

# TEXAS REGISTER

TEXAS STATE LIBRARY

NOV 28 1979

TEXAS DOCUMENT

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Office of the Secretary of State

# NOTES ON THE ISSUE

The State Board of Dental Examiners proposes amendments stipulating procedures that mobile or moveable dental offices must comply with to receive approval from the board. The board proposes the regulatory amendments because, at the present time, mobile dental clinics choose their areas of service, and the board believes that the regional health director is more knowledgeable of needs in specific areas than mobile clinics and should therefore approve locations of the mobile clinics. Further, the board believes that the mobile operation should be open for inspection by competent observers and that a report of the activities of the operation should be made to the proper officials.

The Department of Mental Health and Mental Retardation proposes an amendment to its rule stating the procedures and responsibilities of public responsibility committees at each departmental facility. Public responsibility committees, composed of people not affiliated with departmental facilities, act primarily as third party mechanisms to safeguard the legal rights of the department's clients and as investigators of suspected abuse or violations of clients' rights. The proposed amendment extends the duties of the committees by requiring that when a committee determines that abuse or denial of rights has occurred, the committee shall report the occurrence to the advocacy system, to the appropriate authorities, to the facility superintendent or director, and to the appropriate deputy commissioner.

*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*

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## Appointments

### Texas Guaranteed Student Loan Corporation

*Pursuant to House Bill 38, 66th Legislature, Regular Session, for a four-year term to expire January 31, 1983:*

Fran A. Burke  
P.O. Box 2249  
Dallas, Texas 75221 (commercial finance)

### Texas Real Estate Commission

*Pursuant to Senate Bill 171, 66th Legislature, Regular Session, for a four-year term to expire January 31, 1983:*

Mrs. Virginia McMillin Eggers  
3131 Maple Avenue, No. 1D  
Dallas, Texas 75201 (public member)

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

Joshua Rutland Moriss, Jr.  
518 Pine Street  
Texarkana, Texas 75501 (public member)

Issued in Austin, Texas, on November 14, 1979.

Doc. No. 798767 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-211

Request from Raul L. Longoria, chairman, Special Senate Committee on Gasohol, Austin.

**Summary of Request:** Relative to the Local Industrial Alcohol Manufacturers Permit authorized this immediate past session:

- (1) Can an out-of-state corporation own property and lease to a Texas entity?
- (2) How can it be determined if alcohol, which has not been denatured, is unfit for human consumption?

Relative to both the Local Industrial Alcohol Manufacturer's Permit and the Distiller's Permit, can an enterprise be operated under the following conditions if:

- (1) The plant and facilities are owned and built by a company from out of state?
- (2) Could the facilities be leased to an operating company by an out-of-state company?
- (3) If the operating company complies with existing regulations pertaining to ownership, etc., could both the above mentioned permits be granted to the operating company?
- (4) Could the operating company be owned partially (in minority interest, i.e., 49%) by an out-of-state company?

Doc. No. 798792

### Summary of Request for Opinion RQ-212

Request from Leo. F. Brockmann, Merit System Council, Austin.

**Summary of Request:** Is an investigation relating to complaints of discrimination available to the complainant when he is involved in litigation against the state?

Doc. No. 798793

### Summary of Request for Opinion RQ-213

Request from Henry Wade, criminal district attorney, Dallas.

**Summary of Request:** May deputy sheriffs employed for security services by the Dallas County Hospital District outside of their normal working hours carry handguns?

Doc. No. 798866

## Opinions

### Summary of Opinion MW-83

Request from Thomas F. Lee, district attorney, 63rd Judicial District, Del Rio, concerning whether a police officer suspended for 15 days or less under Article 1269m, Vernon's Texas Civil Statutes, may appeal to the Civil Service Commission.

**Summary of Opinion:** A police officer has no statutory right to appeal a disciplinary suspension of 15 days or less to the City Civil Service Commission under Article 1269m, Vernon's Texas Civil Statutes. However, a hearing may be required by due process when the suspension results from charges which affect the officer's professional reputation or otherwise creditable employment record.

Doc. No. 798752

### Summary of Opinion MW-84

Request from Maurice S. Pipkin, executive director, State Commission on Judicial Conduct, Austin, concerning whether a complaint arising out of information discovered on execution of a search warrant must be filed with the court which issued the warrant.

**Summary of Opinion:** When a justice of the peace, sitting as a magistrate, issues a search warrant returnable to him, the complaint alleging an offense discovered through the search need not be filed with him.

Doc. No. 798794

### Summary of Opinion MW-85

Request from Gerald R. Brown, executive director, Texas Industrial Commission, Austin, concerning whether issuance of bonds under the Development Corporation Act of 1979, Vernon's Texas Civil Statutes, Article 5190.6, is violative of either Article III, Section 52, or Article XI, Section 3 of the Texas Constitution.

**Summary of Opinion:** The issuance of revenue bonds by an industrial development corporation for authorized purposes, pursuant to the Development Corporation Act, Article 5190.6, Vernon's Texas Civil Statutes, will not violate Article III, Section 52 of the Texas Constitution or any other constitutional or statutory requirement. The attorney general's approval of such bonds is not required before issuance.

Doc. No. 798795

## Summary of Opinion MW-86

Request from John H. Poerner, chairman, Railroad Commission of Texas, Austin, concerning duty of Railroad Commission to set rates over carriers operating under seasonal agricultural licenses issued under Section 5b of Article 911b, Vernon's Texas Civil Statutes.

**Summary of Opinion:** The Railroad Commission has the authority and the duty under Article 911b, Section 4, to set rates for a specialized motor carrier operating under the authority of a seasonal agricultural license.

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

Doc. No. 798796      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

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



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

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

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

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

## Texas State Board of Dental Examiners Dentistry

### Conduct—Grading 382.01.04

The Texas State Board of Dental Examiners is proposing an amendment to Rule 382.01.04.002. The board feels that an applicant should be given the immediate opportunity to see the mistakes he has made while the patient is available for inspection and while all matters of service and procedure are fresh in the minds of the board members and the applicants rather than to give a written account of the applicant's failure sometime after the time the operation or procedure was accomplished.

The board has determined that this amendment will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this amendment should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This amendment is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

**.002. Critiques. [Failures.]** An applicant who has failed an examination and who desires specific reasons for his failing in any subject or procedure *shall be given an opportunity during the examination schedule for a conference with members of the board for specific reasons for his failing in any subject or procedure. An applicant who has failed in any subject or procedure who fails to take advantage of the critique opportunity offered will have waived his right to object or disagree with the grade given* [shall file a written request addressed and mailed to the board's central office within 30 days of the date of the official notice mailed to the applicant from the board office advising of his failure and received in the board's central office within 40 days from the date of the official notice].

Doc. No. 798737

## Conduct

### Mobile or Moveable Offices 382.19.16

The Texas State Board of Dental Examiners is proposing amendments to Rules 382.19.16.002, .003, and .005. Presently, mobile dental clinics, generally operated by charitable groups, choose their areas of service and the board believes that the regional health director is more knowledgeable of the needs in specific areas than mobile dental clinics which may occasionally visit an area. Further, the board believes that charitable clinics should be wholly charitable and not receive reimbursement from local, state, or federal funds. Also, the board believes that the operation should be available for inspection by competent observers and that a report of the activities of the operation should be made to the proper officials.

The board has determined that these amendments will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon these amendments should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

These amendments are proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

**.002. Applications for Practices Other Than the Regular Office Location(s).** An application for approval must be furnished to the board with information and assurance that the following will be carried out:

(1)(a) advise the Texas State Board of Dental Examiners of such intention sufficiently in advance for the board to pass judgment on the application;

(2)(b) such application to include the name, permanent address, and telephone number of the sponsoring person or organization and furnish the name, address, and Texas dental license number of each dentist who will perform the service;

(3)(c) the name, address, and Texas dental hygiene certificate number of each dental hygienist who will perform dental hygiene services;

(4)(d) the name and address of all auxiliary personnel who will be in attendance;

(5)(e) the exact street address or location of the mobile unit in each town or area to be served and the dates and time such unit will be at such location;

(6)(f) the name and address of the local sponsoring and/or cooperating dentist or dental society in each town or area to be served;

(7)(g) a general listing of all dental equipment in working order in the mobile unit;

(8)(h) the source of financing or funding of the project to insure completion of services to be rendered;

(9) a description of the target population, eligibility guidelines, and method of screening for eligibility;

(10) a copy of the approved application for mobile dental unit authorization that is on file with the board of dental hygiene shall be provided to the regional public health dental director concerned.

**.003. Practice Requirements—Upon Approval.** In addition to the above, the following is also required:

(1)(a) that there be no fee for registration, services performed, or materials furnished;

(2)(b) that proper dental records of each dental patient be made and upon leaving the area they be deposited for safekeeping and reference with the sponsoring dentist or dental society in that area;

(3)(c) that all dental service is to be performed on indigents only;

(4)(d) that there be no public advertising of the mobile unit, and any announcement concerning same be issued by the local sponsoring dental society or approved charitable organization;

(5)(e) that the dentist(s) in charge of the mobile unit be available to render free postoperative emergency care and that each patient be furnished with written instructions for postoperative care and that the name, address, and telephone number of a local dentist(s) who will render free emergency care after the mobile unit has left the area be listed on such card;

(6) the operation will be open and available for on-site visits by public health regional dentist, interested private practitioners, and state board personnel.

.005. *Report to the Board.* Within 30 days after the expiration of any approval granted hereunder, a report is to be made to the board detailing the number of patients examined and/or treated and the nature of such examinations and treatment. *A copy of this report shall be provided to the appropriate regional public health dental director.*

Doc. No. 798738

## Anesthesia and Anesthetic Agents 382.19.18

The Texas State Board of Dental Examiners is proposing amendments to the rules pertaining to anesthesia and anesthetic agents. The board is permitting a dentist to use the services of a "registered nurse" in a "nurse" capacity rather than in an "assistant" capacity. The board is also redefining the supervisory personnel in administering anesthesia and redefining the "office team approach" in the use of drugs and other agents. Also, the board is amending the rule on "report of injury" for clarity.

The board has determined that these amendments will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon these amendments should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

These amendments are proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

### .002. Professional Requirements.

(a) Intravenous *and intramuscular* drugs or agents and/or inhalation anesthetic agents shall be induced and administered only by *or under the direct supervision of the following*: (a) dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas, a physician or osteopath licensed by the Texas State Board of Medical Examiners, or a certified registered nurse anesthetist, and who has successfully completed a course in anesthesiology approved by the Texas State Board of Dental Examiners (such as a graduate of a recognized and approved anesthesiology

course of training or of an accredited hospital anesthesia training program approved by the American Dental Association Council on Dental Education) or is a licensed professional who has regularly practiced dentistry and has regularly administered intravenous drugs or agents and/or inhalation anesthetic agents for the 10-year period immediately before the adoption of this rule.)

(1) *a dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas;*

(2) *a physician licensed by the Texas State Board of Medical Examiners;*

(3) *a registered nurse or a certified registered nurse anesthetist;*

(4) *qualified auxiliary personnel who have regularly administered intravenous drugs or agents and/or inhalation anesthetic agents for the 10-year period immediately preceding the adoption of the rule.*

*The above mentioned professionals shall have successfully completed anesthesiology training approved by the Texas State Board of Dental Examiners. Exceptions to the above regulations will be made only by the Texas State Board of Dental Examiners.*

(b) *The person acting in the supervisory capacity must be in the same dental office as the auxiliary performing the service. The only exception would be in the case of an emergency.* [Nitrous oxide for conscious sedation shall be induced and administered only by a dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas, a physician or osteopath licensed by the Texas State Board of Medical Examiners, or a certified registered nurse anesthetist, and who has successfully completed a course of instruction in conscious sedation which has been approved by the Texas State Board of Dental Examiners.]

(c) (No change.)

.006. *Office Team.* A dentist licensed by the Texas State Board of Dental Examiners and practicing dentistry in Texas and who has been approved by the board to induce and administer intravenous *and intramuscular* drugs or agents and/or inhalation anesthetic agents may employ the "office team approach" [where such team associates and/or assistants have been approved by the board; otherwise, the same individual shall not perform both the general anesthesia and the dental procedure].

.008. *Report of Injury (Morbidity) or Death (Mortality) (in Office or Hospital).* All licensees engaged in the practice of dentistry in the State of Texas must submit a complete report within a period of 30 days to the Texas State Board of Dental Examiners after *the* [such] happening of any incident, injury (morbidity), or death (mortality) resulting in temporary or permanent physical or mental disability or injury to any [such] patient *for upon whom said doctor has rendered any dental or medical service.* Routine hospitalization to guard against postoperative complications or for patient comfort need not be reported where complications do not thereafter result in injury (morbidity) or death (mortality) as hereinbefore set forth.

Doc. No. 798739

## Definition 382.19.21

The Texas State Board of Dental Examiners is proposing new Rule 382.19.21.002. The question of the nature and extent of supervision is variously defined and varies from jurisdiction to jurisdiction, and this agency has no definition which is essential to the application of its rules. Therefore, the board is proposing this rule for the protection of the patient and the practitioner.

The board has determined that this new rule will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this new rule should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This new rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

**.002. Supervision.** For the purpose of these rules, the following definitions shall apply to all dental office employees under the jurisdiction of the Texas State Board of Dental Examiners.

(1) General supervision shall mean that dental office employees may perform legally authorized dental services and procedures when the dentist is not physically present in the dental office, subject to the dentist-employer's order and responsibility.

(2) Direct supervision shall mean that dental office employees may perform legally authorized dental services and procedures only when the dentist-employer is physically present in the office and the dentist examines the patient before and after dental services or procedures have been performed, subject to the dentist-employer's order and responsibility.

(3) Personal supervision shall mean that dental office employees may perform dental services and procedures only in the physical presence of and subject to the dentist-employer's immediate order, control, and responsibility.

Doc. No. 798802

## Dental Offices 382.26.00

The Texas State Board of Dental Examiners is proposing new Rule 382.26.00.004. Recent federal decisions permit the states to make reasonable rules and regulations for the protection of the public in the area of advertising, and the board feels that professional advertising should be done by the concerned professional and not by unrelated commercial, wholesale and retail, businesses as a part of said commercial operation's business.

The board has determined that this new rule will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this new rule should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This new rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

**.004. Retail Leases.** A Texas dental licensee practicing or offering to practice dentistry in this state shall not allow, permit, or be a party to any public or private inducement or advertisement in any manner or in any media concerning or alluding to said licensee's dental office, dental practice, dental ability, or expertise in any manner by any person, firm, association, corporation, or entity as a part of its own business, management or operation, or in its own advertisements. (Interpretation: A retail store renting or leasing space to a dentist/dental office cannot advertise the dentist in any manner.)

vertisement in any manner or in any media concerning or alluding to said licensee's dental office, dental practice, dental ability, or expertise in any manner by any person, firm, association, corporation, or entity as a part of its own business, management or operation, or in its own advertisements. (Interpretation: A retail store renting or leasing space to a dentist/dental office cannot advertise the dentist in any manner.)

Issued in Austin, Texas, on November 8, 1979.

Doc. No. 798803

Carl C. Hardin, Jr.  
Executive Director  
Texas State Board of Dental Examiners

Proposed Date of Adoption: December 31, 1979

For further information, please call (512) 475-2443.

## Texas Education Agency

### Foundation School Program

#### Special Education Funding 226.41.21

The Texas Education Agency proposes to amend the administrative procedure sections of Rules 226.41.21.060 and .080, which concern special education funding. The proposed amendment to Rule .060 adds the provision that reimbursement for travel expenses for regional education service center special education personnel may not exceed the current state rates for travel reimbursement. The proposed amendment to Rule .080, which concerns special program, provides that funds may be allocated for residents of Texas Department of Mental Health and Mental Retardation state hospital and drug centers.

The Texas Education Agency does not anticipate the proposed amendments to Rules .060 and .080 will have state or local fiscal implications.

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

These amendments are proposed under the authority of Sections 11.32, 16.002, 16.005, 16.104, and 16.161, Texas Education Code.

#### **.060. Education Service Center.**

(a) (No change.)

(b) Administrative procedure.

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

**(5) Whether from state or federal funds, reimbursement for travel expenses for education service center special education personnel may be based on individual education service center procedures but may not exceed the current state rates for travel reimbursement.**

#### **.080. Special Program Provisions.**

(a) (No change.)

(b) Administrative procedure.

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

(3) *Texas Department of Mental Health and Mental Retardation state hospitals and drug centers.* The school district where the center is located applies to the Texas Education Agency for personnel for the center in the same manner as required for its other special education units.

Issued in Austin, Texas, on November 16, 1979.

Doc. No. 798750      A. O. Bowen  
Commissioner of Education

Proposed Date of Adoption: December 31, 1979  
For further information, please call (512) 475-7077.

## Texas Department of Human Resources

### Intermediate Care II Facility

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

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115, of the Social Security Act, as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, and in Chapter .33. Additionally, with or without the waiver, the department proposes to amend agency rules in Chapter .44, Utilization Review.

The Department of Human Resources proposes to repeal the Intermediate Care II Facility (ICF-II) rules and amend the Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. The "III" designation will be removed from the agency rules and standards at a later date.

Changes to the Utilization Review requirements include the requirement by the long-term care units of the Texas Department of Health for preadmission assessments prior to the recipients/patients' admission to a facility. Assessments of Title XIX applicants/recipients after admission to a nursing facility will no longer be allowed, except in emergency situations. In addition, continued stay reviews will be accomplished every 180 days.

The department has determined that the proposed repeal of the Intermediate Care II Facility rules will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—528, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

### Introduction to Standards 326.30.01

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Compliance with Title XI of the Social Security Act.*
- .002. *Applicability.*
- .003. *Standards Supplemental.*
- .004. *Maintenance of Standards.*
- .005. *Access to Premises.*

### Definition of Terms 326.30.02

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Intermediate Care II Facility.*
- .002. *Physician.*
- .003. *Attendant Personnel.*
- .004. *Nonattendant Personnel.*
- .005. *Resident.*
- .006. *Resident Status.*

### Eligibility of Homes for Participation 326.30.03

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Certification.*
- .002. *Contract.*

### Admission Policies 326.30.04

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Written Procedures.*
- .002. *Recommendation of Physician: 60-Day Recertification.*
- .003. *Resident Status.*
- .004. *Supervision by Physician.*
- .005. *Admission to Institution.*
- .006. *Resident Policy.*

### Administrative Management 326.30.05

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Governing Body.*
- .002. *Full-Time Administrator.*
- .003. *Notification of Changes to Resident Status.*
- .004. *Financial Records.*
- .005. *Financial Audits.*
- .006. *Waiver of Licensing of Nursing Home Administrators.*
- .007. *Resident Rights.*

### Professional Consultants 326.30.06

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Consultants.*
- .002. *Professional Dietary Consultation.*
- .003. *Social Services Consultation.*
- .004. *Summary of Review.*

### Personnel Policies 326.30.07

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *General.*
- .002. *Working Hours of Employees.*
- .003. *Physical Condition of Personnel.*

- .004. *Staff Development.*
- .005. *Written Personnel Policies.*

## Attendant Personnel 326.30.08

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Attendant Services.*
- .002. *Attendant Ratio.*
- .003. *Required Personnel.*
- .004. *Personnel Not Acceptable on Attendant Staff.*
- .005. *Residents Located in Separate Units.*
- .006. *Licensed Nurses.*
- .007. *Registered Nurses.*

## Resident Care and Rehabilitation 326.30.09

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Written Resident Care Policies.*
- .002. *Incident Report.*
- .003. *Resident Rights.*
- .004. *Therapy Screening.*
- .005. *Goal-Directed Therapy.*

## Medical Review and Re-Evaluation 326.30.10

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Evaluation Process.*
- .002. *Re-Evaluation.*
- .003. *Responsibility.*
- .004. *Periodic Medical Review Process.*
- .005. *Medical Assistance Unit.*
- .006. *HEW Policies.*
- .007. *Medical Review Teams.*
- .008. *Medical and Social Need.*
- .009. *Nursing Home Administrator.*
- .010. *Independent Professional Review.*
- .011. *Intermediate Care Facility Utilization Review Committee Plan.*
- .012. *Plan Objectives.*
- .013. *Organization of the Utilization Review Committee.*
- .014. *Criteria.*
- .015. *Meetings.*
- .016. *Internal Records and Reports.*
- .017. *External Records and Reports.*
- .018. *Medical Care Evaluation Studies (MCE).*
- .019. *Confidentiality.*
- .021. *Intermediate Care Facility Medical Assistance Unit Utilization Review Plan.*
- .022. *Plan Objectives.*
- .023. *Medical Assistance Unit UR Composition.*
- .024. *Criteria.*
- .025. *Operational Methods.*
- .026. *Medical Care Evaluation Studies.*

## Pharmacy Service 326.30.11

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Administration.*
- .002. *Medications.*

## Daily Activity Records 326.30.12

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Maintenance of Records.*

## Transfer Agreement 326.30.13

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Agreement with Hospital.*

## Dietary 326.30.14

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Dietary Department Supervision.*
- .002. *Food Service Employees.*
- .003. *Food Services.*

## Housekeeping and Maintenance Service 326.30.15

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Housekeeping Services.*
- .002. *Pest Control.*
- .003. *Linen.*

## Physical Environment 326.30.16

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Safety of Residents.*
- .002. *Favorable Environment for Residents.*
- .003. *Elevators.*
- .004. *Attendant Service Unit.*
- .005. *Resident Bedrooms and Toilet Facilities.*
- .006. *Dayroom and Dining Area.*
- .007. *Kitchen or Dietary Area.*

## Change in Status of Facility 326.30.17

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Vendor Payments Can Be Made for Only That Period of Time.*
- .002. *Transfer of Intermediate Care II Facility Ownership.*
- .003. *Change in Ownership.*
- .004. *Conflict of Interest.*
- .005. *Release of Payment.*
- .006. *Action To Be Taken If Facility Does Not Obtain New License.*
- .007. *Intermediate Care II Facility Ceases to Participate.*

## Compliance with Title VI of the Civil Rights Act 326.30.18

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Requirements for Compliance.*

### Services and Supplies Included in the Vendor Payment 326.30.19

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Maximum Recognized Monthly Rate.*
- .002. *Intermediate Care II Status.*
- .003. *Supplementation of Vendor Payments.*

### Visits Away from Facility 326.30.20

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Therapeutic Visits.*
- .002. *Duration of Therapeutic Visits.*
- .004. *Records.*
- .005. *Hospitalization.*

### Patient Activities and Social Services 326.30.21

The repeal of the following rules is proposed under the authority of the Human Resources Code, Chapter 32.

- .001. *Activities Director.*
- .002. *Individual Social and Activity Plan.*
- .003. *Social History.*
- .004. *Social Care Plan.*
- .005. *Facilities Providing Social Services.*
- .006. *Facilities Arranging/Referring for Social Services.*
- .007. *Individual Activities Plan.*

Doc. Nos. 798816-798836

### Admission Policies 326.30.04

The department proposes Rules 326.30.04.007-.009 based on the granting by the Health Care Financing Administration, Department of Health, Education, and Welfare, of a demonstration project titled "Alternatives to the Institutionalized Aged" under Title XI, Section 1115 of the Social Security Act as amended. This will allow the Department of Human Resources to demonstrate that some Title XIX applicants/recipients now requesting nursing facility care can have their medical care needs met and be better served in alternative care settings. Consequently, effective February 1, 1980, ICF-II level of care determinations will no longer be available to Title XIX applicants requesting nursing facility care. ICF-II recipients who are residing in Title XIX nursing facilities at that time will continue to be eligible for care until they are discharged from the nursing facility. Additionally, Intermediate Care II Facility Standards for Participation are being amended to change from continued stay reviews being required every 60 days to their being required every 180 days (proposed Rule 326.30.10.028). Facilities will no longer have the option of forming in-house utilization review committees. Utilization review will be accomplished by the Texas Department of Health's field-based Long Term Care Units.

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

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—530, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following rules are proposed under the authority of the Human Resources Code, Chapter 32.

.007. *Required Written Policies.* The individual or officers responsible for the institution shall develop written procedures to govern general care policies and discharges. These written procedures must be formulated with the advice of one or more physicians and one or more qualified social consultants.

.008. *Health Care Supervision.* Resident-recipients in Intermediate Care II facilities must have their health care under the supervision of a qualified physician; and the facilities must have a qualified physician or physicians available to furnish necessary medical care in case of emergency.

.009. *Level of Care.* Effective February 1, 1980, ICF-II level of care determinations will no longer be given to Title XIX applicants.

Doc. No. 798837

### Personnel Policies 326.30.07

The Department of Human Resources proposes Rule 326.30.07.006 about staff development in its Intermediate Care II Facility rules. The rule is being proposed to include orientation, training, and continuing inservice education requirements for nursing home employees. Since payment for these requirements is reimbursable under the cost-related reimbursement methodology, employees may not be charged or lose salary for attending orientation, training, or inservice education programs.

The department has determined that the proposed rule will have no fiscal implication for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—459, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

#### .006. *Staff Development.*

(a) Each facility shall implement and maintain programs of orientation, training, and continuing inservice education for all employees who have day-to-day contact with recipient-patients. These programs must comply with nursing home licensure regulations promulgated by the Texas Department of Health. Employees may not be charged or lose salary for the required orientation, training, and continuing inservice education. Inservice educational training is required for facility staff assigned to the goal directed therapy system.

(b) Regularly planned staff meetings shall be conducted by the administrator and the charge attendant, and, when possible, with the participation of a physician, a licensed nurse, and social services personnel.

