Pharmacies  
(Rule 393.06.00.013)
- 1:30 p.m.-2 p.m.—Operational Standards (continued)  
(Rule 393.06.00.013)
- 2 p.m.-4 p.m.—Records To Be Maintained by a Pharmacy  
(Rule 393.11.00.002)
- 4 p.m.-5 p.m.—Additional comments

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

Doc. No. 797083 Fred S. Brinkley, Jr.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Filed: October 19, 1979, 9:25 a.m.  
For further information, please call (512) 478-9827.

## State Purchasing and General Services Commission

### Changes Effected by Legislature

Recent legislation, which abolished the State Board of Control and created in its place the State Purchasing and General Services Commission, has effected certain nonsubstantive rule changes.

House Bill 1673, Acts of the 66th Legislature, Regular Session, 1979, Chapter 773, page 1908 (Article 601b, Vernon's Texas Civil Statutes) created the commission and re-enacted for its administration most of the statutes formerly under the old board. The newly appointed commission met in an emergency meeting on September 6, 1979, and adopted for its own use the rules of the board to the extent compatible with the new statute. The changes being made are as follows:

(1) Changing references to the Board of Control to the State Purchasing and General Services Commission, board to commission, board member(s) to commissioner(s), etc. An exception to this is in Rule 028.12.02.302(a)(1)(B) where a quotation from Section 9(d) of Article 6203c, Vernon's Texas Civil Statutes, is set out. The language of this statute cannot be changed, but Section 11.01(b) of Article 601b, Vernon's Texas Civil Statutes, requires any reference in the statutes to the State Board of Control to mean the State Purchasing and General Services Commission.

(2) Changing the statutory references to conform to the provisions of the new Act.

(3) Deleting from Rules 028.13.03.575-.585 (a) references to the old Building Commission, (b) descriptive material related to Article 678g, Vernon's Texas Civil Statutes, and (c) specific references in Rule 578(a), (b), and (d) to Sections 5-19 of that same repealed article.

Copies of these rules with updated references are available in the office of the State Purchasing and General Services Commission, and for public inspection in the office of the Texas Register Division. For further information, please contact James H. Quick, general counsel, State Purchasing and General Services Commission, telephone (512) 475-5996.

Issued in Austin, Texas, on October 19, 1979.

Doc. No. 798019 James H. Quick  
General Counsel  
State Purchasing and General  
Services Commission

Filed: October 19, 1979, 9:49 a.m.  
For further information, please call (512) 475-5996.

## Senate

### Special Committee on Delivery of Human Services in Texas

#### Meeting of Subcommittee on Services for the 18-64 Age Group

A meeting of the Subcommittee on Services for the 18-64 Age Group will be held on Friday, October 26, 1979, at 2 p.m. in the Lieutenant Governor's Committee Room, Capitol Building, Austin. The subcommittee will discuss and consider recommendations on the criminal justice system; on emergency medical services; and on Indo-Chinese refugee services. The subcommittee will also receive a status report concerning each of the following items: analysis of previously proposed legislation (House Bill 169/Senate Bill 44 of the 66th Legislature) for state funding of medical residency; proposed study on the availability of nurses; and gathering of information on services for rural Texans.

Issued in Austin, Texas, October 18, 1979.

Doc. No. 797081 June Hyer  
Executive Director  
Special Committee on Delivery of Human  
Services in Texas

Filed: October 19, 1979, 9:44 a.m.  
For further information, please call (512) 475-1284.

## Texas Register

### Publication of Index

The October 30, 1979, issue of the *Texas Register* will be the third quarterly index for 1979. No other documents will be included in that issue. Publication of rules and meeting notices will resume with the November 2, 1979, *Register*. The deadlines for submission of documents for the November 2 issue (Volume 4, Number 82) will be noon Friday, October 26, for all copy except notices of open meetings, and noon Monday, October 29, for open meeting notices.

## November and December Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the November and December issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Friday of the preceding week and Monday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. The *Texas Register* will not be published on November 27 and December 28.

FOR ISSUE PUBLISHED ON:	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY NOON ON:	ALL NOTICES OF OPEN MEETINGS BY NOON ON:
Friday, November 2	Friday, October 26	Monday, October 29
Tuesday, November 6	Wednesday, October 31	Thursday, November 1
Friday, November 9	Friday, November 2	Monday, November 5
Tuesday, November 13	Wednesday, November 7	Thursday, November 8
Friday, November 16	Friday, November 9	Monday, November 12
Tuesday, November 20	Wednesday, November 14	Thursday, November 15
Friday, November 23	Friday, November 16	Monday, November 19
Tuesday, November 27	NO ISSUE PUBLISHED	
*Friday, November 30	Wednesday, November 21	Monday, November 26
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Tuesday, December 4	Wednesday, November 28	Thursday, November 29
Friday, December 7	Friday, November 30	Monday, December 3
Tuesday, December 11	Wednesday, December 5	Thursday, December 6
Friday, December 14	Friday, December 7	Monday, December 10
Tuesday, December 18	Wednesday, December 12	Thursday, December 13
Friday, December 21	Friday, December 14	Monday, December 17
Tuesday, December 25	Wednesday, December 19	Thursday, December 20
Friday, December 28	NO ISSUE PUBLISHED	

The following state holidays fall within the period of this publication schedule:

Tuesday, November 6 ..... Election Day  
 Thursday & Friday, November 22 & 23 ..... Thanksgiving  
 Monday-Wednesday, December 24-26 ..... Christmas

The Texas Register Division will, as all other state agencies, observe these holidays and will not process or file notices of meetings or other documents.