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Volume 6, Number 91, December 8, 1981
Pages 4493 - 4566

TEXAS REGISTER

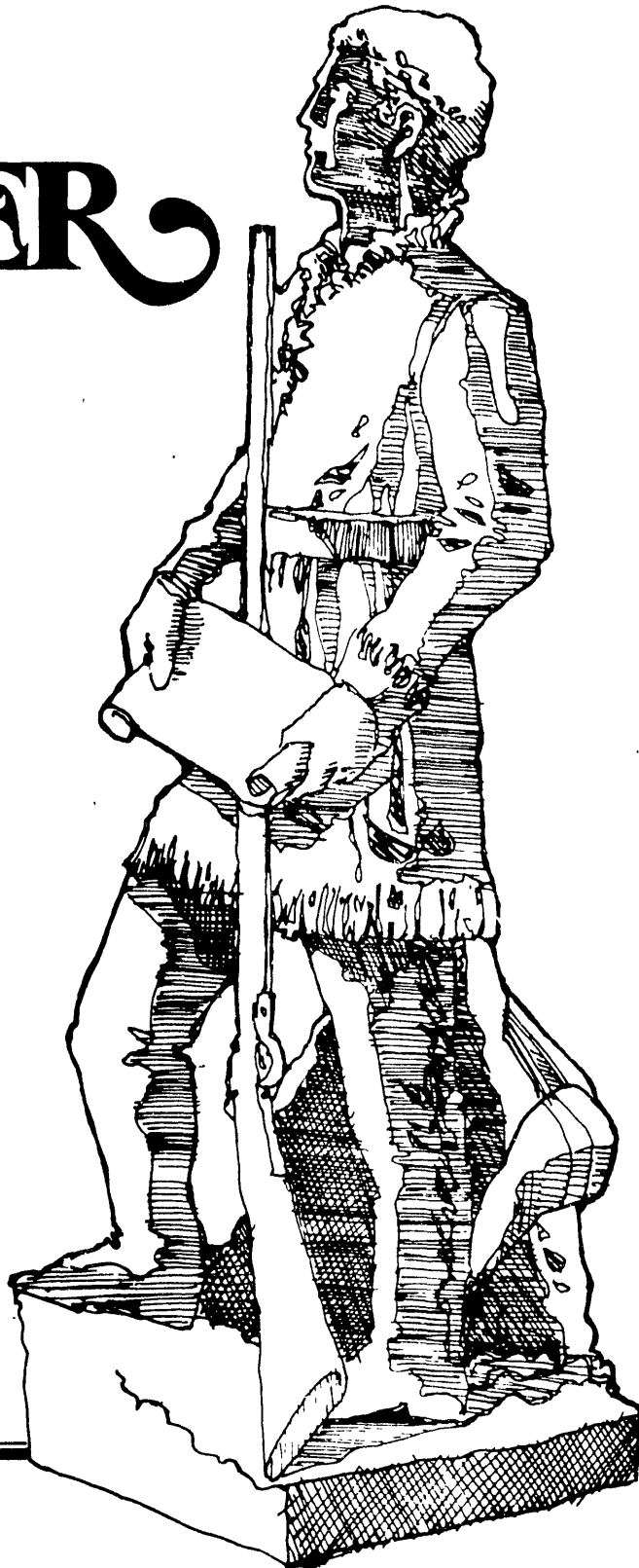
In This Issue...

State Securities Board proposes amendments to sections concerning licensing types and requirements; proposed date of adoption—January 8, 1982 4500

Texas State Board of Public Accountancy proposes amendments to chapters concerning professional conduct, the board, employees of the board, certification, and fee schedule; proposed date of adoption—January 8, 1982 4508

Texas Commission on Alcoholism proposes new sections concerning the standards and procedures for the new DWI education program; proposed date of adoption—January 8, 1982 4515

In the last of a two-part serialization, the Texas Department of Human Resources proposes new chapter of rules regarding long-term care; proposed date of adoption—January 4, 1982 4519



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TEXAS DOCUMENTS

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 16, 19, 22, 25, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 6, July 81

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

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

TEXAS REGISTER

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except January 6, September 1, December 1, and December 29, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P O Box 13824, Austin, Texas 78711 3824, telephone (512) 475-7886. The *Register* contains executive orders of the governor; summaries of attorney general's opinions and summaries of requests for opinions; emergency rules, proposed rules, and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas. Annual subscriptions are \$70. Six-month subscriptions are also available for \$50. Back issues, when available, are \$2.00 each.



David A. Dean
Secretary of State

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POSTMASTER: Please send Form 3579 changes to the Texas Register, P O. Box 13824, Austin, Texas 78711-3824.

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Texas Civil Statutes, Article 4399, requires the Attorney General of Texas to give written opinions to certain public officials. The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §7, 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 opinion requests may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78711, telephone (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the File Room, Fourth Floor, P.O. Box 12548, Austin, Texas 78711-3824, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

Opinions

Summary of Opinion MW-393 (RQ-430)

Request from Dan W. Heard, criminal district attorney, Calhoun County, concerning payment of county hospital medical staff for treatment of indigent patients at the hospital.

Summary of Opinion: Texas Civil Statutes, Article 4480, prevents a county from paying doctors on the medical staff of the county hospital for treating indigent patients at the hospital.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818745 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-394 (RQ-472)

Request from Jim Mapel, criminal district attorney, Brazoria County, Angleton, concerning whether Texas Civil Statutes, Articles 998, 999, and 999a, apply to towns incorporated under provisions of Texas Civil Statutes, Title 28, Chapter 11, or in the alternative, what provisions for the appointment of peace officers apply when a town has been incorporated under Title 28, Chapter 11

Summary of Opinion: Texas Civil Statutes, Articles 998, 999, and 999a, do not apply to towns incorporated under Title 28, Chapter 11, unless said town follows the prerequisites of Texas Civil Statutes, Article 961, Chapter 11, towns may utilize the provisions of Article 1146 to lawfully appoint the needed peace officers

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818753 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-395 (RQ-564)

Request from George N. Rodriguez, Jr., county attorney, El Paso County, concerning discretion of the Highway and Public Transportation Commission to withhold funds from designated recipients under the formula program of Article 6663c.

Summary of Opinion: The Highway and Public Transportation Commission is empowered to refuse funds to a designated recipient under the formula program established by Texas Civil Statutes, Article 6663c, if it reasonably determines that the project proposed is inconsistent with the purposes of Article 6663c.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818746 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-396 (RQ-568)

Request from Henry Wade, district attorney, Dallas County, concerning filing fees for federal tax liens.

Summary of Opinion: A county clerk has implied authority to file federal tax lien notices without first receiving the fees therefor and thereafter to bill the proper governmental authorities.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818747 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-397 (RQ-471)

Request from Ernie W. Tullis, administrator, Texas Employment Commission, Austin, concerning definition of "benefit wage credits" in the Texas Unemployment Compensation Act and related questions.

Summary of Opinion: The Texas Unemployment Compensation Act, Texas Civil Statutes, Article 5221b-1(e), does not consider actual wages paid an individual in excess of the maximum wages defined in the Federal Insurance Contributions Act as a determining factor for unemployment benefits. Otherwise, the Act itself authorizes the commission to prescribe rules for the equitable determination of benefit wage credits for each claimant. The maximum wages to be considered for unemployment benefits are the wages received by the employee not in excess of the maximum wages defined in the Federal Insurance Contributions Act at the time they were earned.

Issued in Austin, Texas, on November 30, 1981.

Doc No 818748 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-398 (RQ-641)

Request from Robert O. Viterna, executive director, Commission on Jail Standards, Austin, concerning whether Texas Civil Statutes, Article 5115.1, authorizes the Commission on

Jail Standards to require a county to accept prisoners from a county jail which fails to comply with minimum jail standards.

Summary of Opinion: The Commission on Jail Standards can require a county to accept prisoners who have been removed from a county jail which fails to meet minimum jail standards. The county responsible for the nonconforming jail shall bear the cost of transportation and maintenance of prisoners transferred by order of the commission.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818749 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-399 (RQ-704)

Request from Henry Wade, criminal district attorney, Dallas County, concerning use of county law library funds for a computer information center.

Summary of Opinion: Dallas County Law Library funds may be used to implement a computer information system.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818750 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-400 (RQ-714)

Request from Reed Quilliam, executive director, State Bar of Texas, Austin, concerning construction of amendments to Texas Civil Statutes, Article 3923, enacted by the 67th Legislature.

Summary of Opinion: The costs and deposits set out in Senate Bill 1165, amending Texas Civil Statutes, Article 3923, are in effect and were not impliedly repealed by Senate Bill 265.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818751 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-401 (RQ-739)

Request from John R. MacLean, district attorney, and Dan H. Boulware, county attorney, Johnson County, concerning resignations of council members for general law city.

Summary of Opinion: The city council of a general law city may refuse to accept one of two resignations submitted by council members in order to avoid the necessity of holding an election to fill vacancies.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818752 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Open Records Decisions

Summary of Open Records Decision ORD-289 (RQ-637 and RQ-658)

Request from Walter B. Grubbs, chairman, Appropriations Committee, Texas House of Representatives, Austin, concerning whether report of internal audit of Texas Department of Mental Health and Mental Retardation's Design and Construction Division is open to the public.

Summary of Decision: The Texas Department of Mental Health and Mental Retardation and the chairman of the House Appropriations Committee were requested under the Open Records Act to release two documents, an internal audit of the Design and Construction Division of the Department of Mental Health and Mental Retardation and a contract for the air conditioning of ward buildings at the San Angelo MH/MR Center. These documents were excepted from public disclosure by §3(a)(3) of the Open Records Act, since there was a reasonable anticipation of criminal and civil litigation involving them.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818742 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Open Records Decision ORD-290 (RQ-628)

Request from Patti Bizzell, executive secretary, Texas State Board of Examiners of Psychologists, Austin, concerning access under Open Records Act to psychologists' licensing files.

Summary of Decision: The Texas State Board of Examiners of Psychologists received a request under the Open Records Act for records concerning complaints, charges, and actions taken in disciplinary hearing involving its licensees. Section 23(e) of Article 4512c, Texas Civil Statutes, provides that "charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act (governing licensure of psychologists) shall be privileged." However, documents which are "privileged" within this section are not confidential for purposes of the Open Records Act. Certain affidavits and a portion of a complainant's statement are protected from disclosure by a constitutional or common law right of privacy.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818743 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Open Records Decision ORD-291 (RQ-706)

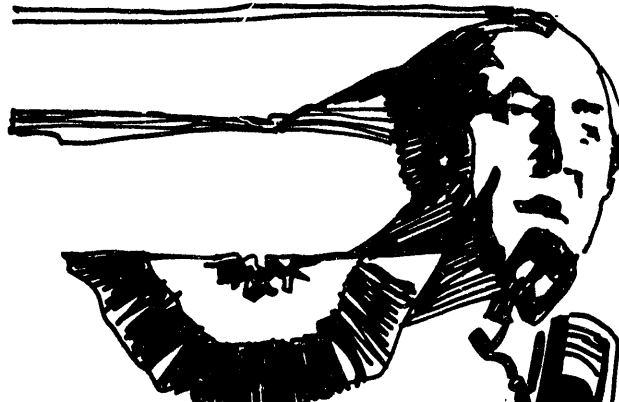
Request from Alex Huddleston, attorney at law, Skaggs and Huddleston, Harlingen, concerning whether city application to Department of Housing and Urban Development for funds for water treatment plan is available under the Open Records Act.

Summary of Decision: An application submitted by the City of Rio Hondo to the Department of Housing and Urban Development for federal funds to construct a new water treatment plant are excepted at present from public disclosure by §3(a)(5) of the Open Records Act. When negotiations for acquisition of the real property in question have been completed, factual information relating to the project will become open to the public.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818744 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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



The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(d), allows an agency to take emergency action on a rule after determining what it considers to be an imminent peril to the public health, safety, or welfare. The rule may become effective immediately on filing with the Texas Register Division, or on a stated date less than 20 days after filing, for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The notice of emergency action must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency action, in compliance with the rules of the Texas Register Division. The certification information, which includes the effective date of the emergency action and the expiration date, follows each published submission of emergency action. A telephone number for further information is also published.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

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

CODIFIED

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 1. Architects

Subchapter B. Registration and Definitions

The Texas Board of Architectural Examiners renews the effectiveness of the emergency amendments to §1.21 and §1.29 (376.01.02.001 and .009). The renewal is effective February 5, 1982, for a 60-day period. The original text of the

amendments was published in the October 13, 1981, issue of the *Texas Register* (6 TexReg 3788).

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818688 LaVonne L. Garland
Staff Service Officer I
Texas Board of Architectural Examiners

Effective Date: February 5, 1982

Expiration Date: April 5, 1982

For further information, please call (512) 458-1363.

Subchapter C. Written Examinations

The Texas Board of Architectural Examiners renews the effectiveness of the emergency amendments to §§1.41, 1.43, 1.46, and 1.48 (376.01.03.001, .003, .006, and .008). The renewal is effective February 5, 1982, for a 60-day period. The original text of the amendments was published in the October 13, 1981, issue of the *Texas Register* (6 TexReg 3788).

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818689 LaVonne L. Garland
Staff Service Officer I
Texas Board of Architectural Examiners

Effective Date: February 5, 1982

Expiration Date: April 5, 1982

For further information, please call (512) 458-1363.

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

The Texas State Board of Public Accountancy renews the effectiveness of the emergency repeal of §501.49 (401.33.00.409). The renewal is effective December 17, 1981, for a 60-day period. The original notice of repeal was published in the August 25, 1981, issue of the *Texas Register* (6 TexReg 3126).

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818712 Gary McNeil
Enforcement Coordinator
Texas State Board of Public
Accountancy

Effective Date: December 17, 1981

Expiration Date: February 15, 1982

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

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency must give at least 30 days notice of its intention to promulgate certain action on a rule. The purpose of proposing rule action is to give interested persons an opportunity to review the proposal and make oral or written comments. "Opportunity for public hearing must be granted if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members." Proposed action is effective as notice on the date published in the *Register*. Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposed date of adoption is 30 days after publication. The notice must include a brief explanation of the proposed action; a fiscal impact statement; a request for comments on the proposed action from any interested person; the text of the proposed action, in compliance with the rules of the Texas Register Division; and a statement of the legal authority under which the proposed action is to be promulgated. The certification information, which includes the earliest possible date that the agency may file notice to adopt the proposal, follows each published submission of proposed action. A telephone number for further information is also published.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

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

CODIFIED

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 115. Dealers and Salesmen

The State Securities Board proposes amendments to §§115.1-115.3 (065.08.00.001-.003) concerning the types of licenses which may be issued to securities dealers and salesmen, the information which must be furnished by applicants, and the examination requirements for licensing

Peggy Peters, director, Dealer Registration Division, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Ms. Peters has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be clarification and simplification of the dealer registration process for applicants, as the exam score requirement for both dealers and salesmen will be made uniform and therefore salesmen wishing to become dealers will not need to take the examinations again.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed, as the rule is designed to make less stringent requirements for dealer registration.

Comments on the proposal may be submitted to Russell R. Oliver, State Securities Board, P.O. Box 13167, Austin, Texas 78711.

The agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Russell R. Oliver
November 2, 1981

The amendments are proposed under Articles 13 and 28-1 of the Texas Securities Act, which provide in substance that the commissioner may prescribe the form of dealer registration application and supplemental information to be submitted therewith under certain circumstances, and that the board may make or adopt rules and regulations governing registration applications, respectively.

§115.1 (065.08.00.001). General.

(a) Registration.

(1) Application may be made to register a person or company, as those terms are defined in the Texas Securities Act, as:

(A) (No change.)

[(B) individual dealer,]

(B) [(C)] investment adviser,

(C) [(D)] salesman, or

(D) [(E)] dealer in restricted categories authorized under subsection (b) of this section.

(2)-(4) (No change.)

(b) Restricted registration.

(1) Any person or company may apply for, and the commissioner may grant, restricted registration as a dealer or salesman for purpose of effecting transactions in a particular type or category of securities, or securities representing interests in one or more types or categories of business. The restricted registrations are as follows:

(A)-(F) (No change.)

(G) Registration with other restrictions which the commissioner may impose based upon the facts.

(2) (No change.)

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

(e) Multiple registration. Except for *good* [justifiable] cause, multiple dealer or salesman registration will not be permitted by an individual, by a partnership, by a corporation, or by more than one *business entity* [corporation] substantially controlled by the same persons.

(f) (No change.)

§115.2 (065.08.00.002). Application.

(a) (No change.)

(b) Applicants for registration as a securities dealer must furnish:

(1) **an agreement to keep the minimum records required by this section;**

(2)[(1)] an agreement for inspection of records;

(3)[(2)] a copy of *all of the following which are applicable*—Articles of Incorporation; Partnership Agreement; Articles of Association; Trust Agreement; Assumed Name Certificate; or other *documents which indicate the form of organization*; [as appropriate (foreign corporations and other nonresident applicants must also file an irrevocable written consent to service of process); and] *all foreign corporations and other nonresident applicants must also file an irrevocable written consent to service of process*;

(4)[(3)] A financial statement prepared in accordance with generally accepted accounting practices reflecting the financial condition of the dealer as of a date not more than 90 days prior to the date of such filing. The financial statement should be prepared by independent certified public accountants or independent public accountants, or must instead be attested by the sworn notarized statement of the issuer's principal financial officer. If attested by the principal financial officer of the issuer, such officer shall certify as follows:

I am the principal financial officer of (name of dealer). The accompanying financial statements have been prepared under my direction and control and present fairly its financial position on the dates indicated and the results of its operations and changes in financial position for the periods indicated to the best of my knowledge, belief, and ability.

(Signature and Title)

(c) (No change.)

§115.3 (065.08.00.003). Examination.

(a) Requirement. *Written examinations are* [A written examination is] required to determine the applicant's qualifications and competency to engage in the business of dealing in and selling securities as a dealer or as a salesman, or rendering service as an investment adviser. *Passing score for dealer and salesmen applicants is 70%*. [Applicants who have completed applications in accordance with the requirements of the commissioner are issued a letter of admission to sit for the appropriate examination. The letter is valid for 60 days, after which time a new admission letter is necessary to take the examination, and the application must be brought up-to-date.]

(b) Content and scores. *Each dealer or salesman applicant must satisfy two examination requirements:*

(1) *An examination on general securities principles. This requirement may be satisfied by passing the nonmember examination administered by the national association of securities dealers or by passing the general knowledge examination of the National Association of Securities Dealers, New York Stock Exchange or Securities and Exchange Commission* [The examination consists of two sections:

(A) a test on general securities principles (100 multiple choice questions); and

(B) a test on the Texas Securities Act (25 multiple choice questions).]

(2) *An examination on state securities law. This requirement may be satisfied by passing an examination on the Texas Securities Act administered by this agency or by passing the Uniform Securities Agent State Law Examination (USASLE) administered by the National Association of Securities Dealers.* [Passing score is 70% on each section to secure a salesman's registration, and to secure a dealer, officer, or manager registration, the applicant must

score at least 80% on each section or on the NASD, NYSE, or SECO examination for which he is claiming waiver of the general exam requirement. Applicants for a license restricted to municipal and government securities are required to score at least 75% on a special bond examination.]

(c) Exemptions.

(1) All persons who were registered *in Texas as dealers or salesmen* [to sell securities] on August 23, 1963, are not required to take *any examinations* [the examination provided, however, any person applying to become registered as a dealer or as a principal of a dealer, and not registered as such on August 23, 1963, will be required to take or to have taken the examination prescribed by rule and to have scored at least 80% on each section].

(2) A full waiver of the examination requirements of §13.D of the Act is granted by the board for the following classes of persons.

(A) Any officer or managing agent of a state or national bank who on August 23, 1963, was in such position whereby he could then have been appropriately named on the bank's securities dealer's license, providing the bank had a dealer's license at that time.]

(A)(B) Officers, managing agents, and employees of state or national banks which make application for a securities dealer's license limited and restricted to the performance of functions and duties prescribed by the national or state banking laws and regulations, except the sale of municipal or government bonds.

(B)(C) Issuers offering securities in rights offering to their own security holders.

(C)(D) Issuers offering their own securities in exchange for outstanding securities of another corporation, provided consummation of the offer is dependent upon tender of at least 80% of such outstanding securities.

(D)(E) Issuers as a class proposing to sell securities in connection with employee's plans which are required to be registered under §7 of the Act.

(E)(F) Issuers restricting distribution of securities to security holders of an affiliate company, a subsidiary or a parent of the issuer, provided the registration certificate is issued on a temporary basis and terminated immediately after the offering.

(3) A partial waiver of the examination requirements of §13.D is granted by the board for the following classes of persons:

(A) (No change.)

(B) Applicants [who have successfully passed the National Association of Securities Dealers or New York Stock Exchange examination or the examination given by the Securities and Exchange Commission, or] who have been continuously registered with the Securities and Exchange Commission, National Association of Securities Dealers, or New York Stock Exchange for 10 years immediately preceding the application for a license in Texas. These applicants are required to successfully pass an examination on *state securities law as required by subsection (b)(2) of this section* [the Texas Securities Act]. Those applicants who have passed an examination administered by the NASD, which tests their knowledge in a specialized field of securities business, are entitled to waiver of the general securities principles examination provided their registration with the State Securities Board will be restricted, and they will be authorized thereunder to effect transactions only in securities of the type specified.

(C) Applicants who have successfully passed *the State Securities Examination promulgated by the Psychological Corporation, New York, New York, which is an examination on general securities principles [given by certain states who have a reciprocal arrangement with the State of Texas].* These applicants are required to pass an examination on *state securities law as required by subsection (b)(2) of this section* [the Texas Securities Act].

(D) Any person seeking registration as a securities dealer or salesman for the purpose of dealing exclusively in real estate syndication interests and/or condominium securities, provided such person, if he is applying as a dealer, is licensed at the time of his application as a broker under the Real Estate License Act of Texas, or if such person is applying as a salesman is licensed, at the time of his application, as a salesman or broker under the Real Estate License Act of Texas. Such person is not required to take the general securities portion of the examination prescribed by Section 13.D, but is required to pass an examination on *state securities law as required by subsection (b)(2) of this section* [the Texas Securities Act].