Doc. No. 798838

## Medical Review and Re-Evaluation 326.30.10

The department is proposing several rules based on the granting by the Health Care Financing Administration, Department of Health, Education, and Welfare, of a demonstration project titled "Alternatives to the Institutionalized Aged" under Title XI, Section 1115 of the Social Security Act as amended. This will allow the Department of Human Resources to demonstrate that some Title XIX applicants/recipients now requesting nursing facility care can have their medical care needs met and be better served in alternative care settings. Consequently, effective February 1, 1980, ICF-II level of care determinations will no longer be available to Title XIX applicants requesting nursing facility care. ICF-II recipients who are residing in Title XIX nursing facilities at that time will continue to be eligible for care until they are discharged from the nursing facilities. Additionally, Intermediate Care II Facility Standards for Participation are being amended to change from continued stay reviews being required every 60 days to their being required every 180 days (proposed Rule 326.30.10.028). Facilities will no longer have the option of forming in-house utilization review committees. Utilization review will be accomplished by the Texas Department of Health's field-based Long Term Care Units.

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

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—530, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

### .028. Continued Stay Reviews.

(a) Physicians' 60-day recertification statements to document the necessity for continued health care services for each recipient will be placed in each recipient's medical record and will be reviewed periodically by the LTCU staff. The recertification should state, "I hereby certify that this patient continues to require nursing facility care."

(b) Continued stay reviews will be the responsibility of the LTCU. The continued stay reviews will be accomplished every 180 days for intermediate care II recipients.

(c) Continued stay reviews will be done at the time of substantial change in the medical plan of care or not later than the original continued stay review date, and will establish a new continued stay review date.

(d) Periodic medical review/independent professional review by the LTCU will serve as a continued stay review date.

(e) If the level of care is changed and the recipient is discharged or transferred to another section of the facility, the administrator of the facility must submit a patient transaction notice, indicating the change.

(f) If the LTCU nurse determines that the written criteria for continued stay are not met, the nurse's decision will be reviewed by the LTCU physician.

(g) If the LTCU physician agrees that the continued stay is not medically necessary or appropriate, the attending physician is notified and allowed an opportunity to present his or her views and any additional information relating to

the patient's need for continued stay. When the LTCU physician performs the continued stay review instead of the LTCU nurse and finds that continued stay is not necessary, the physician may notify the attending physician directly.

(h) If the attending physician does not respond or does not contest the findings of the LTCU nurse or of the LTCU physician who performed the continued stay review, then the findings are final. Written notification of this final determination must be sent to the attending physician, the patient (responsible party or next of kin), the facility administrator, and the State Office of the Texas Department of Human Resources no later than two days after the final determination and in no event later than three working days after the end of the assigned continued stay period.

(1) When possible, the written notification should be received by all involved parties within the stated time period.

(2) When appropriate and desired, verbal notification may precede written notification.

(i) If the attending physician contests the findings of the LTCU nurse or the LTCU physician who performed the continued stay review, or if he or she presents additional information relating to the patient's need for continued stay, at least one additional physician must review the case. If the two LTCU physicians determine that the patient's stay is not medically necessary or appropriate after considering all the evidence, their determination becomes final. Written notification of this decision must be sent to the attending physician, patient (responsible party or next of kin), facility administrator, and the State Office of the Texas Department of Human Resources no later than two days after such final decision and in no event later than three working days after the end of the assigned continued stay period.

(j) In no case may a nonphysician make a final determination that a patient's stay is not medically necessary or appropriate.

(k) If after the referral of a questioned case, the LTCU physician determines that continued stay is justified, the attending physician shall be so notified and a continued stay review date will be established.

(l) A "working day" is defined as any 24-hour period, Monday through Friday, excluding state and federal holidays.

(m) During the continued stay review process, the LTCU physician should make a determination as to those cases in which treatment and service are ineffective. Steps should be taken to ensure that such cases are brought to the LTCU physician's attention.

(n) Recipients' appeals will be processed as indicated in the Legal Services and Civil Rights rules of the Texas Department of Human Resources and agency Rule 326.44.08.003.

(o) All information that contains personal identification or descriptions which would uniquely identify an individual recipient or a provider of health care is considered to be personal and private and will be kept confidential.

(1) Personal identifying information (except for PCN numbers) will be deleted from all records, reports, and/or minutes from formal studies or utilization review meetings which are forwarded to the Texas Department of Human Resources.

(2) These records, reports, and/or minutes, which have been de-identified, will still be treated as confidential.

(3) All such material will be mailed to TDHR in a sealed enveloped marked "Confidential."

## Intermediate Care III Facility

### Professional Consultants 326.31.06

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115 of the Social Security Act as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility and amending various agency rules in Chapter .31, Intermediate Care III Facility, in Chapter .44, Utilization Review, and in Chapter .33, Nursing Facility Administration. The department proposes to repeal the Intermediate Care II Facility rules and amend the Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. The "III" designation will be removed from the agency rules and standards at a later date. Current ICF-II recipient-patients will not be denied level of care determinations. Changes to the utilization review requirements include preadmission assessments by the Long Term Care Units of the Texas Department of Health prior to Title XIX payment for nursing facility care. Assessments of Title XIX applicants/recipients after admission to a nursing facility will no longer be allowed, except in emergency situations. In addition, continued stay reviews will be accomplished every 180 days.

The department has determined that the proposed rules, amendments, and repeals will have no fiscal implications for the state or units of local government. It is expected that the implementation of these changes will result in cost savings for the current biennium and future years.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—528, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following amendment is proposed under the authority of the Human Resources Code, Chapter 32.

#### .002. Dietary Consultant.

(a) (No change.)

(b) Professional judgment and evaluation shall be the determinate factors in the needed numbers of hours of consultation. However:

(1) There shall be a minimum of *four* [eight] hours of dietary consultation service [for the first 60 patients and an additional four hours per 60 patients thereafter] per month.

(2) [These consultation services shall be provided in time intervals of no less than four continuous hours per on-site service.

[(3)] Consultants' visits must be regularly scheduled, allow observation of meal service, and be of a frequency suitable for effectiveness and other required services.

(c) (No change.)

Doc. No. 798840

## Personnel Policies 326.31.07

The Department of Human Resources proposes to amend Rule 326.31.07.004 about staff development in its Intermediate Care III Facility rules. The amendment is being proposed to include orientation, training, and continuing inservice

education requirements for nursing home employees. Since payment for these requirements is reimbursable under the cost-related reimbursement methodology, employees may not be charged or lose salary for attending orientation, training, or inservice education programs.

The department has determined that the proposed amendment will have no fiscal implication for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—459, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following amendment is proposed under the authority of the Human Resources Code, Chapter 32.

#### .004. Staff Development.

(a) *Each facility shall implement and maintain programs of orientation, training, and continuing inservice education for all employees who have day-to-day contact with recipient-patients. These programs must comply with nursing home licensure regulations promulgated by the Texas Department of Health. Employees may not be charged or lose salary for the required orientation, training, and continuing inservice education.* [An adequate inservice educational program shall be developed and be subject to review by the proper agencies.] Inservice educational training is required for facility staff assigned to the goal directed therapy system.

(b) (No change.)

Doc. No. 798841

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115 of the Social Security Act as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility and amending various agency rules in Chapter .31, Intermediate Care II Facility, in Chapter .44, Utilization Review, and in Chapter .33, Nursing Facility Administration. The department proposes to repeal the Intermediate Care II Facility rules and amend the Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. The "III" designation will be removed from the agency rules and standards at a later date. Current ICF-II recipient-patients will not be denied level of care determinations. Changes to the utilization review requirements include preadmission assessments by the Long Term Care Units of the Texas Department of Health prior to Title XIX payment for nursing facility care. Assessments of Title XIX applicants/recipients after admission to a nursing facility will no longer be allowed, except in emergency situations. In addition, continued stay reviews will be accomplished every 180 days.

The department has determined that the proposed rules, amendments, and repeals will have no fiscal implications for the state or units of local government. It is expected that the implementation of these changes will result in cost savings for the current biennium and future years.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—528, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

## Pharmacy Service 326.31.11

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

### .001. Services.

(a) (No change.)

(b) Facilities providing an average patient occupancy as shown below must obtain (as a minimum) the number of pharmacy consultant hours monthly as indicated.

60 patients and less	two [three] hours
61-150 patients	three [four] hours
151 patients and above	four [five] hours

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

Doc. No. 798842

## Physical Environment 326.31.16

The following amendment is proposed under the authority of the Human Resources Code, Chapter 32.

### .003. Elevators.

[(a)] Elevators are installed in the facility if the patient bedrooms are located on *the third floor or higher* [floors the above street level].

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

Doc. No. 798843

## Skilled Nursing Facility

### Conditions and Eligibility for Participation 326.32.01

The Department of Human Resources proposes to amend Rule 326.32.01.002 about eligibility criteria for participation as a skilled nursing facility in the Texas Medical Assistance Program in its Skilled Nursing Facility rules. Federal regulations require that the Medicaid Program be the payor of last resort for medical claims. Department records indicate that a significant number of the eligible patients entering Title XIX skilled nursing facilities are also eligible for Medicare skilled services. In order to meet the federal requirement and to effect a cost savings to the Medicaid Program, the Department of Human Resources proposes to require that skilled nursing facilities or skilled distinct parts must participate in the Title XVIII Medicare Program, in order to participate in the Title XIX Medicaid Program. Facilities which are currently participating in the Title XIX program will be phased into the Medicare Program based on the annual recertification dates.

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

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—527, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

### .002. Eligibility.

(a) A skilled nursing facility may be certified for participation in the Texas Medical Assistance Program under Title XIX and may be eligible for state and federal reimbursement for services to *Title XIX* recipients [of public assistance] if:

(1) *It is currently participating in the Medicare Title XVIII Skilled Nursing Facility Program. Facilities which are participating in the Title XIX Program on the effective date of this amendment will be phased into the Medicare Program based on the annual recertification dates.*

(2)(1) It is currently licensed by the Texas Department of Health [Resources].

(3)(2) It has filed an application for participation as a skilled nursing facility in the Texas Medical Assistance Program under Title XIX.

(4)(3) It has been surveyed by the Texas Department of Health [Resources].

(5)(4) *The Claims Processing Section of the Special Medical Services Division, Texas Department of Human Resources* [Certification and Waiver Section of the Medical Assistance Division, State Department of Public Welfare], has approved the skilled nursing facility for participation. Approval for certification is given only after the licensing and written survey of a skilled facility has been completed by the Texas Department of Health [Resources].

(b)-(g) (No change.)

Doc. No. 798844

## Personnel Policies 326.32.09

The Department of Human Resources proposes to amend Rule 326.32.09.005 about staff development in its Skilled Nursing Facility rules. The amendment is being proposed to include orientation, training, and continuing inservice education requirements for nursing home employees. Since payment for these requirements is reimbursable under the cost-related reimbursement methodology, employees may not be charged or lose salary for attending orientation, training, or inservice education programs.

The department has determined that the proposed amendment will have no fiscal implication for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—459, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following amendment is proposed under the authority of the Human Resources Code, Chapter 32.

**.005. Staff Development.**

(a) *Each facility shall implement and maintain programs of orientation, training, and continuing inservice education for all employees who have day-to-day contact with recipient-patients. These programs must comply with nursing home licensure regulations promulgated by the Texas Department of Health. Employees may not be charged or lose salary for the required orientation, training, and continuing inservice education.* [An inservice educational program shall be developed by the director of nursing services and may be subject to review by the Department of Public Welfare, the Department of Health Resources, and the Department of Health, Education, and Welfare.]

(b) (No change.)

Doc. No. 798845

## Nursing Facility Administration

### Level of Care Determination 326.33.22.009

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

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115, of the Social Security Act, as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, and in Chapter .33, Nursing Facility Administration. Additionally, with or without the waiver, the department proposes to amend agency rules in Chapter .44, Utilization Review.

The department proposes the repeal of Rule 326.33.22.009 about level of care criteria for Intermediate Care II, III, and Skilled Facilities. A new rule is being proposed, addressing criteria for one intermediate level of care and a skilled level of care.

The department is currently proposing to repeal its Intermediate Care II Facility rules and amend Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. In order to effect the transition from two levels of intermediate nursing care to one combined level, changes in level of care criteria must be made. The department estimates that the proposed changes will allow approximately 25% of the current ICF-III patients to be eligible for skilled care. Additionally, the ICF-II and ICF-III criteria are being combined to provide only one level of care. Current ICF-II recipient-patients will not be denied level of care determinations.

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

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—529, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

### **.009. Criteria for Typing for Appropriate Level of Care Required.**

Doc. No. 798846

### Level of Care Determination 326.33.22.012

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115 of the Social Security Act as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, and in Chapter .33, Nursing Facility Administration. Additionally, with or without the waiver, the department proposes to amend agency rules in Chapter .44, Utilization Review. The Department of Human Resources proposes Rule 326.33.22.012 about interpretation of criteria for appropriate level of care in its Nursing Facility Administration rules. The department is proposing to repeal its Intermediate Care II Facility rules and amend Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. In order to effect the transition from two levels of intermediate nursing care to one combined level, changes in level of care criteria must be made. The ICF-II and ICF-III criteria are being combined. Current nursing home recipients receiving ICF-II care will not be denied due to the consolidation and standard changes. The department estimates that the proposed changes will also allow approximately 25% of the current ICF-III patients to become eligible for skilled care.

The department has determined that the proposed rule will have no fiscal implications for the state or units of local government. It is expected that implementation of this rule will result in cost savings for the current biennium and future years.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—529, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

### **.012. Interpretation of Criteria for Appropriate Level of Care.**

(a) Intermediate care facility (listing not intended to be all inclusive).

(1) Documented basic medical social services. A written social plan of care which will include:

- (A) other alternate care arrangements considered;
- (B) diagnostic social study;
- (C) resident's mobility (abilities and limitations).

(2) Behavioral and mental status.

(A) Any one or more of the following behaviors must be exhibited, the combination of which would require varying degrees of skill to manage: forgetful, confused, suspicious, depressed-withdrawn, hyperactive, combative, wanders, comatose.

(B) Behavior problems are exhibited which may require judgmental evaluation and medication during waking hours, but the individual usually rests throughout the night.

(3) Mobility and transfer.

(A) Fully ambulatory or semiambulatory (necessary assistance and guidance provided).

(B) Patient requires sustained help from attendant to get from bed to chair or wheelchair, bathroom, or dining room.

(C) Patient may or may not be able to operate wheelchair.

(D) Patient may require lifting by attendant(s).

(4) Grooming. Patient may need grooming appropriate to individual needs.

(5) Nutrition (regular and therapeutic).

(A) May be unable to manage his or her own food and nutrition requirements.

(B) May need texture modification of regular diet.

(C) May need therapeutic diet for control of existing condition.

(D) Nutritional value requirements of diet may need to be calculated and adequate replacement made for food refused from planned meal pattern.

(E) Diet must be calculated and prepared as required for specific resident's physical or organic condition.

(6) Feeding.

(A) Resident may need supervision to eat and some assistance in eating.

(B) Assistance and encouragement to eat may be necessary due to:

(i) tremors, minor residual paralysis, some deformity of hands;

(ii) residents refusing to eat for brief periods of time due to social or psychological rather than physical reasons;

(iii) residents being withdrawn and unaware of presence of food for brief periods of time.

(7) Fluid intake and output.

(A) Resident may need encouragement or assistance to drink adequate water.

(B) Measuring intake and output may be prescribed by physician on a temporary basis.

(C) Documentation of assessment to reflect signs of fluid retention and subsequent notification of physician.

(8) Elimination.

(A) Toilet activities.

(i) May need occasional assistance with elimination.

(ii) Toilet routine to encourage continence—taking to bathroom routinely. Needs reminding and some assistance to prevent incontinence.

(B) Bowel and bladder training.

(i) Stabilized without regression.

(ii) Lapses of continence (bladder and/or bowel) based on mental determination.

(9) Medication.

(A) Administration of prescribed medications.

Oral and/or rare oral PRNs (once a month) PRN laxatives.

(B) Administration of routine injectables.

(10) Treatments.

(A) Catheter care. To obtain sterile specimen.

(B) Oxygen, intra-positive pressure breathing.

(C) Weight. Facility should have regular routine of weighing residents and recording of weight to note marked weight gain or loss. Variations in weight, from that upon admission, should be reported to resident's physician.

(D) Ostomy care.

(i) Resident may require some assistance with care.

(ii) Colostomy is of a permanent duration and one which resident ordinarily cared for but is now unable to do so.

(iii) Assistance may involve irrigation, colostomy ring, colostomy bag, skin care surrounding opening.

(E) Recording of vital signs. Recording of vital signs according to condition of patient and medications given.

(F) Skin care.

(i) Based on needs, resident may require assistance with routine care of skin, including cleanliness.

(ii) Upon orders of physician, this care may include preventative measures, including application of lotions, etc.

(iii) Observations of skin changes, changes in a mole or wart, treatment of minor cuts, abrasions, or burns, and reporting to the attending physician.

(G) Dressings.

(i) Treatments prescribed by physician for small or superficial areas which may or may not require sterile dressings.

(ii) Application of elastic stocking or Ace bandage when prescribed.

(11) Restorative nursing procedures (nursing service). Independent range of motion and exercises.

(12) Therapy services by qualified therapists.

(A) speech therapy and audiology;

(B) physical therapy;

(C) occupational therapy.

(b) Skilled nursing facility (listing not intended to be all inclusive).

(1) Documented basic medical social services. A written social plan of care which will include:

(A) other alternate care arrangements considered;

(B) diagnostic social study;

(C) resident's mobility (abilities and limitations).

(2) Behavioral and mental status.

(A) Anyone or more of the following behaviors must be exhibited, the combination of which would require varying degrees of skill to manage: forgetful, confused, suspicious, depressed-withdrawn, hyperactive, combative, wanders, comatose.

(B) Behavior may be labile requiring continuous availability of professional judgment. May require frequent judgmental medications or therapy to reduce level of anxiety, depression, etc. A physical condition may be present in a totally dependent individual who would be unable to communicate recurring problems and needs, requiring professional evaluation. May require frequent I.M. or I.V. medication for additional control.

(C) Comatose and requiring nasogastric tube feedings or intravenous therapy for nutrition.

(3) Mobility and transfer.

(A) limited ambulation when patient's condition permits;

(B) patient may or may not be able to operate wheelchair;

(C) patient may require lifting by attendant(s).

(4) **Grooming.** Patient may need personal grooming appropriate to individual needs.

(5) **Nutrition** (regular and therapeutic).

(A) May be unable to manage his or her own food and nutrition requirements.

(B) May need texture modification of regular diet.

(C) May need therapeutic diet for control of existing organic condition.

(D) Nutritional value requirements of diet may need to be calculated and adequate replacement made for food refused from planned meal pattern.

(E) Diet must be calculated and prepared as required for specific resident's physical or organic condition.

(6) **Feeding.**

(A) Hand feeding may be required due to physical or mental condition, not merely because of blindness, slowness, or awkwardness.

(B) In addition, evidence of these needs due to:

(i) weakness and/or fatigue;

(ii) major paralysis, major deformity;

(iii) prolonged psychologic reasons;

(iv) chokes easily or aspirates;

(v) needs Levine tube feeding on a sustained

level;

(vi) difficulty in swallowing;

(vii) tendency toward regurgitation/and or aspiration.

(C) May need self-help devices.

(D) Residents taught self-feeding, which may include use of self-help devices as indicated by care plan and documentation.

(7) **Fluid intake and output.**

(A) Resident may need encouragement or assistance to drink adequate water.

(B) Measuring intake and output may be prescribed by physician.

(C) Adjustment of medication may be required due to fluid retention according to physician's orders. Marked imbalance of fluid intake output, together with adjustment of medication and change in patient's condition, is responsibility of RN to report to physician.

(D) Nurses' notes are sufficiently detailed to reflect professional activity.

(8) **Elimination.**

(A) **Toilet activities.**

(i) May require assistance with elimination on regular and recurrent basis.

(ii) Toilet routine to encourage continence—taken to bathroom routinely. Needs reminding and some assistance to prevent incontinence.

(B) **Bowel and bladder training.**

(i) Specific bladder and bowel training, assessment and initiation of plan.

(ii) Bowel and/or bladder incontinence based on: neurogenic bladder, bladder tumor or other organic conditions, hypertrophied prostate, post-surgical.

(iii) Some perineal care may be required.

(9) **Medication**

(A) Changes in medications, especially diuretics, psychotherapeutics, cardiotonics, until well stabilized. Requires assessment and/or intervention by a professional nurse for evaluation as necessary.

(B) Administration of injectables more often than daily. Frequent administration of intravenous solution. Ad-

ministration of insulin, daily or more often on sliding scale, based on urine tests, according to physician's orders.

(C) Inhalation medications on regular recurring basis requiring licensed staff.

(10) **Treatments.**

(A) **Catheter care.**

(i) Due to physical condition, patient requires more involved catheter care.

(ii) Patient requires frequent or regular catheter care (suprapubic, indwelling).

(iii) Chart reflects needs: to irrigate bladder; to prevent retention of urine with overflow.

(iv) Catheter care with complications such as complicated suprapubic, instillation of specific Rx into bladder.

(B) **Oxygen; intra-positive pressure breathing.**

(i) Patient requires supervision by licensed personnel for administration of oxygen.

(ii) Patient requires trained observation and close supervision by RN or LVN, and frequent, immediate administration of oxygen. May be given by cannula or catheter.

(iii) I.P.P.B. may be needed intermittently.

(iv) I.P.P.B. is needed on regular and recurring basis and given by licensed staff.

(C) **Weight.**

(i) Facility should have regular routine of weighing residents and recording of weight, to note marked weight gain or loss. Variations in weight, from that upon admission, should be reported to resident's physician.

(ii) Prescribed routine weight related to specific diagnosis.

(D) **Ostomy care.** Requires tracking of patient

(E) **Recording of vital signs.** Recording of vital signs according to condition of patient and medications given.

(F) **Skin care.**

(i) Based on needs and according to physician's orders, patient requires regular and recurring skin care.

(ii) Care needed may include treatment of healing decubiti; treatment of acute or chronic skin conditions; cleansing-irrigation, applying medication, the use of pads, sheepskin, or flotation mattresses.

(iii) According to physician's orders, patient requires treatment of existing decubiti and prevention of future decubiti.

(iv) Cleansing, irrigation, applying medication and sterile dressings of a complex nature. An additional degree and amount of skilled nursing care is required by the patient.

(G) **Dressings.**

(i) Treatments prescribed by physician for areas requiring cleansing, irrigation, medication, and sterile dressings.

(ii) Treatments prescribed by physician for deep lesions or wounds which, due to location, copious drainage, etc., require complex changes more frequently than once a day.

(11) **Restorative nursing procedures** (nursing service). Requires passive range of motion with proper positioning. Supportive nursing procedures continual to therapy services.

(12) **Therapy services by qualified therapists.**

(A) speech therapy and audiology;

(B) physical therapy;

(C) occupational therapy.

(13) Other special services required; and for continuing care which can be provided only under the direction of a professional nurse.

(A) The scope of this comprehensive care may require maximum nursing time of ancillary nursing personnel, as well as direct observation, supervision, and care by the professional nurses.

(B) Detailed documentation will reflect the scope and response of patient to care. The condition may:

- (i) be terminal in nature;
- (ii) be an acute episode of an already existing illness;
- (iii) require the most comprehensive care for an unlimited time to meet all of the needs of the totally dependent patient;
- (iv) involve cerebral or spinal cord pathology when patient is totally dependent. Comprehensive nursing care must be given to sustain life.

Doc. No. 798847

## Utilization Review

### Implementation Procedures for Nursing Facilities

326.44.04.001

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115 of the Social Security Act as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, and in Chapter .33, Nursing Facility Administration. Additionally, with or without the waiver, the department proposes to amend agency rules in Chapter .44, Utilization Review.

The Texas Department of Human Resources proposes to change the requirements for admission procedures and continued stay reviews for skilled nursing facilities. Preadmission levels of care will be required for Title XIX applicants/recipients prior to Title XIX payment for nursing facility care, with provisions made for emergency admissions. Continued stay reviews will be accomplished every 30 days for the first 90 days and every 90 days thereafter. Facilities will no longer have the option of forming in-house utilization review committees. Due to a waiver from HEW, utilization review will be accomplished by the Texas Department of Health's field-based Long Term Care Units. Therefore, the department proposes to repeal agency Rule 326.44.05.001.

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

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—525, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

#### .001. Preadmissions.

(a) A preadmission is the establishment of need for health care services and/or a level of care determination prior to admission to a nursing care facility *including an initial assessment of the feasibility of alternate care*.

(b) *Preadmission levels of care will be required for Title XIX applicants/recipients prior to Title XIX payment for nursing facility care. However, provisions will be made for emergency admissions to the nursing facility.* [Preadmission requests for nursing facility care may be received from various sources and by various means of communication.]

(1) All requests received from patients in technical medical care facilities, such as hospitals and nursing facilities, will be referred to the *LTCU* [medical assistance unit (MAU)].

(2) All requests received from patients not in technical medical care facilities will be referred to the local Department of *Human Resources (DHR)* [Public Welfare (DPW)] office.

(3) The *LTCU of the Texas Department of Health* [medical assistance unit] or the local *DHR* [DPW] office will be responsible for:

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

(4) The attending physician is responsible for completing and signing the medical-nursing care evaluation and returning it to the regional *LTCU* [medical assistance unit].

(5) A decision will be made regarding the need for nursing facility care. The *LTCU* [MAU] nurse will review the information received.

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

(C) If the *LTCU* [MAU] nurse identifies alternate care as a possibility, the attending physician will be contacted by the *LTCU* [MAU] nurse or *LTCU* [MAU] physician and alternate care discussed.

(D) (No change.)

(E) If the attending physician does not contest the decision within two working days after being contacted, the determination is final. If the attending physician does contest the decision or offers additional information, the final determination will be made by two *LTCU* [MAU] physicians.

(F) (No change.)

Doc. No. 798851

### 326.44.04.002

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

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115, of the Social Security Act, as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, in Chapter .44, Utilization Review, and in Chapter .33, Nursing Facility Administration.

The department proposes to repeal the Intermediate Care II Facility rules and amend the Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. The "III" designation will be removed from the agency rules and standards at a later date. Current ICF-II recipient-patients will not be denied level of care determinations.