(E) Any person seeking registration as a securities dealer or salesman for the purpose of dealing exclusively in oil and gas interests. Such person is not required to take the general securities portion of the examination prescribed in Section 13.D, but is required to pass an examination on *state securities law as required by subsection (b)(2) of the section* [the Texas Securities Act]. Provided, however, any person registered prior to January 1, 1976, as a securities dealer or salesman for the purpose of dealing exclusively in oil and gas interests, is not required to pass an examination [on the Texas Securities Act].

(F) Officers or employees of an issuer (other than an issuer who is an open-end investment company) if the securities of the issuer will be registered for sale in Texas and if the plan of business of the dealer or salesman applicant is restricted to the sale of the securities of the issuer only during the distribution of the securities of the issuer which are being registered. Such officers and employees of an issuer are not required to take the general securities portion of the examination prescribed in Section 13.D, but are required to pass an examination on *state securities law as required by subsection (b)(2) of this section* [the Texas Securities Act]. Licenses granted pursuant to this subparagraph are restricted to sales of the currently registered securities of the issuer, and these licenses must be surrendered to the Securities Board for cancellation immediately upon completion of the distribution of securities for which the securities and dealer registrations have been obtained.

(G) Applicants who are certified by the Federation of Chartered Financial Analysts to be chartered financial analysts are not required to take the general securities portion of the examination, but must pass the examination on *state securities law as required by subsection (b)(2) of this section* [the Texas Securities Act].

(4) (No change.)

[(5) Any applicant required by any provision of this section to pass a test on the Texas Securities Act may take the Uniform Securities Agent State Law Examination (USA-SLE) administered by the National Association of Securities Dealers in lieu of the test on the Texas Securities Act. Passing score on the USA-SLE is 70% for applicants for registration as securities salesmen, and passing score on the exam is 80% for applicants for registration as securities dealers.]

(d) Re-examination. A candidate who fails the examination on *the Texas Securities Act may request re-examination* [must wait 30 days to be eligible for re-examination]. Prior to retaking an examination, the applicant must bring his application up-to-date.

(e) Time and location. The examination on *the Texas Securities Act* is given at 9 a.m. on the second Tuesday of each month, in the office of the State Securities Board, Austin, Texas. There is no fee for taking the examination in Austin, and no reservation is required to be made by the candidate prior to the examination. The examination may be taken at other locations near principal population centers over the state, and the testing center may charge a small fee for administering the examination. A schedule of these examination centers with additional details may be obtained from the Securities Board.

(f) Reference materials. While taking *the* [an] examination on *the Texas Securities Act*, each applicant may have with him for his use a copy of the Securities Act as it is printed and distributed by the State Securities Board. No other reference materials are allowed to be used by applicants during the examination.

Issued in Austin, Texas, on December 2, 1981.

Doc. No. 818736 Richard D. Latham
Commissioner
State Securities Board

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 474-2233.

The State Securities Board proposes new §115.6 (065.08.00.006) which is designed to comply with House Bill 247, passed by the 67th Legislature, concerning occupational and professional licensing of certain persons with criminal backgrounds.

Peggy Peters, director, Dealer Registration Division, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Ms. Peters has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be clarification of the dealer registration process for applicants who have criminal backgrounds.

(B) The possible economic cost to individuals who are required to comply with the rule as proposed is incalculable, as the rule and the statute require certain information to be furnished by the applicant to the agency under certain circumstances, and the agency cannot calculate the cost, if any, to the applicant of obtaining such information.

Comments on the proposal may be submitted to Russell R. Oliver, State Securities Board, P.O. Box 13167, Austin, Texas 78711.

The agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Russell R. Oliver
December 2, 1981

The amendments are proposed under Articles 13 and 28-1 of the Texas Securities Act which provide in substance that the commissioner may prescribe the form of dealer registration application and supplemental information to be submitted therewith under certain circumstances, and that the board may make or adopt rules and regulations governing registration applications, respectively.

§115.6 (065.08.00.006). Registration of Persons with Criminal Backgrounds.

(a) The registration of a dealer or agent or salesman may be denied, suspended, or revoked if the commissioner finds that the person has been convicted of a felony or misdemeanor offense which directly relates to the duties and responsibilities of a registered dealer, agent, or salesman. In determining whether a prior criminal conviction directly relates to such duties and responsibilities, the commissioner shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring registration of dealers, agents and salesmen;
- (3) the extent to which the license applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the applicant previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a registered dealer, agent, or salesman.

(b) In addition to the factors stated in subsection (a) of this section, the commissioner shall consider the following evidence in determining the present fitness of an applicant who has been convicted of a crime:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the applicant at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the applicant's last criminal activity;
- (4) the conduct and work activity of the applicant prior to and following the criminal activity;
- (5) evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release;
- (6) other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant, the sheriff and chief of police in the community where the applicant resides, and any other persons in contact with the applicant.

(7) It shall be the responsibility of the applicant to the extent possible to secure and provide to the commissioner the recommendation of the prosecution, law enforcement, and correctional authorities as required under this Act; the applicant shall also furnish proof to the commissioner that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

(c) The State Securities Board considers that the following crimes directly relate to the duties and responsibilities of securities dealers, agents, and salesmen:

(1) any felony or misdemeanor of which fraud is an essential element;

(2) any criminal violation of the securities laws or regulations of this state, or of any other state in the United States, or of the United States, or any foreign jurisdiction;

(3) any crime involving moral turpitude;

(4) any criminal violation of statutes designed to protect consumers against unlawful practices involving insurance, securities, real estate, franchises, business opportunities, consumer goods, or other goods and services.

(d) Upon a registered dealer's, agent's, or salesman's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, such person's license shall be revoked in accordance with the Securities Act (Texas Civil Statutes, Article 581-1, et. seq.).

(e) The following procedures shall apply in the event of a denial, suspension, or revocation of a license under this rule.

(1) Upon the commissioner's denial of registration to an applicant, the applicant may exercise his or her right to a hearing in accordance with §24 of the Securities Act (Texas Civil Statutes, Article 581-24)

(2) Upon the commissioner's suspension or revocation of a license on the grounds specified in subsection (d) of this section, the person whose license has been suspended or revoked may exercise his or her right to a hearing in accordance with §24 of the Securities Act (Texas Civil Statutes, Article 581-24).

(3) Nothing in this section shall be construed as affecting the statutory bases or procedures for denial, suspension, or revocation of licenses for dealers, agents, or salesmen, as set out in the Securities Act of Texas (Texas Civil Statutes, Article 581-1, et. seq.) as this section relates only to such actions based upon the matters stated herein.

(4) If the commissioner denies, suspends, or revokes a license under this section, the commissioner shall notify the person affected in writing:

(A) of the reasons for the denial, suspension, or revocation;

(B) that a person whose license has been denied, suspended, or revoked, after exhausting administrative appeals, may file an action in Travis County, Texas, for review of the evidence presented to the commissioner and his decision, in accordance with §27 of the Securities Act (Texas Civil Statutes, Article 581-27).

(C) that the person seeking judicial review must file a petition with the court within 30 days after the commissioner's decision is final and appealable.

Issued in Austin, Texas, on December 2, 1981.

Doc. No. 818737 Richard D. Latham
Commissioner
State Securities Board

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 474-2233.

Chapter 139. Exemptions by Rule or Order

Exemption from Section 7.C Requirements for Certain Common Stock Offerings

The State Securities Board proposes new §139.8 (065.20.00.008) concerning exemptions for certain common stock offerings. At a public meeting of the State Securities

Board, held on October 2, 1981, members of the Securities and Investment Banking Law Committee of the Section on Corporation, Banking and Business Law of the State Bar of Texas, petitioned the State Securities Board to adopt a substantive rule which would exempt certain offerings from certain requirements of §§7.C and 9.A of the Texas Securities Act.

The proposed section would exempt from merit review by the board those offerings meeting the requirements of the section, and would make the registration statement filed with the board automatically effective upon effectiveness of the Federal Registration Statement filed with the Securities and Exchange Commission. The proposed section does not exempt offerings from the provisions of §§29, 32, and 33 of the Texas Securities Act. The section is designed to expire on March 31, 1983.

Charles Milam, director, Securities Registration Division, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Milam has also determined that for each year of the first five years the rule as proposed is in effect:

(A) There are no public benefits anticipated as a result of enforcing the rule as proposed.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed, as the rule is designed to make less stringent the securities registration requirements for such offerings.

Comments on the proposal may be submitted to Russell R. Oliver, State Securities Board, P.O. Box 13167, Austin, Texas 78711.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Russell R. Oliver
December 1, 1981

The new section is proposed by the Securities and Investment Banking Law Committee of the Section on Corporation, Banking and Business Law of the State Bar of Texas, pursuant to the State Securities Board rulemaking authority under §28-1.B and §5.T of the Texas Securities Act, which provide, respectively, that the board may adopt rules and regulations governing registration statements, applications, notices, and reports, and may prescribe exemptions from the registration requirements of the Act.

The State Securities Board is publishing this proposal under the mandate of the Administrative Procedure and Texas Register Act, §11. The public is hereby notified that the following new section has been proposed by the Securities and Investment Banking Law Committee of the Section on Corporation, Banking and Business Law of the State Bar of Texas, and is not drafted by, nor submitted for adoption, by the State Securities Board or its staff.

§139.8 (065.20.00.008). Exemption from Section 7.C Requirements for Certain Common Stock Offerings. This chapter, created pursuant to the rulemaking and exemption authority granted to the board under §28-1.B and §5.T of the Securities Act, sets forth a new, temporary rule governing registration

of offers and sales of common stock in certain firm commitment, underwritten public offerings.

(1) General provisions.

(A) The board hereby exempts the offering and sale pursuant to a registration statement filed under the federal Securities Act of 1933, as amended, of common stock by a corporate issuer in a bona fide firm commitment, underwritten public offering managed by a qualified underwriter, from the requirements of the provisions of subsection 7.C of the Securities Act, and from satisfaction by the corporate issuer of the conditions set forth in subsection 7.C(2)b, the first sentence of subsection 7.C(2)c, and subsection 9.A of the Securities Act; provided the following conditions shall have been met in connection with the offering and sale:

(i) the price to the public of the shares so offered and sold shall be not less than \$5.00 per share; and

(ii) the issuer or a registered dealer participating in the offering shall have filed with the commissioner the materials referred to in paragraphs a, b, c, e, g, and h of subsection 7.C of the Securities Act, and if requested by the commissioner, shall have given an undertaking to file the materials referred to in paragraphs d and f of such subsection; and

(iii) any offering and/or sale of the shares is made in compliance with the prospectus delivery requirements of the federal Securities Act of 1933, as amended; and

(iv) the fees specified in subsection E of §35 of the Securities Act shall have been paid; and

(v) the offering shall comply with the requirements of subsection 9.B and §22 of the Securities Act.

(B) Upon the satisfaction of the conditions enumerated in paragraph (1) of this section, the registration statement filed with the board by the corporate issuer will automatically become effective upon effectiveness of the federal registration statement with the Securities and Exchange Commission. Further, it is the policy of the board that in connection with any such registration statement, the corporate issuer shall not be the subject of any order under §23.A absent a finding by the commissioner that the registration statement contains misstatements of, or omits to state, material facts.

(2) Certain terms. As used in this chapter, the following terms shall have the respective meanings assigned to them:

(A) Corporate issuer—A corporation, joint-stock company, or business trust organized under the laws of, and having its principal place of business with, any state of the United States.

(B) Common stock—Only the nonassessable underlying residual equity security of a corporate issuer, which security entitles the owner or holder thereof to vote on the election of directors or others charged with the management of the affairs of the issuer and on such matters as merger, dissolution, or amendment of the articles of incorporation or comparable governing instrument, and shall have no right to receive a fixed sum in dividends and no right to a priority claim in the distribution of assets upon the voluntary or involuntary liquidation, dissolution, or winding up of such corporate issuer.

(C) Qualified underwriter—A broker-dealer engaged in the general securities business which is registered with the board under §15 of the Securities Act, is a member firm of the National Association of Securities Dealers, Inc., and, for at least two years prior to the filing of the corporate

issuer's registration statement with the board pursuant to this chapter, has been registered with the Securities and Exchange Commission under §15 of the Securities Exchange Act of 1934.

(3) Other provisions unaffected. Anything else in this chapter to the contrary notwithstanding, the provisions of this chapter shall not affect the provisions of §§29, 32, and 33 of the Securities Act.

(4) Expiration. Unless further extended by action of the board, this section shall expire on March 31, 1983, after which no further registration statements shall be accepted for filing and automatic effectiveness under this chapter.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818711 Richard D. Latham
Commissioner
State Securities Board

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 474-2233.

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

The Texas State Board of Examiners of Psychologist proposes to amend and renumber §§461.1, 463.3, and 463.5-463.19, and proposes new §463.20 concerning applications.

Patti Bizzell, executive secretary, has determined that for the first five-year period the rules will be in effect, there will be no fiscal implications as a result of enforcing or administering the rules.

The executive secretary has also determined that for each year of the first five years the rules as proposed are in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be purging the rules and amending items relevant to the application process to clearly indicate the board's procedures and position.

(B) There will be no economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Patti Bizzell, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Suite H-126, Austin, Texas 78757.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Patti Bizzell
November 24, 1981

The amendments and new section are proposed under Texas Civil Statutes, Article 4512c; §8(a), which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonable necessary for the proper performance of its duties.

§463.1 [400.02.00.001]. Qualifications of Subdoctoral Candidate. A subdoctoral candidate for certification as a psychological associate shall meet all qualifications and requirements of candidates at the doctoral level except for the requirements of degree and supervised experience.

§463.2 [§463.3 (400.02.00.003)]. *Maximum Number of Dissertation Credit Hours.* In determining the number of credit hours for a doctoral degree, the maximum number of semester credit hours permitted for dissertation shall be 12 semester credit hours.

§463.3 [§463.5 (400.02.00.005)]. *Date of Completion of Requirements.* Completion of the requirements for the degree shall be construed to be the date on which the degree is formally conferred by the university.

§463.4 [§463.6 (400.02.00.006)]. *Applicant Interviews.* An interview *may* [will] be required of an applicant for certification on the basis of the diploma awarded by the American Board of Professional Psychology or on the basis of *endorsement* [reciprocity] with another state.

§463.5 [§463.7 (400.02.00.007)]. *Content of Application.* **An application file must be complete and contain** [To be considered, an application must include not only the completed application form but also] whatever [additional] information or examinations the board requires. An incomplete application remains in the active file for 90 days, at the end of which time, if still incomplete, it is void. If certification is sought again, a new application and filing fee must be submitted. A completed application includes official transcripts of all college or university work **which must be sent directly from the college or university to the board, and letters or reference from three psychologists.** [Transcripts must be official and sent directly from the college or university to the board.]

§463.6 [§463.8 (400.02.00.008)]. *Experience.* A year of experience is defined as a minimum of 1,500 supervised hours obtained in not less than a 12-month period or more than a 24-month period in not more than two facilities or placements. For licensure, the experience requirement must be obtained after official enrollment in a doctoral degree program.

§463.7 [§463.9 (400.02.00.009)]. *Negative Reference Letters.* An applicant whose file contains any negative reference letters of substance will be asked to come before the board for an interview prior to admission to the written examination.

§463.8 [§463.10 (400.02.00.010)]. *Subdoctoral Certification Educational Requirements.*

(a) The board requires a master's degree which is primarily psychological in nature of at least 42 semester credit hours for subdoctoral certification, at least 27 graduate level semester credit hours of which (exclusive of practicum) must have been in psychology. Six semester credit hours of thesis credit in a department of psychology may be counted toward these 27 semester credit hours of which (exclusive of practicum) must have been in psychology six semester credit hours of thesis credit in a department of psychology may be counted toward these 27 semester credit hours. No hours obtained after the master's degree was conferred may be counted. Four hundred and fifty clock hours of practicum or experience in psychology, supervised by a licensed psychologist, or in the case of exempt agencies, by a supervisor

who is eligible for licensure consideration, must be completed before the written exam may be taken.

(b) Applicants who have a master's degree in psychology conferred from a psychology program in a regionally accredited educational institution, and who have not satisfied the board's requirements, will be given an opportunity to satisfy the current requirements of the board. Requirements include:

(1) enrollment in a regionally accredited college or university in a formal master's degree program in psychology;

(2) completion of a maximum of an additional 12 semester hours of course work to satisfy the board's requirement of 42;

(3) submission of a letter from the official in charge of the psychology program stating that the applicant's graduate degree in psychology, with the additional prescribed course work, is equivalent to a 42-hour master's degree in psychology from the official program; and

(4) submission of a transcript from the educational institution.

§463.9 [§463.11 (400.02.00.011)]. *Course Work for Subdoctoral Certification.* The application for certification as a psychological associate shall include course titles and the names of instructors. If questions exist as to the content of course work, the board may require the applicant to furnish a catalogue of the university or college where the courses were taken and the addresses of instructors.

§463.10 [§463.12 (400.02.00.012)]. *Written Examination Required.* A written examination shall be required of all applicants for certification as a psychological associate.

§463.11 [§463.13 (400.02.00.013)]. *Failure to Appear for Examination.* An applicant who fails to appear for the examination after agreeing to do so shall be required to pay for the unused examination [if an examination is taken at a later date.]

§463.12 [§463.14 (400.02.00.014)]. *Termination of Application.* Failure to take the written examination after [official notification of] two succeeding examinations **are** given by the board constitutes termination of the application.

§463.13 [§463.15 (400.02.00.015)]. *Failing Written Examination.* Applicants who fail the written examination for certification as a psychologist or psychological associate are permitted to take it again by paying another **exam** [certification] fee. If the second examination is failed, the applicant must wait a full calendar year before the examination may be taken again. This yearly interval applies to all succeeding applications for the examination. The board may adjust this requirement a few days to provide flexibility in the board's scheduling of examinations. In the event of subsequent examinations taken in other states, the one-year waiting period applies.

§463.14. [§463.16 (400.02.00.016)]. *Cutoff Scores.* Cutoff scores for the examinations administered by the board shall be set by the board prior to the examination.

§463.15 [§463.17 (400.02.00.017)]. *Examinations in Other States.* A person who presents serious cause and who wishes to take the written examination in another state may be permitted to do so after mutual agreement has been obtained between the Texas [State] board [of Examiners of Psy-

chologists] and the statutory board of examiners of psychologists in another state. Such examination must be the same examination used by the Texas board and must be administered at a regularly scheduled examination by the other state board.

§463.16 [§463.18 (400.02.00.018)]. *Degree Requirements for Certification of Psychologists.*

(a) [After July 1, 1979.] A doctoral degree based upon a program of studies whose content is "primarily psychological" means a doctoral degree granted from a department of psychology in a regionally accredited institution where the applicant's transcript designates a major in psychology.

(b) [After July 1, 1979.] *The substantial equivalence of a doctoral degree based upon a program of studies whose content is primarily psychological means a doctoral degree based on a minimum of 90 semester hours in psychology in a post-baccalaureate doctoral program which includes the following content areas: abnormal psychology, cognitive processes, comparative psychology, developmental psychology, history of psychology, learning, motivation, psychology of personality, physiological psychology, professional ethics in psychology, psychopharmacology, research design, sensation and perception, social psychology, statistics, theory, and systems in psychology.*

(c) Consideration should be given to the sequence in which the educational processes and training are taken.

(d) Until July 1, 1979, the substantial equivalency of a doctoral degree based upon a program of studies whose content in primarily psychological means a doctoral program in which 70% of the course work completed is in psychology. This is a continuation of the board policy which has been in effect since 1976.]

(d)(e) Any student intending to apply for certification under the substantial equivalence clause [after July 1, 1979.] must file with the **board** [Texas State Board of Examiners of Psychologists] an affidavit during his or her first semester of graduate study which sets out the intended program of studies.

(e)(f) The board will consider post-doctoral course work in determining the eligibility of an applicant when such course work terminates in a doctoral degree that is consistent with this **rule** [section.].

§463.17 [§463.19 (400.02.00.019)]. *Foreign Graduates.* Applicants for **certification** [licensure] whose applications are based on graduation from foreign universities shall provide the board with such documents and evidence [tending] to establish that their formal education is equivalent to a doctoral degree in psychology granted by a **United States university that is regionally accredited.** [school approved by this board]. The applicant shall provide the board with the following:

(1) An original diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained.

(2) A transcript or comparable document of all coursework completed.

(3) A certified translation of all documents submitted in a language other than English.

(4) Satisfactory evidence of supervised experience.

(5) Evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the board may require an applicant to file a copy of the dissertation itself.

(6) A statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.

§463.18 [**§463.20** (400.02.00.020)]. *Time Period for Appealing a Decision.* Applicants will have 30 days from the date of board action to appeal any decisions made by the board concerning their application, after which time, the application is null and void. To be considered again, a new application and filing fee must be submitted and the application will be considered as of the date of the new application.

§463.19 [**§463.21** (400.02.00.021)]. *Reference Letters.* Reference letters from at least three psychologists are required in the file of each applicant for certification before the application is considered complete.

§463.20. *Regionally Accredited Institutions.* A regionally accredited educational institution as stated in §§11a, 19, and 22a(3) of the Act is defined as a residential educational institution which satisfies the standards of the accrediting association in one of the following six regions throughout the United States:

- (1) Southern Association of Colleges and Schools,
- (2) Western Association of Schools and Colleges,
- (3) Northwest Association of Schools and Colleges,
- (4) North Central Association of Colleges and Schools,
- (5) New England Association of Schools and Colleges,
- (6) Middle States Association of Colleges and Schools.

Issued in Austin, Texas, November 24, 1981.

Doc. No. 818560 Patti Bizzell
 Executive Secretary
 Texas State Board of Examiners
 of Psychologists

Proposed Date of Adoption: January 8, 1982
 For further information, please call (512) 458-3295.

Chapter 473. Administrative Rules

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas State Board of Examiners of Psychologists, 5555 North Lamar, Suite H-126, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The Texas State Board of Examiners of Psychologists proposes the repeal of §§473.1-473.22 (400.10.00.001-022).