Changes to the Utilization Review requirements include preadmission assessments by the long-term care units of the Texas Department of Health prior to Title XIX payment for nursing facility care. Assessments of Title XIX applicants/recipients after admission to a nursing facility will no longer be allowed except in emergency situations. In addition, continued stay reviews will be accomplished every 180 days.

The department has determined that the proposed rules, amendments, and repeals will have no fiscal implications for the state or units of local government. It is expected that the implementation of these changes will result in cost savings for the current biennium and future years.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—528, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

*.002. Admissions.*

Doc. No. 798848

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115, of the Social Security Act, as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, and in Chapter .33, Nursing Facility Administration. Additionally, with or without waiver, the department proposes to amend agency rules in Chapter .44, Utilization Review.

The Texas Department of Human Resources proposes to change the requirements for admission procedures and continued stay reviews for skilled nursing facilities. Preadmission levels of care will be required for Title XIX applicants/recipients prior to Title XIX payment for nursing facility care, with provisions made for emergency admissions. Continued stay reviews will be accomplished every 30 days for the first 90 days and every 90 days thereafter.

Facilities will no longer have the option of forming in-house utilization review committees. Due to a waiver from HEW, utilization review will be accomplished by the Texas Department of Health's field-based long-term care units. Therefore, the department proposes to repeal agency Rule 326.44.05.001.

The department has determined that the proposed repeal of

Rule .001 and amendment of Rule .003 will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—525, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

**Skilled Nursing Facility Procedural Guide  
326.44.05.001**

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

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

*.001. Continued Stay Reviews for Utilization Review Committees.*

Doc. No. 798849

**326.44.05.003**

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

*.003. Requirements of the Review Process (Skilled Recipients) [Continued Stay Reviews for MAU Doing the Reviews].*

(a) [A continued stay review is the recertification of the continuing need for nursing facility care and a re-evaluation of the established level of care.] The review process will be initiated when the field-based *long-term care* [medical assistance] unit is notified that a Medicaid applicant/recipient is requesting vendor assistance for *care* [stay] in a contracted nursing facility. *A Title XIX applicant/recipient must have a current preadmission level of care determination prior to Title XIX payment for nursing facility care. Preadmission* [Admission] review will be accomplished by the field-based *long-term care unit of the Texas Department of Health* [medical assistance unit (MAU)]. This includes an initial assessment of the feasibility of alternate care [and discharge planning]. Admission certification *as a result of preadmission level of care determination* for necessity of health care services will remain valid for 30 days from the date of admission [or application].

(b) *Physicians' 60-day recertification statements to document the necessity for continued health care services for each recipient will be placed in each recipient's medical record and will be reviewed periodically by the LTCU staff. The recertification should state, "I hereby certify that this patient continues to require facility care."*

(c)(b) Continued stay reviews will be the responsibility of the LTCU [MAU]. The *continued stay* reviews will be accomplished every 30 days for the first 90 days and every 90 [60] days thereafter *for skilled recipients*. [The continued stay reviews will be accomplished every 60 days to comply with the 30-day recertification for nursing home care requirement.]

(d)(c) *Continued stay reviews will be done at the time of substantial change in the medical plan of care or*

**not later than the original continued stay review date and will establish a new continued stay review date.** [A medical-nursing care evaluation, completed and signed by a physician and by the director of nurses, must be submitted to the local medical assistance unit serving the facility.]

[(d) All forms should be submitted to the local MAU office serving the facility prior to the expiration of the continued stay review date.

[(1) All forms must be properly completed.

[(2) Any forms that are returned for proper completion must be received in the MAU office prior to the expiration of the continued stay review date.

[(3) The medical-nursing care evaluation requesting a change in level of care may be submitted at any time on changes in diagnosis or substantial change in the plan of care. This will serve as a continued stay review and will establish a new continued stay review date.]

(e) Periodic medical review/independent professional review [reviews] by the LTCU [MAU] will serve as a continued stay review [and will establish a new continued stay review] date.

(f) If the level of care is changed and the recipient [patient] is discharged or transferred to another section of the facility, the administrator of the facility must submit a patient transaction notice indicating the change.

(g) **If the LTCU nurse determines that the written criteria for continued stay are not met, the nurse's decision will be reviewed by the LTCU physician. If the LTCU physician agrees that the continued stay is not medically necessary or appropriate, the attending physician is notified and allowed an opportunity to present his or her views and any additional information relating to the patient's need for continued stay. When the LTCU physician performs the continued stay review instead of the LTCU nurse and finds that continued stay is not necessary, the physician may notify the attending physician directly.** [The MAU nurse will re-evaluate the established level of care. At this time, one of the following actions will be taken:

[(1) The established level of care may be sustained by the MAU nurse.

[(2) The established level of care may be lowered after review by the MAU physician.

[(A) The attending physician is notified within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's needs for continued stay.]

[(1)(B)] If the attending physician does not respond [within two working days] or does not[, after being contacted,] contest the findings of the LTCU nurse or the LTCU [MAU] physician who performed the continued stay review, then the findings are final. Written notification of this final determination must be sent to the attending physician, the patient (responsible party or [and] next of kin [when appropriate]), [and] the facility administrator, and the State Office of the Texas Department of Human Resources no later than two days after the final determination and in no event later than three working days after the end of the assigned continued stay period. **When possible, the written notification should be received by all involved parties within the stated time period.** When appropriate and desired, verbal notification may precede written notification.

[(2)(C)] If the attending physician contests the findings of the LTCU nurse or of the LTCU [MAU] physician

who performed the continued stay review, or if he or she presents additional information relating to the patient's need for continued stay, at least one additional [MAU] physician must review the case. If the two LTCU physicians determine that the patient's stay is not medically necessary or appropriate after considering all the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (responsible party or [and] next of kin [when appropriate]), [and] the facility administrator and the State Office of the Texas Department of Human Resources no later than two days after the final determination and in no event later than three working days after the end of the assigned continued stay period.

[(3)(E)] If after the referral of a questioned case, the LTCU physician [considering all the evidence] the physician(s) determines that continued stay is justified, the attending physician will be so notified and a continued stay review date will be established [and recorded].

[(F) The effective date will be the date the form was reviewed.

[(G) In either instance a new continued stay review date will be established.

[(H) Termination of nursing facility care.

[(i) The attending physician will be notified within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's need for continued stay.

[(ii) If at least two MAU physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision must be sent to the attending physician, patient (or next of kin), and facility administrator no later than three working days after the end of the continued stay review period.

[(iii) When the patient does not appeal the decision within 10 days, vendor payments to the facility will be made at the rate for the previously established level of care for a period of 15 days or until the patient is transferred, whichever occurs first. (If the patient does appeal within 10 days, the effective date will be 10 days after the original date of notification.)

[(iv) The MAU medical social worker will assist in arranging placement in the appropriate setting.]

(h) (No change.)

(i) During the continued stay review process, the LTCU [medical assistance unit] physician should make a determination as to those cases in which treatment and service are ineffective. Steps should be taken to ensure that such cases are brought to the LTCU physician's attention [receive closer professional scrutiny by the physician reviewer].

**(j) Recipients' appeals will be processed as indicated in the Legal Services and Civil Rights rules of the Texas Department of Human Resources.**

Doc. No. 798852

## 326.44.05.004

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

### .004. Confidentiality.

(a) All information that contains personal identification of descriptions which would uniquely identify an in-

dividual recipient or a provider of health care is considered to be personal and private and will be kept confidential.

(b) Personal identifying information (except PCN numbers) will be deleted from all records, reports, and/or minutes from formal studies or utilization review meetings which are forwarded to the Texas Department of Human Resources.

(1) These records, reports, and/or minutes which have been de-identified, will still be treated as confidential.

(2) All such material will be mailed to TDHR in a sealed envelope marked "Confidential."

Doc. No. 798853

### Intermediate Care Facility Procedural Guide 326.44.06.001

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

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115, of the Social Security Act, as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, in Chapter .44, Utilization Review, and in Chapter .33, Nursing Facility Administration.

The department proposes to repeal the Intermediate Care II Facility rules and amend the Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. The "III" designation will be removed from the agency rules and standards at a later date. Current ICF-II recipient-patients will not be denied level of care determinations.

Changes to the Utilization Review requirements include preadmission assessments by the long-term care units of the Texas Department of Health prior to Title XIX payment for nursing facility care. Assessments of Title XIX applicants/recipients after admission to a nursing facility will no longer be allowed except in emergency situations. In addition, continued stay reviews will be accomplished every 180 days. Facilities will no longer have the option of forming in-house utilization review committees.

The department has determined that the proposed rules, amendments, and repeals will have no fiscal implications for the state or units of local government. It is expected that the implementation of these changes will result in cost savings for the current biennium and future years.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—528, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The repeal of the following rule is proposed under the authority of the Human Resources Code, Chapter 32.

.001. *Continued Stay Review for Utilization Review Committee.*

Doc. No. 798850

If the Department of Human Resources does not receive a waiver under Title XI, Section 1115 of the Social Security Act, as amended, from the HEW Health Care Financing Administration to develop alternatives for the institutionalized aged, the department proposes repealing agency rules in Chapter .30, Intermediate Care II Facility, and amending various agency rules in Chapter .31, Intermediate Care III Facility, and in Chapter .33, Nursing Facility Administration. Additionally, with or without the waiver, the department proposes to amend agency rules in Chapter .44, Utilization Review. The department proposes to repeal the Intermediate Care II Facility rules and amend the Intermediate Care III Facility rules to establish one set of intermediate nursing care standards. The "III" designation will be removed from the agency rules and standards at a later date. Current ICF-II recipient-patients will not be denied level of care determinations.

Changes to the utilization review requirements include pre-admission assessments by the Long Term Care Units of the Texas Department of Health prior to Title XIX payment for nursing facility care. Assessments of Title XIX applicants/recipients after admission to a nursing facility will no longer be allowed, except in emergency situations. In addition, continued stay reviews will be accomplished every 180 days.

The department has determined that the proposed rules, amendments, and repeals will have no fiscal implications for the state or units of local government. It is expected that the implementation of these changes will result in cost savings for the current biennium and future years.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—528, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

### 326.44.06.003

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

.003. *Requirements of the Review Process (ICF Recipients) (Continued Stay Reviews for MAU Doing the Reviews).*

(a) [A continued stay review is the recertification of the continuing need for nursing facility care and a re-evaluation of the established level of care.] The review process will be initiated when the field base *long term care* [medical assistance] unit is notified that a Medicaid applicant/recipient is requesting vendor assistance *for care* [stay] in a contracted nursing facility. *A Title XIX applicant/recipient must have a current preadmission level of care determination prior to Title XIX payment for nursing facility care preadmission* [Admission] review will be accomplished by the field based *long term care unit of the Texas Department of Health* [medical assistance unit (MAU)]. This includes an initial assessment of the feasibility of alternate care [and discharge planning]. Admission certification *as a result of preadmission level of care determination* for necessity of health care services will remain valid for 180 [60] days *for intermediate care recipients* from the date of admission [or application].

(b) *Physicians' 60-day recertification statements to document the necessity for continued health care services for each recipient will be placed in each recipient's medical record and will be reviewed periodically by the LTCU*

staff. The recertification should state "I hereby certify that this patient continues to require nursing facility care."

(c)(b) Continued stay reviews will be the responsibility of the LTCU [medical assistance unit]. The continued stay reviews will be accomplished every 180 [60] days for intermediate care recipients. [The continued stay reviews will be accomplished every 60 days to comply with the 60 day recertifications for nursing home care requirement.]

(d)(c) Continued stay reviews will be done at the time of substantial change in the medical plan of care or not later than the original continued stay review date, and will establish a new continued stay review date. [A medical-nursing care evaluation completed and signed by a physician and by the director of nurses must be submitted to the local medical assistance unit serving the facility.]

(d) All forms should be submitted to the local MAU office prior to the expiration of the continued stay review date.

(1) All forms must be properly completed.

(2) Any forms that are returned for proper completion must be received in the MAU office prior to the expiration of the continued stay review date.

(3) The medical-nursing care evaluation requesting a change in level of care may be submitted at any time on changes in diagnosis or substantial change in the plan of care. This will serve as a continued stay review and will establish a new continued stay review date.]

(e) Periodic medical review/independent professional review [reviews] by the LTCU [medical assistance unit] will serve as continued stay review [and will establish a new continued stay review] date.

(f) If the level of care is changed and the recipient [patient] is discharged or transferred to another section of the facility, the administrator of the facility must submit a patient transaction notice indicating the change.

(g) If the LTCU nurse determines that the written criteria for continued stay are not met, the nurse's decision will be reviewed by the LTCU physician. If the LTCU physician agrees that the continued stay is not medically necessary or appropriate, the attending physician is notified and allowed an opportunity to present his or her views and any additional information relating to the patient's need for continued stay. When the LTCU physician performs the continued stay review instead of the LTCU nurse, and finds that continued stay is not necessary, the physician may notify the attending physician directly. [The MAU nurse will re-evaluate the established level of care. At this time, one of the following actions will be taken:

(1) The established level of care may be sustained by the MAU nurse.

(2) The established level of care may be lowered or raised after review by the MAU physician.

(A) The attending physician is notified within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's need for continued stay.]

(1)(B) If the attending physician does not respond [within two working days after being contacted] or does not contest the findings of the LTCU nurse or the LTCU [medical assistance unit] physician, who performed the continued stay review, then the findings are final. Written notification of this final determination must be sent to the attending physician, the patient (responsible party or [and] next of kin [when appropriate]), [and] the facility administra-

tor, and the State Office of the Texas Department of Human Resources no later than two days after the final determination and in no event later than three working days after the end of the assigned continued stay period. When possible, the written notification should be received by all involved parties within the stated time period. When appropriate and desired, verbal notification may precede written notification.

(2)(C) If the attending physician contests the findings of the LTCU nurse or of the LTCU [medical assistance unit] physician who performed the continued stay review or if he or she presents additional information relating to the patient's need for continued stay, at least one additional [MAU] physician must review the case. If the two LTCU physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (responsible party or [and] next of kin [when appropriate]), [and] the facility administrator, and the State Office of the Texas Department of Human Resources not later than two days after the final determination and in no event later than three working days after the end of the assigned continued stay period.

(3)(D) In no case may a nonphysician make a final determination that a patient's stay is not medically necessary or appropriate.

(4)(E) If after the referral of a questioned case, the LTCU physician [considering all of the evidence, the physician(s)] determines that continued stay is justified, the attending physician will be so notified and a new continued stay review date will be established [and recorded].

(F) The effective date the form was reviewed.

(G) In either instance, a new continued stay review date will be established.

(H) If the level of care is higher than the facility or distinct part is licensed to provide:

(i) The patient must be transferred to another facility or distinct part licensed to provide the care required. If this occurs, vendor payments will be made at the rate for the previously established level of care for a period not to exceed 15 days or until the patient is transferred, whichever occurs first; or

(ii) a waiver must be signed by the attending physician and the facility administrator and submitted to the local MAU office for approval by the MAU director. If the waiver is approved, vendor payments will be made according to the classification of the facility or the distinct part where the patient is located. If the waiver is denied, vendor payments will be made at the assigned rate for a period not to exceed 15 days from the date of denial or until the patient is transferred, whichever occurs first.

(I) In all instances except a denial of waiver, a new continued stay review date will be established.

(J) Termination of nursing facility care.

(i) The attending physician will be notified within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's need for continued stay.

(ii) If at least two MAU physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (or next of kin), and

the facility administrator not later than three working days after the end of the continued stay review period.

[(iii) When a patient does not appeal the decision within 10 days, vendor payments to the facility will be made at the rate for the previously established level of care for a period of 15 days or until the patient is transferred, whichever occurs first. (If the patient does not appeal within 10 days, the effective date will be 10 days after the original date of notification.)

[(iv) The MAU medical social worker will assist in arranging placement in the appropriate setting.]

(h) (No change.)

(i) During the continued stay review process, the *LTCU* [medical assistance unit] physician should make a determination as to those cases in which treatment and service are ineffective. Steps should be taken to ensure that such cases *are brought to the LTCU physician's attention* [receive closer professional scrutiny by the physician reviewer].

(j) *Recipients' appeals will be processed as indicated in the Legal Services and Civil Rights rules of the Texas Department of Human Resources.*

Doc. No. 798854

### 326.44.06.004

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

#### .004. Confidentiality.

(a) All information that contains personal identification or descriptions which would uniquely identify an individual recipient or a provider of health care is considered to be personal and private and will be kept confidential.

(b) Personal identifying information (except for PCN numbers) will be deleted from all records, reports, and/or minutes from formal studies or utilization review meetings which are forwarded to the Texas Department of Human Resources.

(1) These records, reports, and/or minutes, which have been de-identified, will still be treated as confidential.

(2) All such material will be mailed to TDHR in a sealed envelope marked "Confidential."

Doc. No. 798855

### Long-Term Care Unit Procedures 326.44.08

The Department of Human Resources proposes to amend Rules 326.44.08.001, .002, and .004 to change references from medical assistance units to long-term care units and to require preadmission levels of care for Title XIX applicants/recipients prior to Title XIX payment for nursing facility care.

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

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—526, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

#### .001. Preadmissions.

(a) Requests for nursing facility care received in the local *Texas* Department of *Human Resources (DHR)* [Public Welfare (DPW)] office.

(1) The aged, blind, and disabled (ABD) social services worker mails a medical-nursing care evaluation to the attending physician and encloses an envelope addressed to the regional *LTCU* [medical assistance unit (MAU)] office.

(2) The ABD social services worker refers the individual for an eligibility determination to either the Social Security Administration (SSA) or a *DHR* [DPW] medical eligibility worker.

(3) The ABD social services worker completes a home care assessment and a medical-social referral and forwards them along with the appropriate recommendation to the regional *LTCU* [MAU] office.

(b) Requests for nursing facility care received in the *LTCU* [MAU] office.

(1) The *LTCU* [MAU] nurse mails a medical-nursing care evaluation to the attending physician with a self-addressed envelope.

(2) The *LTCU* [MAU] nurse refers the individual for an eligibility determination to either SSA or a *DHR* [DPW] medical eligibility worker.

(3) The *LTCU* [MAU] nurse notifies the *LTCU* [MAU] medical social worker of the request for nursing facility care if the individual is in a technical medical care facility.

(A) The *LTCU* [MAU] medical social worker completes a social evaluation of need for nursing facility care and makes an initial recommendation within three working days.

(B) Contact may be made with the *DHR* ABD social services staff to determine the availability of alternate care resources and to alert [the] *ABD* [social services worker] to the possible referral for alternate care placement.

(C) The social evaluation of need for nursing facility care is forwarded to the regional *LTCU* [MAU] office.

(4) The *LTCU* [MAU] nurse notifies the ABD social services worker if the individual is not in a technical medical care facility. The ABD social services worker completes a home care assessment and submits it with a medical-social referral and appropriate recommendations to the *LTCU* [MAU] within three working days.

(c) A decision is made regarding nursing facility care by the *LTCU* [MAU] nurse.

(1) (No change.)

(2) The effective date for the level of care determination is the date the form was **completed** [reviewed] and remains valid for 30 days from that date.

(3) The attending physician and the individual are notified within five days of receipt of the [designated] forms.

(4) (No change.)

(d) If the *LTCU* [MAU] nurse identifies alternate care as a possibility, the attending physician is contacted and alternate care discussed.

(1) If alternate care is available and feasible, a referral is made to the *Texas Department of Human Resources* *ABD* social services worker for placement in the appropriate setting.

(2) (No change.)

(e) If a level of care determination is not made or if it differs from the level of care recommended by the attending

physician, the attending physician is contacted within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's need for nursing facility care.

(1) If the attending physician does not contest the decision within two working days, the determination made by the *LTCU* [MAU] physician is final.

(2) If the attending physician does contest the decision or offers additional information, the final determination is made by two *LTCU* [MAU] physicians.

(3) (No change.)

(f) Appeals procedure.

(1) (No change.)

(2) All patients or sponsors are required to contact the *LTCU* [MAU] of their *choice* [desire] to appeal.

(3) The *LTCU* [MAU] completes a petition for fair hearing and mails it and *a copy* [copies] of the latest medical-nursing care evaluation [and the social evaluation of the need for nursing facility care] to the *Texas Department of Human Resources* regional hearing officer.

(4) (No change.)

(5) With regard to periodic medical reviews *or independent professional reviews* (PMR/IPR), the attending physician must be contacted any time the level of care is changed or denied.

(6)-(7) (No change.)

(8) If the attending physician disagrees with the decision to change the level of care and two *LTCU* [MAU] physicians concur and override the attending physician, the effective date of the change will be 10 days from the date of the written notification to recipient. In this case, the following are applicable if the patient appeals:

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

(C) If the hearing officer sustains the decision to change the level of care, the effective date of the change will be 10 days after the [original] date of notification.

(9)-(11) (No change.)

## .002. Admissions.

[(a)] *A Title XIX applicant/recipient must have a* [Patient has] current preadmission level of care determination *prior to Title XIX payment for nursing facility care* [and the admission form is received in the MAU office].

(1) The *LTCU* [MAU] nurse changes the medical-nursing evaluation from preadmission to admission, changes the effective date, and establishes a continued stay review date.

(2)-(3) (No change.)

[(b)] Patient does not have a current preadmission level of care determination and the admission form is received in the MAU office.

[(1)] Medical social worker is notified of the admission in order to complete an alternate care assessment and discharge planning.

[(2)] The medical-nursing care evaluation must be received within seven working days of admission (including the day of admission) for the effective date to be the date of admission.

[(3)] A decision regarding nursing facility care is made by the MAU nurse.

[(A)] If the level of care determination agrees with the attending physician's recommendation, a continued stay review date is established.

[(B)] If the level of care differs from that recommended by the attending physician, or if the level of care is

denied, the attending physician is notified within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's needs for nursing facility care.

[(C)] If the attending physician does not contest the decision within two working days, the determination made by the MAU physician is final.

[(D)] If the attending physician does contest the decision or offers additional information, the final determination is made by two MAU physicians.

[(E)] In contested cases in which the final determination is adverse, the notification letter must be signed by the two MAU physicians who reviewed the case.

[(F)] The proper individuals are notified of the decision in writing no later than five working days from receipt of the medical-nursing care evaluation.

[(G)] After the final determination has been made, a new continued stay review date is established.

[(c)] The appeals procedures for an admission level of care determination are the same as those given for preadmission. See Rule .001(f).]

.004. *Waiver Procedure.* [When a waiver is required, the facility is notified.]

(a) *When a waiver is required, the facility is notified.* Suspense files are maintained pending receipt of waiver request forms to be submitted within 15 days.

(b) The file is correlated with the waiver request forms received in the *LTCU* [MAU] office.

(1) The *LTCU* [MAU] nurse reviews the form and makes the appropriate recommendations.

(2) All forms and recommendations are forwarded to the *LTCU* [MAU] physician.

(A) If the waiver is approved, the original signed by the *LTCU* [MAU] physician is forwarded to the facility for inclusion in the patient's clinical record.

(B) (No change.)

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

Doc. No. 798856

Jerome Chapman

Commissioner

Texas Department of Human Resources

Proposed Date of Adoption: December 31, 1979

For further information, please call (512) 475-4601.

## Texas Department of Mental Health and Mental Retardation

### Client (Patient) Care

#### Public Responsibility Committees 302.04.09

The Texas Department of Mental Health and Mental Retardation proposes to amend Rule 302.04.09.007, which states the procedures and responsibilities of public responsibility committees at each facility of the department. A public responsibility committee (PRC) is an independent entity composed of individuals not affiliated with a departmental facility. A public responsibility committee acts primarily as a third party mechanism to safeguard the legal rights of clients of the department. A public responsibility committee also acts as an investigating body on behalf of clients.

The proposed amendment to Rule .007 would amend subsection (i) of the rule by adding language which would require that when a public responsibility committee determines that an instance of abuse or denial of rights has occurred which involves a client who is mentally retarded, the committee shall report the occurrence to the advocacy system, to the appropriate authorities, to the facility superintendent or director, and to the appropriate deputy commissioner. The effect of the proposed amendment would be to require the public responsibility committee to report instances of abuse or denial of rights involving a client who is mentally retarded to the facility superintendent or director and to the appropriate deputy commissioner.

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, and in Section 60 of Article 5547-300, Texas Civil Statutes.

**.007. Procedures and Responsibilities.**

(a)-(h) (No change.)

(i) When the PRC determines that an instance of abuse or denial of rights has occurred which involves a client who is mentally retarded, the PRC shall report this instance to the advocacy system, [and] to the appropriate authorities, *to the facility superintendent or director, and to the appropriate deputy commissioner.*

(j)-(n) (No change.)

Doc. No. 798745

## Standards of Quality of Services for Residential Facilities for the Mentally Retarded 302.04.29.003, .004, .006, .009

The Texas Department of Mental Health and Mental Retardation proposes to amend Rules 302.04.2.003, .004, .006, and .009 of its subchapter of rules concerning standards of quality of services for residential facilities for the mentally retarded. The purpose of the proposed amendments is to delete all references to the Joint Commission on Accreditation of Hospitals which are contained in the rules, to correct citations to certain federal regulations, and to bring the rules up-to-date. References to the Joint Commission on Accreditation of Hospitals are being deleted because the Accreditation Council for Facilities for the Mentally Retarded, which was responsible for developing standards, developing survey procedures, and making accreditation decisions for residential facilities for the mentally retarded, has withdrawn from and is no longer a part of the Joint Commission on Accreditation of Hospitals. Contemporaneously with the proposed amendments to the above enumerated rules, the department is proposing to repeal Rule 302.04.29.007.

The proposed amendment to Rule .003 would delete paragraphs (1), (2), (4), and (8) of the rule which define

terms that relate to the Joint Commission on Accreditation of Hospitals. The remainder of the rule would be renumbered accordingly. The proposed amendment would also amend paragraph (5) of the rule to reflect the fact that the names of the Texas State Department of Public Welfare and the Texas Department of Health Resources have been changed to the Texas State Department of Human Resources and the Texas Department of Health, respectively. The proposed amendment would also amend paragraph (7) of the rule to indicate that the correct citation to the Standards for Intermediate Care Facility Services for the Mentally Retarded or Persons with Related Conditions is Section 449.13 of Part 449 of Title 42 of the Code of Federal Regulations.