Patti Bizzell, executive secretary, has determined that for the first five-year period the repeal will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the repeal.

The executive secretary has also determined that for each year of the first five years the repeal as proposed is in effect:

(A) There are no public benefits anticipated as a result of enforcing the repeal as proposed.

(B) There is no economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patti Bizzell, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Suite H-126, Austin, Texas 78757.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Patti Bizzell
 November 24, 1981

The repeal is proposed under Texas Civil Statutes, Article 4512c, §8(a), which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties.

- §473.1 (400.10.00.001). *Meetings.*
- §473.2 (400.10.00.002). *Official Documents.*
- §473.3 (400.10.00.003). *Deadline for Listings.*
- §473.4 (400.10.00.004). *Notification of Nonrenewal.*
- §473.5 (400.10.00.005). *Certification of Instructor.*
- §473.6 (400.10.00.006). *Committees.*
- §473.7 (400.10.00.007). *Printing and Distribution of Rosters.*
- §473.8 (400.10.00.008). *Personnel Evaluation.*
- §473.9 (400.10.00.009). *Letters of Notification.*
- §473.10 (400.10.00.010). *Liability Insurance Cost Sharing.*
- §473.11 (400.10.00.011). *Degree Designation.*
- §473.12 (400.10.00.012). *Faculty Liaison Officer.*
- §473.13 (400.10.00.013). *Purchases and Expenditures.*
- §473.14 (400.10.00.014). *Report to Psychologists.*
- §473.15 (400.10.00.015). *Postage Meter.*
- §473.16 (400.10.00.016). *Computer Services.*
- §473.17 (400.10.00.017). *Applicant Files.*
- §473.18 (400.10.00.018). *License Renewal.*
- §473.19 (400.10.00.019). *Review of Rules and Opinions.*
- §473.20 (400.10.00.020). *Affirmative Action.*
- §473.21 (400.10.00.021). *Written Examinations Forms.*
- §473.22 (400.10.00.022). *Referrals.*

Issued in Austin, Texas, on November 23, 1981.

Doc No. 818562 Patti Bizzell
 Executive Secretary
 Texas State Board of Examiners
 of Psychologists

Proposed Date of Adoption: January 8, 1981
 For further information, please call (512) 459-3295.

Chapter 473. Fees

The Texas State Board of Examiners of Psychologists proposes new §§473.1-473.5 concerning fees.

Patti Bizzell, executive secretary, has determined that for the first five-year period the rules will be in effect, there will be no fiscal implications to state and local government as a result of enforcing or administering the rules.

The executive secretary has also determined that for each year of the first five years the rules as proposed are in effect:

(A) The public benefits anticipated as a result of enforcing the rules as proposed will be the compilation of the board's fee schedule into one section of the rules as opposed to being scattered throughout all of the rules. Since one fee amount was added for the examination of psychological associate applicants, the rule allows the board to certify psychological associates to indicate to the public that an individual meets certain standards for the practice of psychology.

(B) The possible economic cost to individuals who are required to comply with the rules as proposed will be \$60 for each year for the years 1982, 1983, 1984, 1985, and 1986. This fee covers the cost of the examination.

Comments on the proposal may be submitted to Patti Bizzell, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Suite H-126, Austin, Texas 78757.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Patti Bizzell
November 24, 1981

The new sections are proposed under Texas Civil Statutes, Article 4512c, §8(a), which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this State which are reasonable necessary for the proper performance of its duties.

§473.1. Application Fees (Not refundable).

- Psychological associate certification—\$60.
- Psychologist certification—\$70.
- Licensure—\$50.
- Health service provider certification—\$35.

§473.2. Examination Fees. (Not refundable).

- Psychological associate certification—\$60.
- Psychologist certification—\$60.
- Jurisprudence—\$20.

§473.3. Annual Renewal Fees. (Not refundable).

- Psychological associate certification—\$15.
- Psychologist certification—\$15.
- Psychologist licensure—\$25.
- Psychologist health service provider certification—\$5.00.

§473.4. Late Fees (for all renewals) (Not refundable).

- One day to 90 days—\$30.
- Ninety-one days to less than two years—\$60.

§473.5. Miscellaneous Fees (Not refundable).

- Replacement for lost, destroyed, or stolen certificate or license—\$10.
- Inactive status—\$3.00.
- Remailing of certificate and/or license—\$5.00.

Issued in Austin, Texas, November 24, 1981.

Doc. No. 818563 Patti Bizzell
Executive Secretary
Texas State Board of Examiners
of Psychologists

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 458-3295.



Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct Client Records

The Texas State Board of Public Accountancy proposes amendments to §501.31 (401.33.00.301) concerning confidential client information. The 67th Legislature amended the Public Accountancy Act of 1979, by passage of Senate Bill 801. Section 6 was amended, thereby necessitating proposed changes to bring the board's rules into conformity with state law.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be allowing for quality control reviews of professional services performed by licensees to insure that high standards of competency and integrity are maintained in the practice of public accounting.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendments are proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to adopt rules deemed necessary and advisable to effectuate the Act, as amended.

§501.31 (401.33.00.301). Confidential Client Information.

(a) A licensee shall not, without the consent of his client, disclose any information pertaining to such client obtained in the course of performing professional services. Except as noted in this section, such information shall be deemed **confidential and privileged**, and the privilege provided by law and by this chapter shall belong to the client and shall be asserted only upon his behalf or at his behest. Information relating to the methods or procedures used in **the following, shall not be deemed confidential and privileged:**

- (1) (No change.)
- (2) management advisory or consulting services; [or]
- (3) tax returns and supporting schedules [shall not be deemed confidential and privileged]; **OR**

(4) audits, reviews, and compilations of financial statements.

(b) This section does not relieve a licensee of any obligations under §501.22 (401.33.00.202) of this title (relating to Professional Auditing Standards and Accounting Principles) and §501.23 (401.33.00.203) of this title (relating to Other Standards); nor does this rules:

- (1)-(3) (No change.)
- (4) prohibit disclosures in the course of [a] **quality control reviews of audits, reviews, and compilations of financial statements conducted in accordance with board rules;** [reviews of a licensee's professional services conducted by persons who have obligated themselves to the client to keep such information confidential and privileged,] or
- (5) prohibit disclosures of documentary information, books, or records in an examination by any agency of the State of Texas conducted pursuant to authority granted by law.

(c) This section shall not apply to individuals who are not licensed in accordance with the provisions of the Public Accountancy Act of 1979, and no disclosure provided for under this section shall constitute a waiver of the privilege established herein.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818713 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

Chapter 505. The Board

The Texas State Board of Public Accountancy proposes to amend §505.1 (401.42.00.100) concerning a change in the headquarters of the board. The proposed amendment is necessitated by a change in address of the headquarters of the Texas State Board of Public Accountancy.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be informing the public on how to contact the board.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to adopt rules deemed necessary or advisable to effectuate the Act.

§505.1 (401.42.00.100). Headquarters of the Board. The headquarters and administrative offices of the board shall be at **3301 Northland Drive, Suite 500, Austin, Texas 78731** [940 American Bank Tower, Austin, Texas 78701].

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818714 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

Chapter 507. Employees of the Board

The Texas State Board of Public Accountancy proposes to amend §507.2 (401.43.00.200) concerning the Texas State Board of Public Accountancy staff. The proposed amendment will clearly reflect that all employees are to report directly to the executive director,

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will not be fiscal implications to state or local government as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be public awareness of the board's administrative structure.

(B) There will be no possible economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendments are proposed under Texas Civil Statutes, Article 41a-1, §5(a)(4), which provides the Texas State Board of Public Accountancy with the authority to employ personnel and independent contractors necessary to assist in the performance of its duties.

§507.2 (401.43.00.200). Staff. [The board, through] The executive director shall employ such staff as is *authorized and necessary* for the conduct of its affairs. Applications for employment by the board shall notify prospective employees that no employee of the board may be related within the second degree of affinity or within the second degree of consanguinity to a person who is an officer, employee, or paid consultant of a trade association of the profession of public accountancy.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818715 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

Chapter 511. Certification as CPA CPA Examination

The Texas State Board of Public Accountancy proposes §511.76. (401.45.04.500) concerning the refund policy of examination fees. The proposed amendments will permit a candidate to receive a refund if he or she withdraws prior to the deadline for submitting the application for examination, as the board has not incurred the expenses related to conducting the exam (e.g., chairs, work papers).

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) Effect on state government. There is no additional cost or reduction in cost anticipated. However, there will be a loss in state revenue as a result of these amendments. The executive director estimates that between \$300 to \$1,500 will be lost each year in state revenues from 1982 through 1986.

(B) Effect on local government. There is no effect on local government.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be enabling a candidate to withdraw from the exam at an early date. It will benefit approximately 10-20 candidates per year.

(B) There is no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
October 29, 1981

The amendments are proposed under Texas Civil Statutes, Article 41a-1, §15, which provides the Texas State Board of Public Accountancy with the authority to refund any examination fee paid in its discretion, upon a showing of satisfactory reason for failure to be present for the examination.

§511.76 (401.45.04.500). Refund Policy.

(a) *Requests which conform to the following will be considered by the board:* [Refunds of examination fees will be made only in hardship cases and for cause acceptable to the board.]

(1) *if the candidate withdraws from the examination and notifies the board in writing prior to the deadline for applying for the examination (March 1 or September 1), or*

(2) *if the candidate submits adequate documentation to establish an extreme hardship case.*

(b) *No partial refunds will be made and no examination fee will be transferred to a subsequent examination.* [No partial refunds of the initial examination fee will be made.]

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818716 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

Experience Requirements

The Texas State Board of Public Accountancy proposes to amend §511.121 (401.45.05.100) concerning applications for approval of experience. The proposed amendment will require candidates to submit applications for approval of experience as an attachment to the application for the certified public accountant certificate after all requirements have been met. The board's staff was processing a very large number of documents for individuals who did not receive a CPA certificate, thereby creating an unnecessary and costly workload.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) The effect on state government will be an estimated reduction in cost of \$5,000 each year for 1982, 1983, 1984, 1985, and 1986. There will be no additional cost or loss or increase in revenue.

(B) There will be no effect on local government.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be saving approximately 500 man-hours at \$10 per hour

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §12, which provides the Texas State Board of Public Accountancy with the authority to grant the certificate of "Certified Public Accountant" to any person who meets the requirements of that section, including the applicable experience requirements.

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

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818717 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

The Texas State Board of Public Accountancy proposes to amend §511.122 (401.45.05.200) concerning acceptable experience for application for certification as a certified public accountant. The proposed amendment adds a statement relating to qualifying nonpublic accounting experience, requiring that the experience be under the direct supervision of a person licensed by a State Board of Public Accountancy.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be increasing the quality of a candidate's work experience.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §12(5)(A), which provide the Texas State Board of Public Accountancy with the authority to grant the certificate of "Certified Public Accountant" to any person who meets the requirements of that section, including the applicable experience requirement.

§511.122 (401.45.05.200) *Acceptable Experience.*

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

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

(d)-(e) (No change.)

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818718 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

The Texas State Board of Public Accountancy proposes amendments to §511.123 (401.45.05.300) concerning comparable experience. The proposed amendments to subsection (a) establish standards for the Entry and Re-Entry Committee which will ensure uniformity in approval of experience applications and will permit the board to recognize experience with a law firm comparable to CPA experience as qualifying. The proposed amendment to subsection (b) is an administrative change, requiring the applicant to inform the board of only one or more CPAs, instead of all CPAs, having knowledge of his or her accounting experience.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will not be fiscal implications to state or local government as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be clarification of types of qualifying work experience the board will accept and full disclosure of the quality and scope of an applicant's work experience.

(B) There is no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
October 29, 1981

The amendments are proposed under Texas Civil Statutes, Article 41a-1, §12(5)(A), which provides the Texas State Board of Public Accountancy with the authority to grant the certificate of "Certified Public Accountant" to any person who meets the requirements of that section, including the applicable experience requirements.

§511.123 (401.45.05.300). Comparable Experience.

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

(1) *experience with the military, a federal agency, or federal department as an accountant or auditor at Grade 7 or above* [experience with a federal agency or department as an accountant or auditor at Grade 7 or above];

(2) *accounting experience with the State of Texas in Salary Group 15 or above* [teaching of accounting on a full-time or part-time basis in an accredited college or university];

(3) *experience as a special agent-accountant with the FBI* [accounting experience with the State of Texas in Salary Group 11 or above];

(4) *experience with a law firm that is comparable to the experience ordinarily found in a CPA firm* [experience as a special agent-accountant with the FBI].

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

[(6) military accounting experience.]

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

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818719 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

on file in the board's records as required by the Public Accountancy Act of 1979, as amended.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) An estimated additional cost to state government of \$12,552 each year for 1982, 1983, 1984, 1985, and 1986, is anticipated. There will be no reduction in cost or loss or increase in revenue.

(B) There will be no effect on local government.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be derived from the compliance of the candidate with the rules of professional conduct. Information will be furnished and the board's commitment to enforcing the rules stressed.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §12, which provides the Texas State Board of Public Accountancy with the authority to require an oath of persons who meet the requirements for the certificate of certified public accountant in this section.

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

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818721 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

Certification by Examination

The Texas State Board of Public Accountancy proposes to amend §511.161 (401.45.07.100) concerning application for certification as a certified public accountant. This change is necessary to clearly indicate that the CPA certificate cannot be transmitted unless a properly executed "Oath of Office" is

The Texas State Board of Public Accountancy proposes to amend §511.165 (401.45.07.500) concerning reinstatement of a certificate as a certified public accountant. The proposed

amendment reflects the change in the Public Accountancy Act, as amended, requiring individuals who have resigned or surrendered certificates to file applications for new certificates.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be requiring individuals who have resigned or surrendered a certificate to file an application for a new certificate.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6 and §21 (a), which provide the Texas State Board of Public Accountancy with the authority to issue a new certificate after all issuance requirements have been met.

§511.165 (401.45.07.500). Reinstatement of Certificate. An individual seeking reinstatement of a certificate as a certified public accountant must, unless otherwise provided by board order, show satisfactory evidence of completion of a minimum of 120 hours of continuing professional education courses within the three years preceding reinstatement. It is the responsibility of the individual seeking reinstatement to determine whether the courses taken conform to the standards for continuing professional education courses as established by the board. The board is not bound to accept hours in courses that do not conform to those standards. **An individual who has resigned or surrendered a certificate may not apply for reinstatement, but must file an application for issuance of a new certificate.**

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818722 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

The Texas State Board of Public Accountancy proposes to amend §511.166 (401.45.07.600) concerning reinstatement of a registration to practice public accounting. The proposed amendment reflects the change in the Public Accountancy Act, as amended, requiring individuals who have resigned or surrendered their registrations to file applications for new registrations.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the rule.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be requiring individuals who have resigned their registration to file an application for a new registration.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6 and §21 (a), which provide the Texas State Board of Public Accountancy with the authority to issue a new certificate after all issuance requirements have been met.

§511.166 (401.45.07.600). Reinstatement of Registration. An individual seeking reinstatement of a registration to practice public accounting must, unless otherwise provided by board order, show satisfactory evidence of completion of a minimum of 120 hours of continuing professional education courses within the three years preceding reinstatement. It is the responsibility of the individual seeking reinstatement to determine whether the courses taken conform to the standards for continuing professional education courses as established by the board. The board is not bound to accept hours in courses that do not conform to those standards. **An individual who has resigned a registration may not apply for reinstatement, but must file an application for issuance of a new registration.**

Issued in Austin, Texas, on December 1, 1981.

Doc No. 818723 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

Chapter 521. Fee Schedule

The Texas State Board of Public Accountancy proposes to amend §521.1 (401.51.00.100) concerning the establishment of a license fee schedule. The proposed amendment will provide for a prorated initial license fee to be paid by individuals that are certified or registered during the course of the year.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) An estimated loss in revenue to state government of \$44,040 each year for 1982, 1983, 1984, 1985, and 1986 is anticipated. There will be no additional cost or reduction in cost.

(B) There will be no effect on local government.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be providing a more equitable license fee for new licensees.

(B) There will be a savings of \$7.50 to \$22.50 per new license for individuals who are required to comply with the rule as proposed. The board estimates a total cost of \$32,940 for individuals as a group for each year in 1982, 1983, 1984, 1985, and 1986.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §9(a), which provides the Texas State Board of Public Accountancy with the authority to charge license fees.

§521.1 (401.51.00.100) Application. The annual fee for a license issues pursuant to the act shall be \$30; *however, the initial license fee may be prorated as shown.*

**Certification or registration
obtained in:**

January 1-March 31
April 1-June 30
July 1-September 30
October 1-December 31

Fee payable:

\$30
\$22.50
\$15
\$7.50

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818724 Bob E. Bradley
 Executive Director
 Texas State Board of Public
 Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241.

The Texas State Board of Public Accountancy proposes to amend §521.6 (401.51.00.600) concerning the charges not included in the license fee. The proposed amendment states that the Texas State Board of Public Accountancy will provide the information required by law, at cost, to the person making the request.

Bob E. Brauley, executive director, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) An estimated reduction in cost to state government of \$15,000 each year for 1982, 1983, 1984, 1985, and 1986 is

anticipated. There will be no additional cost or loss or increase in revenue.

(B) There will be no effect on local government.

The executive director has also determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be the duplication of any document, record, or action of the board at cost.

(B) The economic cost to individuals who are required to comply with the rule as proposed cannot be obtained because the figures would be based on actual cost to the board for duplication and postage and would be different each time. The board estimates a cost of \$1.00 to \$25 each year in 1982, 1983, 1984, 1985, and 1986.

Comments on the proposal may be submitted to Gary McNeil, Texas State Board of Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bob E. Bradley
December 1, 1981

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to adopt rules deemed necessary or advisable to effectuate the Act.

§521.6 (401.51.00.600). Other Charges. Any costs incurred by the board upon application for or demand of any document, record, or action of the board which the board is [not] required to provide [or do] by law [the Act] or by these rules shall be borne [directly] by the person making the request or demand.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818725 Bob E. Bradley
 Executive Director
 Texas State Board of Public
 Accountancy

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 451-0241:



NONCODIFIED

Texas Commission on Alcoholism DWI Education Program Standards and Procedures

General Provisions 303.07.01

The Texas Commission on Alcoholism proposes new Rules 303.07.01.001-.016 concerning the proposed DWI Education Program standards and procedures which are developed in accordance with Article 42.13, Code of Criminal Procedure, as amended by the 67th Legislature. The intent of these proposed rules is to establish minimum standards by which any agency, organization, or individual which operates an educational program designed to rehabilitate persons who are placed on probation for misdemeanor driving while intoxicated must operate in order to obtain program certification as an approved program from the Texas Commission on Alcoholism.

Dennis Schafer, administrator, Fiscal and Administrative Services, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) No cost is anticipated for 1982 or 1983; however there will be an estimated additional cost of \$83,898 each year for 1984, 1985, and 1986 to state government. No reduction in cost or loss or increase in revenue is expected.

(B) There will be no effect on local government.

Becky Davis, administrative assistant, has determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be quality education and instruction provided to the DWI offender by the certified and approved DWI educational programs; self-sufficiency of approved programs through the charge of client fees; a reduction in alcohol-related traffic accidents and fatalities; and reduced DWI recidivism.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Becky Davis, eighth floor, Sam Houston Building, Austin, Texas 78701.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bill Campbell
November 20, 1981

The new rules are proposed under Article 42.13, §6c, Code of Criminal Procedure, as amended by the 67th Legislature, which provides the Texas Commission on Alcoholism with the authority to publish the rules and regulations for approved DWI educational programs and the authority to coordinate and monitor the approved educational programs.

.001. *Definitions.* As used in this chapter, the following words shall have the definitions as follows:

(a) "Act" means Senate Bill 368, Acts of the 67th Legislature, 1981, Article 42.13, Code of Criminal Procedure.

(b) "DWI" means driving while intoxicated.

(c) "Program" means DWI Education Program.

(d) "Certified Program" means an approved program operating under the rules, regulations, and standards set forth under this Act.

(e) "Committee" means a standing committee comprised of one representative of each of the four approving agencies: The Texas Commission on Alcoholism (TCA), the Department of Public Safety (DPS), the State Department of Highways and Public Transportation (SDHPT), the Texas Adult Probation Commission (TAPC), and the Texas Commission on Alcoholism's Statewide DWI Education Program Director whose purpose is to provide input for actions and decisions promulgated by Senate Bill 368 and shall serve as resource for recommendations to the Commission on Alcoholism's governing board.

(f) "Commission" means the Texas Commission on Alcoholism.

.002. *Objective.* The intent of the commission, in cooperation with DPS, SDHPT, and TAPC is to provide the written rules, regulations, and standards reflecting minimum standards for the uniform operation of programs designed to rehabilitate persons who are placed on probation for misdemeanor driving while intoxicated. These rules will establish the minimum acceptable level of quality for DWI Education Programs in Texas.

.003. *Scope of Rules, Regulations, and Standards.* Any agency, organization, or individual which operates a program designed to rehabilitate persons who are placed on probation for misdemeanor driving while intoxicated may obtain program certification from the commission. The rules, regulations, and standards should be reasonably enforced and shall not be construed to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission.

.004. *Program Certification.* A certificate issued under this Act expires two years from the date of issuance. A program seeking certification must comply with the provisions of this Act and with the rules, regulations, and standards of the commission adopted under this Act. A certificate may be issued when the commission receives a completed prescribed application form. The certificate will become effective on the date of issuance. A program may be monitored by the commission or its designated representative prior to issuing program certification or during the two-year certification period. Certified programs will be listed as potential referral schools in the Statewide DWI Education Program Directory. Noncertified programs are not eligible to receive referrals. Applications for certification are available from the commission's Statewide DWI Education Program Director, Texas Commission on Alcoholism, eighth floor, Sam Houston Building, Austin, Texas 78701.

.005. *Certification Renewal.* A certification issued under this Act expires two years from the date of issuance. The commission shall issue a recertification notice 30 days prior to the expiration date of the certificate. A renewal certificate may be issued upon receiving a completed application form prescribed by the commission prior to the expiration date of the certificate. A program may be monitored by the commis-

sion or its designated representative prior to renewing the program's certification. Any application received after the renewal date shall be treated as a new application for certification and shall be submitted as a new application to the commission's Statewide DWI Education Program director, Texas Commission on Alcoholism, eighth floor, Sam Houston Building, Austin, Texas 78701.

.006. Denial or Revocation of Certification.

(a) The commission may deny, revoke, or refuse to issue or renew a program's certification if the applicant or holder of the certification fails to comply with the provisions of this Act or with the rules, regulations, and standards of the commission adopted under this Act.

(b) An agency, organization, or individual who is denied program certification or whose certification is revoked or not renewed is entitled to a hearing before the commission on the question of the issuance of the certification; and is entitled to notice of the days, time, and place of the hearing not later than 21 days before the date of the hearing. A request for a hearing must be made during the 30-day period following the date on which the applicant or the certification holder received notice that the certification was denied or that it was to be revoked or refused renewal.

(c) Revocation or program certification or an order refusing to renew a program's certification takes effect upon the expiration of 60 days following the date on which the holder of the certification received notice of the revocation or order of refusal to renew the program's certification.

(d) If, after a hearing, the certification is denied, revoked, or not renewed, the commission shall send the applicant a copy of its findings and grounds for decision.

(e) The Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), applies to all hearings authorized by this Act.

.007. Exceptions from the Provisions of the Standards. In programs where specific standards cannot be complied with because of alleged difficulty or hardship, exceptions to specific provisions of the standards may be made where clearly justified if the intent of the certification standard is met and the effective and efficient operation of the program is not seriously affected. To request an exception, the program shall submit a written request to the commission stating name, address, and phone number of the program; section or number of standard or item which will be affected, and action that staff or program will provide to replace or offset the particular exception request. Approval or disapproval of the request for exception will be determined by the commission and standing committee and returned in writing to the party requesting the exception.

.008. Invalidity of Provisions. If any provisions of these rules are held invalid, such invalidity shall not affect other provisions which are not dependent upon the invalid provision. For this purpose, the provisions of the rules, regulations, and standards are declared to be severable.

.009 Opinions and Advice. Except as otherwise expressed or stated herein, advice given, statements made, and opinions expressed orally or in writing by the staff of personnel of the commission in response to inquiries or otherwise shall not be considered binding upon the commission in connection with any matter requiring the approval or adjudication of the commission.

.010. Precedent. Because rules cannot adequately anticipate all situations and circumstances presented for action by the commission, the nature of the action taken with regard to any matter or the disposition of any matter pending before the commission is not necessarily of meaningful value for setting precedents. The commission shall not be bound by the precedent of any previous action, in the subsequent disposition of any matter pending before it.

.011. Initiation. Proceeding for the adoption, amendment, revision, or repeal of rules, regulations, and standards shall be initiated by a majority of the commission at its meeting as prescribed by state law.

.012. Notice. Notice of the adoption, amendment, revisions, or repeal of any rule, regulation, or standard shall be as required by the Administrative Procedure and Texas Register Act.

.013. Hearings. Prior to the adoption, amendment, revision, or repeal of any rule, regulation, or standard, the commission will afford reasonable opportunity to all interested persons to submit data, views, or arguments, orally or in writing as required by the Administrative Procedure and Texas Register Act.

.014. Petitions of Interested Persons. Any interested person may petition the commission requesting the adoption, amendment, revision, or repeal of any of its rules, regulations, or standards. The commission will initiate rulemaking proceedings or deny the petition in writing as set forth in the Administrative Procedure and Texas Register Act, stating its reasons for the denial. In order to receive consideration by the commission, the petition must set forth:

- (1) the name, address and telephone number of each petitioner and date of submission;
- (2) the text of the proposed rule, regulation, or standard, amendment or revision, and brief explanation;
- (3) a statement of the particular statute or statutes and sections to which the above requested change relates;
- (4) a statement of the statutory or other authority under which the change is proposed;
- (5) a concise statement of need and purpose of such rule, amendment, or revision, and the deficiencies of the existing rules, regulations, or standards concerning the subject of the petition.

.015. Validity No rule hereafter adopted and no amendment, revision, or repeal of any rule shall be valid:

- (1) unless approved by majority of the commission;
- (2) unless adopted, amended, revised, or repealed in substantial compliance with these procedures;
- (3) unless indexed, filed, published, and made available for public inspection as required by state law.

.016. Terminology. The commission may define and interpret terms, whether they were used in the Act. All definitions and interpretations shall be consistent with the purpose fairly intended by the policies and provisions of the Act.

Issued in Austin, Texas, on December 1, 1981.

Doc. No 818709 Ross Newby
Executive Director
Texas Commission on Alcoholism

Proposed Date of Adoption January 8, 1982
For further information, please call (512) 475-2577

DWI Education Program Standards 303.07.02

The Texas Commission on Alcoholism proposes new Rules 303.07.02.001-.012 concerning DWI Education Program Standards and Procedures which are developed in accordance with Article 42.13, Code of Criminal Procedure, as amended by the 67th Legislature. The intent of these proposed rules is to establish minimum standards by which any agency, organization, or individual which operates an educational program designed to rehabilitate persons who are placed on probation for misdemeanor driving while intoxicated must operate in order to obtain program certification as an approved program from the Texas Commission on Alcoholism. This proposed rule incorporates by reference Rule 303.07.02.002 which outlines the curriculum to be used in approved DWI education programs.

Dennis Schafer, administrator, Fiscal and Administrative Services, has determined that for the first five-year period the rule will be in effect, there will be fiscal implications as a result of enforcing or administering the rule.

(A) There will be an estimated additional cost of \$83,898 each year for 1984, 1985, and 1986, to state government. No reduction in cost or loss or increase in revenue are expected.

(B) There will be no effect on local government.

Becky Davis, administrative assistant, has determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rule as proposed will be quality education and instruction provided to the DWI offender by certified and approved DWI educational programs; self-sufficiency of approved programs through the charge of client fees; a reduction in alcohol-related traffic accidents, fatalities; and reduced DWI recidivism.

(B) There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Becky Davis, Eighth Floor, Sam Houston Building, Austin, Texas 78701.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Bill Campbell
November 20, 1981

The new rules are proposed under Article 42.13, §6c., Code of Criminal Procedure, as amended, 67th Legislature, which provides the Texas Commission on Alcoholism with the authority to publish the rules and regulations for approved DWI educational programs and the authority to coordinate and monitor the approved educational programs.

.001. Program Purpose. The purpose of the DWI Education Program shall be to reduce the incidence of alcohol-related traffic accidents and fatalities and to reduce the DWI recidivism rate.

.002. Program Course Content. The DWI Education Program course shall consist of the content contained in the state-approved curriculum entitled *Traffic Safety Education Program for Alcohol-Related Traffic Offenders* as adopted by reference by the commission on Alcoholism or an equivalent curriculum approved by the commission as described in the

"Guidelines for DWI Education Programs". The state-approved curriculum is available for review, free of charge at the Texas Commission on Alcoholism offices, Eighth Floor, Sam Houston Building, Austin, Texas 78701 and at the Texas Register Division of the Secretary of State, located on the Fifth Floor, Sam Houston Building, Austin, Texas 78701, or may be purchased from the commission for \$10. To defray duplicating and mailing costs, please remit \$10 by check or money order, payable to the Texas Commission on Alcoholism for each copy of the document. The "Guidelines for DWI Education Program" are available from TCA free of charge.

.003. Program Admission.

(a) Persons are eligible for admission in the program if:

(1) they are placed on probation for an offense under Texas Civil Statutes, Article 6701, 1-1, 1925, as amended; and,

(2) they are placed on probation as a condition of that probation, are court-ordered to attend and successfully complete an approved educational program designed to rehabilitate persons placed on probation for misdemeanor driving while intoxicated.

(b) The program administrator allows persons to attend other than those placed on probation for an offense under Texas Civil Statutes, Article 6701, 1-1, 1925, as amended.

.004. Non-Admission. No persons, upon a subsequent offense, shall be eligible for admission if they have successfully completed an approved educational program or who are currently under an order to attend an educational program.

.005. Confidentiality. Client confidentiality shall be assured according to the requirements of Volume 40, Number 127, *Federal Register*, July 1, 1975.

(a) All certified programs designed to rehabilitate persons who have been placed on probation for driving while intoxicated under the provisions of this Act shall:

(1) Utilize the state-approved curriculum as adopted by the Commission on Alcoholism in Rule 303.07.02.002 or an equivalent curriculum approved by the commission in the instruction.

(2) Provide a minimum of eight hours of instruction per course.

(3) Insure that program instructors have attended the Administrator/Instructor Training Program for the Education of Alcohol-Related Traffic Offenders offered by Sam Houston State University.

(4) Utilize recommended audio-visual aids in instruction.

(5) Utilize appropriate facilities for class instruction.

(6) Administer and evaluate pre-test and post-test instruments; and make modifications where necessary.

(7) Administer, evaluate and formulate prognosis using recommended screening instruments if test instruments are not administered on a pre-class basis. The purpose of the testing is to make referrals to appropriate resources where indicated.

(8) Maintain a referral program for treatment of those identified by screening instrument as addicted to or abusing alcohol.

(9) Administer, at the end of each course, a student course evaluation.

(10) Set fee for client services in order to become fi-

nancially self-supporting or have other resources which are sufficient to carry out the program.

(11) Each student should be required to attend all classes in their proper order.

(12) Insure that notice of completion of the program, by all clients, is given to the adult probation department for forwarding same to the county or district clerk for reporting to the Department of Public Safety.

.007. Program Administration.

(a) Upon assignment to the DWI Education Program by the court, the county or district clerk shall immediately report same to the Department of Public Safety.

(b) The administrator of the DWI Education Program shall be the individual ultimately responsible to the court for the proper operation of the DWI Education Program in his or her jurisdiction; regardless of whether the program is operated by a probation department, another agency, organization or individual.

(c) All probationers assigned to the DWI Education Program shall begin and complete their classes within 90 days of their assignment.

(d) The DWI Education Program shall be held at least quarterly, or when a minimum of at least 12 probationers have been assigned by the court.

(e) The probationer shall be notified in writing of the dates, times and the place program is to be held.

.008. Program Staff. Program staff should be selected using the following criteria:

(a) Instructors:

(1) Instructors should have professional experience and training in such fields as education, criminal justice, counseling, psychology, or social work. The instructor should be knowledgeable in the areas of traffic safety, alcohol abuse, and addiction, and have completed the Administrator/Instructor Training Program for the Education of Alcohol-Related Traffic Offenders offered by Sam Houston State University.

(2) Instructors must possess good communication skills including a command of vocabulary understandable to class participants and have the ability to establish rapport with participants.

(3) Each program shall develop a written job description that specifically outlines the qualifications, duties and responsibilities of the course instructor(s).

(4) The instructor(s) performance requirements shall be set by the chief probation officer and/or the agency, organization, or individual providing the training for the probation department.

(5) Prior to the initial certification of the program by the commission, each program shall have at least one trained instructor who has attended the Administrator/Instructor Training Program for the Education of Alcohol-Related Traffic Offenders offered by Sam Houston State University.

(b) Administrators:

(1) Administrators should be knowledgeable in the areas of DWI Education Program operation, course scheduling, court referrals, and district/county clerk office operations.

(2) Each program shall develop a written job description, outlining the duties and responsibilities of the course administrator.

(3) The administrator's performance requirements shall be set by the chief probation officer and/or the agency,

organization, or individual providing the training for the probation department.

(4) The administrator is encouraged to attend the Administrator/Instructor Training Program for the Education of Alcohol-Related Traffic Offenders offered by Sam Houston State University.

.009. Facilities.

(a) Facilities shall be commensurate with good education practices and should include sufficient number of tables or desks, adequate seating, lighting, acoustics, and climate conducive to study.

(b) Facilities should be easily accessible to the class attendees.

(c) Audio-visual equipment should be in working order and in good condition for use in the class instruction.

.010. Fiscal.

(a) Program income and expenditures shall be identifiable within the program's accounting system.

(b) Records should be kept according to general acceptable accounting practices.

.011. Record Keeping and Reporting.

(a) Data Collection.

(1) The program administrator is responsible for collecting the following data on each class participant:

- (A) name,
- (B) street address,
- (C) city/zip code,
- (D) race,
- (E) sex,
- (F) date of birth,
- (G) county of arrest,
- (H) driver's license number,
- (I) social security number,
- (J) present employment,
- (K) educational attainment,
- (L) date of assignment to class,
- (M) date of completion,
- (N) pre-test score,
- (O) post-test score,
- (P) screening test score,
- (Q) instructor evaluation of client,
- (R) referral recommendation.

(2) The information in paragraph (1) (D) and (E) of this subsection, is requested for informational purposes only and does not effect a person's participation in the program.

(b) The following items, which shall be held confidential by the commission and shall only be used for statistical purposes, shall be reported to the commission annually:

- (1) driver's license number of each participant;
- (2) total number of participants assigned to course;
- (3) total number of participants successfully completing course;
- (4) total number of probationers excused from attendance in course for good cause; and
- (5) total number of courses held annually.

.012. Program Monitoring and Evaluation. All certified programs may be monitored in accordance with Rules 303.07.02.001 through .011 prior to certification and recertification.

(1) All certified programs shall be the monitoring responsibility of the commission or its designated representative.

(2) Program monitoring reports will be prepared on each certified program and made available to the approving agencies from the commission.

(3) The commission shall prepare an annual report on the Statewide DWI Education Program and distribute to the approving agencies, and, upon request, to other interested agencies, organizations and individuals.

Issued in Austin, Texas, on December 1, 1981.

Doc. No. 818710 Ross Newby
Executive Director
Texas Commission on Alcoholism

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 475-2577.

Texas Department of Human Resources

ICF/SNF

(Editor's note: This is the final segment of a two-part serialization of proposals submitted by the Texas Department of Human Resources. The first part appeared in the December 4, 1981, issue. Affected subchapters, and the rules contained within them, are listed below. Proposed date of adoption for all submissions is January 4, 1982.)

Proposals Contained in the December 4 Issue

Purpose

Rule 326.29.10.001

Definitions

Rules 326.29.12.001-.029

Compliance with Federal Laws

Rules 326.29.14.001-.004

Compliance with State and Local Laws

Rules 326.29.16.001-.009

Governing Body and Management

Rules 326.29.20.001-.019

Physician Services

Rules 326.29.30.001-.008

Nursing Services

Rules 326.29.31.001-.017

Food and Nutrition Services

Rules 326.29.32.001-.007

Pharmacy Services

Rules 326.29.33.001-.012

Laboratory and Radiology Services

Rules 326.29.34.001-.004

Proposals Appearing in this Issue

Social Services

Rules 326.29.35.001-.005

Rehabilitation Services/Goal-Directed Therapy

Rules 326.29.36.001-.007

Services and Supplies Included in the Vendor Payment

Rules 326.29.39.001-.006

Medical Records

Rules 326.29.40.001-.003

Medical Direction

Rules 326.29.42.001-.003

Physical Environment

Rules 326.29.50.001-.010

Safety

Rules 326.29.52.001-.002

Recipient-Patient Activities

Rules 326.29.60.001-.005

Recipient-Patient Rights

Rules 326.29.62.001-.017

Medical Review and Re-Evaluation

Rules 326.29.72.001-.004

The Texas Department of Human Resources proposes to add a new chapter of rules regarding long-term care, entitled Intermediate Care Facility/Skilled Nursing Facility (ICF/SNF). The new chapter will combine ICF and SNF requirements based on federal regulations. The combining of the SNF and ICF requirements will necessitate the repeal of the department's current ICF II, ICF III, and SNF rules.

The Department of Human Resources proposed similar rules in the January 13, 1981, issue of the *Texas Register* (6 TexReg 90) based on a review of current Title XIX state standards for skilled nursing facilities (SNFs) and intermediate care facilities (ICFs), in conjunction with an advisory committee comprised of representatives of the Texas Department of Health, Texas Association of Homes for the Aged, and Texas Nursing Home Association. In addition, revised federal regulations proposed by the Health Care Financing Administration (HCFA) of the Department of Health and Human Services were included. Public hearings were held on the proposed rules. The rules proposed by HCFA were subsequently placed on indefinite hold, which caused the department to withdraw from consideration the previously proposed ICF/SNF rules.

In the following proposals, ICF and SNF standards have been consolidated into one set of rules and rewritten based on current federal and state regulations. The advisory committee recommendations concerning clarification or revision of state requirements have also been incorporated. The committee agreed to delete the requirement for examination rooms in nursing facilities since concern was expressed about cost of maintaining an area which may be infrequently used. The department requests public comment about this deletion to obtain additional information about the need for examination rooms.

The proposed rules have been expanded to include:

- (1) a requirement for a quarterly accounting of recipient-patients' personal funds in ICFs and SNFs;
- (2) a more precise definition of normal transportation for clarification;
- (3) a requirement that non-1861(j)(1) designated facilities use Title XVIII as a third party resource to pay for durable and consumable medical equipment;
- (4) a requirement that facilities post information about services provided and current charges;
- (5) a clarification about the qualifications for activities directors and social services directors;
- (6) a requirement to allow ombudsman access to the recipient-patient at all times;
- (7) a requirement that facilities give three days' notice of involuntary transfers and 10 days' notice of voluntary transfers; and
- (8) payment to facilities of an administrative fee for processing claims for goal-directed therapy services.

The department proposed the repeal of agency rules concerning standards for Intermediate Care II facilities, standards for Intermediate Care III facilities, and standards for skilled nursing facilities in the January 13, 1981, issue of the *Texas Register*. The repeal of these rules will be adopted at the same time the new rules are adopted.

David Hawes, director of programs budget and rate setting, has determined that for the first five-year period the rules will be in effect, there will be fiscal implications as a result of enforcing or administering the rules.

(A) Effect on state government:

Estimated additional cost	Fiscal year
\$78,384	1982
\$83,431	1983
\$95,327	1984
\$101,020	1985
\$112,609	1986

There is no anticipated reduction in cost or anticipated reduction or increase in revenue.

(B) There will be no effect on local government.

Mr. Hawes has also determined that for each year of the first five years the rules as proposed are in effect, the public benefits anticipated as a result of enforcing the rules will be:

(1) clarification of the standard which nursing facilities must meet to participate in Medicaid, based on current state and federal regulations;

(2) elimination of duplicate information and resolution of inconsistencies in requirements for skilled nursing facilities and intermediate care facilities;

(3) consolidation of requirements for skilled nursing facilities and intermediate care facilities into one set of standards;

(4) ensuring that facilities protect recipient-patients' rights such as accounting procedures for recipient-patients' personal funds, timely inventory of personal property, timely notice of transfers, and access to an ombudsman at all times.

There will be no economic cost to individuals who are required to comply with the rules as proposed.

A hearing to accept public comment on the ICF/SNF rules and standards will be held at 9 a.m. on December 29, 1981, in the DHR board room, 706 Banister Lane, Austin. Written comments are also invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division—152, Texas Department of Human Resources, P. O. Box 2960, Austin, Texas 78769 within 30 days of publication in this *Register*.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

J. B. McReynolds
November 25, 1981

Social Services 326.29.35

New Rules 326.29.35.001-.005 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Social Services and the Social Care Plan.

(a) General requirements. The facility must identify the social and emotional needs of the recipient-patient and provide social services designed to meet those needs. The facility may furnish social services or have written agreements and procedures for referring recipient-patients to qualified outside resources.

(b) Social care plan. In facilities furnishing social services, the social services director must complete a social plan for each recipient-patient. In facilities arranging and referring for social services, the activities director must complete a social care plan. It is part of the total plan of care and must be coordinated with others involved in recipient-patient care.

(c) Referrals to the Texas Department of Health. The administrator must inform the appropriate staff that when they recognize a recipient-patient's need for social services, they may call the local Texas Department of Health long-term care unit for assistance.

.002. Social History.

(a) Completing the social history. The social services director or the activities director must begin the social history at admission and complete it within 45 days after admission. Documentation from previous health care facilities may be used if the information is still accurate. Social history is a data base for developing the social care plan and activity care plan and must be filed in the medical record.

(b) Contents of the social history. The following information must be contained in the social history:

- (1) age, sex, and marital status;
- (2) former occupation;
- (3) education;
- (4) special training or skills;
- (5) hobbies or previous use of leisure time;
- (6) birthplace;
- (7) religion;
- (8) necessary prosthetic appliances;
- (9) factors leading to nursing facility placement;
- (10) alternate care evaluation and considerations—list all alternatives considered and reasons not used;
- (11) individual's feelings toward placement;
- (12) family's feelings toward placement;
- (13) future plans of individual;
- (14) communication—type and effectiveness, verbal, nonverbal, foreign language;
- (15) emotional/mental status—forgetful, confused, alert, friendly, nervous, hostile, withdrawn, nonresponsive;
- (16) orientation to time, place, person, other;
- (17) socialization/relationship adjustment with family and staff;
- (18) participation in activities—persuasion needed, leadership exhibited, participation is active or passive;
- (19) habits—smoking, alcohol consumption, grooming, table manners, wandering;
- (20) cultural and ethnic background.

.003. Social Care Plan

(a) Completing the social care plan. A written social care plan must be initiated on admission and completed not later than 45 days after admission. It must be reviewed and updated every 90 days or more often if necessary, with the approval of the attending physician. The plan and the results of each review must be contained in the recipient-patient's medical record.

(b) Contents of the social care plan. The plan must outline the specific services offered to the recipient-patient. The social care plan, including alternate care plans, must consider the emotional, financial, and social factors which affect the recipient-patient. The social care plan will contain different information depending on whether the facility provides social services directly or makes referrals and arrangements with community social service agencies.

(c) Recipient-patient participation. The facility must involve the recipient-patient as much as possible, in development and revisions of the social care plan.

(d) Texas Department of Health assistance. The facility may consult with representatives of the Texas Department of Health to help formulate the social care plan.