The proposed amendment to Rule .004 would delete the portion of the text currently designated as paragraph (2) of the rule which relates to standards of the Joint Commission on Accreditation of Hospitals. The proposed amendment would also delete the words "on a priority basis" from the title of the rule. The effect of the proposed amendment would be that the rule would simply state that it is the intention of the department that all eligible residential facilities for the mentally retarded shall meet the Standards for Intermediate Care Facility Services for the Mentally Retarded or Persons with Related Conditions, commonly referred to as ICF/MR.

The proposed amendment to Rule .006 would delete the first sentence of the text which provides that ICF/MR standards are designated as first priority among standards of quality of services to be achieved. The proposed amendment would also delete the words "designated as first priority" from the title of the rule.

The proposed amendment to Rule .009 would delete paragraph (2) of the rule which relates to standards of the Joint Commission on Accreditation of Hospitals. The proposed amendment would also restructure the language of the rule so that the rule will make reference to only the Standards for Intermediate Care Facility Services for the Mentally Retarded or Persons with Related Conditions and would indicate that the correct citation to such standards is Section 449.13 of Part 449 of Title 42 of the Code of Federal Regulations.

Promulgation of the proposed amendments to Rules .003, .004, .006, and .009 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, .006, and .009 are proposed under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

**.003. Definitions and Background Information.** As used in these rules, the following terms have the indicated meaning:

[(1) "Joint Commission on Accreditation of Hospitals" (JCAH) formed in 1951 is a not-for-profit, nongovernmental corporation sponsored by the following four major hospital and medical organizations which are its member organizations:

- [(A) the American College of Physicians,
- [(B) the American College of Surgeons,

- [(C) the American Hospital Association, and  
[(D) the American Medical Association.

[Until 1965, the joint commission had established standards and an accreditation program only for general hospitals, but in 1966, 1969, and 1970, the JCAH developed separate standards and accreditation programs for long-term care facilities, facilities for the mentally retarded, and psychiatric facilities. Each of these programs is directed by an accreditation council for the joint commission.

[(2) "Accreditation Council for Facilities for the Mentally Retarded" means the Accreditation Council of JCAH charged with developing standards, developing survey procedures, and making accreditation decisions for residential facilities for the mentally retarded.]

[(1) [(3)] "Residential facility for the mentally retarded" means any department facility that provides 24-hour services, including domiciliary services for the mentally retarded.

[(4) "Accreditation" means that JCAH has determined that a facility is meeting JCAH/ACFMR standards, on a continuing basis, to such an extent as to insure quality care and treatment of clients.]

[(2) [(5)] "Certification" by the Texas State Department of Human Resources [Public Welfare (DPW)] means that the Texas Department of Health [Resources] has determined that a facility is meeting Standards for Intermediate Care Services in Facilities for the Mentally Retarded or Persons with Related Conditions (ICF/MR), on a continuing basis, as promulgated by Texas State Department of Human Resources [DPW] and approved by the U.S. Department of Health, Education, and Welfare, to such an extent as to insure quality care and treatment of clients.

[(3) [(6)] "Department" means the Texas Department of Mental Health and Mental Retardation.

[(4) [(7)] "ICF/MR" means Standards for Intermediate Care Facility Services for the Mentally Retarded or Persons with Related Conditions. These standards are codified in Section 449.13 [249.13] of Part 449 [249] of Title 42 [45] of the Code of Federal Regulations.

[(8) "JCAH/ACFMR" means Standards for Residential Facilities for the Mentally Retarded and Standards for Community Agencies Serving Persons with Mental Retardation and Other Developmental Disabilities. These standards are promulgated by the Accreditation Council for Facilities for the Mentally Retarded of the Joint Commission on Accreditation of Hospitals.]

.004. *The Department's Intention of Meeting Standards of Quality of Services [on a Priority Basis].* It is the intention of this department that all eligible residential facilities for the mentally retarded shall meet the [following Standards of Quality of Services on a priority basis as listed:]

[(1)] Standards for Intermediate Care Facility Services for the Mentally Retarded or Persons with Related Conditions, commonly referred to as ICF/MR [;]

[(2) Standards for Residential Facilities for the Mentally Retarded and Standards for Community Agencies Serving Persons with Mental Retardation and Other Developmental Disabilities, commonly referred to as JCAH/ACFMR].

.006. *ICF/MR Standards [Designated as "First Priority"].* [ICF/MR standards are designated as "first priority" among Standards of Quality of Services to be achieved.] Each residential facility for the mentally retarded will make every effort to:

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

.009. *References.* Reference is made to the [following regulations and standards:

[(1)] Standards for Intermediate Care Facility Services for the Mentally Retarded or Persons with Related Conditions. These standards are codified in Section 449.13 [249.13] of Part 449 [249] of Title 42 [45] of the Code of Federal Regulations.

[(2) The following standards promulgated by the Accreditation Council for Facilities for the Mentally Retarded of the Joint Commission on Accreditation of Hospitals:

[(A) Standards for Residential Facilities for the Mentally Retarded, fourth printing, 1974;

[(B) Standards for Community Agencies Serving Persons with Mental Retardation and Other Developmental Disabilities.]

Doc. No. 798814

## 302.04.29.007

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

The Texas Department of Mental Health and Mental Retardation proposes to repeal Rule 302.04.29.007, which specifies that standards of care developed by the Accreditation Council for Facilities for the Mentally Retarded (ACFMR) of the Joint Commission on Accreditation of Hospitals (JCAH) are designated as second priority among standards of quality of services to be achieved by departmental residential facilities for the mentally retarded. The ACFMR, which was responsible for developing standards, developing survey procedures, and making accreditation decisions for residential facilities for the mentally retarded, has withdrawn from and is no longer a part of the JCAH. Therefore, the department has decided to delete all references to the ACFMR and the JCAH contained in its subchapter of rules concerning standards of quality of services for residential facilities for the mentally retarded. In order to implement the department's decision, it is necessary to repeal Rule .007. Contemporaneously with the proposed repeal of Rule .007, the department is proposing amendments to Rules .003, .004, .006, and .009 which would also delete all references to the ACFMR and the JCAH as well as make other changes necessary to bring the rules up-to-date.

The repeal of 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 repeal of Rule .007 is invited. Persons may submit their comments by writing to John J. Kavanagh, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, or by telephone at (512) 454-3761.

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

**.007. JCAH/ACFMR Standards Designated as "Second Priority."**

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

Doc. No. 798815      John J. Kavanagh, M.D.  
Commissioner  
Texas Department of Mental Health  
and Mental Retardation

Proposed Date of Adoption: December 31, 1979  
For further information, please call (512) 454-3761, ext. 241.

**Rights of Mentally Retarded Clients 302.04.34**

The Texas Department of Mental Health and Mental Retardation is proposing to amend Rules 302.04.34.005, .007, and .008 of its rules governing the rights of mentally retarded clients, Rules .001-.010. The proposed amendments cannot become effective unless and until the Texas Board of Mental Health and Mental Retardation approves the changes. The board is expected to consider approval of the proposed amendments at its December 1979 meeting.

The proposed amendment to Rule .005 would add language to paragraph (10) of the rule to indicate that a determination of contraindication by the client's interdisciplinary team is one way in which the client's right to access to his or her own medical records may be lawfully restricted. The effect of the proposed amendment would be to provide guidance to employees of the department and to interested persons concerning how a client's right to access to his or her own medical records may be lawfully restricted.

The proposed amendment to Rule .007 would add and delete language to subsection (a) of the rule. The purpose of the language changes is to accurately reflect the title of the mentally retarded rights handbook which is published by the department and distributed to clients, parents, and guardians, and to provide that the department will review and revise the handbook annually, as necessary.

The proposed amendment to Rule .008 would add language to subsection (b) of the rule to make clear that communication of clients' rights to a parent or guardian should not be limited to written correspondence and that verbal communication of clients' rights must be documented and witnessed by a third person.

Promulgation of the proposed amendments to 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 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 .005, .007, and .008 are proposed under the authority of Section 4.01 of Article 5547-204, Texas Civil Statutes, and Sections 26 and 60 of Article 5547-300, Texas Civil Statutes.

**.005. Rights of Mentally Retarded Clients.** Clients who receive mental retardation services are specifically granted the following additional rights by the Mentally Retarded Per-

sons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes:

(1)-(9) (No change.)

(10) Right to access to his or her own medical records except where lawfully restricted *such as but not limited to when contraindicated by the client's interdisciplinary team*. Parents of minors and guardians of the person have access to educational records under the education regulations. Also, parents of minors and guardians of the person have the right of access to their child's or wards records under the Education of Handicapped Children Act and the right to seek to amend erroneous information contained in educational records through an administrative hearing under the education regulations.

(11)-(12) (No change)

**.007. Mentally Retarded Rights Handbook.**

(a) The department will publish a handbook outlining the rights of mentally retarded persons, to be entitled "*Your Rights under the Mentally Retarded Persons Act* [and Privileges of the Mentally Retarded in Facilities of the], Texas Department of Mental Health and Mental Retardation [and Community Centers]." The department will *review* [update] and *revise* [republish] said handbook *annually, as necessary* [from time to time].

(b)-(i) (No change.)

**.008. Communication of Rights.**

(a) (No change.)

(b) If a client is manifestly unable to comprehend the rights, a parent of a minor client or the court-appointed guardian of the person of a client, if any, must be informed of the client's rights. The method used to communicate a client's rights to a parent or guardian should be designed for effective communication *and should not be limited to written correspondence. Verbal communication of clients' rights shall be documented and witnessed by a third person.*

(c) (No change.)

Issued in Austin, Texas, on November 16, 1979.

Doc. No. 798746      John J. Kavanagh, M.D.  
Commissioner  
Texas Department of Mental Health and  
Mental Retardation

Proposed Date of Adoption: December 31, 1979  
For further information, please call (512) 454-3761, ext. 241.



## Railroad Commission of Texas

### Oil and Gas Division

#### Miscellaneous 051.02.99

The Railroad Commission of Texas is proposing to amend Rule 051.02.99.001 pertaining to gas market demand procedures. Elsewhere in this issue of the *Register*, the commission has published notice of amendments to Rules 051.02.02.028 and .029 pertaining to testing of gas wells and providing an allocation formula for nonassociated gas wells producing in fields for which no field rules have been adopted. This amendment is necessary to conform the gas market demand rule to amended Rules 051.02.02.028 and .029. Subsection (e)(4) of Rule .001 has been amended to delete reference to "openflow potential" and subsection (f) has been deleted in its entirety, the other amendments mentioned above having satisfied the requirements imposed by subsection (f).

The staff of the Railroad Commission's Oil and Gas Division has determined that this amendment will have no fiscal impact on units of state or local government.

Public comment on the proposed amendment is invited. Comments should be submitted in writing to John G. Soule, general counsel, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days following publication of this proposed amendment in the *Texas Register*.

This amendment is proposed under the authority of Title 3, Texas Natural Resources Code.

*.001 Determination of Gas Market Demand and Procedures for the Allocation of Gas Well Allowables and for Ratable Take between Gas Wells and Gas Fields in the State of Texas.*

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

(e) The initial nominator of gas shall ratably apportion its nominations on Form T-3 and shall ratably apportion its actual take from all gas wells connected to its system so that takes from various gas producing properties shall be made without discrimination in favor of one producer or person as against another in the same field and without unjust or unreasonable discrimination as between fields. The following instructions shall apply to initial nominators in preparing nominations (Form T-3) and in taking gas from various sources of supply, and to commission staff in calculating allowables:

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

(4) Each new gas well operated under Statewide Rules 28 and 29 (Rules 051.02.02.028 and .029) shall be assigned an allowable not to exceed the deliverability test volume as reported on Form G-10 [or 25% of the calculated openflow potential, whichever is the smaller volume]. No statewide gas well with a daily [natural open flow (deliverability)] of 200 MCF per day or more shall be assigned an allowable rate less than 200 MCF per day, except on special commission order, and all gas wells with a [daily natural open flow (deliverability)] of less than 200 MCF per day shall not be assigned an allowable rate less than its capacity to produce.

(f) *Reserved.* [Prior to January 1, 1979, the commission shall take appropriate action to require that all gas wells in the State of Texas be operated pursuant to special field rules (including an allowable production allocation formula)

promulgated by the commission after proper notice and hearing. Gas fields where all the gas wells therein have a daily natural open flow capacity (deliverability) equal to or less than 200 MCF per day shall be exempt from this requirement.]

(g)-(j) (No change.)

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

Doc. No. 798880      John G. Soule, General Counsel  
Oil and Gas Division  
Railroad Commission of Texas

Proposed Date of Adoption: December 31, 1979  
For further information, please call (51) 445-1281

## Texas Department of Water Resources

### Private Sewage Facility Regulations

#### Guadalupe River 157.31.20

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, are proposing to adopt Rules 157.31.20.001-.017, concerning the establishment of a regulated zone adjacent to the Guadalupe River and its normally flowing tributaries in Kerr County, promulgating rules and regulations for the control of sewage within the zone which is not disposed of in authorized disposal systems, providing for licensing of private sewage facilities, and designating the Upper Guadalupe River Authority to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.20.001-.017, concerning the regulation of private sewage facilities within a regulated zone adjacent to the Guadalupe River and its normally flowing tributaries in Kerr County. The proposed rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.20.001-.017 with changes made in nomenclature, minimum lot size requirements, and defining of additional streams that are tributaries of the Guadalupe River in Kerr County.

At the present time, the water in the Guadalupe River in Kerr County is of a good quality and will be used as a source of domestic water. Also, it is highly valued for recreational use and for its aesthetically attractive condition.

Among the potential sources of pollution which must be controlled in order to maintain a good quality of water is sewage from subdivisions and individual dwellings in the area of the Guadalupe River. Sewage discharged into organized disposal systems is regulated through the waste permit system of the department. Therefore, this subchapter is concerned with control of sewage not discharged into organized disposal systems. Much of the area in the flood plain contains gravels and alluviums which could allow effluent from septic tanks in the area to enter the river. This could cause adverse effects on the quality of water in the river, including eutrophication of the river. Some areas near the Guadalupe River where soil conditions are not fully conducive to the use of private sewage facilities are expected to rapidly increase in population density.

The staff of the department has determined that the rules, as proposed, will have no known fiscal implications. Any costs to the state and local governments for implementation will be financed by license fees provided in these proposed rules.

Comments regarding these proposed private sewage facility regulations are invited. Please direct any comments or inquiries to Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311. These proposed rules, as well as any comments received, will be presented to the Texas Water Commission and the Texas Water Development Board for adoption no less than 30 days after publication.

Copies of these proposed rules may be examined in the offices of or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

These rules are proposed under the authority of the Texas Water Code, Section 26.031.

**.001. Definitions.**

(a) "Authority" means the Upper Guadalupe River Authority of Texas.

(b) "Commission" means the Texas Water Commission.

(c) "Board" means the Texas Water Development Board.

(d) "Department" means the Texas Department of Water Resources.

(e) "Guadalupe River" means that portion of the Guadalupe River and its tributaries which lie within Kerr County, Texas.

(f) "Organized disposal systems" means any public system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

(g) "Private sewage facility" means septic tanks and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

(h) "Sewage" means waterborne human or other domestic waste.

(i) "Subdivision" means:

(1) a subdivision which has been platted and recorded with the county clerk of the county in which the land lies, or which is required by statute to be so platted and recorded; or

(2) any 10 or more adjoining lots or tracts, any of which is less than one acre in size.

(j) "Septic tank system" means a system for disposing of sewage through soil absorption and consisting of the following components: the house sewer, the septic tank, and the soil absorption field.

(k) "Soil absorption field" is that part of a septic tank system consisting of drainage pipe and surrounding permeable soil used for the subsurface disposal of septic tank effluent.

(l) "Normally flowing tributaries" are the creeks and branches, to their origin spring, which flow into the Guadalupe River and its three principal tributaries (North Fork, South Fork, and Johnson Creek). The tributaries are listed below and the extent to which each is included in this subchapter is shown on a map in the office of the Upper Guadalupe River Authority and in the Austin office of the Texas Department of Water Resources:

Bear Creek (near Kerrville)  
Bear Creek (North Fork)  
Bee Caves Creek  
Bruins Creek  
Buffalo Creek  
Byas Branch

Camp Meeting Creek  
Cherry Creek  
Clear Springs Creek  
Cow Head Hollow  
Cypress Creek (Comfort)  
Cypress Creek (South Fork)  
Dietert Creek  
Dry Hollow  
East Town Creek  
Elm Creek  
Fall Branch  
Fall Creek  
Fessenden Branch  
Goat Creek  
Hasenwinkel Creek  
Henderson Branch  
Honey Creek  
Indian Creek (at Ingram)

Kelley Creek  
Lin Prong  
Marshall Creek  
Mullen Creek  
Nichols Creek  
North Fork of Cypress Creek  
Palmer Creek  
Pass Creek  
Peterson Creek  
Quinlan Creek  
Rattlesnake Creek  
Second Creek  
Silver Creek  
Spring Creek  
Spur Branch  
Steel Creek  
Tegener Creek  
Third Creek  
Town Creek  
Turtle Creek  
Verde Creek  
Wade Hollow  
West Creek  
Wilson Creek

**.002. Regulated Zone.** The regulated zone is designated as the area on either side of the Guadalupe River and its normally flowing tributaries which is within 1,500 feet of the water's edge (at normal flow), measured horizontally away from the stream.

**.003. Restricted Area.** The restricted area is designated as the area in the regulated zone immediately adjacent to either side of the Guadalupe River and its normally flowing tributaries which is 125 feet away from the water's edge (at normal flow) measured horizontally away from the stream except where the average percolation rate is less than five minutes per inch of fall, this distance is increased to 200 feet from the water's edge.

**.004. Sewage Facilities.**

(a) Regulated zone. Effective June 24, 1976, no sewage facilities of any kind may be constructed within the regulated zone except those of organized disposal systems authorized by valid permits issued by the Texas Water Commission and septic tanks or other approved systems licensed in accordance with this subchapter.

(b) Restricted area. Effective June 24, 1976, no part of any soil absorption field may be constructed within the restricted area. Septic tanks, part of septic tank systems, holding tanks, holding tank systems, tile or concrete sanitary systems, sewer manholes, lift stations, or other sewage facilities will be permitted in the restricted area provided they are constructed in such a way to preclude interchange of sewage with river water.

**.005. Discharge of Sewage.** All sewage disposal within the regulated zone shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;

(2) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this subchapter; or sewage discharged into an alternate type of

private sewage facility approved by the Texas Department of Health and licensed by the authority; or

(3) sewage discharged into a private sewage facility existing on June 24, 1976, which is registered with the authority and not causing pollution or injury to public health.

## .006. *Licensing and Registration Functions.*

(a) The Upper Guadalupe River Authority of Texas is designated by the commission to perform all of the licensing, registration, and enforcement functions of this subchapter.

(1) The authority shall have the following powers:

(A) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter;

(B) to collect all fees approved by the board necessary to recover all costs incurred in meeting the requirements of this subchapter.

(2) The authority shall have the responsibility to perform all the duties necessary to meet the requirements of this subchapter.

(b) Upon showing of necessity, the department may assume all of the powers and responsibilities delegated to the authority by this subchapter.

## .007. *Local Governments and This Subchapter.*

(a) Any local government with ordinance-making power which has jurisdiction within the area covered by this subchapter shall have the opportunity to apply for designation by the commission as the licensing authority within its jurisdiction for the purposes of this subchapter. A local government applying for such designation shall make a showing of satisfactory capability regarding administration and enforcement of the terms of this subchapter. Upon a showing of satisfactory capability by an applying local government, the commission shall designate the local government as the licensing authority within its jurisdiction for purposes of this subchapter.

(b) A local government designated by the commission as the licensing authority within its own jurisdiction shall have all the rights and powers as well as the responsibilities granted to the Upper Guadalupe River Authority in Rule .006 above.

(c) Upon a showing of necessity, the department may assume all of the duties and responsibilities granted to the local government designated as the licensing authority pursuant to the terms of this subchapter.

## .008. *Licensing Requirements for New Private Sewage Facilities.*

(a) New private sewage facilities or existing private sewage facilities which are substantially or materially altered, to be located within the boundaries of the regulated zone, must meet the following requirements:

(1) a license must be obtained for the use of these facilities from the authority; and

(2) the lot or tract in question must be large enough, considering soil and drainage conditions and anticipated waste loading, to permit the use of a private sewage facility without causing water pollution, nuisance conditions, or endangerment to public health.

(b) All private sewage facilities to be installed or constructed after June 24, 1976, must conform to the standards set out by the Texas Department of Health which are available from the Upper Guadalupe River Authority.

(c) A new subdivision to be developed within the regulated zone after June 24, 1976, which utilizes private sewage facilities must meet the following requirements:

(1) A license must be obtained from the authority for each private sewage facility.

(2) The lot or tract in the subdivision must be at least 15,000 square feet in size. However, an exception may be granted under the terms and conditions of Rule .012 of this subchapter for subdivisions which have been platted and filed of record in the plat or deed records of Kerr County, Texas, prior to June 24, 1976.

(d) Terms of license for new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence for the unexpired term of the license provided the new owner applies to the authority and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The authority will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the office of the authority. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(3) The authority will perform as soon as practicable such inspections and tests as may be deemed necessary.

(4) Upon a finding by the authority that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and regulations of this subchapter:

(A) A license effective for a term of five years will be issued. At the end of five years, the system will be reinspected and an inspection fee assessed.

(B) A new license issued under the above terms may be renewed for successive terms of five years.

(5) Upon a finding by the authority that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the faults which prevent licensing.

## .009. *Approval of Subdivision Plans for Private Sewage Facilities.*

(a) Any developer or person desiring to create a subdivision using private sewage facilities within the boundaries of the regulated zone must obtain approval from the authority of his or her plans for sewage disposal. The party must fulfill the following requirements:

(1) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the authority.

(2) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision;

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(3) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The authority will perform necessary tests and inspections to determine whether the subdivision can be served

with private sewage facilities. By agreement between the authority and the developer, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the authority or of recognized ability. The authority will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the authority will notify the developer of any areas not suitable for the use of private sewage facilities and whether the proposed development density is consistent with use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in the subdivision.

**.010. Registration Requirements for Existing Private Sewage Facilities in Regulated Zone.**

(a) Every private sewage facility existing within the regulated zone on June 24, 1976, will be exempt from the licensing provisions of this subchapter provided:

(1) the facility is registered with the authority within 60 days after written notification is made by the licensing authority;

(2) the system is not malfunctioning and is not causing pollution or injury to public health and the facility is not substantially or materially altered.

(b) The authority will perform as soon as practicable such inspections and tests as may be deemed necessary.

(c) A registration will be effective for a term of five years. At the end of five years, the system will be reinspected.

(d) A registration issued by the authority will be transferred to a succeeding owner provided the new owner applies to the authority and pays the appropriate transfer fee.

(e) A new registration under the above terms may be renewed for successive terms of five years.

**.011. Connection of Private Sewage Facility to Organized Waste Collection, Treatment, and Disposal Systems.** In order to implement the stated policy of the legislature and the department that the development and use of organized waste collection, treatment, and/or disposal systems should be encouraged to meet the needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state, the following requirements are set out:

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized waste collection, treatment, and disposal system is developed to within 300 feet in horizontal distance from any part of a private sewage facility, licensed or not, that facility shall be connected to the organized system whenever feasible and legally possible.

**.012. Terms and Conditions for Granting of Exceptions.** The commission intends that the regulations contained in the subchapter be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the authority for its analysis of the specific nature of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision and may also set out what corrective measures, if any, could be undertaken to achieve licensure.

**.013. Terms and Conditions of Appeal.**

(a) The department intends that any disputes concerning the application of these rules to individual situations be negotiated to conclusion between the authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**.014. License Fees.** License fees, inspection fees, transfer fees, and renewal fees will be in accordance with a fee schedule established by the authority and approved by the Texas Water Development Board as set out in Rule .017. These fees shall be paid to and collected by the authority so long as the authority remains the delegatee of the Texas Water Commission for the purposes and functions specified in this subchapter. The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by the authority at the request of the applicant in connection with presentation of an application and collection of required data. Percolation tests and other examinations will be performed by the authority on a cost basis. These tests may be performed by a registered engineer or a registered sanitarian.

**.015. Enforcement of This Subchapter.**

(a) Criminal penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

**.016. Saving Clause.** If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the subchapter and the application of such provision to other persons and circumstances shall not be affected thereby.

**.017. Fee Schedule.** The following is the approved fee schedule for the private sewage facility regulatory program concerning the Guadalupe River and its normally flowing tributaries in Kerr County:

- (1) application for license, including inspections—\$35;
- (2) percolation test—\$50;
- (3) percolation test with holes provided by owner—\$20;
- (4) subdivision application—\$75;
- (5) license and registration renewal—\$15;
- (6) transfer—\$5.00.

Doc. No. 798759

## Cedar Creek Reservoir 157.31.22

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, are proposing to adopt Rules 157.31.22.001-.014, concerning the establishment of a regulated area around Cedar Creek Reservoir, promulgating rules and regulations for the control of sewage within the area which is not disposed of in authorized disposal systems, providing for licensing of private sewage facilities, and designating the Tarrant County Water Control and Improvement District No. 1 to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.22.001-.014, concerning the regulation of private sewage facilities within a regulated area around Cedar Creek Reservoir. The proposed rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.22.001-.014 with changes made in nomenclature.

Cedar Creek Reservoir is located approximately two miles south of the City of Kemp near the Trinity River in Kaufman and Henderson Counties. The lake is used as a water supply by the City of Fort Worth and other communities and for recreation. Among the potential sources of water pollution which must be controlled in order to maintain these standards of water quality is the disposal of sewage from individual dwellings, motels, marinas, and other such developments surrounding the reservoir. Sewage discharged into organized waste collection, treatment, and disposal systems is regulated through the permit system of the Texas Department of Water Resources. The regulation of sewage discharged in the private sewage facilities is the special concern of this subchapter because the area surrounding Cedar Creek Reservoir is experiencing an increase in population density. This regulation and control is needed to protect the quality of the waters of Cedar Creek Reservoir.