.004. Direct Delivery of Social Services. Facilities which provide social services directly must meet the following requirements:

(1) Social services director qualifications. The person designated as social services director must have:

(A) a master of social work degree, or

(B) a bachelor of social work degree from a college or university with an undergraduate social work program accredited by the Council on Social Work Education, and at least one year of social work experience in a health care setting.

(2) Consultation. If the person designated as social services director does not meet the foregoing requirements, he must receive consultation from a social services consultant who meets these requirements and has at least one year of experience in social services in a long-term care facility.

(3) Required elements of social care plans for facilities providing social services.

(A) Identification of needs and problems. The social services director must document in the social care plan the needs and problems of recipient-patients. Types of needs may include, but are not limited to, one-to-one relationships, financial and emotional security, social interaction, reality orientation, family interaction, intellectual stimulation, privacy, dealing with feelings about disability, death, or dying; or other emotional, mental, environmental, or physical limitations which impair the ability of the recipient-patient to meet his full potential.

(B) Statement of goals. Based on needs and problems and other recorded personal and social information, the social services director must develop a set of interrelated short- and long-term goals and objectives. All goals must be realistic and pertinent to the recipient-patient's capabilities and desires. The achievement of short-term goals should lead to achievement of the long-term goals. Goals must be reassessed periodically for appropriateness.

(C) Plan of services. For each short- and long-term goal, the social services director must develop a plan which specifies what social services will be provided or action taken, by whom, and by what date. The plan of services should also specify types of activities which would meet the identified needs of the recipient-patient. The plan of service must be specific to each goal and state the connections and interrelationship between goals, thus providing for an overall cohesiveness of services provided the recipient-patient. Also, the plan must clearly identify the method of coordination of service delivery.

(4) Location of social care plans. The social care plans must be placed in the recipient-patient's medical record. They must be signed and dated by the social services

director each time a revision is made. If the facility contracts for the services of a qualified social services consultant, the consultant must also review and sign the plan at least quarterly. Adequate space must be provided in the plan for several comments.

.005. Referring for Social Services.

(a) Written procedures. Facilities not providing social services must have written procedures for identifying the social and emotional needs of the recipient-patients and for referring them to appropriate social service agencies in the community. The policies and procedures must identify which agencies in the community will provide services and what specific services are to be provided, as well as the procedures for their arrangement and delivery.

(b) Liaison. In facilities which refer for social services, the activities director must be designated in writing to act as the facility's liaison with social, health, and community agencies. This individual is responsible for the referral of recipient-patients to these agencies and for the proper documentation in the recipient-patient's records of the results. In the absence of the activities director, the facility administrator or other designated professional staff person may serve temporarily (maximum of three months extension approved by the local Texas Department of Health long-term care unit) as the facility's liaison with social, health, and community agencies.

(c) Reviews. Each review of the social care plan must contain the recipient-patient's identified social and emotional needs and the specific arrangements made for the delivery of services. The review must be documented in the medical record.

Issued in Austin, Texas on November 25, 1981.

Doc. No. 818625

Marlin W. Johnston

Commissioner

Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982

For further information, please call (512) 441-3355, ext. 2037.

Rehabilitation Services/Goal-Directed Therapy 323.29.36

New Rules 326.29.36.001-.007 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Provision of Services. Written objectives, policies, and procedures for rehabilitation services must be established by the facility's therapists and representatives of the medical, administrative, and nursing staff.

(1) Rehabilitation needs must be met either directly by the facility staff or by contract with qualified outside sources.

(2) Safe and adequate space and equipment must be available for the services offered.

(3) Services must be provided under a written plan of treatment based on the physician's diagnosis and orders, and must be documented in the recipient-patient's medical record.

(4) An assessment and evaluation of the recipient-patient's rehabilitation needs must be integrated into the recipient-patient's overall plan of care.

.002. Staff and Qualifications. Services must be provided within specific disciplines by qualified therapists, assistants, and supporting personnel supervised by the qualified therapist. A qualified therapist is:

(1) A speech-language pathologist who
(A) is eligible for a certificate of clinical competence in speech-language pathology granted by the American Speech-Language-Hearing Association in effect on January 17, 1974, or

(B) meets the educational requirements for certification and has or is in the process of accumulating the supervised clinical experience required for certification;

(2) An audiologist who
(A) is eligible for a certificate of clinical competence in audiology granted by the American Speech-Language-Hearing Association, in effect on January 17, 1974, or

(B) meets the educational requirements for certification and has or is in the process of accumulating the supervised clinical experience required for certification;

(3) Occupational therapist (qualified consultant) who

(A) is a graduate of an occupational therapy curriculum accredited by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association,

(B) is eligible for certification by the American Occupational Therapy Association under its requirements in effect on the publication of these rules, or

(C) has two years experience as an occupational therapist, and has achieved a satisfactory grade on a proficiency examination approved by the secretary of health and human services, except that such determinations of proficiency do not apply to persons initially licensed by a state or seeking initial qualifications as an occupational therapist after December 31, 1977;

(4) Occupational therapy assistant who

(A) is eligible for certification as a certified occupational therapy assistant (COTA) by the American Occupational Therapy Association under its requirements in effect on the publication of these rules, or

(B) has two years of experience as an occupational therapy assistant, and has achieved a satisfactory grade on a proficiency examination approved by the secretary of health and human services, except that such determination of proficiency will not apply to persons initially licensed by a state or seeking initial qualification as an occupational therapy assistant after December 31, 1977;

(5) A physical therapist who

(A) is a graduate of a program in physical therapy approved by the American Physical Therapy Association or by the Council on Medical Education of the American Medical Association,

(B) has two years experience as a physical therapist and has achieved a satisfactory grade on a proficiency examination approved by the secretary of health and human services, offered until December 31, 1977,

(C) was licensed or registered before January 1, 1966, and has had 15 years of full-time experience as a physical therapist before January 1, 1970,

(D) has graduated from a state-approved, four-year college program in physical therapy before January 1, 1966, or

(E) is currently licensed as a physical therapist by the Texas Board of Physical Therapy Examiners;

(6) A physical therapist assistant who

(A) is a graduate of a two-year, college level program approved by the American Physical Therapy Association,

(B) has equivalent training and experience, or

(C) is licensed as a physical therapist assistant by the Texas Board of Physical Therapy Examiners; and

(7) Physical therapy aide is a person who aids in the practice of physical therapy and whose activities require on-the-job training and on-site supervision by the physical therapist, but does not mean certified corrective therapists or adaptive or corrective physical education specialists.

.003. Therapist Responsibilities. Therapists must:

(1) ensure the safety, effectiveness, and cleanliness of the equipment used;

(2) perform assessments and develop required care plans and progress reports;

(3) submit reports of the recipient-patient's progress to the physician within two weeks after initial therapy and at least every 30 days thereafter as necessary.

.004. Goal-Directed Therapy.

(a) The facility must either furnish goal-directed therapy (physical therapy, occupational therapy, speech pathology) as a certified Title XVIII provider of services or must have written agreements with Title XVIII providers of rehabilitation services, if there are providers within a 50-mile radius of the facility. This agreement must provide a basis for effective working arrangements under which goal-directed therapy is made available to recipient-patients when needed and ordered by the attending physician. The state agency may waive the requirement for the written agreement for a facility which has no Title XVIII provider of rehabilitation services within a 50-mile radius or which has exhausted all reasonable possibilities to enter into such agreements and has documentation on file to this effect. If a facility has such a waiver, it must not admit or retain recipient-patients in need of goal-directed therapy.

(b) The goal-directed therapy system includes physical therapy, occupational therapy, and speech pathology services. These services must be ordered by the attending physician.

(c) Payment for therapy services for recipient-patients with Medicare coverage is billed to Medicare. Prior authorization by the Texas Department of Human Resources is required for recipient-patients with only Medicaid coverage.

(d) The Texas Department of Human Resources will pay facilities for therapy services provided for Medicaid-eligible recipient-patients who are not eligible for Medicare. Payment will be determined by selecting the lower of the following rates:

(1) the maximum allowable Medicaid rate per visit as determined by the Board of Human Resources;

(2) the therapy provider's interim rate per visit as determined by Medicare;

(3) the provider's customary charge per visit.

(e) The Texas Department of Human Resources will pay contracted facilities an administrative fee as determined

by the Board of Human Resources for activities associated with processing claims for payment for therapy services.

(f) Coverage for physical therapy includes evaluation and treatment concerning improvement or restoration of functions which have been impaired by illness or injury. The purpose is to improve or restore the recipient-patient's ability to perform transfer or ambulation activities. The services must be provided with the expectation that the recipient-patient's functioning will improve measurably in 30 days.

(g) Coverage for occupational therapy includes evaluation and treatment concerning improvement or restoration of functions which have been impaired by illness or injury. The purpose is to improve or restore the recipient-patient's ability to perform self-care activities. The services must be provided with the expectation that the recipient-patient's functioning will improve measurably in 30 days.

(h) Coverage for speech pathology includes evaluation and treatment of communication disorders that have been acquired or are related to loss of hearing. Treatment must be provided with the expectation that the recipient-patient's communication will improve measurably in 30 days.

.005. Screening. A registered nurse must screen recipient-patients at admission or readmission. When an evaluation by a therapist is indicated by the screening process, the registered nurse contacts the attending physician to discuss the findings.

.006. Staff Training. In-service educational training is required for facility staff assigned to the goal-directed therapy system.

.007. Qualifications for Outpatient Physical Therapy and Speech Pathology. If the facility provides outpatient physical therapy or speech pathology services, it must meet health and safety regulations pertaining to those services specified in 42 Code of Federal Regulations Subpart Q, §§405.1717-405.1719, 405.1723, and 405.1726.

Issued in Austin, Texas on November 25, 1981.

Doc. No. 818626 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982
For further information, please call (512) 441-3355, ext. 2037.

Services and Supplies Included in the Vendor Payment 326.29.39

New Rules 326.29.39.001-.006 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Vendor Payment.

(a) A nursing facility provides, under the terms of the contract, for the total medical, nursing, and psychosocial needs of each recipient-patient.

(b) The daily rate is compatible with reasonable charges consistent with efficiency, economy, and quality of total care. Care must meet the health needs and promote maximum well-being of recipient-patients. It includes:

(1) Social care.

(2) Regular, special, or supplemental diets.

(3) Nonlegend drugs. This reference does not include alcoholic beverages unless prescribed for medicinal purposes. Alcoholic beverages not prescribed for medicinal purposes are the expense of the recipient-patient or the family. To determine if the alcoholic beverage is prescribed for medicinal purposes, the medical record must include the amount of alcohol prescribed for the recipient-patient, the frequency the alcohol is to be administered to the recipient-patient, and the medical reason for the alcohol. Vendor payment will not be made for any deviation from this required documentation.

(4) Medical accessories, equipment, and supplies.

(c) Other services included in the daily rate, but not all inclusive, are:

(1) hygienic care of the hair (including trimming male patient's hair),

(2) regular laundry services (except dry cleaning).

(d) When services are provided for the recipient-patient which are not included in the daily rate, payment will be arranged between the recipient-patient and the provider of services. Exceptions to this are listed in Rule 326.29.39.002. It is not permissible for the facility to collect payment from the recipient-patient to pay the provider of services.

.002. Additional Charges.

(a) An SNF or ICF may charge for oxygen. In ICF facilities, parenteral fluids, when ordered by the physician, may be charged at the usual and customary rate for the unaltered fluid content only. This charge may only be made when the parenteral fluids are used therapeutically or for supplementary feedings. This must be charted in the recipient-patient's medical record as to frequency and quantity, and entered in the recipient-patient's financial record as to quantity and amount charged. If prescribed by the physician, the cost of oxygen may be charged to the recipient-patient at a rate determined by the Department of Human Resources. Oxygen, so used, must be charted in the recipient-patient's medical record as to time and quantity. In addition, to substantiate the amount charged, documentation must be entered in the recipient-patient's financial record as to time, quantity, and amount charged.

(b) The Texas Department of Human Resources will not make vendor payments when a Title XIX recipient-patient is absent from the facility due to:

(1) hospitalization, or

(2) therapeutic home visits that extend beyond three days.

(c) The facility may enter into a written agreement with the recipient-patient or responsible party to reserve a bed. The facility may charge the recipient-patient an amount not to exceed the Texas Department of Human Resources' recognized daily vendor rate according to the recipient-patient's classification at the time the individual leaves the facility. All bed-hold charges must be documented in the recipient-patient's financial record at the time the bed-hold reservation service was provided.

.003. Supplementation of Vendor Payments.

(a) Participation will be limited to providers of services who accept, as payment in full, the amounts paid in accordance with the fee structure approved by the Texas Department of Human Resources.

(b) Providers who have a contract with the Texas

Department of Human Resources and who solicit contributions, donations, or gifts from Medicaid recipient-patients or family members will be in noncompliance with the federal requirement.

(c) Medicaid recipient-patients and their families must be informed in writing that their right to nursing facility services is not contingent upon contributions. Copies must be given to the recipient-patient, family, and responsible party.

(d) When a recipient-patient, family member, or guardian does make a free-will contribution, the nursing facility administrator executes a statement for signature by both the contributor and the administrator. It will state that the services provided in the nursing facility are not predicated upon contributions and that the gifts are free-will contributions.

.004. Penalties for Supplementation. A felony conviction, with a fine of not more than \$25,000 or imprisonment for not more than five years or both, can be imposed on anyone in the facility who knowingly and willfully:

(1) accepts from the recipient-patient money or other considerations in excess of rates established by the state for services provided under a state plan approved under Title XIX; or

(2) charges, solicits, accepts, or receives any gifts, money, donation, or other consideration in addition to amounts required to be paid under a state plan approved under Title XIX (other than charitable donations from an organization or a person unrelated to the recipient-patient) as a precondition for admitting or keeping a recipient-patient in the nursing facility when the cost of the services is paid for under the state plan.

.005. Provision of Durable and Consumable Medical Equipment.

(a) Facilities are required to furnish and maintain, in good repair, equipment necessary to meet the needs of the recipient-patient such as the following:

(1) standard equipment which can be used by more than one person, such as wheelchairs, adjustable chairs, walkers, crutches, and canes;

(2) assistive devices that are used to assist individuals in accomplishing a task.

(b) Facilities are also required to furnish consumable medical equipment necessary to meet the needs of the recipient-patient.

(c) Payment for this equipment is an allowable cost and is reimbursable under the cost-related reimbursement methodology if the facility meets the definition of 1861(j)(1) of the Social Security Act. If it does not, it must use Title XVIII as a third party resource to provide this equipment.

(d) Additional equipment which must be provided by the facility for recipient-patient care is reimbursed under Title XVIII, Part B, benefits. Indwelling catheters, ileostomy bags, colostomy bags, and other related supplies are considered prosthetic devices and must be provided by the facility. For Medicare beneficiaries, this equipment must be paid for by Medicare if the facility is not participating as a Medicare facility. For Medicare facilities, this equipment is an allowable cost and is reimbursed under the cost-related reimbursement methodology.

(e) Coverage of durable and consumable medical equipment as a Part B benefit is applicable only when the Medicare beneficiary is residing in his own home, or an institution which can be defined as his own home.

(f) If a recipient-patient desires equipment for full-time

use as a convenience rather than a documented need, its purchase is the responsibility of the recipient-patient. In such cases, only the recipient-patient can use the equipment, and it becomes the personal property of the recipient-patient and is so identified.

(g) Upon discharge from the facility, the recipient-patient must retain the equipment which he has purchased. If the recipient-patient dies, the purchased equipment must be transferred to the estate. If it is donated or sold to the facility by the recipient-patient or the estate, the transaction must be documented.

.006. Therapeutic Visits Away from the Facility.

(a) The nursing facility must have written policies and procedures governing therapeutic visits away from the facility.

(b) The following conditions must be met for the facility to receive vendor payment.

(1) The recipient-patient's plan of care provides for physician-authorized therapeutic visits.

(2) A visit must not exceed three days. If it does, payment will be made for the first three days and the discharge form will be submitted by the facility, effective the fourth day.

(3) The facility must maintain a record of each therapeutic visit away from the facility. These records will be available for review by Texas Department of Human Resources staff and a quarterly summary of visits will be completed by this staff.

(4) Verification that therapeutic visits took place and were documented will be a part of the audit procedures during the Texas Department of Human Resources' audit of the facility. The department will not pay for therapeutic visits which were not documented.

(c) The Texas Department of Human Resources will not make vendor payments for any time a Title XIX recipient-patient is away from the nursing facility due to hospitalization.

Issued in Austin, Texas on November 5, 1981.

Doc. No. 818627 Marlin W. Johnston
 Commissioner
 Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982
 For further information, please call (512) 441-3355 ext. 2037.

Medical Records 326.29.40

New Rules 326.29.40.001-.003 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. General Requirements

(a) The facility must maintain medical records that include clinical, medical, and psychosocial information on every recipient-patient.

(b) The facility must designate a supervisor of medical records to be responsible for developing and guiding the implementation of a plan for the overall operation of the medical record service.

(c) The facility must protect records against loss, damage, destruction, and unauthorized use.

(d) The facility must safeguard confidentiality of medical record information. The facility must release confidential medical information under court order or by written authorization from the recipient-patient. It may also be released if required to carry-out administration of the Texas Medical Assistance Program. If the recipient-patient is unable to authorize release, it must be done in accordance with Texas law.

(e) The facility must regularly analyze medical records for completeness during the recipient-patient's stay and must record information as a result of that analysis. Medical records must also be analyzed when the recipient-patient is discharged or dies.

(f) The facility must retain records until:

(1) audited and all audit questions are resolved;

(2) in the case of a minor, three years after he comes of age under state law; or

(3) three years after the date the recipient-patient is discharged, whichever period is longer.

(g) Medical records must be available for review by the Texas Department of Human Resources, the Texas Department of Health, and the Department of Health and Human Services.

(h) The medical records must be filed in sequence.

.002. Staff and Qualifications.

(a) Qualifications. In a skilled nursing facility, the person designated as supervisor of medical records must:

(1) Be a registered record administrator (RRA), or an accredited record technician (ART); or

(2) Have training, experience, and demonstrated supervisory competency appropriate to the scope and complexity of services performed as determined by the state survey agency. This person must receive consultation from a medical record consultant who is a RRA or ART and has management experience or specialized training in long-term care consulting.

(b) Contract. Unless the medical records supervisor is employed by the facility, the supervisor and the facility are required to have a current written contract. The contract must be dated and signed by both parties and it must include:

(1) financial arrangements and charges,

(2) responsibilities of both parties,

(3) general terms of agreement,

(4) objectives,

(5) functions of both parties,

(6) duration of agreement.

(c) Functions of the medical records supervisor are to:

(1) Advise in the development of the nursing facility's policy and procedure manual and medical records manual to ensure that records are complete and processed according to Texas Department of Health Licensure Standards and American Medical Record Association standards.

(2) Advise in the development of medical records to meet the needs of the facility.

(3) Assist in clarifying and describing functions of the medical record department for all personnel.

(4) Assist in promoting good communications among all personnel concerned with medical records, such as administrative staff, professional staff, medical record employees, and others.

(5) Advise in the development of policies and pro-

cedures regarding the retention and safekeeping of medical records.

(6) Advise in the implementation of policies to preserve the confidentiality of information in medical records.

(7) Assist in developing and conducting in-service training programs for nursing and medical record personnel.

(8) Assist and advise administrative and medical staff in maintaining medical records which comply with licensing and certification standards.

(9) Assist with the review committee activities if appropriate.

(10) Train personnel in records management and maintenance.

(11) Periodically evaluate record service.

(d) Frequency. The frequency of medical records supervision must be determined by the status of the records. When a facility has adequate records, a supervisor would be needed less often than in a facility with poor records, or one that is newly opened and needs assistance in establishing a medical record system. For facilities with good records, a visit every 180 days is sufficient. When poor records are cited as a deficiency, the supervisor must visit the facility as required by the plan of correction.

(e) Written reports. The supervisor must inform the administrator through written, signed reports retained by the administrator, of recommendations, plans for implementation, and continuing assessment. Each report must contain:

(1) objectives of the visit;

(2) scope of investigation;

(3) findings;

(4) conclusions with recommendations.

(f) Each report must also contain the date, time of arrival, and time of departure. The information contained in each report must be shared with the records supervisor and personnel.

.003. Content.

(a) The medical record must include the following identification information:

(1) full name of recipient-patient;

(2) home address, including street address, city, and state;

(3) social security number;

(4) Texas Department of Human Resources recipient number, when applicable;

(5) Medicare claim number, when applicable;

(6) marital status;

(7) date of birth;

(8) sex;

(9) religious preference;

(10) ethnic group;

(11) usual occupation (kind of work engaged in most of working life, even if retired);

(12) birthplace;

(13) father's name;

(14) mother's maiden name;

(15) dates of service in U.S. armed forces;

(16) name, address, and telephone number of referral agency or hospital from which admitted;

(17) personal physician and alternate, when applicable;

(18) name of dentist;

(19) name and address of next of kin or other responsible person;

(20) admitting diagnosis;

(21) final diagnosis;

(22) disposition;

(23) name of funeral home, if appropriate;

(24) other useful identifying data.

(b) The medical record must contain the following medical information. The documentation outlined in paragraphs (1) and (2) of this subsection must be obtained. However, either will be acceptable for compliance at the time of survey by the state survey agency.

(1) The record must contain an initial medical evaluation, including history, physical examination, diagnoses, and an estimate of restoration potential. The history and physical examination of each recipient-patient must be completed prior to admission if possible, or within 48 hours after admission in SNFs and within 14 days in ICFs. If admission is from a hospital, the facility will be allowed seven work days to receive this information from the hospital.

(2) The record must include the authentication of any hospital diagnoses. This may be in the form of a hospital discharge summary sheet, a report from the recipient-patient's hospital or attending physician, or a transfer form.

(3) The record must contain the physician's signed and dated orders, including medication, treatment, diet, and restorative and special medical procedures required for the safety and well-being of the recipient-patient.

(4) The record must contain a comprehensive, interdisciplinary, medical-social plan explaining the precise reasons for placement and containing documentation showing that the plan is reassessed periodically. If alternate care is feasible, a qualified social worker (social services staff from the nursing facility, outside agency, or long-term care unit) must consult with the nursing facility staff to develop an alternate care plan for the physician's approval. The plan also must specify the medical-social plan of treatment for the recipient-patient. The medical record must indicate that care is authorized only by a physician.

(5) The record must contain physician's progress notes signed by the physician for each visit or consultation.

(6) The record must include arrangements for the medical care of the recipient-patient in the physician's absence, and specific instructions about how such care may be obtained.

(7) The medical record must contain observations made by nursing personnel. In intermediate care facilities, observations must be recorded daily. In skilled nursing facilities, observations must be recorded on each of the three shifts for each 24-hour period. The observations must show at least the following:

(A) admitting or accessing information including:

(i) date, hour, how transported, and who accompanied,

(ii) known allergies, adverse drug reactions, and idiosyncrasies,

(iii) physical condition including hygiene, appearance, height and weight (when obtainable), vital signs, age, skin condition (abrasions, lesions, decubiti), deformities, mobility status, and vision, hearing, and continent status,

(iv) mental status (alert, labile, oriented, disoriented, comatose) including response to nursing facility placement,

(v) prosthetic devices or other appliances such as

eyeglasses, dentures, hearing aids, walkers, colostomy or ileostomy bags, and indwelling catheters;

(B) current information including:

(i) PRN medications and results,

(ii) treatments and any notable results,

(iii) physical complaints, changes in clinical signs and behavior, mental and behavioral status, and all incidents or accidents,

(iv) flow sheet items which may include bathing, restraint documentation, elimination, fluid intake, diet, deviations from normal including weight gain or loss, vital signs, ambulation status, positioning, continency status and care, and weight.

(C) discharge information including:

(i) date, hour, how transported, and who accompanied,

(ii) cause and physical condition at discharge,

(iii) disposition of personal effects and drugs,

(iv) name of family members notified.

(8) In skilled nursing facilities, the charting of nurses' notes is the responsibility of the charge nurse for the appropriate shift. This may be delegated to a ward clerk who may chart nursing action after the fact. The clerk's charting must be verified and signed at the end of each shift by the charge nurse.

(9) The record must contain the date and hour of all drugs and treatments. Special procedures performed for the safety and well-being of the recipient-patient must be included in the medical record and may include:

(A) laboratory and x-ray reports,

(B) consultation reports,

(C) dental reports,

(D) social service notes,

(E) recipient-patient care referral reports.

(c) The medical record must contain a written nursing care plan for each recipient-patient, based upon the medical care plan. The nursing care plan will describe nursing action for continuity of care on a 24-hour basis. In formulating and maintaining a nursing care plan:

(1) Initiate the plan after the recipient-patient has been observed and his needs have been assessed.

(2) Enter the date initiated.

(3) Keep the plan as a permanent record.

(4) Keep the plan as long as other clinical records are kept.

(5) Include at least the following in the plan:

(A) identification data—name, age, diagnosis, attending physician, room number;

(B) recipient-patient problems and needs;

(C) approaches or actions to meet needs;

(D) long-term goals and short-term objectives.

(6) The plan must be reviewed, revised, and documented when a recipient-patient's needs change or at least every 30 days for the first 90 days and every 90 days thereafter in SNFs and every 90 days in ICFs.

(7) The plan must be available to all direct recipient-patient care staff.

(d) The SNF must have a centralized, coordinated program for each recipient-patient for continuing care after discharge. When alternate care is considered, the facility must consult with the attending physician and a qualified social worker. The following procedures will be adhered to during discharge planning:

(1) The administrator delegates responsibility for

discharge planning in writing to one or more of the facility's staff, with consultation, if necessary. This service also may be provided by an outside health, social, or welfare agency.

(2) The written discharge plan must include:

(A) which facility staff or which outside agency is responsible for discharge planning;

(B) how the facility staff or outside agency will perform this function, including its authority and its relationship with the facility staff;

(C) when each individual's need for discharge planning will be determined (not later than seven working days after admission);

(D) when re-evaluations of each individual's discharge plan will be made;

(E) the local resources available to the facility, the individual, and the attending physician to assist in developing and implementing individual discharge plans;

(F) the provisions for periodic review and re-evaluation of the facility's discharge planning program.

(3) When the recipient-patient is discharged, the facility must provide to the person responsible for post-discharge care information which will ensure the optimal continuity of care. This may include:

(A) current diagnosis;

(B) prior treatment;

(C) rehabilitation potential;

(D) advice on immediate physical care;

(E) pertinent social information.

(4) The recipient-patient's discharge plan, results of the plan, and information on alternate community resources to which the recipient-patient may be referred must be available to the utilization review committee.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818628 Marlin W. Johnston
 Commissioner
 Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982

For further information, please call (512) 441-335, ext. 2037.

Medical Direction 326.29.42

New Rules 326.29.42.001-.003 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Introduction. Skilled nursing facilities must have a written agreement with a physician to serve as the medical director on a part-time or full-time basis, as appropriate for the needs of the recipient-patients and the facility unless waived by the secretary of health and human services. The physician must not have peer restrictions in regard to total patient oversight in medically oriented institutions.

.002. Functions. The medical director must be responsible for:

(1) coordinating medical care;

(2) developing written guidelines which must be approved by the governing body and include standard operating procedures for physician practices in the facility;

(3) liaison with administrative and medical staffs;
 (4) ensuring that physician's orders are written as required;

(5) reviewing and evaluating recipient-patient care policies and procedures;

(6) acting as a consultant to the facility in matters related to recipient-patient care policies and procedures;

(7) assessing employee health status;

(8) reviewing reports of accidents which occur on the premises to identify health and safety hazards.

.003. Waiver of the Medical Direction Requirement. The secretary of health and human services may waive the requirements for a full-time or part-time medical director for appropriate periods if, based on documentation by the state survey agency, the secretary determines that:

(1) the facility has made and continues to make a good-faith effort to comply with the medical direction requirement;

(2) the facility is located in an area where there are not enough physicians to comply with the medical direction requirement without seriously reducing the availability of physician services in the area.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818629 Marlin W. Johnston
 Commissioner
 Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982

For further information, please call (512) 441-3355, ext. 2037.

Physical Environment 326.29.50

New Rules 326.29.50.001-.010 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Introduction. The facility must provide a physical environment that promotes the health, safety, and well-being of the recipient-patients and others. The facility must comply with all applicable federal, state, and local codes governing construction to ensure safety.

.002. Sleeping Rooms.

(a) Sleeping rooms must be designed and equipped for the individual's comfort. There must be a minimum of 100 square feet of floor space for each bed in single rooms and 80 square feet of floor space in rooms with multi-beds. The secretary of the Department of Health and Human Services may waive the square footage requirement for Medicare-only and Medicare/Medicaid participating facilities, if rigid enforcement would result in unreasonable hardship on the facility. The waiver must not adversely affect the health and safety of the recipient-patients. For Medicaid-only facilities, the state survey agency may waive the square footage requirement. A facility may request a waiver by contacting the Texas Department of Health.

(b) Wards must not contain more than four beds. The total number of beds in wards must not exceed the total number of beds in single or semi-private rooms. In multi-patient

bedrooms, the equivalent of flameproof cubicle curtains must be available for recipient-patient privacy.

(c) Bedrails, when ordered by the attending physician, must be affixed to both sides of the recipient-patient's bed.

(d) Toilet, bathing, and handwashing facilities must be located in or near recipient-patients' rooms and be appropriate in number, size, and design to meet the needs of the recipient-patients as determined by the state survey agency. Bathrooms and showers must be in a separate room or compartment large enough to accommodate a wheelchair and an attendant. At least one toilet, enclosed in a separate room or stall, must be provided for every eight beds. Secured grab bars must be installed in toilet rooms and bathing compartments.

(e) Each bedroom must have direct access to a corridor and have at least one exterior window.

(f) Doors to recipient-patient bedrooms are never to be locked except as provided in the National Fire Protection Association, Life Safety Code .101.

.003. Multi-Purpose Rooms. The facility must have clear, orderly, and suitably furnished areas of adequate size for dining, social, and recreational activities. If an area is used for several purposes, there must be enough space to accommodate all activities and to prevent their interference with each other.

.004. Kitchen and Dietetic Service Areas. The facility must have kitchen and dietetic service areas adequate to meet the food service needs. These areas must be vented, arranged, and equipped for sanitary refrigeration, storage, preparation, and serving of food, as well as for dish and utensil cleaning and refuse storage and removal.

.005. Communication. Each nursing station must be equipped to register recipient-patients' calls through a communication system from patient areas including bed, toilet, and bathing facilities. The call cord does not have to be accessible in all parts of the room. The system must be connected to on and off switches operable at each bed, toilet unit, and bathing area.

.006. Comfort. The facility must provide a functional, safe, sanitary, and comfortable environment for recipient-patients, personnel, and others.

(1) Pest control. The facility must have an effective, safe, and continuing pest control system against insects and rodents. A contract with a licensed pest control company is acceptable.

(2) Lighting. All inside areas occupied by people, machinery, and equipment, as well as parking lots and approaches to buildings, must have adequate lighting. Recipient-patient rooms must have general lighting and a reading light for each recipient-patient. Candles, kerosene lanterns, and other open flame methods of illumination are prohibited.

(3) Noise levels. Sound must be kept at a comfortable level.

(4) Temperature. For all areas occupied by recipient-patients, the facility must maintain indoor temperature and humidity within a normal comfort range by heating, cooling, or other means. Beds must be placed so that recipient-patients are not exposed to uncomfortable temperatures.

(5) Ventilation. All areas within the facility must be ventilated. Gravity ventilation is an acceptable form of mechanical ventilation. Bathrooms, areas for soiled

materials, and other odor-producing rooms must have mechanical ventilation to the outside.

(6) Furnishings. The facility must provide furnishings and interior decorations which promote a homelike atmosphere. Recipient-patients must be permitted and encouraged to have personal possessions in their rooms that do not interfere with their care, treatment, or well-being, or that of other recipient-patients. Floors must have a nonslip finish. Loose floor coverings, such as throw or scatter rugs may not be used. Entrance mats and mats for recipient-patients' rooms must be nonslip.

.007. Linens and Clothing. The facility must ensure that every recipient-patient has clean linen at all times. There must be three sets of linen for normal recipient-patient occupancy, with a set of bed sheets defined as two sheets. Usual occupancy does not mean bed capacity. Soiled linen and clothing must not be sorted, laundered, rinsed, or stored in bedrooms, patient rooms, kitchens, or food storage areas. Soiled linen and clothing may be rinsed in a bathroom commode. Mobile hampers or related equipment may be used, provided they are emptied and cleaned as necessary.

.008. Infection Control. A skilled nursing facility must establish a program for identifying, investigating, preventing, and controlling infections; maintaining a sanitary environment; and reporting to appropriate authorities. Written procedures in aseptic and isolation techniques must be reviewed and revised annually by the infection control committee. The committee is composed of the medical and nursing staff, administration, dietetic, pharmacy, housekeeping, maintenance, and other service staff responsible for infection control in the facility. The committee meets as needed, but at least semiannually. The program must include infection control procedures for:

(1) Food handling, laundry, disposal of environmental and patient wastes, pest control, traffic control, visiting rules, and patient care practices for possible sources of infection.

(2) Monitoring the health status of employees.

(3) Monitoring staff performance to ensure that policies and procedures are being followed.

(4) Ensuring that aseptic procedures and isolation techniques are followed. Provisions must be made in SNF and ICF facilities for isolating patients with infectious diseases in well-ventilated, single bedrooms with separate toilet and bathing units.

.009. Engineering and Maintenance.

(a) Patient care equipment. The facility must maintain and service recipient-patient care equipment in accordance with the manufacturer's recommendations to ensure that it is kept safe, sanitary, and operational.

(b) Facility equipment. The facility must maintain plumbing, heating, electrical, mechanical, water, kitchen appliances and equipment, and other systems in a safe operating condition.

(1) The facility must have a water supply system that is safe and meets the needs of the facility. Water must be at sufficient pressure to operate all fixtures and equipment during maximum demand periods. There always must be enough hot water for recipient-patient use.

(2) The facility must ensure that the temperature of hot water for bathing and handwashing by recipient-patients is automatically regulated by control valves and is in confor-

mance with Texas Department of Health Licensure Standards.

(3) Laundry facilities must be located in areas separate from recipient-patients' units.

(4) Operating elevators must be available in the facility if recipient-patients' bedrooms are located on floors above the street level. Installation of elevators and dumb-waiters must comply with applicable codes within the jurisdiction of the building location. Elevators must be large enough to accommodate a wheeled stretcher.

(5) Each nursing unit must have the following service areas: nursing station, drug storage and preparation area, access to a refrigerator for drugs requiring it, and a utility room. The nursing unit must provide equipment for charting and record keeping.

(6) The drug preparation area must be well lighted and have hot and cold running water. This does not apply in the case of a unit-of-use distribution cart.

(7) The utility room must have separate areas for clean and soiled materials, such as linen, equipment, and supplies.

(8) Corridors must be equipped with firmly secured handrails on each side.

(c) Emergency power, heat, and water. The facility must have a contingency plan to ensure a constant supply of power, heat, and potable water. An emergency electrical system must be adequate to power lights at nursing stations, telephone switchboard, night lights, exit and corridor lights, boiler room, and fire alarm system until such time as other arrangements can be made.

.010. Housekeeping. The facility must have enough housekeeping personnel and equipment to ensure that the interior and exterior of the building are clean, sanitary, and orderly. Walls and ceilings must be kept clean and well-maintained. The grounds must be reasonably free of refuse and litter. Garbage and trash containers must be cleaned inside and out daily. In a skilled facility, an employee must be designated as responsible for these services and for supervision and training of housekeeping personnel as specified in Senate Bill 9. The facility may have a contract with an outside resource for housekeeping services. Nursing personnel are not to be assigned routine housekeeping duties.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818630 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982
For further information, please call (512) 441-3355, ext. 2037.

Safety 326.29.52

New Rules 326.29.52.001. and .002 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Fire Safety. The facility must meet the provisions of the 1973 edition of the Life Safety Code of the National Fire Protection Association (NFPA) that apply to nursing

homes. A facility may choose to use the fire safety evaluation system to meet Life Safety Code requirements.

(1) Any facility which on May 31, 1976, complied with the requirements of the 1967 edition of the Life Safety Code, with or without waivers, complies with this standard as long as the facility stays in compliance with that edition of the code.

(2) Waivers. Specific waivers may be obtained (from the secretary of the Department of Health and Human Services or the state survey agency, depending on the type of participation) if meeting the code would be an unreasonable hardship for the facility. Waivers, if allowed, must not adversely affect the health and safety of the recipient-patients. The facility must contact the Texas Department of Health to request a waiver.

(3) Nonflammable medical gases. The use or installation of nonflammable gases, such as oxygen and nitrous oxide, must comply with NFPA 56B, Respiratory Therapy, 1973, and NFPA 56F, Nonflammable Medical Gases, 1973.

(4) Safety requirements for blind and nonambulatory recipient-patients. A facility with two or more stories which is not of at least two-hour fire resistive construction, and is participating on the basis of a waiver, may not have blind, nonambulatory, or physically handicapped recipient-patients above the street-level floor unless the facility is one of the following construction types:

(A) one-hour protected noncombustible construction,

(B) fully sprinklered, one-hour protected ordinary construction,

(C) fully sprinklered, one-hour protected wood-frame construction.

.002. Disaster Plan. The facility must have a written plan with procedures to be followed in an internal or external disaster and for the care of casualties. The plan and procedures must be prominently posted throughout the facility, periodically reviewed, and rehearsed on each shift each quarter. The plan must be submitted initially and every two years thereafter to the Texas Department of Health for evaluation and approval.

(1) The disaster plan must include evacuation routes and procedures to be followed in the event of fire, explosion, or other disaster. The plan must also include procedures for the prompt transfer of casualties, medical records, medications, and notifications of appropriate persons.

(2) All employees must be familiar with the disaster plan and must be instructed in the location and use of the facility's alarm systems, fire-fighting equipment, and procedures.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818631 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982
For further information, please call (512) 441-3355, ext. 2037.

Recipient-Patient Activities 326.29.60

New Rules 326.29.60.001-005 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assis-

tance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. General Requirements.

(a) The facility must provide on-going activities to recipient-patients under a clearly defined plan. The activities must stimulate and promote the physical, social, emotional, and intellectual well-being of each recipient-patient.

(b) The nursing facility administrator must designate an activities director, qualified by training or experience in directing group activity, to be responsible for the program.

(c) The facility must have an activities plan, consistent with the attending physician's orders, for each recipient-patient.

(d) The facility must provide recreation areas, equipment, and materials. The materials and equipment must be sufficient to support the activities program.

.002. Activity Director Requirements.

(a) **Qualifications.** The person designated as activities director must meet one of the following criteria.

(1) The person is a therapeutic recreation specialist who:

(A) has completed a four-year course in an accredited college or university with a major study in or related to therapeutic recreation, and

(B) is eligible for registration as a therapeutic recreation specialist under the requirements set out by the National Therapeutic Recreation Society;

(2) The person is an occupational therapist who:

(A) is eligible for certification as an occupational therapist by the American Occupational Therapy Association,

(B) is a graduate of an occupational therapist educational program accredited jointly by the American Occupational Therapy Association and the Committee on Allied Health Education and Accreditation of the American Medical Association, or

(C) has at least two years experience as an occupational therapist as determined by the state survey agency;

(3) The person is an occupational therapy assistant who:

(A) is eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association,

(B) is a graduate of an occupational therapy assistant program accredited by the American Occupational Therapy Association, or

(C) has at least two years experience as an occupational therapist as determined by the state survey agency;

(4) The person has:

(A) a master of social work degree,

(B) a bachelor of social work degree, or

(C) a graduate degree in social or behavioral sciences with a specialty in gerontology;

(5) The person has completed 60 or more college credits toward a degree in social work or a degree in social or behavioral sciences with a specialty in gerontology and has completed the state-approved activity director course; or

(6) The person has:

(A) a high school diploma or equivalency certificate,

(B) completed a state-approved activity director course, and

(C) two years of full-time experience in a patient activities program in a health care setting.

(7) Individuals who do not meet any of the above criteria may serve in the capacity of an activities director, with consultation, if they successfully complete the state-approved activities director course no later than one year after beginning employment.

(8) An individual is exempt from completion of the state-approved course if:

(A) the person was employed full-time as an activities director continuously since January 1, 1976, or

(B) the person has successfully completed a 36-clock hour, activities director course prior to August 31, 1978, which is sponsored by an accredited educational institution or professional group or association.

(b) **Consultation.** If the designated activities director does not meet any of the preceding criteria, that person must receive consultation from an individual who does. The consultant must have at least one year experience as director of a long-term care activities program. Consultation must be provided at least four hours every two months for facilities with an average daily occupancy of 60 or less patients. For facilities with an average daily occupancy of over 60 patients, the consultation must be at least eight hours every two months. Consultation is not required after an activities director has been directing the program for one year and has completed the state-approved course.

(c) **Continuing education.** Activities directors must successfully complete eight hours of approved continuing education or equivalent continuing education units each year from the date of employment, in addition to any continuing education required by the Texas Department of Health Nursing Home Licensure Standards.

.003. Individual Activities Plan.

(a) **Completing the activities plan.** The activities director must complete an activities plan for each recipient-patient no later than 45 days after admission. The plan must be coordinated with other disciplines participating in recipient-patient care. The plan will be part of the total plan of care. It must be updated every 90 days or more often if necessary. Documentation must reflect each recipient-patient's progress toward goal achievement through participation in planned activities. The activities plan must be signed and dated by the activities director and other appropriate staff, such as the director of nursing. The plan and each review must be contained in the recipient-patient's medical record.

(b) **Contents of the activities plan.** The individual activities plan must be based on the social history, assessment of information on functional level, and the interest of the recipient-patient. It must be designed to encourage normal activities and a return to self-care. The plan must contain:

(1) An assessment of the recipient-patient's needs, problems, and interests. Types of needs may include, but are not limited to, on-to-one relationships, social interaction, reality orientation, intellectual stimulation, recreation, diversion, self-expression, or any other emotional, mental, or physical functioning condition which influences the nature and degree of participation in activities. The activities director may use a checklist to document activity interests.

(2) A set of short- and long-term goals for the recipient-patient, based on his documented needs, problems, and interests. The goals must be designed to meet individual needs for self-expression, development, social interaction,

and recreation while complementing the social and medical services being provided.

(3) Specific activities designed to achieve the goals. The activities must be within a level approved by the attending physician as suitable for the recipient-patient.

.004. Reviews. At each review of the activities plan, the activities director must document the recipient-patient's progress toward goal achievement. The goals and specific activities must be reassessed for suitability and compatibility with the recipient-patient's interest.

.005. Participation. The facility must involve the recipient-patient in the development and revisions of the activities plan as much as possible.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818632 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982
For further information, please call (512) 441-3355, ext. 2037.

Recipient-Patient Rights 326.29.62

New Rules 326.29.62.001-.017 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

.001. Introduction. The facility must protect and promote each recipient-patient's right to a dignified existence, self-determination, communication with and access to persons and services inside and outside the facility, and to exercise his legal rights.

.002. Exercise of Rights.

(a) The facility must permit each recipient-patient to exercise the rights and pursue the interests described in these rules without restraint, interference, coercion, discrimination, or reprisal.

(b) When a recipient-patient has been adjudicated incompetent, has been found by the attending physician to be medically incapable of understanding these rights, or has a communication barrier, the recipient-patient's rights may be exercised by his legal guardian or next of kin, sponsoring agency, or the representative payee (except when the facility itself is representative payee).

.003. Policies and Procedures.

(a) The facility must make accessible a written copy of the facility's policies and procedures to each recipient-patient, family, or legal guardian upon admission, request, and when revised. The facility must make copies available to representatives of any federally mandated ombudsman.

(b) The facility must obtain written confirmation from each recipient-patient, family, or legal guardian, that the recipient-patient has seen the copy and is aware of its content.

(c) The facility must post a copy of these policies and procedures in a conspicuous location.

.004. Freedom of Association.

(a) Each recipient-patient must be permitted to receive visitors and to associate freely inside or outside the facility with persons and groups of the recipient-patient's choice unless medically contraindicated (as documented by the attending physician in the recipient-patient's medical record).