The staff of the department has determined that the rules, as proposed, will have no known fiscal implications. Any costs to the state and local governments for implementation will be financed by license fees provided in these proposed rules.

Comments regarding these proposed private sewage facility regulations are invited. Please direct any comments or inquiries to Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311. These proposed rules, as well as any comments received, will be presented to the Texas Water Commission and the Texas Water Development Board for adoption no less than 30 days after publication. Copies of these proposed rules may be examined in the offices of or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

These rules are proposed under the authority of the Texas Water Code, Section 26.031.

### .001. Definitions.

(a) "District" means the Tarrant County Water Control and Improvement District No. 1.

(b) "Department" means the Texas Department of Water Resources.

(c) "Commission" means the Texas Water Commission.

(d) "Board" means the Texas Water Development Board.

(e) "Cedar Creek Reservoir" means the lake near the Trinity River in Kaufman and Henderson Counties, approximately two miles south of the City of Kemp.

(f) "Sewage" means waterborne human or other domestic waste.

(g) "Organized disposal system" means any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

(h) "Private sewage facility" means all facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

(i) "Holding tank" means a vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for delivery to an approved sewage disposal system.

(j) "Subdivision" means:

(1) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(2) any four or more adjoining lots or tracts, any of which is less than two acres in size.

(k) "msl" is an abbreviation for mean sea level.

**.002. Regulated Area.** The regulated area is the area for which this regulation applies. This area is defined as all the area in Cedar Creek Reservoir Watershed bounded by a line with all points on that line being a distance of 2,000 feet from the nearest point on the 325 foot msl contour line, measured horizontally away from the reservoir. The regulated area also includes all the area of the lake bed to the 325 foot msl contour line, and all islands.

**.003. Regulations Controlling the Discharge of Sewage within the Regulated Area.** All sewage disposal within the regulated area shall be in accordance with one of the following types of authorizations:

**.004. Licensing Functions.** The Tarrant County Water Control and Improvement District No. 1 is designated by the commission to perform all licensing and enforcement functions of the subchapter.

The district shall have the following powers:

(1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(2) to perform all the duties necessary to meet the requirements of this subchapter.

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;

(2) sewage discharged into private sewage facilities licensed in accordance with the regulations contained in this subchapter; or, sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health and licensed by the district; or

(3) sewage discharged into a private sewage facility registered in accordance with the terms and conditions of this subchapter.

**.005. Licensing Requirements for New Private Sewage Facilities.**

(a) Private sewage facilities installed after June 24, 1976, within the boundaries of the regulated area must meet with the following requirements:

(1) a license must be obtained for the construction of these facilities from the district.

(2) the lot or tract which the private sewage facilities will serve must be at least 15,000 square feet in size, except any lot or tract platted and recorded prior to October 1, 1975, must contain at least 4,000 square feet.

(b) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to the standards set out by the Texas Department of Health. These standards are available from the Tarrant County Water Control and Improvement District No. 1 offices located in Fort Worth, Texas, or at Cedar Creek Reservoir.

(c) Terms for license of new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence, provided the new owner applies to the district and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The district will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the district. In order to initiate an application, a completed application form together with the appropriate fee shall be filed with the district.

(3) The district will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable.

(4) Upon a finding by the district that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and regulations of this subchapter, a license will be issued.

(5) Upon a finding by the district that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the nature of the faults which prevent licensing.

**.006. Approval of Subdivision Plans for Private Sewage Facilities.**

(a) Any developer or other person interested in creating a subdivision using private sewage facilities must obtain approval from the district of his plan for sewage disposal. He must fulfill the following requirements:

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court of the county in which it is located.

(2) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the district.

(3) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision; and

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(4) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The district will cause to be prepared a percolation test profile of the entire subdivision, consisting of percolation tests of a representative number of proposed lots or tracts (as determined and approved by the district) to determine whether the subdivision can be served with private sewage facilities, such tests to be at the expense of the developer.

(c) By direction of the district, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the district. The district will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the district will notify the developer of any areas not suitable for use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

**.007. Existing Private Sewage Disposal Systems.**

(a) Private sewage disposal facilities existing within the regulated area before June 24, 1976, are not required to be licensed provided the facility is not causing pollution or injury to public health.

(b) If a system in existence before June 24, 1976, is found to be malfunctioning, the district shall require correction and licensing as a new system in accordance with Rule .005.

(c) Private sewage disposal facilities existing within the regulated area before June 24, 1976, must be licensed as a new facility if the facility is substantially or materially altered.

**.008. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.** In order to implement the stated policy of the legislature and the department that the development and use by interested and affected parties of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain

and enhance the quality of the water in the state should be encouraged, the commission makes the following requirements:

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system capable of serving in lieu thereof; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized system with service capability is developed within 300 feet in horizontal distance from any part of a private sewage facility, that facility shall be connected to the organized system whenever feasible and legally possible.

.009. *Terms and Conditions for Granting Exceptions.* The commission intends that the regulations contained in this subchapter shall be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the district for its analyses of the specifics of the situation.

(2) The district shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the district's decision, and may also set out what corrective measures, if any, could be undertaken to obtain licensure.

.010. *Terms and Conditions of Appeal.*

(a) The department intends that any disputes concerning the application of these rules to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

.011. *License Fees.*

(a) License fees will be in accordance with a fee schedule established by the district and approved by the Texas Water Development Board. These fees shall be paid to and collected by the district so long as the district remains the designated agent for the purposes and functions specified in this subchapter. The fee schedule is set out in Rule .014 of this subchapter.

(b) The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the district of special services performed by the district at the request of the applicant in connection with presentation of an

application and required data. Percolation tests and other examinations will be performed by engineering firms or soils testing laboratories approved by the district.

.012. *Enforcement of This Subchapter.*

(a) Criminal penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

.013. *Severability Clause.* If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

.014. *Fee Schedule.* The following represents the approved fee schedule for the private sewage facilities regulatory program around Cedar Creek Reservoir:

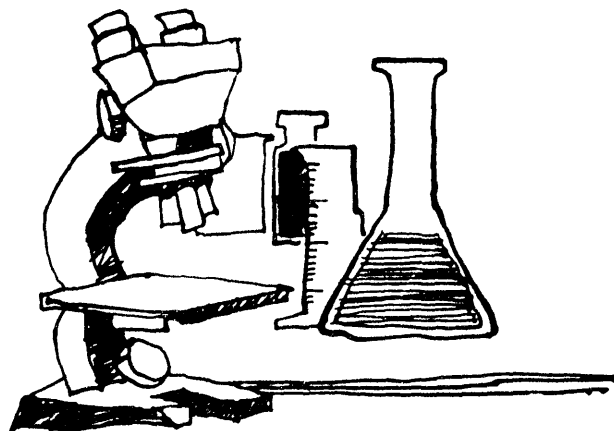
- (1) application and inspection fee—\$15;
- (2) percolation test—\$50;
- (3) transfer fee—\$5.00.

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

Doc. No. 798762      Mary Ann Heimer  
Chief Clerk  
Texas Water Commission

Bruce Bigelow  
General Counsel  
Texas Department of Water Resources

Proposed Date of Adoption: December 31, 1979  
For further information, please call (512) 475-1311.



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.

## Texas Commission for the Deaf

### Practice and Procedure

#### Operations 332.01.01

The Texas Commission for the Deaf has adopted Rules 332.01.01.011-.017 concerning Rules and Regulations of Operations of the commission. The proposed rules were published in the September 18, 1979, issue of the *Texas Register* (4 TexReg 3332).

Public review and discussion of the proposed rules were held. The rules are adopted with no changes from the text as proposed.

These rules are promulgated under authority of Human Resources Code, Chapter 81 (Vernon's Annotated Civil Statutes, Article 4413, Section 42b).

**.011. Composition.** The Texas Commission for the Deaf is composed of nine members appointed by the governor, with the advice and consent of the senate. Three members of the commission must be deaf persons, two must be parents of deaf persons, two must be professionals serving the deaf, and two must be persons from the general public. Members are appointed to serve a term of six years, except that when the six initial appointments were made, the governor designated three members to serve until January 31, 1981, three to serve until January 31, 1983, and three to serve until January 31, 1985. The governor fills by appointment the unexpired term when any vacancy on the commission occurs for any cause. Members serve until a successor is appointed and has qualified.

#### **.012. Meetings.**

(a) **Scheduling of meetings.** The commission shall hold at least six meetings a year. In addition, special meetings may be held in response to a call by the chairman, or in response to written requests by five members of the commission. Dates, times, and places shall be scheduled by the

chairman after considering the recommendation of the executive director and the best interest of the commission in obtaining a variety of sites and maximum attendance at the least expense. The chairman shall attempt to schedule meetings on the third Saturday of odd-numbered months if convenient to members. All meetings, except those of executive sessions, shall be open to the public.

(b) **Agendas.** The chairman, with the assistance of the executive director, shall prepare and submit to each member of the commission prior to each meeting a preliminary copy of the agenda, listing items that he believes should be considered by the commission, those required by law, and others as members have requested. Materials supplementing the agenda may be included. Official agendas are distributed the day of the commission meeting. The agenda of regular meetings shall provide an opportunity for citizens to address the commission on any item of business which is included in the agenda, subject to reasonable time limits.

(c) **Quorum.** Five members of the commission shall constitute a quorum.

(d) **Rules of order.** The commission shall observe Robert's Rules of Order Revised except as otherwise provided by commission policies of this chapter or by statute.

(e) **Minutes.** Drafts of the minutes shall be forwarded to each member for review and comments or corrections prior to approval by the commission. "Official minutes" are those which the recording secretary prepares, the commission approves at a regular or special meeting, and are affixed with the original signature of the chairman and the secretary. Official minutes shall be kept in the office of the executive director and be open to inspection by the public.

**.013. Election of Officers.** The commission will meet annually to elect from its members a chairman, a vice-chairman, and a secretary and other officers as it deems necessary to take office September 1. For the election of any officer, a simple majority vote of those present is needed, if members constitute a quorum. Officers may be re-elected. Should resignation, death, or incapacity for any reason create a vacancy in any office, the other officers shall, at the next regular meeting, conduct an election to fill the unexpired portion of the former officer's term.

#### **.014. Duties of Officers.**

(a) **The chairman shall:**

- (1) preside at all meetings and call special meetings;
- (2) appoint all committees and their chairmen;
- (3) approve all expenditures for equipment and supplies which exceed \$750;
- (4) perform such other duties as may be prescribed by law or by action of the commission.

(b) **The vice-chairman shall:**

- (1) preside over meetings in the absence of the chairman;
- (2) perform the duties of chairman in his absence or his incapacity;
- (3) act as parliamentarian.

(c) **The secretary shall:**

- (1) notify members of all meetings;
- (2) preside over meetings in the absence of the chairman and vice-chairman;
- (3) arrange for recording minutes of commission meetings and transmit a copy of minutes of the previous meeting to each member before each ensuing meeting;

(4) have charge of all records, proceedings, and documents of the commission;

(5) furnish appropriate certification that the posting of the notice each commission meeting was according to statutory requirements;

(6) assume other responsibilities as assigned by the commission.

**.015. Executive Director.** The commission shall employ an executive director to serve as the chief administrative officer of the commission. In selecting an executive director, the commission shall give preference to a deaf or hard-of-hearing person. The executive director should preferably have experience in programs serving the deaf or hard-of-hearing and preferably be skilled in American sign language.

(1) The executive director shall serve at the pleasure of the commission.

(2) Duties. The executive director shall:

(A) furnish leadership in recommending methods of developing and implementing the objectives of the commission as prescribed by applicable laws and regulations;

(B) review the commission programs on a continuing basis and recommend changes which will improve the quality and scope of services offered by the commission;

(C) provide the commission with information regarding the deaf citizens of Texas and their needs;

(D) prepare and submit an annual budget to the commission and make recommendations to the commission for budget changes;

(E) develop and implement appropriate administrative procedures for the handling of offers or gifts prior to the submission of such offers to the commission for acceptance or rejection.

(F) assist in carrying out such functions as making arrangements and preparing agendas for commission meetings and maintaining minutes of such meetings;

(G) be responsible for seeing that all commission directives and state and federal laws and regulations governing the commission are complied with;

(H) be responsible for the preparation and filing of all reports required by state and federal agencies;

(I) establish, maintain, and be administratively responsible for the commission's office, files, records, equipment, property, and funds;

(J) keep accurate account of the receipt and expenditure of funds appropriated to and funds, gifts, equipment, and/or property acquired by the commission;

(K) develop, review, and implement personnel policies and procedures for the recruitment, evaluation, promotion, demotion, discipline, termination, and grievances of commission employees;

(L) develop, review, and update job specifications for all employees in the commission;

(M) have the responsibility for the employment and promotion of staff personnel subject to approval of the commission at its next meeting;

(N) have the right to demote and terminate staff personnel;

(O) make recommendations to the commission relating to the Board of Evaluation of Interpreters and the implementation of the applicable statutes;

(P) appoint members of and advisors to the Technical Advisory Council for Planning and Operations as provided by statute with the advice and consent of the commission. Review the activities, findings, and reports of the Tech-

nical Advisory Council for Planning and Operations and make recommendations to the commission;

(Q) assist in preparing and annually updating a registry of interpreters and a catalog of resources available for the needs of the deaf and disseminating to interested people;

(R) assist in initiating interpreter training programs in institutions of higher learning, developing guidelines for instruction to promote uniformity of signs taught within these programs, and with the assistance of the Central Education Agency, developing standards for evaluation of these programs;

(S) have authority to enter contracts with individuals, organizations, and agencies where necessary to implement the commission programs up to but not exceeding \$750 without commission approval;

(T) perform such other duties as the commission may assign.

**.016. Funding.** The commission shall establish legislative budget requests with the advice and assistance of the executive director and approve operating budgets of appropriate funds and funds from other sources as permitted by the constitution and the laws establishing the commission.

## **.017. Policies of the Commission.**

(a) Policy goals of the commission shall be to carry out the mandates contained in the statutes creating the commission.

(b) The commission shall:

(1) develop and implement a statewide program to ensure continuity of services to the deaf;

(2) provide direct services to the deaf that have not been previously designated by legislation as the responsibility of other agencies;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to deaf individuals;

(4) establish a statewide registry of interpreters by skill levels and a catalog of resources available for the needs of the deaf, and disseminate to interested people and update annually;

(5) help initiate interpreter training programs in institutions of higher learning, develop guidelines for instruction to promote uniformity of signs taught within these programs; and, with the assistance of the Central Education Agency, develop standards for evaluation of these programs;

(6) appoint when needed one or more advisory committees to consult with and advise the commission;

(7) adopt a schedule of reasonable fees recommended for interpreters at various skill levels;

(8) cooperate with other agencies in utilizing the help of the Technical Advisory Council for Planning and Operations in coordinating services to the deaf and resolving any questions of jurisdiction as to responsibility for multiply handicapped deaf children;

(9) determine the quality of professional leadership needed to carry out the philosophy and objectives of the commission and select and appoint the executive director of the commission;

(10) establish clearly defined personnel policies for employees of the commission;

(11) approve uniform policies regarding employment, standards, record keeping, and regulations for personnel conduct;

(12) provide ways and means of financial support; approve the annual budget; review and approve expenditures as provided in these rules;

(13) consider and act upon administrative recommendations concerning employment and promotion of commission staff employees;

(14) receive reports and input from the deaf community, including communications and requests from citizens and organizations on matters of policy, administration, and other items of public concern affecting the commission;

(15) have the authority to establish a program in accordance with the statute creating the Board of Evaluation of Interpreters for the certification of interpreters who have reached varying levels of proficiency in manual communication skills;

(16) appoint a board of three persons to administer the certification program pursuant to the statute providing for the Board for Evaluation of Interpreters;

(17) approve the action of the Board for Evaluation of Interpreters in prescribing qualifications for each of several levels of certification based on proficiency and evaluating and certifying interpreters using these qualifications;

(18) set a reasonable fee for the administration of an examination or other requirements for certification of an interpreter applicant;

(19) have the authority, subject to its approval, to accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving service to deaf persons of Texas.

(c) Method of adopting and amending rules.

(1) Each member of the commission shall be furnished a copy of the proposed rules or amendment along with the preliminary agenda for the meeting at which it is to be considered.

(2) An affirmative vote by five members of the commission is required for the tentative adoption of the proposed rules or amendment.

(3) The proposed rules or amendment are published in accordance with the Administrative Procedure and Texas Register Act and its amendments (Texas Revised Civil Statutes, Article 6252-13a) and related legislation.

(4) An affirmative vote of five members of the commission is required for final adoption.

(5) The proposed rules or amendment shall take effect 20 days after filing the notice of adoption with the Texas Register Division. Exceptions to this include emergency adoptions and adoptions under federal mandate.

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

Doc. No. 798765      Michael L. Moore, Ph.D.  
Executive Director  
Texas Commission for the Deaf

Effective Date: December 10, 1979

Proposal Publication Date: September 18, 1979

For further information, please call (512) 475-2492.

## Texas Education Agency

### Comprehensive Instruction

#### Crime Prevention and Drug Education 226.32.61

The Texas Education Agency has amended Rule 226.32.61.010, concerning the crime prevention and drug education program. The amended rule adds the requirement that local education agencies shall ensure appropriate coordination between the crime prevention and drug education program and student services and other related instructional programs.

Public review and discussion of the proposed change were held. The rules are adopted with changes from the text as proposed. Subsection (a)(1) has been changed to provide that the program shall include the teaching of "decision making, interpersonal relations, and the physiological, psychological, sociological, cultural, and legal aspects of drugs and crime." Reference to "valuing" or "values clarification" have been deleted from the rule. Subsections (a)(4) and (b)(2)(C)(iv) have been added requiring local school districts to ensure appropriate involvement of parents and other citizens.

This rule is promulgated under the authority of Sections 21.113, 21.116, and 21.118, Texas Education Code.

#### .010. Authorization and Description of Crime Prevention and Drug Education Programs.

(a) Policy.

(1) Crime prevention and drug education shall be provided as a program encompassing the total education process in which instruction may be provided throughout all grade levels. Inherent in the program shall be the teaching of decision making, interpersonal relations, and the physiological, psychological, sociological, cultural, and legal aspects of drugs and crime.

(2) Crime prevention and drug education shall be in accordance with the State Plan for Crime Prevention and Drug Education, adopted and revised by the State Board of Education and administered by the commissioner of education. (See Rule 226.32.91.010).

(3) The local education agency shall ensure appropriate coordination with student services and other related instructional programs.

(4) The local education agency shall ensure appropriate involvement of parents and other citizens, in accordance with Principle 1 of the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15).

(b) Administrative procedure.

(1) The State Plan for Crime Prevention and Drug Education is developed and administered by the commissioner of education and approved by the State Board of Education. Implementation of this plan is assigned to the Department of General Education, utilizing information from the school districts and regional education service centers.

(2) The state plan includes guidelines for the education service centers and school districts. The guidelines relate to:

(A) An advisory council on Crime Prevention and Drug Education that should include a cross representation of community interest.

(B) A planned curriculum and extracurricular activities program that will:

(i) develop decision-making skills;

- (ii) develop interpersonal relations skills;
- (iii) provide an information base;
- (iv) provide all students with alternatives to drug misuse and juvenile delinquency; and
- (v) provide for evaluation annually.

(C) A guidance program that includes:

- (i) a sequential guidance program to meet developmental needs for all students;
- (ii) program planning and implementation for high risk potential drug abusers and juvenile delinquents;
- (iii) a coordinated cooperative referral program for students who are known drug abusers or juvenile delinquents or who are in need of counseling services; and
- (iv) coordinated use of opportunities in the classroom, in extracurricular activities, and in contacts with parents to achieve local program objectives.

(D) A design for drug education and crime prevention programs in staff development which provides for:

- (i) the coordination of the school district program;
- (ii) intensive training approved by the Texas Education Agency for the person(s) who coordinate the program;
- (iii) systematic and ongoing staff development that addresses competencies for level of assignment; and
- (iv) "annual instruction sessions" for all staff members (Section 21.11C Texas Education Code).

(3) The Texas Education Agency provides support materials defining learner outcomes and teacher competencies expected as a result of program implementation.

Issued in Austin, Texas, on November 16, 1979.

Doc. No. 798751      A. O. Bowen  
Commissioner of Education

Effective Date: December 7, 1979

Proposal Publication Date: August 17, 1979

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

## Texas Department of Human Resources

### Intermediate Care II Facility

#### Medical Review and Re-Evaluation 326.30.10

The Texas Department of Human Resources has withdrawn from consideration for adoption proposed repeals, amendments, and new rules about medical review and re-evaluation in its Intermediate Care II Facility rules. The proposed action concerning Rules 326.30.10.011-.019, .021, .023-.026, .028, and .029 was published in the May 8, 1979, issue of the *Texas Register* (4 TexReg 1657).

Doc. Nos. 798857-798859

### Intermediate Care III Facility

#### Medical Review and Re-Evaluation 326.31.10

The Texas Department of Human Resources has withdrawn from consideration for adoption proposed repeals, amendments, and new rules about medical review and re-evaluation

in its Intermediate Care III Facility rules. The proposed action concerning Rules 326.31.10.011-.019, .021, .023-.026, .028, and .029 was published in the May 8, 1979, issue of the *Texas Register* (4 TexReg 1660).

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

Doc. No. 798860-      Susan L. Johnson, Assistant Chief  
798862      Systems and Procedures Bureau  
Texas Department of Human Resources

Filed: November 21, 1979, 11:53 a.m.

For further information, please call (512) 475-4601.

## Texas Commission on Law Enforcement Officer Standards and Education

### Administrative Division

#### Substantive 210.01.02

The Texas Commission on Law Enforcement Officer Standards and Education has adopted amendments to Rule 210.01.02.001, regarding minimum standards for appointment for peace officers and reserve law enforcement officers with changes in the text proposed as recommended by the commission staff to delete the reference to subsection (a) in Specifications 2 and 3; to delete the word "employment" in the first sentence of Specification 1; and to delete paragraph (2) of Specification 2 and paragraph (4) of Specification 3 to conform this rule with Rule .004.

The amendments to this rule are adopted under the authority of Texas Revised Civil Statutes, Article 4413(29aa).

.001. *Minimum Standards for Appointment.* Every applicant for a peace officer or reserve law enforcement officer qualification certificate shall:

- (1) (No change.)
- (2) Be at least 18 years of age.
- (3)-(7) (No change.)
- (8) Be examined by a licensed psychologist or a licensed physician and be declared in writing by the psychologist or physician to be in satisfactory psychological and emotional health to be a peace officer.
- (9)-(10) (No change.)

Specification 1—fingerprint record check. The fingerprint record check is conducted to implement the minimum standard that prohibits the appointment of applicants who have been convicted of serious crimes by any state or the federal government.

#### Requirements:

- (1) A search of local, state, and national fingerprint files to disclose any criminal record.
- (2) Rejection of any applicant who has been convicted by any state or by the federal government for driving while intoxicated (DWI) or driving under the influence of drugs (DUID) within the last 10 years, or ever convicted of a felony under the laws of this state, another state, or the United States.

Specification 2—high school graduation. Paragraph (6) of the appointment standards requires high school graduation or the equivalent as a minimum standard for appointment as a peace officer.

**Requirement:** Applicants for the position of peace officer must be high school graduates or have passed the general education development test (GED), indicating high school graduation level, or must have a minimum of 12 semester hours credit at an accredited college or university.

**Specification 3—physical examination.** Paragraph (7) of the appointment standards states that a peace officer must be physically sound and free from any defect which might adversely affect his performance of duty. His personal safety and the safety and lives of others will be endangered if he lacks these important physical qualifications.

**Requirements:**

(1) Medical examination administered by a licensed physician or surgeon.

(A) Physical condition should be determined by the designated examining physician. Applicant should be in sound physical condition.

(B) Applicant should be free from physical defects that could prevent the performance of duty.

(2) A medical history will be supplied by each applicant to the examining physician. The medical history will include information on past and present diseases, injuries, and operations.

(3) Vision and hearing. The applicant shall possess normal hearing, normal color vision, and functions, as determined by the appointing authority. Each eye must be free of any abnormal condition or disease which, in the opinion of the appointing authority, might adversely affect performance of the assigned duty.

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

Doc. No. 798812 Fred Toler  
Executive Director  
Texas Commission on Law Enforcement  
Officer Standards and Education

Effective Date: December 11, 1979

Proposal Publication Date: August 24, 1979

For further information, please call (512) 459-1171.