(b) Recipient-patients must have the right to interact with members of the opposite sex and to have private visits. The request of a married couple to share a room should be honored unless medically contraindicated (as documented by the attending physician in the medical record).

.005. Access to Facility. Each recipient-patient's representative and representatives of any federally mandated ombudsman must be permitted access to the recipient-patient at all times.

.006. Recipient-Patient Council. The facility must permit the formation of a recipient-patient council by interested patients, must provide space for meetings, and must assist recipient-patients to attend meetings.

.007. Privacy. The facility must ensure the recipient-patient's right to privacy, particularly in the following areas:

(1) Accommodations. Living quarters must provide the recipient-patient privacy in bathing, dressing, sleeping, reading, and writing.

(2) Medical treatment. The facility must provide privacy to each recipient-patient during examinations, treatment, case discussions, and consultations. Staff must treat these matters confidentially.

(3) Telephone. The facility must:

(A) Maintain at least one telephone for recipient-patients. The telephone must be in an accessible location, be equipped with sound amplification, and be available to recipient-patients at all times.

(B) Permit recipient-patients to contract for private telephones at their own expense. The facility must not require private telephones to be connected to a central switchboard.

(4) Mail.

(A) The facility must not open or read a recipient-patient's incoming or outgoing mail without his written permission.

(B) If requested by a recipient-patient, the facility must help open and read incoming mail, and help address and post outgoing mail.

.008. Confidentiality of Records. The facility must maintain the confidentiality of a recipient-patient's personal and medical records and refuse their release to any individual outside the facility without the recipient-patient's written consent. Exceptions are in case of transfer to another facility, during Medicare and Medicaid surveys, or as otherwise required by law or third-party payment contract.

.009. Property.

(a) The facility must permit each recipient-patient to maintain and use his personal property. The number of personal possessions may be limited for health and safety reasons which are documented in the recipient-patient's medical record.

(b) Within 24 hours of admission, the facility must prepare a written inventory of the personal property a recipient-patient brings to the facility. For recipient-patients residing in facilities at the time these rules are adopted, the inventory must be completed within 30 days of adoption.

(c) The facility administrator or delegate must sign and retain the written inventory and must give a copy to the recipient-patient and responsible party.

(d) The facility must revise the written inventory to show when property is lost, destroyed, damaged, replaced, or supplemented.

.010. Right to Manage Personal Funds. The facility must allow the recipient-patient to manage his personal financial affairs, to designate another person to manage them, or to authorize in writing the facility to hold, safeguard, and account for his personal funds. The facility will act as a fiduciary agent when the facility holds, safeguards, and accounts for the recipient-patient's personal funds. If the Social Security Administration has determined that a Title II and Title XVI (SSI) benefit to which the recipient-patient is entitled should be paid through a representative payee, the provisions in 20 Code of Federal Regulation 404.1601-404.1610 (for OASDI benefits) and 20 Code of Federal Regulation 416.601-416.690 (for SSI benefits) apply.

.011. Protection of Funds.

(a) The facility must provide each recipient-patient and responsible party with a written statement at the time of admission that:

(1) Lists all services provided by the facility, distinguishing between services included in the facility's basic rate and those excluded and, if used, are charged to the recipient-patient.

(2) States that the recipient-patient is under no obligation to deposit funds with the facility.

(3) Describes the recipient-patient's right to select how personal funds will be handled. The following alternatives must be included:

(A) the right of a recipient-patient to receive, retain, and manage personal funds or to have this done by a legal guardian;

(B) the recipient-patient's right to apply to the Social Security Administration to have a representative payee designated for federal or state benefits to which he may be entitled;

(C) except when subparagraph (B) of this paragraph applies, the recipient-patient's right to designate in writing another person to manage personal funds;

(D) the facility's obligation, upon written authorization by the recipient-patient, to hold, safeguard, and account for the recipient-patient's personal funds.

(4) States that any charge for the facility handling a recipient-patient's personal funds is included in the facility's basic rate.

(5) States that the facility must have written permission from the recipient-patient or responsible party to handle his personal funds.

(6) States that if the recipient-patient becomes incapable of managing his personal funds and does not have a representative payee or responsible party, the facility is required to arrange for the management of the recipient-patient's personal funds.

(b) The facility must hold, safeguard, and account for the recipient-patient's personal funds upon written request. The facility may make arrangements with a federally or state insured banking institution to handle recipient-patient's personal funds. The facility is responsible for the quality and accuracy of compliance with the requirements of this section.

(c) The facility must maintain current, written, individual records of all financial transactions involving the recipient-patient's personal funds which the facility is holding, safeguarding, and accounting. The facility must keep these records in accordance with the American Institute of Certified Public Accountants' Generally Accepted Accounting Standards. The facility must also keep records in accordance with requirements of law for a trustee in a fiduciary relationship which exists for these financial transactions. The records must include at least the following:

(1) Recipient-patient's name.

(2) Identification of recipient-patient's representative payee or responsible party, if any.

(3) Admission date.

(4) Date and amount of each deposit and withdrawal, the name of the person who accepted the withdrawn funds, and the balance after each transaction. Each withdrawal must be signed by the recipient-patient. If the recipient-patient cannot sign, the transaction must be signed by at least one witness.

(5) Signed receipts indicating the purpose for which any withdrawn funds were spent, the date of expenditure, and the amount spent. The receipt must be signed by the person responsible for the funds and the recipient-patient. If the recipient-patient is unable to sign his name, the receipt must be signed by a witness.

(6) Recipient patient's earned interest, if any.

(d) The facility must provide each recipient-patient reasonable access to his financial records

(e) The facility must provide a written statement, at least quarterly, to each recipient-patient, representative payee, or responsible party. The statement must reflect any recipient-patient funds which the facility has deposited in an account as well as any recipient-patient's funds held by the facility in a petty cash account. The statement must include at least the following

(1) Balance at the beginning of the statement period.

(2) Total deposits and withdrawals

(3) Interest earned, if any

(4) identification number and location of any account in which the recipient-patient's personal funds have been deposited.

(5) Ending balance.

(6) For recipient-patients eligible for Supplemental Security Income or Medical Assistance, the difference between the ending balance and the applicable benefits eligibility level.

(f) The facility must keep any funds received from a recipient-patient for holding, safeguarding, and accounting separate from the facility's funds, and from the funds of any person other than another Medicaid recipient-patient in that facility.

(g) Types of accounts; distribution of interest.

(1) Petty cash. The facility may keep a recipient-patient's money in a noninterest bearing account or petty cash fund.

(2) Interest-bearing accounts. The facility may deposit any recipient-patient's funds in an interest bearing account.

(3) These accounts may be individual to the recipient-patient or be pooled with funds of other recipient-patients in the facility. If a pooled account is used, each recipient-patient must be individually identified. The account must clearly indicate that the facility does not have an

ownership interest in the funds. The account must be insured under federal or state law.

(4) The interest earned on any pooled interest-bearing account must be distributed in one of the following ways, at the election of the facility:

(A) prorated to each recipient-patient on an actual interest-earned basis, or

(B) prorated to each recipient-patient on the basis of his or her end-of-quarter balance.

(h) Banking charges.

(1) Charges for checks, deposit slips, and services for pooled checking accounts are the responsibility of the facility and may not be charged to the recipient-patient, family, or responsible party. These costs, however, may be reported as allowable costs by the facility on its cost report.

(2) Bank service charges and charges for checks and deposit slips may be deducted from individual checking accounts since this type of account preserves the dignity and independence of the recipient-patient and is for his personal use.

(3) The facility may not charge the recipient-patient, family, or responsible party for the administrative handling of either type of account. These costs may be reported as allowable costs by the facility on its cost report.

(4) If the facility places any part of the recipient-patient's money in savings accounts, certificates of deposit, or any other plan whereby interest or other benefits are accrued, the interest or benefit must be distributed to participating recipient-patients on an equitable basis in either pooled checking accounts or individual checking accounts.

(i) Access to funds.

(1) Funds held in the facility. The recipient-patient must have daily access to funds. Upon a recipient-patient's request or when he is transferred or discharged, the facility must return to the recipient-patient, the legal guardian, responsible party, family, or the representative payee the full balance of the recipient-patient's personal funds that the facility has received for holding, safeguarding, and accounting.

(2) Funds held outside the facility. Upon request or when a recipient-patient is transferred or discharged, the facility must, within five business days, return to the recipient-patient, the legal guardian, the representative payee, the responsible party, or family the full balance of a recipient-patient's personal funds that the facility has deposited in an account.

(j) Handling of monthly benefits. When a facility is a recipient-patient's representative payee and directly receives monthly benefits to which the recipient-patient is entitled, it must fulfill its duties as representative payee in accordance with 20 Code of Federal Regulation 416.20 and 404.1603 which define those duties.

(k) Change of ownership. When the ownership of a facility changes, the old owner must transfer the bank balances or trust funds to the new owner with a list of the recipient-patients and their balances. The old owner must get a receipt from the new owner for the transfer of these funds. This receipt must be kept for audit purposes.

(l) Without prior written approval of the Department of Human Resources, alternate forms of documentation, including affidavits, will not be accepted by the department to verify recipient-patient personal fund expenditures or as proof of compliance with any requirements specified in these rules for recipient-patient's personal funds.

(m) Within 10 days of a recipient-patient's death, the facility must provide the executor or administrator of a recipient-patient's estate a written accounting of the personal funds. If the deceased recipient-patient's estate has no executor or administrator, the facility must provide the accounting to:

(1) The recipient-patient's next of kin.

(2) The recipient-patient's responsible party, and

(3) The clerk of the probate court of the county in which the recipient-patient died.

.012. *Involuntary Transfers.*

(a) A facility may involuntarily transfer a recipient-patient only in the following situations:

(1) The recipient-patient's attending physician determines that failure to transfer the recipient-patient will threaten the health or safety of the recipient-patient or others, and documents that determination in the recipient-patient's medical record.

(2) The facility ceases to operate or participate in the program which reimburses for the recipient-patient's care.

(3) Nonpayment of allowable fees by the recipient-patient has occurred. The conversion of a patient from private pay status to Medicaid eligibility due to exhaustion of personal financial resources, or from Medicare to Medicaid does not constitute nonpayment of fees under this section.

(4) When the findings of a Medicare or Medicaid medical necessity review determine that the recipient-patient no longer requires the level of care provided at the facility.

(b) If the facility ceases to operate or participate in the program which reimburses for the recipient-patient's care, the facility must cooperate fully with the Texas Department of Human Resources and the Texas Department of Health in the implementation of any transfer planning and counseling conducted by these agencies.

(c) Except in an emergency, the facility must notify the recipient-patient, responsible party, and the attending physician at least three days before an involuntary intra-facility transfer and at least 10 days before any other involuntary transfer. This notice must be in writing and contain:

(1) The reasons for the proposed transfer.

(2) The effective date of the proposed transfer.

(3) The location to which the facility proposes to transfer the recipient-patient.

(d) If two recipient-patients in a facility are married and the facility proposes to involuntarily transfer one spouse to another facility at a similar level of care, the facility must give the other spouse notice of his right to be transferred to the same facility. If the spouse notifies a facility, in writing, that he wishes to be transferred, the facility must transfer both spouses on the same day, pending availability of accommodations.

.013. *Care Involvement.* The facility must provide quality and appropriate care, treatment, and services. The facility may not interfere with the recipient-patient's right to:

(1) Choose and retain an attending physician, subject to that physician's compliance with the facility's standard operating procedures for physician practices in the facility.

(2) Receive complete, accurate, and current information regarding his medical condition, including diagnosis, proposed treatment, and prognosis in terms and language the

recipient-patient can understand unless medically contraindicated (as documented by his physician in his medical record).

(3) Participate in the planning of care, treatment, and service.

(4) Refuse treatment and medication. The recipient-patient must be informed of the consequences of his decision. The refusal and the reason for refusal must be documented in the recipient-patient's medical record.

(5) Participate as a subject in experimental research. An informed written consent must be obtained and retained in the recipient-patient's medical records.

014. *Work Activity.*

(a) The facility must not require a recipient-patient to perform labor or services.

(b) The facility may permit a recipient-patient to perform personal housekeeping tasks or other services at the facility if the recipient-patient so requests, and if the attending physician documents in the recipient-patient's medical record that the tasks would be therapeutic.

015 *Restraints.* The facility may not mentally or physically abuse recipient-patients or subject them to corporal punishment. The facility may not subject any recipient-patient to physical or chemical restraints for purposes of discipline or convenience.

(1) Imposition of restraints. The facility may subject a recipient-patient to physical or chemical restraints:

(A) Only during an emergency in which failure to use restraints is likely to endanger the health or safety of the recipient-patient or others, and

(B) Only upon the written order of a physician.

(i) The physician's written order for restraints must be for a specified period of time and must document the necessity of the restraint.

(ii) The facility may not reimpose restraints except upon the written order of a physician.

(2) Observation. The nursing staff must observe:

(A) A chemically restrained recipient-patient at least every hour to assess possible side effects; and

(B) A physically restrained recipient-patient at least every two hours to assess possible adverse effects and to attend to the recipient-patient's physical needs.

016. *Statement of Services and Bills.*

(a) At the time of admission, the facility must provide the recipient-patient with:

(1) A written notice of the facility's basic daily or monthly rates.

(2) A written statement of all facility services, including those offered on a needed basis, and related charges, including any extra charges for services not covered under Medicare or Medicaid or by the facility's basic daily or monthly rate.

(b) Upon request from a recipient-patient, family member, responsible party, or representative payee, the facility must provide a list of all services and charges. Current charges must be posted in a conspicuous location.

(c) The facility must inform each recipient-patient, in writing, at least 30 days in advance of the effective date of any changes in rates or the services not covered by Medicaid.

(d) A facility must bill for charges not covered by Medicaid at least once a month. Each bill must itemize all extra charges by general category.

(e) A facility must not require recipient-patients to purchase supplies or services, including pharmaceutical supplies or services, from the facility itself or from any particular vendor. The recipient-patient has the right to be informed of prices before purchasing any item or service from the facility, except in an emergency.

017. *Religious Activities.* Recipient-patients, who are able and wish to do so, must be assisted to attend religious services. Recipient-patients' requests to see members of the clergy must be honored and privacy must be provided during visits.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818633

Marlin W. Johnston
Commissioner

Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982

For further information, please call (512) 441-3355, ext. 2037.

Medical Review and Re-evaluation 326.29.72

New Rules 326.29.72.001-.004 are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer the Medical Assistance Program.

001. *Utilization Review.* The facility must have a written utilization review plan that provides for review of each Medicaid recipient-patient's services that are provided and must meet common utilization review plan requirements.

(1) The Texas State Plan for Title XIX requires a process of utilization review for nursing facilities participating in the Texas Medical Assistance program.

(2) Utilization reviews may be performed by a facility utilization review committee or an independent professional group representative of the medical care or service to be reviewed. Determination of the facility utilization review committee composition and selection of members will be made by the facility.

(3) The utilization review plans and procedures will be in accordance with the policies of the Department of Health and Human Services as required by 42 Code of Federal Regulations 456.

(4) Utilization review will encompass patterns of care and services within a nursing facility. This review will be within the context of medical necessity, appropriateness, and availability of facilities and services.

(5) The Department of Human Resources is responsible for approving utilization review plans and procedures under Title XIX for participating nursing facilities using their own utilization review committees.

(6) The long-term care units of the Texas Department of Health, acting as independent professional review units, may perform utilization review functions when necessary.

(7) Independent medical reviews, as a utilization review function, will be performed by medical review teams

composed of health and social service personnel and under the direct supervision of a Texas Department of Health long-term care unit physician.

.002. Periodic Medical Review and Inspections.

(a) The Texas Department of Health provides a periodic medical review for recipient-patients residing in intermediate care or skilled nursing facilities.

(b) The regular medical review of care and services will follow the policies of the Department of Health and Human Services.

(c) The long-term care units of the Texas Department of Health are responsible for all independent medical review evaluation procedures under Title XIX for participating skilled nursing and intermediate care facilities.

(d) Medical reviews will be performed by the Texas Department of Health long-term care units, composed of physicians and other health and social service personnel.

(e) Medical review includes review of the level of care and services required and supplied to recipient-patients by the nursing facility. It will determine if the care and service provided by the facility staff meets the health needs of recipient-patients. The written medical care plan, the rehabilitation plan, and any alternate care plan will also be reviewed.

(f) Facility staff must cooperate with and fully support independent professional review team members during periodic on-site reviews for the purpose of personal contact with and observation of each recipient-patient receiving medical assistance, and the review of each recipient-patient's records, including the individual plan of care.

.003. Utilization Review Plan.

(a) Each Title XIX nursing facility may choose whether utilization review activities for the Title XIX (Medicaid) recipient-patients will be conducted by an approved utilization review committee or the Texas Department of Health's long-term care units.

(b) Approval of the utilization review committee must be obtained from the single state agency prior to reimbursement for these services.

(c) Professionally developed written criteria will be used to evaluate the necessity for continued stay. Criteria will be based on current regional health care delivery norms and will be developed and maintained by the single state agency.

(d) Plan objectives.

(1) To promote high quality recipient-patient care which meets the needs of the recipient-patient.

(2) To determine if needed services are available and provided on a continuing basis.

(3) To ensure that services provided are necessary.

(4) To review the plan of care and post-care planning activities.

(5) To identify patterns of care that are ineffective and to assist in establishing efficient provision of services through educational programs.

(e) Facility utilization review committee.

(1) The committee membership will be developed in accordance with by-laws of the facility and rules and regulations of the Title XIX program including:

(A) Appointment authority for committee membership.

(B) The committee will always have as members at

least two physicians who are currently licensed to practice medicine or osteopathy in Texas.

(C) Committee membership also must include other professional representatives such as staff from medical, administrative, nursing, medical records, social, and pharmacy services. The number of participants and a description of the nature and extent of their participation will be included.

(D) Members of the review committee must certify that they have no financial interest in this or any other nursing facility and will accept responsibilities as outlined in this plan.

(E) No member of this committee may participate in the review of care for any recipient-patient in which he is professionally involved.

(F) The committee may select nonphysician reviewers who are qualified to carry out the duties of patient care coordinator (PCC). The PCC must be educated and trained in medical terminology to evaluate medical care against established criteria.

(G) A physician committee member will be available for consultation relating to utilization review committee activities.

(H) Any changes in the composition of the utilization review committee, such as resignations, should be reported by the committee chairperson to the Texas Department of Human Resources.

(I) All contracts will be negotiated with the utilization review committee. The negotiated rate will be based either on an hourly basis or on a per patient basis at the discretion of the Texas Department of Human Resources.

(2) The utilization review committee as a whole must meet:

(A) Monthly (not less than 21-day interval between regular meetings).

(B) Special meetings may be called any time the chairperson of the committee finds it necessary. Subcommittee meetings of the utilization review committee may be called any time the chairperson of the committee finds it necessary.

(3) Internal records and reports. The secretary of the utilization review committee must maintain information and data required to ensure confidentiality and compliance with applicable regulations.

(A) Minutes, worksheets, or records of each committee or subcommittee meeting, including actions recommended and their reasons, will be maintained. The proceedings and minutes of the utilization review committee will be open for review by fiscal intermediaries, state agencies, and the Department of Health and Human Services, as necessary for the administration of the Medical Assistance program.

(B) Records will be maintained on problem areas requiring special committee considerations.

(C) Utilization review committee reports will be distributed only to the administrator and the specific department involved.

(4) External records and reports. The secretary of the utilization review committee will maintain information and data as required to ensure confidentiality and compliance with applicable regulations.

(A) Copies of reports from utilization review committee continued stay reviews will be forwarded to the long-term care unit of the Texas Department of Health on the prescribed forms.

(B) Ideas, procedures, and techniques for health care delivery that may be recommended for use in other areas will be forwarded to the long-term care unit of the Texas Department of Health. This is not limited to medical care evaluation studies.

(f) Long-term care unit, utilization review committee.

(1) Each long-term care unit, utilization review committee will consist of the following:

(A) All physicians in the unit. If the unit has one physician, then a Texas Department of Health, state office physician will be the second physician member.

(B) Registered nurses in the unit.

(C) Medical social consultant in the unit.

(D) Other staff as need indicates.

(2) A physician will be available for consultation relating to utilization review activities.

(3) The long-term care unit physician will receive technical and administrative supervision from the appropriate Texas Department of Health, state office division staff.

(g) Requirements of the review process. A continued-stay review is the determination of the need for continuing nursing facility care and a re-evaluation of the established level of care.

(1) The review process will be initiated when the field-based, long-term care unit of the Texas Department of Health is notified that a Medicaid applicant or recipient is requesting vendor assistance for care in a contracted nursing facility. This includes an initial assessment of the feasibility of an alternate care placement for the individual. An admission or pre-admission review will be accomplished by the long-term care unit. The pre-admission level of care is valid until admission into a nursing facility or up to 30 days. Then, the admission level of care (certification for necessity of health care services) remains valid for up to 180 days from the date of admission for intermediate care recipient-patients and 30 days for skilled care recipient-patients.

(2) Physicians' 60-day recertification statements to document the necessity for continued health care will be placed in each recipient-patient's medical record and reviewed on a regular basis during the utilization review process. The recertification should state "I hereby certify that this patient continues to require nursing facility care."

(3) Continued-stay reviews will be the responsibility of the long-term care unit if the facility has not been approved for the facility-based utilization review option. Reviews will be based on facility documentation required by the Department of Human Resources. The review will be accomplished every 30 days for the first 90 days and every 90 days thereafter for skilled care recipient-patients and every 180 days for intermediate care recipient-patients.

(4) For facility-based, utilization review committees, the patient care coordinator may be delegated the responsibility of the review of patient care activities and establishment of continued stay in accordance with professionally developed written criteria. The plan of care shown on the required forms must conform to criteria for the diagnosis of the problem involved. For the conditions not listed in the criteria, the continued stay must be determined by a physician member of the utilization review committee.

(5) All utilization review committee continued-stay reviews must be accomplished by using forms required by the Texas Department of Human Resources. The completed forms must be forwarded to the long-term care unit prior to the expiration of the continued stay date.