## Texas State Board of Medical Examiners

### Foreign Medical School Graduates 386.04.00

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted Rule 386.04.00.001 to read as follows:

#### .001. Requirements for Licensure.

(a) An applicant must present proof to the board of eligibility for licensure to practice medicine in the nation in which the applicant's school of graduation is located. Proof of eligibility is as follows:

Country	Qualifications Required
Afghanistan	Doctor of Medicine diploma
Albania	Physician diploma
Algeria	Docteur en Medecine diploma
Angola	Licenciatura em Medicina diploma plus certificate of licensure
Argentina	Medico diploma endorsed as a license
Australia	M.B., B.S. diploma plus certificate of full registration

Austria	Medicinae Universae Doctor diploma plus internship certificate (The internship in Austria must be of at least 12 months' duration. Non- Austrian students who are required to have an extra six months of clinical work before the medical degree is granted will be required to have only six months of turnus.)
Bangladesh	M.B., B.S. diploma plus certificate of full registration
Belgium	Docteur en Medecine Chirurgie et Accouchement diploma or Dokter in de Genees-Heel-en Verloskunde diploma
Bolivia	Titulo de Medico Cirujano
Brazil	Doutor em Medicina or Medico diploma
Bulgaria	state examination certificate
Burma	M.B., B.S. diploma
Cambodia	Docteur en Medecine diploma
Chile	Licenciado en Medicina or Titulo de Medico Cirujano
China (Taiwan)	B.M. or B.S.M. diploma
Colombia	Doctor en Medicina y Cirugia diploma validated as licensure
Costa Rica	Doctor en Medicina y Cirugia diploma
Cuba	Doctor en Medicina diploma
Czechoslovakia	Medicinae Universae Doctor or Promovaný Lekar diploma
Denmark	Candidatus Medicinae et Chirurgiae diploma plus certificate of licensure
Dominican Republic	Doctor en Medicina diploma plus certificate of licensure
Ecuador	Doctor en Medicina y Cirugia diploma
Egyptian Arab Republic	M.B., Ch.B. diploma plus certificate of licensure
El Salvador	Doctor en Medicina diploma
Ethiopia	Doctor of Medicine diploma
Fiji	Diploma of Surgery and Medicine plus certificate of registration
Finland	Licentiate in Medicine diploma
France	Docteur en Medecine diploma
German Democratic Republic	state examination certificate plus certificate of licensure
Germany, Federal Republic of	Approbation als Arzt (If noncitizens are not eligible to receive the approbation als Arzt, they must submit a certificate from a German government official, certifying that they have completed all of the requirements that would entitle them to the approbation als Arzt if they were German citizens.) Bestallung als Arzt
Ghana	M.B., Ch.B. diploma plus certificate of registration
Greece	Ptychion iatrikes diploma plus certificate of licensure
Grenada	Doctor of Medicine diploma
Guatemala	Medico y Cirujano diploma
Guinea	Doctorat en Medecine diploma
Haiti	Docteur en Medecine diploma plus certificate of licensure
Honduras	Doctor en Medicina y Cirugia diploma
Hong Kong	M.B., B.S. diploma plus certificate of full registration
Hungary	Doctor of Medicine diploma
Iceland	Candidatus Chirurgiae et Medicinae diploma plus certificate of licensure
India	M.B., B.S. diploma plus certificate of full registration
Indonesia	Doktor diploma
Iran	Doctor of Medicine diploma
Iraq	M.B., B.Ch. diploma
Ireland	M.B., B.Ch. diploma (medical diploma or other medical qualification that is sufficient to permit registration with the general

Israel  
Italy

Ivory Coast

Jamaica

Japan

Jordan

Kenya

Khmer Republic (Cambodia)  
Korea, Republic of

Laos  
Lebanon  
Liberia

Libyan Arab Republic

Madagascar  
Malaysia

Malta

Mexico

Mongolia  
Montserrat  
Morocco  
Mozambique

Netherlands  
New Zealand

Nicaragua

Nigeria

Norway

Pakistan

Panama

Papua, New Guinea

Paraguay

Peru

Philippines

Poland

Portugal  
Rhodesia

Romania  
Rwanda

Saudi Arabia

Senegal

Singapore

South Africa

medical council) plus certificate of full registration

Doctor of Medicine diploma  
Laurea in Medicina e Chirurgia diploma plus certificate of licensure (Noncitizens must submit certification showing that they have completed the hospital training that would admit them to the licensure examination, if they were citizens of Italy.)

Docteur d'Etat en Medecine diploma

M.B., B.S. diploma plus certificate of full registration

Igakushi (Bachelor of Medicine) diploma plus certificate of full licensure

Doctor of Medicine plus certificate of licensure

M.B., Ch.B. diploma plus certificate of full registration

Docteur en Medecine diploma  
Euhakaa (Bachelor of Medicine) diploma plus certificate of licensure

Docteur en Medecine diploma  
Doctor of Medicine diploma

Doctor of Medicine diploma plus certificate of licensure

M.B., B.S. diploma plus certificate of licensure

Docteur en Medecine diploma  
M.B., B.S. diploma plus certificate of full registration

Doctor of Medicine and Surgery diploma

Acta de Examen Profesional and Titulo de Medico Cirujano

Medicinae Doctor diploma

Doctor of Medicine diploma

Docteur en Medecine diploma  
Licenciatura em Medicina diploma plus certificate of licensure

Artesexamen certificate  
M.B., Ch.B. diploma plus certificate of full registration

Doctor en Medicina y Cirugia diploma

M.B., B.S. diploma plus certificate of full registration

Candidatus Medicinae certificate plus certificate of licensure

M.B., B.S. diploma plus certificate of registration

Doctor en Medicina diploma plus certificate of licensure

M.B., B.S. diploma plus certificate of licensure

Doctor en Medicina y Cirugia diploma

Medico Cirujano diploma endorsed as license

Doctor of Medicine diploma plus registration certificate

(Noncitizens must submit certification showing that they have completed one year of post-graduate internship.)

Doctor of Medicine of Lekars diploma plus certificate of licensure

Licenciatura em Medicina diploma  
M.B., Ch.B. diploma (Full registration or certificate of licensure is required of candidates whose degrees are dated after December 31, 1977.)

Medic diploma  
Doctorat en Medecine diploma plus certificate of licensure

M.B., B.S. diploma plus certificate of full registration

Doctorat d'Etat en Medecine diploma

M.B., B.S. diploma plus certificate of full registration

M.B., Ch.B. diploma plus certificate of full registration

Spain

Sri Lanka (Ceylon)

Sudan

Surinam

Sweden

Switzerland

Syrian Arab Republic  
Tanzania, United Republic of  
Thailand

Tunisia  
Turkey  
Uganda

USSR

United Kingdom of Great Britain and Northern Ireland

Uruguay

Venezuela

Viet Nam, Republic of

Yugoslavia

Zaire (Congo)

Zambia

Licenciado en Medicina y Cirugia diploma

M.B., B.S. diploma plus certificate of full registration

M.B., B.S. diploma  
Genesheren (Physician) diploma

Lakarexamen certificate or Medicine Licentiat certificate

Diplome federal or certificate d'etudes medicales

M.D. or M.B., B.S. diploma  
M.D. diploma plus certificate of registration

Bachelor of Medicine diploma plus certificate of licensure

Docteur en Medecine diploma  
Doctor of Medicine diploma

M.B., Ch.B. diploma plus certificate of full registration

Vrac diploma (general therapeutists, pediatricians only)

M.B., Ch.B. diploma (medical diploma or other medical qualification that is sufficient to permit registration with the general medical council) plus certificate of full registration

Doctor en Medicina diploma  
Medico Cirujano diploma

National Doctor of Medicine diploma

Lekar or Zdravnik diploma plus internship certificate

Docteur en Medecine, Chirurgie et Accouchements diploma

Medical diploma plus certificate of registration

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

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

Doc. No. 798764

A. Bryan Spires, Jr., M.D.

Secretary-Treasurer

Texas State Board of Medical Examiners

Effective Date: December 10, 1979

Proposal Publication Date: October 19, 1979

For further information, please call (512) 475-0741.

## Schedule of Fees 386.08.00

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted Rule 386.08.00.001 to read as follows:

.001. Fees. The board shall charge the following fees:

Annual registration: \$15

Institutional permits per year (interns and residents): \$25

Licensure by examination:

FLEX—full: \$150

First day only—repeat: \$30

Second day only—repeat: \$35

Third day only—repeat: \$85

Jurisprudence only—repeat: \$25

Board—full: \$150

Preclinical only—repeat: \$100

First repeat preclinical: \$25

Second repeat preclinical: \$35

Clinical: \$50

Clinical and first repeat: \$60

Clinical and second repeat: \$60

Licensure by reciprocity: \$200

Temporary license: \$25

Duplicate license: \$35  
 Endorsement: \$25  
 Reinstatement after lapse or cancellation: \$100  
 Certification to other boards of grades in basic science examination: \$25  
 Verification of basic science grades for licensure: \$50

Issued in Austin, Texas, on November 16, 1979.

Doc. No. 798747      A Bryan Spires, Jr., M.D.  
 Secretary-Treasurer  
 Texas State Board of Medical Examiners

Effective Date: December 7, 1979

Proposal Publication Date: October 16, 1979

For further information, please call (512) 475-0741.

## Railroad Commission of Texas

### Oil and Gas Division

#### General Conservation of Statewide Application 051.02.02.028

The Railroad Commission of Texas has amended Rule 051.02.02.028 to provide a more simple testing procedure for gas wells in Texas. The proposed amendment was published in the October 20, 1978, issue of the *Texas Register* (3 TexReg 3684). In response to comments received, and consistent with the amendment to Rule 051.02.02.029 which appears elsewhere in this issue of the *Texas Register*, a variety of revisions to the proposed language were made prior to adoption.

This amendment is promulgated under the authority of Title 3, Texas Natural Resources Code.

#### .028. *Potential of Gas Wells to be Ascertained and Reported.*

(a) The absolute daily open flow potential of each producing associated or nonassociated gas well shall be ascertained not later than 10 days after the start of production for one or more legal purposes, and a report shall be filed in duplicate in the appropriate district office within 15 days from the date of the test. The absolute daily open flow potential shall be determined in accordance with the instructions contained in the commission's publication, "Back Pressure Test for Natural Gas Wells, State of Texas," and shall be reported on the commission's prescribed form.

(b) In fields operating under the provisions of statewide rules, after the original absolute daily open flow potential has been determined, each operator of a nonassociated gas well shall conduct a deliverability test semiannually by producing the well for a 24-hour period under normal operating conditions, the results to be reported on the appropriate form.

(c) A 24-hour production test shall be taken and filed semiannually with the district office on all nonassociated gas wells in fields where an allocation formula has been adopted but in which potential is not a factor in the allowable allocation, and shall be conducted in the manner prescribed by the commission at a rate to be selected by the operator for the purpose of showing that the well is capable of producing its assigned allowable.

(d) The district office shall be notified at least 24 hours prior to any back pressure, production, or shut-in test. Tests of wells connected to a pipe line shall be made in such manner that no gas is flared.

Doc. No. 798881

#### 051.02.02.029

The Railroad Commission has amended Rule 051.02.02.029 providing an allocation formula for nonassociated gas wells producing in fields for which no field rules have been adopted. Following the receipt of numerous comments and a lengthy hearing on the original proposal to adopt a formula based on a 100% acreage allocation, the commission determined to revise the original proposal and to adopt a formula based on 100% deliverability.

A formula based on 100% acreage would require the commission to establish a standard-size proration unit for all gas wells producing from fields for which no field rules have been adopted. Because proration units are required by statute to be based on drainage areas (Section 86.089, Texas Natural Resources Code), it would be difficult, if not impossible, to establish a standard-size proration unit for the entire state.

A formula based on deliverability would be relatively simple to administer and can be accomplished within the statutory constraints imposed on the commission. To ensure equitable treatment and the protection of correlative rights, the commission has made provision for an early effective date of an alternative formula for fields where the 100% deliverability formula proves to be unsatisfactory.

This amendment is promulgated under the authority of Title 3, Texas Natural Resources Code.

.029. *Nonassociated Gas Well Allowable.* The daily allowable production of gas from individual wells completed in nonassociated gas reservoirs for which no allocation formula has been adopted shall be determined by allocating the allowable production among the individual wells producing from a common reservoir (source of supply), as reflected by the commission's latest proration schedule, in the proportion that each well's capability to produce (based on the latest deliverability test of record) bears to the summation of the capability of all wells producing from the same reservoir. The requirements of Rules .030 and .031 shall be applicable to wells subject to this rule. In the event that this method of allocation proves to be unsatisfactory and an application for a different formula is filed, the effective date of any newly adopted formula may, at the discretion of the commission, be made retroactive to the filing date of the application, provided such a request is made by any party.

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

Doc. No. 798882      John Poerner  
 Chairman  
 Railroad Commission of Texas

Effective Date: January 1, 1980

Proposal Publication Date: October 20, 1978

For further information, please call

## Texas Real Estate Commission

### Provisions of the Real Estate License Act

#### Suspension and Revocation of Licensure 402.03.15

The Texas Real Estate Commission has adopted an amendment to Rule 402.03.15.021, concerning advertising. The amendment becomes effective February 1, 1980.

A public hearing on the proposed amendment was held in Austin on September 10, 1979. Comments were received in support of and in opposition to the proposed amendment. The amendment was adopted with changes from the text originally proposed. Changes were made to clarify the commission's decision that the phrase "by owner" or other language used in advertising by a licensee to suggest direct sale, rental, lease, or exchange of real property by its owner is misleading unless the property being advertised is owned by the licensee.

Pursuant to the authority of Article 6573a, Vernon's Texas Civil Statutes, the Texas Real Estate Commission has adopted an amendment to Rule .021 to read as follows:

**.021. Section 15(4)(P): Grounds for Suspension or Revocation: Misleading Advertising.**

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

(f) Use by a licensee of the phrase "by owner" or any other language suggesting direct sale, rental, lease, or exchange of real property by its owner is misleading advertising for the purposes of this section unless the property is owned by the licensee.

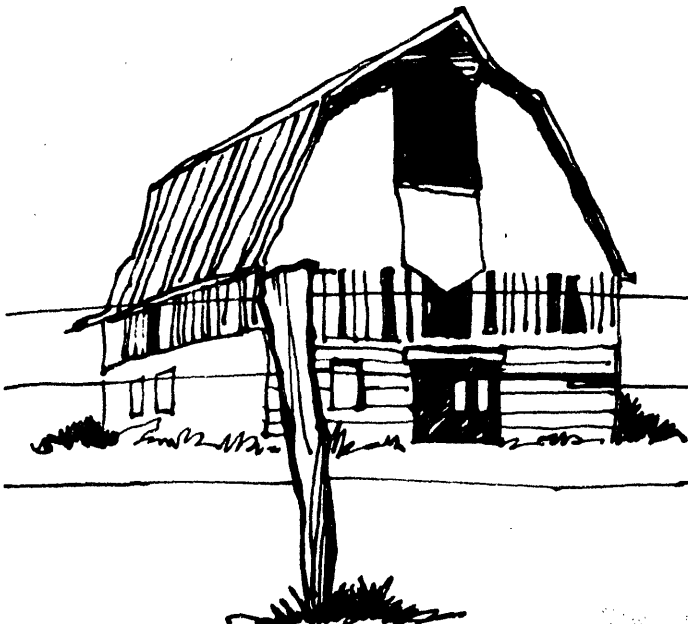
Issued in Austin, Texas, on November 20, 1979.

Doc. No. 798884      Andy James  
Administrator  
Texas Real Estate Commission

Effective Date: February 1, 1980

Proposal Publication Date: June 29, 1979

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



## Office of the Secretary of State

### Elections

#### Campaign Reporting and Disclosure 004.30.14

The secretary of state as chief elections officer of the state and as administrator of the Texas Nonprofit Corporation Act has adopted Rule 004.30.14.602, relating to the incorporation of a political committee for liability purposes only, with two changes in the proposed text. As a result of comments received, the rule has been changed by modifying the language stated in the purpose clause of the articles of incorporation. Also, this purpose must be the only purpose for which the corporation can be organized.

This rule is promulgated under the authority of Articles 1.03 and 14.01(C), Vernon's Texas Election Code, and Articles 1396-2.01 and 1396-9.04, Vernon's Texas Civil Statutes Annotated.

**.602. Incorporation of a Political Committee.** A political committee may incorporate pursuant to the Texas Nonprofit Corporation Act. However, incorporation of a political committee shall not relieve any person of any liability, duty, or obligation created pursuant to any provision of the Texas Election Code. It is "lawful" within the meaning of Article 1396-2.01 of the Texas Civil Statutes Annotated for a nonprofit corporation to operate as a political committee. To incorporate for liability purposes only pursuant to Article 14.01(C), Vernon's Texas Election Code, a political committee must state exactly the following language as the only purpose for which the corporation can be organized:

To accept contributions and make expenditures as a political committee pursuant to Article 14.01(0), Vernon's Texas Election Code.

Any incorporated political committee that states this precise language as the only purpose for which the corporation can be organized shall not be deemed to be a corporation within the meaning of Article 14.01(C), Vernon's Texas Election Code. The secretary of state adopts by reference the Incorporation of a Political Committee (PCI) form, Article Four of which complies with the prescription of this rule. Other articles of incorporation that contain all information required by law, including Article Four of the form (PCI), are acceptable to the Corporations Division and the Campaign and Ethics Section of the Elections Division of the Secretary of State's Office. The PCI form is available upon request from the Campaign and Ethics Section, Elections Division, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711.

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

Doc. No. 798766      George W. Strake, Jr.  
Secretary of State

Effective Date: December 10, 1979

Proposal Publication Date: October 19, 1979

For further information, please call (512) 475-5619.

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 Bar of Texas

**Monday, December 3, 1979, 9 a.m.** The Executive Committee, Board of Directors, of the State Bar of Texas will meet in the President's Room on the third floor of the east wing of the Texas Law Center at 1414 Colorado Street in Austin. According to the agenda summary, the meeting includes the following: reports of president, president-elect, board chairman, executive director (discussion of personnel, grant applications, law student division, proposal re insignia for licence plates); general counsel (discussion of pending litigation, Federal Trade Commission matter—approval of specific counsel to represent the State Bar, tax matter; financial report (amendments to 1979-80 budget, if any, considerations of 1980-81 budget, funds for IRS counsel, budget request of Dallas and Houston Committees, discontinuation of payment for committee members' expenses); discussion re judicial poll, consideration of location of 1983 convention; consideration of State Bar forms on magnetic media; consideration of referendum items to be submitted to the supreme court; execution of Tel-Law sublicensing agreement; progress report on legal directories publishing company; general reports of grants programs; approval of grant application to Kennedy Foundation; consideration of January, 1980, board meeting agenda.

Additional information may be obtained from Evelyn Avent, 1414 Colorado, Austin, telephone (512) 475-4746.

Filed: November 21, 1979, 12:03 p.m.  
Doc. No. 798869

## State Board of Canvassers

**Friday, November 23, 1979, 8:30 a.m.** The Executive Division of the State Board of Canvassers held an emergency rescheduled meeting in the Office of the Secretary of State, Capitol Building, to canvass returns of the state-wide constitutional amendment election held on November 6, 1979. This meeting notice was originally published under the Office of the Secretary of State, November 23, 1979, issue of the *Texas Register*.

Additional information may be obtained from Milton Malloory, Elections Division, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711, telephone (512) 475-3091.

Filed: November 19, 1979, 3:21 p.m.  
Doc. No. 798775

## Finance Commission of Texas

**Tuesday, November 27, 1979, 10 a.m.** The Banking Section of the Finance Commission of Texas met at 2601 North Lamar in Austin. According to the agenda summary, the meeting included the following: consideration of the Department of Banking budget for 1980; consideration of an amendment to the 1979 Department of Banking budget; and any other matters timely submitted to the members.

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

Filed: November 19, 1979, 3:22 p.m.  
Doc. No. 798768

**Tuesday, November 27, 1979, 2 p.m.** The Finance Commission of Texas met at 2601 North Lamar in Austin. According to the agenda summary, the meeting included the following: consideration of 1980 budget for the Department of Banking; consideration of 1980 budget for the Office of Consumer Credit Commissioner; consideration of 1980 budget for the Savings and Loan Department; consideration of an amendment to the 1979 budget for the Department of Banking; and any other matters timely submitted to the members.

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

Filed: November 19, 1979, 3:22 p.m.  
Doc. No. 798769

## Office of the Firemen's Pension Commissioner

**Tuesday, December 11, 1979, 7:30 p.m.** The Administrative Division of the Office of the Firemen's Pension Commissioner will meet in the Baird Community Center (one block east of the courthouse), Baird, to hold a workshop for all interested parties to discuss the Fire Fighter's Relief and Retirement Fund prescribed by Senate Bill 411 under Article 6243e.3, Vernon's Texas Civil Statutes. The main topics scheduled for discussion include the benefits available in the pension plan and the contributions required by participating members of the pension system.

Additional information may be obtained from Hal H. Hood, 503-F Sam Houston Building, Austin, Texas 78701, telephone (512) 475-5879.

Filed: November 26, 1979, 9:30 a.m.  
Doc. No. 798918

## General Land Office

**Tuesday, December 11, 1979, 9 a.m.-12:30 p.m.** The Texas Port Study Advisory Committee of the General Land Office will meet at the Ramada Inn Hobby Airport, 7777 Airport Boulevard, Houston, to review work completed since the last meeting and to discuss the study's final report.

Further information may be obtained from Stephen Stubbs, 1700 North Congress Avenue, Austin, Texas 78701, telephone (512) 475-1166.

Filed: November 26, 1979, 11:44 a.m.  
Doc. No. 798925

## Texas Department of Health

**Friday, November 30, 1979, 8:30 a.m.** The Personnel Committee of the Texas Department of Health will meet in Room T-604, 1100 West 49th Street, Austin. According to the agenda, the committee will discuss personnel matters.

Additional information may be obtained from Jimmy Helm, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7485.

Filed: November 21, 1979, 2:21 p.m.  
Doc. No. 798889

**Friday, November 30, 1979, 1:30 p.m.** The Texas Board of Health will meet in Board Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the meeting will include the following: (1) acting commissioner's report; (2) request for approval of action of executive committee of November 12, 1979; (3) Texas State Board of Examiners in Social Psychotherapy-discussion of rules; (4) requested endorsement of Emergency Medical Services Critical Care Guidelines—care of mothers/fetuses and high risk infants; care of the critical coronary patient and treatment protocols; and care of the critical burn patient; (5) proposed amendments to rules on the training of employees of nursing homes; (6) final adoption of rules on tuberculosis control-reporting of mycobacterium tuberculosis from laboratory examination; (7) proposed rules on rabies; (8) report on radiation programs; (9) proposed amendments to rules for water systems; (10) proposed rules for testing newborn children for phenylketonuria, other heritable diseases, and hypothyroidism; (11) and meet in executive session.

Additional information may be obtained from Jimmy Helm, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7485.

Filed: November 21, 1979, 2:21 p.m.  
Doc. No. 798890

**Saturday, December 1, 1979, 9:30 a.m.** The Board of the Texas Department of Health will meet in Board Room T-607 at 1100 West 49th Street in Austin. According to the agenda summary, the meeting will include the following: personnel committee—appointment to kidney health care advisory, appointments to genetics advisory, Personnel Committee report; West Texas Rehabilitation Center film; presentation of Texas Department of Health programs; discussion with

Texas Board of Health and former members of the Texas Board of Health. The board will also meet in executive session.

Additional information may be obtained from Jimmy Helm, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7485.

Filed: November 21, 1979, 2:20 p.m.  
Doc. No. 798891

**Wednesday, December 5, 1979, 9 a.m.-noon** The Advisory Board of Athletic Trainers will meet in Room T-102 at 1100 West 49th Street in Austin to conduct a public hearing on a proposed new set of rules on general requirements and guidelines for athletic trainers (see Rule 301.81.01 published in the *Texas Register*, Tuesday, November 20, 1979 (4 TexReg 4237)).

Additional information may be obtained from Maurice Shaw, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7538.

Filed: November 21, 1979, 2:20 p.m.  
Doc. No. 798892

**Thursday, December 6, 1979, 9:30 a.m.** The Hemophilia Advisory Committee Division of Crippled Children's Services of the Texas Department of Health will meet in the old board room, G-107, 1100 West 49th Street, Austin. According to the agenda summary, the meeting will include the program administrator's annual report.

Additional information may be obtained from Punam Myer, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7241.

Filed: November 19, 1979, 3:19 p.m.  
Doc. No. 798773

**Saturday, December 8, 1979, 9 a.m.** The Texas Radiation Advisory Board of the Texas Department of Health will meet at the Dallas Hilton Hotel, Dallas. According to the agenda summary, the meeting will include the director's report; report on program activity; report from Medical Committee; reports from consultants; and industrial radiography problems.

Additional information may be obtained from G. R. Herzik, Jr., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7541.

Filed: November 19, 1979, 3:18 p.m.  
Doc. No. 798774

## Texas Health Facilities Commission

**Thursday, December 6, 1979, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 305 in the Jefferson Building at 1600 West 38th Street in Austin. According to the agenda summary, the commission will consider the following applications:

certificate of need  
Zimmerman Medical Clinic Dialysis Center, Houston  
AS79-0416-015

Edna Hospital, Edna

AH79-0810-017

Victoria Surgical Center, Victoria

A079-0227-027

Val Verde Memorial Hospital, Del Rio

AH79-0730-007

St. John's Rest Home, San Antonio

AN79-0810-011

The Woodlands Family Health Center, Woodlands

A078-1218-001

Cypress Creek Dialysis Facility, Woodlands

AS78-1208-001

North Houston Dialysis Center, Inc., Houston

AS78-1212-005

exemption certificate

All Saints Episcopal Hospital, Fort Worth

AH79-1001-036

Nan Travis Memorial Hospital, Jacksonville

AH79-1015-031

Irving Community Hospital, Irving

AH79-1015-022

Visiting Nurse Association, Dallas

AS79-1016-027

St. Luke's Episcopal Hospital, Houston

AH79-1018-003

Memorial Hospital of Galveston County, Texas City

AH79-1023-027

Sam Houston Memorial Hospital, Houston

AH79-1024-005

amendment of certificate of need

High Plains Baptist Hospital, Amarillo

AH79-0129-001A (101879)

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

Filed: November 26, 1979, 11:11 a.m.

Doc. No. 798924

## University of Houston

**Monday, December 3, 1979, 10 a.m.** The Broadcasting, Development, and Public Affairs Committee of the Board of Regents of the University of Houston will meet in the fifth floor conference room of the Houston United Bank Building, 4600 Gulf Freeway, Houston. According to the agenda, the committee will discuss proposed regents' rules and regulations.

Additional information may be obtained from Deborah Selden, 911 Walker, Suite 765, Houston, Texas 77002, telephone (713) 749-3083.

Filed: November 20, 1979, 2:11 p.m.

Doc. No. 798810

## Texas Department of Human Resources

**Wednesday, December 5, 1979, 9 a.m.** The Texas Board of Human Resources will meet in Room 406, John H. Reagan Building, Austin. According to the agenda summary, the board will consider the following items: nursing home rate

methodology and payment rates; nursing home program changes; approval of child care licensing standards; fiscal year 1979 budget and expenditure report; adjustments to fiscal year 1980 operating budget and staffing plan; nonrecurring benefit in Aid to Families with Dependent Children program; personnel policy revision—change in length of disciplinary suspension periods; food stamp utility standard, standard deductions, and issuance tables; implementation of food stamp legislation; pilot project on food stamp mail issuance; Title XX program priority setting and plan change; low-income energy assistance; and department goals.

Additional information may be obtained from Bill Woods, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6297.

Filed: November 26, 1979, 10:54 a.m.

Doc. No. 798923

## State Board of Insurance

**Wednesday, November 21, 1979, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance held an emergency meeting in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section considered Docket 5873 concerning the application of Reliance Insurance Company, Philadelphia, Pennsylvania, as to Republic Financial Services Corporation, Dallas, and the disclaimer of control or affiliation as to Republic Financial Services Corporation.

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

Filed: November 19, 1979, 4:37 p.m.

Doc. No. 798776

**Tuesday, November 27, 1979, 9 a.m.** The State Board of Insurance met on the House Floor of the House of Representatives and considered Docket 1138, insurance problems of the elderly, pursuant to Senate Concurrent Resolution 21.

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

Filed: November 19, 1979, 4:37 p.m.

Doc. No. 798777

**Dates and times listed below.** The Commissioner's Hearing Section of the State Board of Insurance conducted hearings in Room 342, 1110 San Jacinto Street, Austin, concerning the following:

**Tuesday, November 27, 1979, 9 a.m.**—Docket 5879 to consider acquisition of control of Founders Preferred Life Insurance Company, Waco, by Citizens Insurance Company of America, Austin.

**Same date, 10 a.m.**—Docket 5880 to consider application for admission to Texas by Health Insurance Corporation, Milwaukee, Wisconsin.

**Same date, 2 p.m.**—Docket 5863 to consider application for admission to Texas (continued from November 3, 1979) by Old United Life Insurance Company, Scottsdale, Arizona.

**Wednesday, November 28, 1979, 9 a.m.**—Docket 5881 to consider the mergers of Great Southern Life Insurance Company, Houston, into NLT Capital Life Insurance Company, Nashville, Tennessee; and NLT Capital Life Insurance Company, Nashville, Tennessee, into GS Life Insurance Company, Houston.

**Same date, 2 p.m.**—Docket 5882 to consider application for extension of time within which to sell real estate by Security Southwest Life Insurance Company, El Paso.

**Same date, 3 p.m.**—Docket 5883 to consider application for admission to Texas by Resources Life Insurance Company, Dover, Delaware.

**Thursday, November 29, 1979, 10 a.m.**—Docket 5884 to consider decreasing capital stock and lines of insurance business by Omega Contact Lens Insurance Company, Dallas.

**Same date, 2 p.m.**—Docket 5876 to consider application for approval of revaluation of home office property by Bankers Life Insurance Company of America, Dallas, (changed from November 26, 1979). This meeting was held in Room 350.

**Same date and time.**—Docket 5885 to consider revocation of Group I, Legal Reserve Life Insurance License of James Graham, Richardson.

**Friday, November 30, 1979, 9 a.m.**—Docket 5886 to consider the merger of Fidelity Union Life Insurance Company, Dallas, into AOA Insurance Company, Austin.

**Same date, 2 p.m.**—Docket 5887 to consider charter amendment increase in capital stock of AOA Insurance Company, Austin.

**Monday, December 3, 1979, 2 p.m.**—Docket 5888, States General Life Insurance Company, Dallas, to consider proposed merger of Rosewood Life Insurance Company, an Arizona company, into States General Life Insurance Company, Dallas.

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

Filed: November 19, 1979, 4:38 p.m.  
Doc. Nos. 798778-798783  
& 798785-798790

**Wednesday, November 28, 1979, 10 a.m.** The State Board of Insurance met in Room 408, 1110 San Jacinto Street, Austin, to consider Special Hazard Credit Insurance Program filed by MGIC Indemnity Corporation.

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

Filed: November 20, 1979, 1:26 p.m.  
Doc. No. 798804

**Thursday, November 29, 1979, 1 a.m.** The State Board of Insurance met in the hearing room of the Department of Highways and Transportation, 11th and Brazos Streets, Austin. According to the agenda, the board considered Docket 1139—amendments to rules and forms to the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas.

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

Filed: November 19, 1979, 4:41 p.m.  
Doc. No. 798784

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, December 4, 1979, 2 p.m.**

**Tuesday, December 11, 1979, 2 p.m.**

**Tuesday, December 18, 1979, 2 p.m.**

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

Filed: November 24, 1979, 9:08 a.m.  
Doc. Nos. 798910, 798912, & 798916

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, December 5, 1979, 2 p.m.**

**Wednesday, December 12, 1979, 2 p.m.**

**Wednesday, December 19, 1979, 2 p.m.**

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

Filed: November 26, 1979, 9:09 a.m.  
Doc. Nos. 798911, 798913, & 798915

## Texas Advisory Commission on Intergovernmental Relations

**Wednesday, December 5, 1979, 10 a.m.** The County Personnel Orientation Project Committee of the Texas Advisory Commission on Intergovernmental Relations will meet in Room 621 of the Stephen F. Austin Building at 17th and Congress in Austin. The committee will review the project design and hear a staff progress report on the following two of the three elements of the county personnel orientation package: (1) an audio visual presentation and (2) an informational pamphlet.

Additional information may be obtained from Louise H. Winecup, Texas ACIR, 17th and Congress, Austin, Texas, telephone (512) 475-3278.

Filed: November 20, 1979, 3:30 p.m.  
Doc. No. 798811

## Texas Board of Irrigators

**Wednesday, November 28, 1979, 1 p.m.** The Texas Board of Irrigators met in emergency session in the Dallas Chamber of Commerce Board Room, Fidelity Union Tower, third floor, 1507 Pacific Avenue, Dallas. According to the agenda summary, the board considered whether to request the Texas Attorney General to take appropriate legal action against David Schedler of Farmers Branch to enforce the registration requirements of Texas Laws 1979, Chapter 197.

Additional information may be obtained from Joyce Watson, P.O. Box 12337, Austin, Texas 78711, telephone (512) 475-8161.

Filed: November 21, 1979, 9:33 a.m.  
Doc. No. 798867

## Lamar University

**Tuesday, November 27, 1979, 9 a.m.** The Academic Affairs Committee of the Board of Regents of Lamar University met in emergency session in the Plummer Administration Building on the main campus in Beaumont to consider the organization of the academic departments.

Additional information may be obtained from Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, telephone (713) 838-7533.

Filed: November 26, 1979, 11:33 a.m.  
Doc. No. 798929

**Thursday, November 29, 1979, 9:30 a.m.** The Board of Regents of Lamar University met in emergency session in the Plummer Administration Building on the main campus in Beaumont to consider the following items: president's report; chairman's announcement of committee appointments; approval of journal entries; approval of monthly report of operations; approval of budget and personnel changes; approval of investment report and revision of policy related to financial operation; approval of Academic Affairs Committee recommendations on organization of academic departments; approval of Building and Grounds Committee recommendations on bids and priority considerations for building program; approval of Lamar Foundation appointments and procedures; and an executive session.

Additional information may be obtained from Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, telephone (713) 838-7533.

Filed: November 26, 1979, 11:33 a.m.  
Doc. No. 798930

## Texas Legislative Council

**Friday, November 30, 1979, 10 a.m.** The Election Code Study Committee of the Texas Legislative Council will meet in the Senate Chamber of the State Capitol. According to the agenda, the committee will conduct an organizational meeting.

Additional information may be obtained from Walter Fisher, P.O. Box 12128, Austin, Texas 78711, telephone (512) 475-0722.

Filed: November 19, 1979, 3:07 p.m.  
Doc. No. 798761

## Texas State Board of Library Examiners

**Friday, November 30, 1979, 2 p.m.** The Texas State Board of Library Examiners made an addition to the agenda of a meeting to be held in the Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. The additional item concerns the consideration of the report to the Texas Sunset Advisory Commission on the board.

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

Filed: November 21, 1979, 9:56 a.m.  
Doc. No. 798886

## Texas State Board of Medical Examiners

**Saturday-Thursday, December 8-13, 1979, 8 a.m.** The Texas State Board of Medical Examiners will meet at 211 East 7th, Southwest Tower Building, Austin, to conduct hearings on possible Medical Practice Act violations and to consider the following items: licensure applications; possible amendment of rules regulating the practice of medicine as provided in Article 4509, Vernon's Annotated Civil Statutes; administering examinations; possible rule amendment regarding deadline for filing applications; committee reports, including discussion of proposed standing orders rules; possible committee meeting (internal operations); an informal discussion on sunset; and a presentation of request to board to seek an attorney general's opinion regarding certain files.

Additional information may be obtained from Jean Davis, 211 East 7th, Austin, Texas 78701, telephone (512) 475-0741.

Filed: November 19, 1979, 3:56 p.m.  
Doc. No. 798763

## Texas Municipal Retirement System

**Wednesday, December 12, 1979, 9 a.m.** The Board of Trustees of the Texas Municipal Retirement System will meet in the main auditorium, 1200 North Interstate 35, Austin. According to the agenda summary, the board will consider the following items: approval of service and disability retirements; approval of amendment to 1979 budget; approval of proposed 1980 budget; review and action on financial statements, investment reports, and other reports of the director, assistant director, actuary, and legal counsel; transfer of inactive accounts and unclaimed refunds; approval of changes in benefit structure by member cities; determination and allocation of interest to various funds and accounts of the system; transfer of funds from interest reserve account of the endowment fund to the expense fund.

to cover expenses of the system; determination and provision for distributive benefits as defined in the act.

Additional information may be obtained from Jimmie L. Mormon, 1200 North Interstate 35, Austin, Texas 78701, telephone (512) 476-7577.

Filed: November 21, 1979, 11:25 a.m.  
Doc. No. 798868

## Board of Pardons and Paroles

**Monday—Friday, December 3—7, 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: November 19, 1979, 4:43 p.m.  
Doc. No. 798770

**Wednesday, December 5, 1979, 9 a.m.** The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. According to the agenda, a parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

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

Filed: November 19, 1979, 4:43 p.m.  
Doc. No. 798771

## Board of Plumbing Examiners

**Monday, December 10, 1979, 9:30 a.m.** The Board of Plumbing Examiners will meet in 204 John H. Reagan Building, Austin, to consider the budget for 1980; review of financial report; report of licenses issued; and review of examination data.

Additional information may be obtained from Lynn Brown, 204 Reagan Building, Austin, Texas 78701, telephone (512) 472-9221.

Filed: November 20, 1979, 2:13 p.m.  
Doc. No. 798807

## Board of Polygraph Examiners

**Tuesday and Wednesday, December 18 and 19, 1979, 9 a.m. daily.** The Board of Polygraph Examiners will meet in the polygraph conference room, Texas Department of Public

Safety, Austin. According to the agenda, the board will discuss the Sunset Committee hearings only.

Additional information may be obtained from Ryerson D. Gates, 111 West Laurel, Suite 115, San Antonio, Texas 78212, telephone (512) 227-6100.

Filed: November 20, 1979, 2:14 p.m.  
Doc. No. 798808

**Wednesday-Saturday, January 23-26, 1980, 9 a.m.-4 p.m. daily.** The Board of Polygraph Examiners will meet at the Holiday Inn, 1051 IH 35 and State Highway 46, New Braunfels. According to the agenda, the board will consider the following: evaluate and act on complaints and suggestions from public and examiners; Review Board investigations; discuss Sunset Commission recommendations and requirements proposed; evaluate and certify licensing examinations; discuss for approval or disapproval of intern requests; review failed examinations with intern and sponsor; review proposals for further action to eliminate illegal voice stress machine operation; elect 1980 officers; and conduct other business authorized for presentation by the chairman.

Additional information may be obtained from Ryerson D. Gates, 111 West Laurel, Suite 115, San Antonio, Texas 78212, telephone (512) 227-6100.

Filed: November 20, 1979, 2:14 p.m.  
Doc. No. 798809

## Public Utility Commission of Texas

**Monday, December 3, 1979, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 400N at 7800 Shoal Creek Boulevard in Austin. The prehearing concerns Docket 2934, the application of North Plains Electric Cooperative, Inc., for a rate increase.

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

Filed: November 20, 1979, 9:22 a.m.  
Doc. No. 798798

**Tuesday, December 4, 1979, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400N at 7800 Shoal Creek Boulevard in Austin. The hearing concerns Dockets 2586 and 2758, the application of Green Pastures Water Company, Inc., for approval of sale to Brushy Creek South MUD within Hays County and application of Goforth Water Supply Company to amend certificate of convenience and necessity within Hays, Travis, and Caldwell Counties.

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

Filed: November 20, 1979, 9:27 a.m.  
Doc. No. 798799

**Tuesday, December 4, 1979, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400N at 7800 Shoal Creek Boulevard in Austin. The hearing concerns Docket 2801, the application of Edward W. Plodzick for sale to Indian Hill Harbor Sewer, Inc.

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

Filed: November 20, 1979, 9:27 a.m.  
Doc. No. 798800

**Thursday, January 3, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400 at 7800 Shoal Creek Boulevard in Austin. The hearing concerns Docket 2826, the application of Knippa Telephone Company for a rate increase.

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

Filed: November 19, 1979, 3:55 p.m.  
Doc. No. 798772

**Monday, February 11, 1980, 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 2889, application of Northwood Hills Utilities, Inc., for a rate increase or in the alternative to discontinue service in Bexar County.

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

Filed: November 21, 1979, 1:47 p.m.  
Doc. No. 798887

## State Purchasing and General Services Commission

**Friday, November 30, 1979, 10 a.m.** The State Purchasing and General Services Commission has made an emergency addition and deletion to the agenda of a meeting to be held in Room 916, Lyndon B. Johnson State Office Building, 111 East 17th Street, Austin. According to the agenda summary, the addition concerns the determination of whether or not to appeal the ruling of the 261st District Court relating to Capitol Complex parking rules and the deletion concerns the review of certain provisions of Article 601b, Vernon's Texas Civil Statutes, relating to purchasing for the purpose of establishing or clarifying commission policies.

Additional information may be obtained from Homer Foerster, P.O. Box 13047, Austin, Texas 78711, telephone (512) 475-2211.

Filed: November 26, 1979, 10:52 a.m.  
Doc. No. 798922

## Railroad Commission of Texas

**Monday, November 19, 1979, 5 p.m.** The Transportation Division of the Railroad Commission of Texas met in emergency session in Room 107, 1124 South IH 35, Austin. According to the agenda, the commission considered policy and methods for implementing the issuance of seasonal agricultural licenses under new House Bill 1418. To comply with the legislature's intent that this bill be implemented as soon as possible and to avoid any delay during the height of the harvest season, these matters were considered on an emergency basis as a matter of urgent public necessity.

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

Filed: November 19, 1979, 2:59 p.m.  
Doc No. 798760

**Monday, November 26, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium at 1124 South IH 35, Austin. According to the agenda, the addition concerned the following: Docket 82247A72, Texas Oil and Gas Corporation, Rule 37 Case, Dove Creek (Cisco Canyon B, Canyon C, Canyon D) Field, Irion County; Docket 83071A72, Glen G. Swarts, Rule 37 Case, Wildcat Field, Stephens County; Docket 82-417, Kennedy and Mitchell, Inc., Rule 37 Case, Elkhart (Pettit) Field, Anderson County. Because these matters were properly noticed for the meeting of November 19, 1979, and were passed over at that meeting, consideration on less than seven days' notice is required as a matter of urgent public necessity.

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

Filed: November 21, 1979, 11:56 a.m.  
Doc. No. 798870

**Friday, November 30, 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 2088, 2241, 2303, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2288, 1890, 2223; word processing matters; and the actor's report.

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

Filed: November 21, 1979, 11:54 a.m.  
Doc. No. 798871

**Friday, November 30, 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. According to the agenda, the division will consider the director's report.

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

Filed: November 21, 1979, 11:57 a.m.  
Doc. No. 798876

**Friday, November 30, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas has 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, 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: November 21, 1979, 11:56 a.m.  
Doc. No. 798874

**Friday, November 30, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium at 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within its jurisdiction.

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

Filed: November 21, 1979, 11:57 a.m.  
Doc. No. 798877

**Friday, November 30, 1979, 9 a.m.** The Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. According to the agenda, the commission will meet in 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: November 21, 1979 11:57 a.m.  
Doc. No. 798875

**Friday, November 30, 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. According to the agenda, the division will consider the following: application for revision of Permit 008 by Conoco, Inc., regarding discharges of water from holding ponds; and the director's report.

Additional information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1176.

Filed: November 21, 1979, 11:55 a.m.  
Doc. No. 798872

**Friday, November 30, 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, the division will consider various matters falling within its regulatory jurisdiction.

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

Filed: November 21, 1979, 11:56 a.m.  
Doc. No. 798873

**Thursday, December 20, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet at the Quality Inn, 2200 South IH 35, Austin. According to the agenda summary, the division will conduct a hearing concerning statewide oil and gas.

Additional information may be obtained from Don R. Jones, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1296.

Filed: November 21, 1979, 11:58 a.m.  
Doc. No. 798878

**Monday, January 7, 1980, 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. According to the agenda, the division will consider the following: (1) discussion with representatives of the Texas State Soil and Water Conservation Board and the U.S. Soil Conservation Service on the need to continue soil surveys within the area of potential uranium and coal surface mining activities in Texas. The need to discuss with the Texas legislature the appropriation of monies to provide this service will be a part of this discussion; and (2) the director's report.

Additional information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1176.

Filed: November 21, 1979, 11:55 a.m.  
Doc. No. 798879

## School Land Board

**Tuesday, December 4, 1979, 10 a.m.** The School Land Board will meet in Conference Room 831, 1700 North Congress Avenue, Austin, to consider the following items: one pooling application; request by Superior, Cities Service, and Rutherford for applications to drill directional wells on state-owned land and bottom the wells on federal leases; schedule and procedures for next oil, gas, and sulphur lease sale; four good faith claimant applications; coastal public lands, including easement applications; rate schedule; and small tracts sale for February 5, 1980.

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

Filed: November 26, 1979, 1:10 p.m.  
Doc. No. 798927

## Texas State Board of Examiners in Social Psychotherapy

**Friday, November 30, 1979, 6 p.m.-10 p.m.** The Texas State Board of Examiners in Social Psychotherapy will meet in Conference Room T-604, 1100 West 49th Street, Austin. According to the agenda summary, the board will consider the following items: executive secretary's report; discussion of meeting with the Texas Board of Health; committee reports, including application screening, sunset, accreditation and training programs, executive, examination development; report from executive secretary on printing of roster of licensees; report from executive secretary on letterhead for TSBESP; continuing education; approval of payment of board members for work done since last board meeting; discussion of method of evaluation of performance of the executive secretary; and emergency matters pertaining to licensure and regulation.

Additional information may be obtained from James Stricklin, M.D., 1925 Beltline Road, Dallas County State Bank, Suite 319, Carrollton, Texas, telephone (214) 242-3932.

Filed: November 21, 1979, 2:23 p.m.  
Doc. No. 798888

## Advisory Council for Technical-Vocational Education in Texas

**Friday, December 14, 1979, 9:30 a.m.** The Advisory Council for Technical-Vocational Education in Texas will meet in the Cedar Room of the Quality Inn South, 2200 South IH 35, Austin. According to the agenda summary, the council will review the 10th Annual Report to the governor; review a draft of the 10th Annual Report to the State Board of Education; hear a report on equity in vocational education; and hear committee reports.

Additional information may be obtained from Valeria J. Blaschke, P.O. Box 1886, Austin, Texas 78767, or 1700 South Lamar, Suite 202, Austin, Texas 78704, telephone (512) 475-2046.

Filed: November 20, 1979, 9:30 a.m.  
Doc. No. 798797

## Texas Turnpike Authority

**Thursday, December 6, 1979, 10:30 a.m.** The Board of Directors of the Texas Turnpike Authority will meet in the Sydney Room, Northpark Inn, 9300 North Central Expressway, Dallas. According to the agenda summary, the board will consider the following items: final adoption of Dallas North Tollway and Mountain Creek Lake Bridge budgets for calendar year 1980; progress report on the Houston Ship Channel Bridge project; award of contract DNT-85; approval of payment for extra work on contract HSC-2; in executive session, pending or contemplated litigation, personnel, and purchase or value of real property; and approval of Property Appraisal List No. 5 for the Houston Ship Channel Bridge project.

Additional information may be obtained from Harry Kabler, P.O. Box 5547, Arlington, Texas 76011, telephone (817) 261-3151.

Filed: November 26, 1979, 9:04 a.m.  
Doc. No. 798921

## Board of Vocational Nurse Examiners

**Monday-Wednesday, December 3-5, 1979, 8 a.m. daily.** The Board of Vocational Nurse Examiners will meet at the Sheraton-Crest Inn, 111 East First Street, Austin. According to the agenda summary, the board will conduct a closed meeting for draft review on December 3. On December 4 the board will hold an executive meeting from 8 a.m. to 8:30 a.m. and then will consider the report of the executive secretary; report of director of education; special reports of meetings attended; and administrative hearings. On December 5 the board will continue the administrative hearings.

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

Filed: November 20, 1979, 2:13 p.m.  
Doc. No. 798806

## Texas Water Commission

**Monday, November 26, 1979, 10 a.m.** The Texas Water Commission made emergency additions to the agenda of a meeting held in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the additions concerned consideration of a petition for creation of First Colony Municipal Utility District No. 1 for filing and setting hearing date and a motion for discovery filed in behalf of Tarrant County Municipal Utility District No. 1 in the controversy between Lake County Estates, Inc., and Tarrant County Municipal Utility District No. 1 for commission action.

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

Filed: November 20, 1979, 2:10 p.m.  
Doc. No. 798805

**Monday, December 3, 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 items: applications for bond issues, use of surplus funds, water quality permits, amendments, renewals, reactivation of permit, private sewage facility regulations, adjudication matters, voluntary cancellation and dismissal of claim, approval of reclamation project, amendment to water rights permit, approval of dam repair, and filing and setting of hearing date of application.

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

Filed: November 21, 1979, 3:44 p.m.  
Doc. No. 798893

## Regional Agencies

### Meetings Filed November 19, 1979

**The Middle Rio Grande Development Council, A-95 Project Review Committee**, met in the City Council Chambers at City Hall in Uvalde, on November 28, 1979, at 2 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

**The Northeast Texas Municipal Water District**, Board of Directors, met at 1003 Linda Drive in Daingerfield on November 26, 1979, at 7 p.m. Further information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, telephone (214) 645-2241.

**The Promotion Task Force Meeting of the Panhandle Health Systems Agency, Panhandle Regional Planning Commission**, Resource Center for Health, met at the Texas Tech University Regional Academic Health Center in Amarillo on November 29, 1979, at 7:30 p.m. Further information may be obtained from E. L. Melin, 730 Amarillo Building, Amarillo, Texas 79101, telephone (806) 372-3381.

**The Sabine River Authority of Texas**, Board of Directors, will meet at the Dallas-Hilton Hotel in Dallas on December 3, 1979, at 9 a.m. Further information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, telephone (712) 883-2531.

**The South Texas Health Systems Agency** met in the Sheraton Harlingen Inn, Expressway 83 and Steward Place Road in Harlingen on November 27, 1979. At 6:30 p.m., the Nominating Committee of the Lower Rio Grande Valley Subarea Health Advisory council met. At 7 p.m., the Lower Rio Grande Valley Subarea Health Advisory Council met. Further information may be obtained from Fidel Pizana, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

**The South Texas Health Systems Agency**, Bylaws Committee of the Golden Crescent Subarea Health Systems Advisory Council, met in Room 113, Allied Health Building, Victoria College, in Victoria on November 28, 1979, at 7 p.m. Further information may be obtained from Paul Villaret, Texas A&I University, Station 1, Box 2378, Kingville, Texas 78363, telephone (512) 595-5545.

Doc. No. 798791

### Meetings Filed November 20, 1979

**The Brazos Valley MH/MR Center**, Board of Trustees, met at 202 East 27th Street, Bryan, on November 29, 1979, at 2:30 p.m. Further information may be obtained from Linda S. Davis, 202 East 27th Street, Bryan, Texas, telephone (713) 779-2000.

**The Education Service Center, Region XI**, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on December 4, 1979, at 7:30 p.m. Further information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, telephone (817) 625-5311.

Doc. No. 798801

### Meetings Filed November 21, 1979

**The Central Texas MH/MR Center**, Board of Trustees, met at 308 Lakeway Drive, Brownwood, on November 27, 1979, at 4:30 p.m. Further information may be obtained from Janie Clements, P.O. Box 250, Brownwood, Texas 76801, telephone (915) 646-9574, extension 35.

**The Education Service Center, Region IV**, Board of Directors, will meet in the Nantucket Room, Anchorage Restaurant, 2504 North Loop West, Houston, on December 13, 1979, 6 p.m. Further information may be obtained from Dr. Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, telephone (713) 868-1051.

**The Nueces River Authority**, Board of Directors, will meet at 1001 East Market Street, San Antonio, on November 29, 1979, at 11 a.m. Further information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78801, telephone (512) 278-6810.

**The Panhandle Regional Planning Commission**, Texas Panhandle Employment and Training Alliance, met in the Chamber of Commerce Conference Room, Amarillo Building, Amarillo, on November 28, 1979, at 3 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**, WCT Cardiovascular Task Force, will meet at the agency office, 2642 Post Oak Road, Abilene, on December 4, 1979, at 7 p.m. Further information may be obtained from Taras Hetzel, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

**The Upper Leon River Municipal Water District**, Board of Directors, met in the general office of the filter plant, Proctor Lake, Comanche, on November 29, 1979, at 7 p.m. Further information may be obtained from Lowell G. Pittman, Box 67, Comanche, Texas, telephone (817) 879-2258.

**The West Central Texas Council of Governments**, Executive Committee, met in the Faculty Dining Room, McGlothlin Campus Center, Abilene Christian University, Abilene, on November 30, 1979, at 5:45 p.m. The Board of Directors met and the general membership annual meeting was held in the same location on the same date at 7 p.m. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 798885

### Meetings Filed November 26, 1979

**The Amarillo MH/MR Regional Center**, Board of Trustees, met at 7201 Evans Street, Psychiatric Pavilion, Amarillo, on November 29, 1979, at 12:30 p.m. Further information may be obtained from Don Pipes, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

Doc. No. 798928

## Governor's Committee on Aging Request for Bids

The Governor's Committee on Aging (GCOA) is soliciting bids for the delivery of labeling and mail preparation services for the distribution of its bi-monthly publication, "The Older Texan." Labeling will be done from GCOA Addressograph plates. The anticipated period of performance is December 15, 1979, through August 31, 1981.

Bids submitted in response to this request for bids will not be accepted after 5 p.m. Friday, December 7, 1979, unless they are postmarked on or before Wednesday, December 5, 1979. Bids may be hand delivered up to the deadline to the Information Services and Education Center, third floor, TDCA Building, 210 Barton Springs Road, Austin, Texas, on any state workday between the hours of 8 a.m. and 5 p.m., or may be sent by mail to Skip Steely, director, Information Services and Education Center, Texas Department of Community Affairs, P.O. Box 13166, Capitol Station, Austin, Texas 78711.

GCOA reserves the right to accept or reject any or all bids submitted under this solicitation, and is under no legal requirement to execute a resulting contract. GCOA will base its selection on the basis of the lowest and best bid conforming to the specifications required, considering price; quality; availability; and adaptability of supplies, equipment, and services to required use; conditions attached to bid; ability to provide timely service; and character, responsibility, reputation, and experience of the bidder.

In order to obtain more information and a copy of the bid package, contact Skip Steely, director, Information Services and Education Center, at the address shown above, or by telephone at (512) 475-6744.

\*registered trademark

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

Doc. No. 798758 Tom A. Laramey, Jr.  
General Counsel  
Texas Department of Community Affairs

Filed: November 19, 1979, 9:05 a.m.

For further information, please call (512) 475-6744.

## Texas Air Control Board Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of November 12-16, 1979.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 6630 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

### Week Ending November 16, 1979

Intercontinental Terminals Co., Deer Park; storage terminals; Tidal Road; 8033; new source

Flintkote Company (The), Sweetwater; gypsum wallboard plant; IH 20 at FM 1856; 8036; new source

Firestone Foam Products Co., Arlington; cementing spray line-exhaust system; 2312 Avenue J—Brook Hollow; 8034; new source

Texas Industries, Inc., Garland; crushed stone terminal; Miller Road—0.3 mile east of Jupiter Road; 8035; new source

Dahlstrom Corp., Fort Worth; asphalt concrete plant; 337K; new source

Gulf Oil Chemicals Co.—Plastics Division, Channelview; styrene polymerization and impregnation addition; 1515 South Sheldon Road; 2043B; modification

Boise Cascade Building Materials Distribution Division, Clifton; ready mix concrete plant; 8037; new source

Rhone-Poulenc, Inc., Freeport; rare earths extraction plant; 6213 Highway 332E; 8038; new source

Marbo Bronze Manufacturing, Inc., Royce City; producers of bronze bearings and bowl bushings; Industrial Park; 8039; new source

Johnson and Johnson Clearing and Grading, Houston; air curtain destructor; Uvalde Street East—new U.S. Highway 290; 7112A; new source

Omnico, Inc., Fort Worth; processing and packaging fertilizer; 5150 Blue Mound Road; 4870A

Cameron Iron Works, Inc., Cypress; 72-GN-3 rotoblast barrel; 22301 U.S. Highway 290; 8040; new source

City of Beeville Texas, Beeville; controlled burning utilizing an air curtain destructor; Viggo Road; 8043; new source

Lo Vaca Gathering Co., Yoakum; liquid hydrocarbon recovery; FM 682—Gohlke Turbo—Expander Plant; 8042; new source

Cupakco, Inc., Gainesville; sand bagging facility; 1000 North Moran; 8041; new source

Hurliman and Mixon, Inc., Naples; wood waste burning boiler; 690A

Amdel Pipeline, Inc., Port Arthur; colonial station tank farm; Roosevelt Avenue and 53rd Street; 8044; new source

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

Doc. No. 798813 Ramon Dasch  
Hearing Examiner  
Texas Air Control Board

Filed: November 20, 1979, 3:59 p.m.

For further information, please call (512) 451-5711, ext. 401.



## Texas Energy and Natural Resources Advisory Council (TENRAC)

### Request for Proposals

#### 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 for a study of low Btu fixed-bed gasification of lignite pellets. The project is to be in two phases. Phase I is a study to determine the chemical and mechanical feasibility of using two kinds of lignite pellets in an industrial scale single-stage, fixed-bed gasifier. TENRAC will provide samples of both kinds of lignite pellets for analysis and testing by the contractor. Phase II is a study to determine the optimal operating parameters for process operation.

**Eligibility of Contractors.** Eligible contractors are limited to Texas state universities or other Texas state agencies so that contracting can be by interagency contract.

**Description of Proposal Specifications.** Although the determination of chemical feasibility can be accomplished to a significant degree through computer modeling based on chemical analysis of the lignite pellets, determination of mechanical feasibility will require laboratory operation of a bench-scale fixed-bed gasifier. Upon completion of Phase I—Process Feasibility, TENRAC shall review project results and may choose to terminate the project or to continue with Phase II—Process Optimization. A single contract is anticipated, but each phase must be budgeted separately. Project schedule should not extend beyond August 31, 1980.

**Explanation 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.

**Deadline and Addresses for Proposal Submission.** In order to be considered, proposals must be received in Room 900, 411 West 13th Street, Austin, Texas 78701, no later than noon December 17, 1979.

**Target Date for Contract Award.** It is anticipated that contract award will be made no later than January 15, 1980.

**Detailed Guidelines for Proposal Contents.** Proposals must follow the content and format as prescribed under the rules adopted for administration of the Energy Development Act cited above. Ten copies of the proposal must be submitted to TENRAC at the address previously indicated.

**Designation of Contact Person for Additional Information.** For information, contact David M. White, Texas Energy and Natural Resources Advisory Council, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-5588.

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

Doc. No. 798864

Roy R. Ray, Jr., Manager  
Technology Development Section  
Texas Energy and Natural Resources  
Advisory Council

Filed: November 21, 1979, 11:49 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 November 14-16, 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.

**Primacare Physicians, P.A., doing business as Carrollton Minor Emergency Center, Carrollton (11/14/79)**  
AO79-1114-008

DR—That neither a CN nor an EC is required for the establishment of a minor emergency center by a physician in the private practice of his profession

**Primacare Physicians, P.A., doing business as Primacare Minor Emergency Center, Farmers Branch (11/14/79)**  
AO79-1114-005

DR—That neither a CN nor an EC is required for the establishment of a minor emergency center by a physician in the private practice of his profession

**Kaiser/Prudential Health Plan, Dallas (11/15/79)**  
AO79-1105-016

DR—That neither a CN nor an EC is required for an existing health maintenance organization to establish additional physicians' offices within its already declared service area

**Lockney General Hospital, Lockney (11/15/79)**  
AH79-1109-031

EC—Construct a library/meeting room to be attached to the existing facility

**Medical Plaza Hospital, Sherman (11/15/79)**  
AH79-1115-027

EC—Purchase of diagnostic ultrasound system with multifor-mat camera, real time, and accessories

**Mid-Jefferson County Hospital, Nederland (11/15/79)**  
AH79-1115-029

EC—Purchase an Echoview 80L ultrasound system

**Texas Children's Hospital, Houston (11/16/79)**  
AH79-1116-016

EC—Purchase a transmission electron microscope for use in pathology department

**Amarillo Hospital District for Amarillo Community Mental Health Center, Amarillo (11/16/79)**  
AH79-1116-006

DR—That neither a CN nor an EC is required to establish an administrative unit to consist of four programs for public information and education, staff development, agency activity, and case oriented consultation

**McCuistion Regional Medical Center, Paris (11/16/79)**  
AH79-1116-034

EC—Purchase and install a new centrifugal chiller to replace a 12-year-old unit

**McCuistion Regional Medical Center, Paris (11/16/79)**  
AH79-1116-040

EC—Purchase an atmospheric water chiller to be installed as an addition to the present air-conditioning system

**Luling Medical Center, Inc., Luling (11/16/79)**  
AO79-0822-012

DR—That neither a CN nor an EC is required for applicant to construct a building to house four doctors' offices in Luling

**McCuistion Regional Medical Center, Paris (11/16/79)**  
AH79-1116-038

EC—Addition of a shaded glazing over the facility's windows

**McCuistion Regional Medical Center, Paris (11/16/79)**  
AH79-1116-032

EC—Purchase and installation of boiler recuperators in the boilers at the facility

**Upjohn Healthcare Services, San Antonio (11/16/79)**  
AS79-1116-057

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Bexar, Blanco, Hays, Caldwell, Gonzales, De Witt, Goliad, Bee, Live Oak, Gillespie, Kerr, Kendall, Comal, Guadalupe, Wilson, Karnes, McMullen, Medina, Real, Edwards, Val Verde, Kinney, Uvalde, Maverick, Dimmit, Zavala, Frio, Webb, Duval, Zapata, Jim Hogg, Llano, Atascosa, and Bandera

**Upjohn Healthcare Services, Abilene (11/16/79)**  
AS79-1116-059

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Jones, Fisher, Scurry, Taylor, Mitchell, Nolan, Brown, Comanche, Eastland, Stephens, and Runnels

**Upjohn Healthcare Services, Lubbock (11/16/79)**  
AS79-1116-064

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Lubbock, Hockley, Lamb, Hale, Floyd, Crosby, Garza, Lynn, Terry, Bailey, Motley, Cochran, Dickens, King, and Yoakum

**Upjohn Healthcare Services, El Paso (11/16/79)**  
AS79-1116-062

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: El Paso, Hudspeth, Jeff Davis, Brewster, Presidio, and Culberson

**Upjohn Healthcare Services, Odessa (11/16/79)**  
AS79-1116-068

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Midland, Ector, Winkler, Glasscock, Borden, Ward, Loving, Crane, Upton, Andrews, Gaines, Dawson, Martin, Pecos, Howard, Reeves, and Terrell

**Upjohn Healthcare Services, San Angelo (11/16/79)**  
AS79-1116-070

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Crockett, Sutton, Kimble, Mason, McCullough, Menard, Tom Green, Coke, Sterling, Concho, Reagan, Irion, and Schleicher

**Upjohn Healthcare Services, Austin (11/16/79)**  
AS79-1116-043

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson

**Upjohn Healthcare Services, Victoria (11/16/79)**  
AS79-1116-088

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Calhoun, San Patricio, Kleberg, Victoria, Refugio, Nueces, Goliad, De Witt, Bee, Wells, Lavaca, and Jackson

Upjohn Healthcare Services, Wichita Falls (11/16/79)  
AS79-1116-086

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Clay, Montague, Wilbarger, Wichita, Young, Baylor, Jack, and Archer

Upjohn Healthcare Services, Tyler (11/16/79)  
AS79-1116-082

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Harrison, Gregg, Van Zandt, Rusk, Henderson, Anderson, Smith, Wood, and Cherokee

Upjohn Healthcare Services, Temple (11/16/79)  
AS79-1116-079

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: McLennan, Hill, Hamilton, Falls, Coryell, Bell, and Bosque

Upjohn Healthcare Services, Harlingen (11/16/79)  
AS79-1116-077

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Hidalgo, Brooks, Willacy, Starr, and Cameron

Upjohn Healthcare Services, Waco (11/16/79)  
AS79-1116-084

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: McLennan, Hill, Hamilton, Falls, Coryell, Bell, and Bosque

Upjohn Healthcare Services, Midland (11/16/79)  
AS79-1116-066

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Midland, Ector, Glasscock, Winkler, Borden, Ward, Loving, Crane, Upton, Andrews, Gaines, Dawson, Martin, Pecos, Howard, Reeves, and Terrell

Upjohn Healthcare Services, Port Arthur (11/16/79)  
AS79-1116-055

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Jefferson, Orange, Hardin, Jasper, Newton, Tyler, Polk, San Jacinto, Trinity, Angelina, San Augustine, Sabine, Shelby, Nacogdoches, Houston, Walker, Montgomery, Liberty, Chambers, Galveston, Harris, Waller, Fort Bend, and Brazoria

Upjohn Healthcare Services, Amarillo (11/16/79)  
AS79-1116-073

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Potter, Moore, Oldham, Deaf Smith, Randall, Hemphill, Carson, Armstrong, Dallam, Roberts, Wheeler, and Castro

Upjohn Healthcare Services, Corpus Christi (11/16/79)  
AS79-1116-075

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Calhoun, San Patricio, Kleberg, Victoria, Refugio, Nueces, Goliad, De Witt, Bee, Wells, Lavaca, and Jackson

Upjohn Healthcare Services, Dallas (11/16/79)  
AS79-1116-045

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Dallas, Collin, Ellis, Kaufman, Rockwall, and Tarrant

Upjohn Healthcare Services, Galveston (11/16/79)  
AS79-1116-051

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Harris, Galveston, Chambers, Liberty, Montgomery, San Jacinto, Walker, Waller, Grimes, Washington, Austin, Fayette, Colorado, Fort Bend, Lavaca, Wharton, Jackson, Matagorda, Brazoria, Jefferson, and Hardin

Upjohn Healthcare Services, Pasadena (11/16/79)  
AS79-1116-053

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Harris, Galveston, Chambers, Liberty, Montgomery, San Jacinto, Walker, Waller, Grimes, Washington, Austin, Fayette, Colorado, Fort Bend, Lavaca, Wharton, Jackson, Matagorda, Brazoria, Jefferson, and Hardin

Upjohn Healthcare Services, Fort Worth (11/16/79)  
AS79-1116-047

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Tarrant, Dallas, Denton, Johnson, Parker, and Wise

Upjohn Healthcare Services, Houston (11/16/79)  
AS79-1116-049

DR—That neither a CN nor an EC is required for the applicant to offer home health services as a certified Class A home health agency in the counties of: Harris, Galveston, Chambers, Liberty, Montgomery, San Jacinto, Walker, Waller, Grimes, Washington, Austin, Fayette, Colorado, Fort Bend, Lavaca, Wharton, Jackson, Matagorda, Brazoria, Jefferson, and Hardin

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

Doc. No. 798883

Dan R. McNary  
General Counsel  
Texas Health Facilities Commission

Filed: November 21, 1979, 1:35 p.m.

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

## Texas Department of Human Resources

### Alternatives to Institutional Care

#### Public Meetings

Notice is given by the Texas Department of Human Resources of a series of public meetings to discuss inhome and community services for the elderly and disabled. These meetings are scheduled to coincide with statewide public hearings on proposed changes in the rules for Skilled Nursing Facilities and for Intermediate Care II and Intermediate Care III Facilities.

In addition to the proposed rule changes regarding Skilled Nursing Facilities and Intermediate Care Facilities as published in this issue of the *Texas Register*, the Texas Department of Human Resources is seeking to develop a variety of approaches to the delivery of services outside of the traditional long-term care institutional setting. Programs and projects proposed by the Texas Department of Human Resources are intended to supplement existing family, community, and publicly supported alternatives to long-term institutional care. No single entity can develop the kinds of programs and services needed by the elderly and the disabled. The Texas Department of Human Resources wants the programs which are being considered to fit each community's objectives. With the contemplated changes in the nursing home rules, specifically, (1) the recognition of only one level of intermediate care, and (2) the development of new criteria for entry into the intermediate care category, the department wishes to provide an array of inhome or community-based alternate care services to preclude institutionalization when institutionalization is not necessary.

The department does not view the variety of suggested options contained in this notice as proposed rules, but rather as illustrative of possible services that will allow individuals to remain in their own homes, or at least within their own communities as long as possible. These possible services attempt to utilize a variety of resources in addition to Titles XVIII, XIX, and XX of the Social Security Act. Many of these proposed programs will require testing on a pilot basis to determine their feasibility. Included in the department's proposals are plans to strengthen current inhome programs as well as expand, where feasible, the current "Day Health Program" pilot projects.

Additionally, the Texas Department of Human Resources proposes to develop pilot programs to test and demonstrate the usefulness of short-term care services as a means of delaying or deferring institutional placement of individuals and supporting the caretakers of elderly and/or handicapped individuals. Three types of short-term care are being considered:

**Respite care**—care within or away from a person's place of residence to give respite or relief to caretakers of the elderly/handicapped population. House Bill 1714 defines respite care within institutions and limits each stay to two weeks. House Bill 1714, authorizing respite care, was passed by the 66th Session of the Texas State Legislature.

**Emergency shelter care**—care provided to elderly/handicapped individuals who have temporarily

lost their homes or caretakers due to emergencies. Emergency shelter care would be limited to a maximum of 90 days per stay.

**Posthospital convalescent care**—care following acute hospital care, requiring less medical and nursing services than in a hospital setting and provided at a lower rate. This program is designed to delay or prevent institutional placement. Posthospital convalescent care would be limited to a maximum of 90 days per hospital stay or to the time prescribed by the physician.

All three programs would utilize any facility capable of and agreeable to providing the care/shelter services required. Sources for payment of such services would include but not be limited to Title XVIII Home Health benefits, Title XIX Primary Home Care, Title XIX Home Health Services, and Title XX Family Care. The swing bed and other usable concepts would be applied to these three programs.

Pilot programs will be evaluated as to their effectiveness in reducing hospital and institutional costs for those individuals who require less than acute hospital care or who could have their needs met through only temporary 24 hour care.

The Texas Department of Human Resources is considering two specific pilot projects which provide sheltered living arrangements to meet the needs of elderly and disabled individuals in an environment different from the nursing home. If undertaken, the projects will attempt to demonstrate the feasibility of providing care to elderly and handicapped individuals in group settings that meet their varied needs outside traditional medical facility models. The major goals of these projects include: (1) the provision of support services in living arrangements described in the Minimum Licensing Standards for Personal Care Homes, as defined by the Texas Department of Health; (2) the creation of a home-like atmosphere in a group care setting; and (3) the coordination of these services with a variety of community services to ensure daily interaction between the residence and the community.

The two types of living arrangements which will be piloted are Personal Care Homes and Congregate Apartment Living. The Personal Care Home pilot will be based on an institutional model and will be located in a former medical facility, a hotel, or a similar setting. Services will include such personal care as assistance with bathing and meals as well as protective care. Congregate Apartment Living will not be based on an institutional model, but it will include the same range of services as the Personal Care Home pilot. Providers may be licensed private nonprofit or licensed proprietary providers of health and social services.

The proposed alternate care systems are for public consideration and comment. The department earnestly solicits any and all input regarding the whole concept of alternate care systems and especially requests suggestions regarding other systems not mentioned herein. Public meetings for comments and input are scheduled to coincide with the public hearings scheduled for the proposed rules which change Skilled Nursing Facility and Intermediate Care Facility rules. The times and places of these meetings are as follows. All meetings are scheduled at 1:30 p.m. except Houston which is scheduled at 1 p.m.

Date	City	Site
12-4-79	San Antonio	Institute of Texan Culture (auditorium) Hemisfair Plaza
12-4-79	Tyler	University of Texas at Tyler 3900 University Boulevard University Center, Room 134
12-4-79	Amarillo	First National Bank Building Centennial Room 8th and Taylor
12-5-79	Paris	First Christian Church Fellowship Hall 780 Northeast 20th
12-5-79	Wichita Falls	Student Center Midwestern University 3400 Taft
12-7-79	Houston	University of Houston University Center 4800 Calhoun Dallas-El Paso-San Antonio Rooms
12-10-79	Beaumont	Beaumont Civic Center 765 Pear Street
12-11-79	Fort Worth	Lone Star Gas Company 100 Morningside Drive
12-11-79	Lubbock	Garden and Arts Center (meeting room) 4215 University
12-11-79	Lufkin	Angelina College Fine Arts Auditorium Highway 57 South
12-12-79	Dallas	First Unitarian Church 4015 Normandy
12-12-79	Abilene	Duffy Auditorium Richardson Library Hardin-Simmons University 2200 Hickory
12-13-79	Corpus Christi	Corpus Christi State School Pavilion 902 Airport Road
12-13-79	El Paso	Holiday Inn Mid-Town Reynolds at Gateway East
12-14-79	Edinburg	Region I Education Service Center 1900 West Schunior Room 1

12-17-79

Austin

John H. Reagan  
Building  
Room 406

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

Doc. No. 798863

Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Filed: November 21, 1979, 11:54 a.m.

For further information, please call (512) 475-4601.

## Senate

### Special Committee on Delivery of Human Services in Texas

#### Subcommittee Meeting—Services for 65-and-Over Age Group

A meeting of the Subcommittee on Services for 65-and-Over Age Group will be held on Thursday, November 29, 1979, beginning at 9:30 a.m. in the Lieutenant Governor's Committee Room, State Capitol Building, Austin, Texas. The subcommittee will consider proposed recommendations relating to:

- (1) assistance for elderly inmates of the Texas Department of Corrections in obtaining parole and adjusting to community living;
- (2) maintenance of elderly persons in homes of relatives;
- (3) drug packaging and recapture of unused drugs to reduce nursing home drug vendor payments; and
- (4) paying for nursing home care in Texas.

The subcommittee is also scheduled to discuss a staff report developed in response to a subcommittee inquiry relating to an update on federal initiatives in the areas of citizen advocacy and professional requirements of nursing home administrators as quality of care issues.

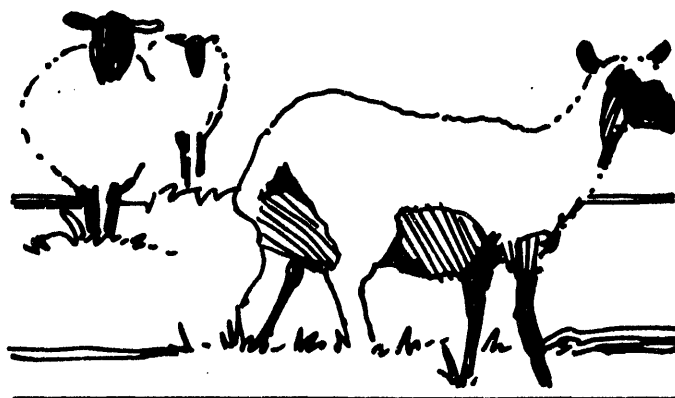
Issued in Austin, Texas, on November 21, 1979.

Doc. No. 798865

June Hyer  
Executive Director  
Special Committee on Delivery of Human Services in Texas

Filed: November 21, 1979, 10:54 a.m.

For further information, please call (512) 475-1284.



## December Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the 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 December 28.

### FOR ISSUE PUBLISHED ON:

Tuesday, December 4  
Friday, December 7  
Tuesday, December 11  
Friday, December 14  
Tuesday, December 18  
Friday, December 21  
Tuesday, December 25  
Friday, December 28

### ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY NOON ON:

Wednesday, November 28  
Friday, November 30  
Wednesday, December 5  
Friday, December 7  
Wednesday, December 12  
Friday, December 14  
Wednesday, December 19

NO ISSUE PUBLISHED

### ALL NOTICES OF OPEN MEETINGS BY NOON ON:

Thursday, November 29  
Monday, December 3  
Thursday, December 6  
Monday, December 10  
Thursday, December 13  
Monday, December 17  
Thursday, December 20

The following state holidays fall within the period of this publication schedule:

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.

## Texas Water Commission

### Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of November 12-16, 1979.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed actions; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

### Week Ending November 16, 1979

Lower Neches Valley Authority (North Regional Treatment System), Beaumont, Jefferson County; process wastewater treatment plant; Smith Island, 2-1/2 miles east of the intersection of U.S. Highway 90 and State Highway 380; 01727; amendment

County of Hidalgo (Delta Lake Park Plant), Edinburg, Hidalgo County; sewage treatment plant; east side of State Highway 88, two miles north of its intersection with FM Road 1422; 10973; renewal

City of Edna, Jackson County; sewage treatment plant; one mile southeast of the intersection of U.S. Highway 59 and State Highway 111; 10164; renewal

City of Dalhart, Hartley County; sewage treatment plant; 1/2 mile west of U.S. Highway 87 and 2-1/2 miles southeast of its intersection with U.S. Highway 54; 10099; renewal

City of McAllen, Hidalgo County; sewage treatment plant; southwest of McAllen, one mile west of FM Road 1926 and 1-1/4 miles north of FM Road 1016; 10633-03; renewal

Texas Parks and Wildlife Department (Purtis Creek Park), Henderson County; sewage treatment plant; west of Purtil Creek, north of Goshen Road, 0.4 mile due west of the intersection of FM Road 316 and Goshen Road; new permit

City of Barry, Navarro County; sewage treatment plant; 6,300 feet southwest of the intersection of State Highway 22 and FM Road 1126; 10739; amendment and renewal

City of Galena Park, Harris County; sewage treatment plant; 1107 Fifth Street; 10831-01; amendment and renewal

Bayshore Industrial, Inc., La Porte, Harris County; sewage treatment plant; adjacent to McCabe Road near its intersection with Highway 146; new permit

Phillips Product Company, Inc. (Polk Street Plant), Harris County; sewage treatment plant; 6717 Polk Street; 00975; renewal

City of Galena Park, Harris County; sewage treatment plant; 1802 Dunaway; 10831-02; amendment and renewal

Harris County Municipal Utility District No. 11, Houston, Harris County; sewage treatment plant; 500 feet west of the intersection of Steubner Airline Road and Aldine Western Road; 11351; renewal

Conrad B. Ward, Houston, Harris County; sewage treatment plant; north side of Neb Road, approximately 1,200 feet north-northwest of its intersection with Fry Road; new permit

Texas Deepwater Port Authority, Freeport, Brazoria County; marine support facility; west of the Brazos Harbor; new permit

Issued in Austin, Texas, on November 16, 1979.

Doc. No. 798736      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: November 16, 1979, 2:24 p.m.  
For further information, please call (512) 475-1311.