(6) Independent professional reviews by the long-term care unit will serve as a continued-stay review.

(7) For long-term care unit utilization reviews:

(A) All forms must be submitted to the local long-term care unit serving the facility before the expiration of the continued stay review date.

(B) All forms must be fully completed and contain all current information.

(C) Any forms that are returned for proper completion must be received by the long-term care unit office before the expiration of the continued-stay date.

(D) The medical-nursing care evaluation requesting a change in level of care may be submitted by the facility whenever there are 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 date.

(E) Periodic medical reviews by the long-term care unit will serve as a continued-stay review.

(8) Continued-stay reviews will be initiated by facility staff or the long-term care unit staff during a visit to the facility, when the recipient-patient's condition has significantly improved or worsened. When a substantial change in the medical plan of care is indicated, a new level of care is required, based on an evaluation of the recipient-patient's current medical needs. This level of care will establish a new continued-stay date.

(9) Continued-stay reviews will be accomplished not later than the established continued-stay date and will establish a new continued-stay date.

(10) If the recipient-patient is discharged or transferred to another section of the facility, the administrator of the facility must submit a patient transaction notice showing the change.

(h) When a determination is made that criteria for continued stay are not met:

(1) Facility-based utilization review:

(A) When a nonphysician representative determines that the written criteria for continued stay are not met, the case must be referred to the committee, or a subgroup thereof, which contains at least one physician. If, after review, the committee or subgroup agrees that continued stay is not medically necessary or appropriate, the attending physician is notified within two working days and allowed an opportunity to present his views and any additional information relating to the recipient-patient's need for continued stay. This notification must be documented. When a physician member of the committee does the continued-stay review, instead of a nonphysician reviewer, and he finds that continued stay is not necessary, no referral to the committee or sub-group is necessary, and the physician may notify the attending physician directly.

(B) If, after referral of a questioned case to the committee or subgroup thereof, the physician determines that continued stay is justified, the attending physician will be notified, and a continued-stay review date will be established.

(C) During the continued-stay review process, the utilization review committee should determine those cases in which treatment and service are ineffective. Steps should be taken to ensure that such cases receive closer professional scrutiny by the physician reviewer.

(2) Long-term care unit utilization review:

(A) If the long-term care unit nurse determines that the written criteria for continued stay are not met, the

nurse's decision will be reviewed by the long-term care unit physician. If the physician agrees, the attending physician is notified within two working days, and allowed an opportunity to present his views and any additional information relating to the recipient-patient's need for continued stay. This notification must be documented. When the long-term care unit physician performs the continued-stay review instead of the long-term care unit nurse and finds that the continued stay is not necessary, he may notify the attending physician directly.

(B) If the attending physician does not respond or contest the findings of the committee or subgroup or those of the physician who performed the continued-stay review within two working days, then the findings are final. Written notification of final determination must be sent to the attending physician, the recipient-patient (or the next of kin), the facility administrator, and the state office of the Texas Department of Human Resources no more than two days after the 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 parties within the stated time period.

(C) If the attending physician contests the findings of the committee or subgroup, or those of the physician who performed the continued-stay review, or if he presents additional information about the need for continued stay, at least one additional physician member of the utilization review committee must review the case. If the two physician members determine that the recipient-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, recipient-patient (or next of kin), facility administrator, and the state office of the Texas Department of Human Resources no more than two days after the decision, and in no event later than three working days after the end of the assigned continued-stay period.

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

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

(F) Recipient-patient's appeals will be processed as outlined in the Fair Hearings, Fraud and Civil Rights Handbook of the Texas Department of Human Resources.

(i) Confidentiality. If the facility-based utilization review option is selected, all information that contains personal identification or descriptions which would identify a recipient-patient or provider of health care is personal and private and will be kept confidential.

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

(2) Records, reports, and minutes, which have been deidentified must still be treated as confidential.

(3) All such material will be mailed to the Texas Department of Human Resources in a sealed envelope marked "Confidential."

.004. Medical Care Evaluation Studies. A medical care evaluation study is required in SNFs and is defined as a form of health care review in which an in-depth assessment is

made of the quality of the delivery and organization of health care services. It is designed to ensure that health care services are appropriate to the recipient-patient's needs and are of optimal quality within available resources and consistent with achievable goals and health care organization. Studies should be capable of identifying deficiencies in the quality of care so that specific improvement programs will be directed at their causes.

(1) Medical care evaluation studies will be done by each facility according to the requirements and procedures established by the Texas Department of Human Resources and consistent with federal requirements. At least one study must be in progress at all times and at least one study must be completed each year.

(2) The long-term care unit of the Texas Department of Health will maintain a file of medical care evaluation studies that includes:

- (A) Topic of study selected.
- (B) Data source.
- (C) Criteria for the study.
- (D) Parameters of the sample.
- (E) Results.
- (F) Recommendations.

(3) Results of the medical care evaluation studies will be forwarded to the long-term care unit of the Texas Department of Health.

(4) The medical care evaluation process is to improve care by ensuring that acceptable or proven measures are being utilized by health care practitioners and providers.

(5) Process Overview.

(A) Begin short duration studies which focus on a particular problem area in health care.

(B) The topic is studied based on a carefully defined number of recipient-patient medical records.

(C) Some studies may focus on a problem area or topic which involves physician care only.

(D) The study must be performed in a single facility. Criteria for the study are then developed by staff members of the facility.

(E) Data collection may be done from current or past recipient-patient's medical records. Analysis of the data, however, is always done retrospectively.

(F) Data abstracted for the study which do not meet the established criteria are noted as a variation.

(G) The medical care evaluation, when carried to its logical conclusion, will contain recommendations for the development of specific educational programs designed to improve practitioner knowledge, practitioner performance, or administrative efficiency. Medical care evaluations should establish a plan for correcting deficiencies which require activity other than educational programs.

(6) Specific requirements for project selection and development include:

- (A) Select a topic.
- (B) Refine the topic.
- (C) Write the criteria.
- (D) Select the sample and collect the data.
- (E) Analyze the data.
- (F) Develop recommendation.
- (G) Implement recommendation.
- (H) Perform another audit.
- (I) Report results.

(7) Establishment of specific milestones include:

- (A) Progress report timing.
- (B) Final completion date.
- (C) Report distribution and expected feedback time.
- (D) Final date for action taken as a result of this study.

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818634 Marlin W. Johnston
 Commissioner
 Texas Department of Human Resources

Proposed Date of Adoption: January 4, 1982
 For further information, please call (512) 441-3355, ext. 2037.

Pharmacy Services

The Texas Department of Human Resources proposes to amend Rule 326.40.08.001 and Rules 326.40.09.001 and .003 regarding reimbursement for and limitations on pharmaceutical services provided to eligible recipients of the Texas Medical Assistance Program under Title XIX. Because the legislative appropriation was less than requested, a deficit is expected in the Vendor Drug Program before the end of state fiscal year 1982 and will continue for the rest of the biennium. Consequently, the department is proposing cost containment measures to maintain fiscal integrity for the program.

An ad hoc subcommittee of the department's Medical Care Advisory Committee was formed to consider and recommend different methods of effecting cost savings in the program. Recommendations developed by the subcommittee were presented to and adopted by the Medical Care Advisory Committee. A recommendation to expand the Recipient Health Care Education Program to El Paso and the Rio Grande Valley, with a plan in mind to cover all of Texas, and a recommendation to identify abusers of the program and regulate utilization of those abusers through "lock-in" to providers are not included in the proposals. Those recommendations will be more properly approached through the appropriation process during the next session of the State Legislature.

A third recommendation to encourage all providers to take full advantage of the Drug Product Selection Law which becomes effective January 1, 1982, is also not included in the proposals. This recommendation will be more properly approached through contact with Medicaid providers and provider groups.

The last recommendation of the subcommittee (to establish a mandatory co-pay on all prescriptions) is included in the proposals which will be presented to the Texas Board of Human Resources. After additional statistical projections are reviewed and public comment is received, one or more of these measures may be adopted or combined with prudent suggestions from the public to formulate new proposals.

David Hawes, director of programs budget and rate setting, has determined that for the first five-year period the rules will be in effect, there will be fiscal implications as a result of enforcing or administering the rules. Since all of these proposals are cost containment measures, there is no fiscal im-

act in the sense that additional monies would be used. All of the proposals would offer substantial cost savings for the state. Approximations of these savings to the state and economic costs to individuals required to comply with the rules are described in the following paragraphs. There are no fiscal implications to units of local government. There will be no loss or increase in state revenue.

The proposed amendments to Rule 326.40.08.001 provide for the establishment of a copayment system as allowed in federal regulations, 42 Code of Federal Regulations 447.54. Such a system would allow the department to require Medicaid recipients to share the cost of covered pharmacy services by paying a nominal prorated amount for each prescription directly to the provider of service. Federal regulations limit copayments for vendor drugs to not more than \$.50 per prescription of \$10 or less. A copayment of this amount would result in a savings to the program of approximately \$725,250 for fiscal year 1982 and \$1,548,750 for each fiscal year from 1983 through 1986. Economic costs to persons required to comply with the proposal are estimated to be \$2.77 for fiscal year 1982 and \$5.71 for each fiscal year from 1983 through 1986. For prescriptions of more than \$10, the copayment can be increased to \$1.00. A copayment of \$.50 for prescriptions of \$10 or less and \$1.00 for prescriptions of more than \$10 would result in a savings to the program of approximately \$1,062,000 for fiscal year 1982 and \$2,168,250 for each fiscal year from 1983 through 1986. Economic costs to persons required to comply with the proposal are estimated to be \$3.92 for fiscal year 1982 and \$8.00 for each fiscal year from 1983 through 1986.

The proposed amendment to Rule 326.40.09.001 provides flexibility for the implementation of alternative proposals which would provide substantial cost savings to the program. These alternative proposals include the elimination of all vitamins with the exception of Vitamins K and D₃, and fluoride for children. The estimated savings would be approximately \$162,085 for fiscal year 1982 and \$324,169 for each fiscal year from 1983 through 1986. Also proposed is the elimination of all legend and nonlegend multiple ingredient anti-anemia products with the exception of products containing only iron in its various salts. The estimated savings would be approximately \$243,375 for fiscal year 1982 and \$486,750 for each fiscal year from 1983 through 1986. There are no economic costs to persons required to comply with the rule as proposed.

The proposed amendment to Rule 326.40.09.003 would allow the department to limit the number of prescriptions available to recipients to only two prescriptions per month if fiscal constraints became severe. Estimated savings would be approximately \$1,004,475 for fiscal year 1982 and \$2,216,925 for each fiscal year from 1983 through 1986. There are no economic costs to persons required to comply with the proposal.

The director of programs budget and rate setting has also determined that for each year of the first five years the rules as proposed are in effect, the public benefits anticipated as a result of enforcing or administering the amendments will be cost savings to the Vendor Drug Program.

The Board of Human Resources is seeking comments on these cost containment measures as well as suggestions for

other alternatives in a public hearing to be held in Austin at 9 a.m. on January 5, 1981, in the DHR board room, 706 Banister Lane. Written comments are also invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division—306, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of this publication.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

J. B. McReynolds
December 1, 1981

Reimbursement 326.40.08

The amendments to Rule 326.40.08.001 are proposed under the authority of the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance.

.001. *Legend and Nonlegend Medication.* (For all medication, legend and nonlegend, covered by the Vendor Drug Program and appearing in the Texas Drug Code Index and supplements.)

(a) Reimbursement to the pharmaceutical provider will be based upon acquisition cost, verifiable by invoice audit, plus the department's currently established dispensing fee per prescription, or the usual and customary price charged the general public, whichever is lower, *minus any copayment made directly to the provider by the recipient as may be required by the department.*

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

(e) *The amount of recipient copayment, as allowed by federal regulation, is established by the department at \$.50 per prescription. This copayment must be collected from the recipient by the provider.*

(f) *The amount of recipient copayment, as allowed by federal regulation, is established by the department at \$.50 per prescription with a total price, as defined in subsection (a) of this section, of \$10 or less and \$1.00 per prescription with a total price, as defined in subsection (a) of this section, of \$10.01 or more. This copayment must be collected from the recipient by the provider.*

Issued in Austin, Texas, on December 2, 1981.

Doc. No. 818738 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 441-3355, ext. 2037.

Limitations 326.40.09

The amendments to Rules 326.40.09.001 and .003 are proposed under the authority of the Human Resources Code, Title 2, Chapters 22 and 32, which authorize the department to administer public assistance.

.001. *Availability of Funds.*

(a) Limitations of the Texas Vendor Drug Program are controlled by availability of appropriated funds and may be adjusted from time to time.

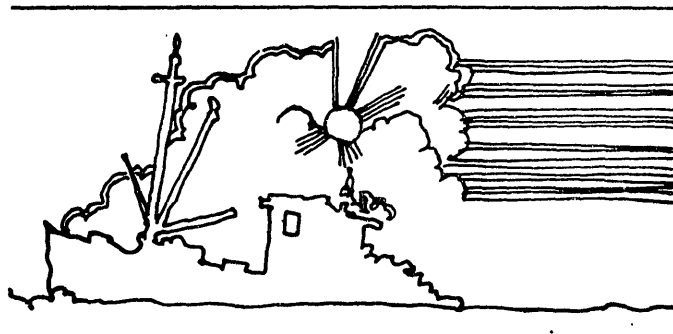
(b) *In the event that cost containment is necessary to maintain fiscal integrity in the program, the department may eliminate certain drugs from coverage in the program. The drugs to be eliminated include all vitamins and all legend and nonlegend multiple ingredient anti-anemia products with the exception of Vitamins K and D₃, fluoride for children, and products containing only iron in its various salts.*

.003. *Number of Prescriptions Limit.* Each eligible recipient will be entitled to *three* [a basic number of] prescriptions each month. New and refill prescriptions are included in this total. [The monthly number of prescriptions allowed appears on medical care identification cards.] *If fiscal constraints so dictate, the number of prescriptions available to eligible recipients will be reduced to only two prescriptions per month.*

Issued in Austin, Texas, on December 2, 1981.

Doc. No. 818739 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: January 8, 1982
For further information, please call (512) 441-3355, ext. 2037.



Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency may take final action on a rule 30 days after publication of the proposed action in the *Register*. Upon adoption of the action, "the agency, if requested to do so by an interested person either prior to adoption or within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement its reasons for overruling the considerations urged against its adoption." The action is effective 20 days after filing of the notice of final action with the Texas Register Division unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice. The notice includes whether the action is promulgated with or without changes to the action proposed; a statement of the legal authority under which the final action is promulgated; and the text of the final action, in compliance with the rules of the Texas Register Division. If an agency takes final action on a rule with no changes made to the text as proposed, only the preamble of the notice and statement of legal authority will be published. The text, as appropriate, will be published only if final action is taken with changes made to the proposed action. The certification information, which includes the effective date of the final action, follows each published submission of final action. A telephone number for further information is also published.

An agency may withdraw proposed action or the remaining effectiveness of emergency action by filing a notice of withdrawal with the Texas Register Division. The notice will appear in this section of the *Register* and is generally effective immediately upon filing with the Texas Register Division.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."



CODIFIED

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 7. Division of Emergency Management

Emergency Management Program Requirements

The Texas Department of Public Safety adopts amendments to §§7.1-7.3 (201.04.01.001-.003) without changes to the proposed text published in the October 27, 1981, issue of the *Texas Register* (6 TexReg 3967).

This program was designated as emergency management by legislative action which required rule updates. Emergency management is now a term used at local, state, and federal levels, making coordination more effective.

The Texas Disaster Act of 1975, as amended by the 67th Legislature, designates this program as emergency management. The chapter title, undesignated head, and language in these sections are changed to reflect the statutory amendments. The emergency management organization, responsibilities, and notification requirements of political subdivisions remain the same.

No comments were received regarding adoption of the amendments.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Charles Bailey
November 30, 1981

The amendments are adopted under Texas Civil Statutes, Article 6889-7, §8, which provides local and interjurisdictional disaster agencies with the authority to set up and maintain a local emergency management plan, and to coordinate efforts with the State Division of Emergency Management and other local emergency management agencies.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818706 James B Adams
Director
Texas Department of Public Safety

Effective Date. December 22, 1981
Proposal Publication Date October 27, 1981
For further information, please call (512) 465-2000.

Emergency Management Planning and Preplanning Requirements

The Texas Department of Public Safety adopts amendments to §§7.11-7.13 (201.04.02.001-.003) without changes to the proposed text published in the October 27, 1981, issue of the *Texas Register* (6 TexReg 3967).

This program was designated as emergency management by legislative action which required rule updates. Emergency management is now a term used at local, state, and federal levels, making coordination more effective.

The Texas Disaster Act of 1975, as amended by the 67th Legislature, designates this program as emergency management. The chapter title, undesignated head, and language in these sections are changed to reflect the statutory amendments. The requirements for a state plan, local and jurisdictional plans, and eligibility for Federal Incentive Programs remain the same.

No comments were received regarding adoption of the amendments.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Charles Bailey
November 30, 1981

The amendments are adopted under Texas Civil Statutes, Article 6889-7, §8, which provides local and interjurisdictional disaster agencies with the authority to set up and maintain a local emergency management plan, and to coordinate efforts with the State Division of Emergency Management and other local emergency management agencies.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818707 James B. Adams
Director
Texas Department of Public Safety

Effective Date: December 22, 1981
Proposal Publication Date: October 27, 1981
For further information, please call (512) 465-2000.

Emergency Management Operations

The Texas Department of Public Safety adopts amendments to §§7.21-7.29 (201.04.03.001-.009) without changes to the proposed text published in the October 27, 1981, issue of the *Texas Register* (6 TexReg 3968).

This program was designated as emergency management by legislative action which required rule updates. Emergency management is now a term used at local, state, and federal levels, making coordination more effective.

The Texas Disaster Act of 1975, as amended by the 67th Legislature, designates this program as Emergency Management. The chapter title, undesignated head, and language in these sections are changed to reflect the statutory amendments. These rules promulgate the procedures for declaring a state of disaster, local government's responsibility for requesting assistance when necessary, and authority for emergency powers.

No comments were received regarding adoption of the amendments.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Charles Bailey
November 30, 1981

The amendments are adopted under Texas Civil Statutes, Article 6889-7, §8, which provides local and interjurisdictional disaster agencies with the authority to set up and maintain a

local emergency management plan, and to coordinate efforts with the State Division of Emergency Management and other local emergency management agencies.

Issued in Austin, Texas, on November 30, 1981.

Doc. No. 818708 James B. Adams
Director
Texas Department of Public Safety

Effective Date: December 22, 1981
Proposal Publication Date: October 27, 1981
For further information, please call (512) 465-2000

NONCODIFIED

Texas Department of Human Resources

Food Stamps

SSI/Food Stamp Joint Processing 326.15.29

The Texas Department of Human Resources adopts amendments to its rule concerning redeterminations for joint food stamp/SSI applications. These amendments are adopted as a result of a court order in the case of James Campbell, et al, v United States Department of Agriculture (USDA), et al. The court order, effective October 5, 1981, requires states to allow any clients who initially applied for food stamps at a social security (SSA) office to also reapply at the SSA office. The new requirements benefit the elderly by simplifying the recertification process.

This agency hereby certifies that the rule as adopted have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

J. B. McReynolds
November 23, 1981

The amendments are adopted under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 33, which authorizes the department to establish rules for the food stamp program. As pursuant to §10 of the Administrative Procedure and Texas Register Act, these amendments are adopted pursuant to federal requirements to be effective October 5, 1981.

.007. *Redeterminations.* Households in which all members are applying for or are recipients of SSI must be allowed to file a timely application for recertification at SSA. The date the application is received by SSA is used to determine whether the application was filed in a timely manner. SSI households filing timely reapplications at the SSA office must not be required to appear for a second office interview, although an out-of-office interview may be conducted if necessary.

Issued in Austin, Texas, on December 2, 1981.

Doc. No. 818740 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Effective Date: October 5, 1981
Proposal Publication Date: N/A
For further information, please call (512)441-3355, ext. 2037.

The Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17, requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. An institution of higher education must have notice posted for at least 72 hours before the scheduled meeting time. Although some notices may be received and filed too late for publication before the meeting is held, all filed notices will be published in the *Register*. Each notice published includes the date, time, and location of the meeting, an agenda or a summary of the agenda as furnished for publication by the agency; where additional information may be obtained; and the date and time of filing.

A political subdivision covering all or part of four or more counties must have notice posted for at least 72 hours before the scheduled meeting time. Each notice published includes the date, time, and location of the meeting and where further information may be obtained. These notices are published under the heading "Regional Agencies," alphabetically by date filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency addition or amendment to an agenda, and the reason for such emergency, posted for at least two hours before the meeting is convened. Emergency notices filed by these entities will be published in the *Register*; however, notices of an emergency addition or amendment to an agenda filed by a regional agency will not be published in the *Register* since the original agendas for these agencies are not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Texas Commission on Alcoholism

Friday, December 11, 1981, 9 a.m. The Texas Commission on Alcoholism will meet in the eighth floor conference room of the Sam Houston Building, Austin. Items on the agenda include approval of minutes, update on block grant funds; finance committee and executive director's report; reports on RFP process and NIAAA prevention campaign; election of officers; and *Texas Register* rules for DWI Education Program standards and procedures. An executive session will also be held.

Information may be obtained from Becky Davis, eighth floor, Sam Houston Building, Austin, Texas 78701, (512) 475-2577.

Filed: December 1, 1981, 12:04 p.m. and
December 2, 1981, 1:31 p.m.
Doc. Nos. 818691 and 818757

Automated Information Systems Advisory Council

Wednesday, December 9, 1981, 2:30 p.m. The Board of the Automated Information Systems Advisory Council will meet in Room 100-C, John H. Reagan Building, 15th and Congress,

Austin. According to the agenda, the board will hold a working session to review and report on office space for the staff; report on the executive director search; consider procurement proposals; and review draft of revised guidelines. An executive session is also planned.

Information may be obtained from John C. Musgrove, Room 607, Sam Houston Building, Austin, Texas, (512) 475-7881.

Filed: December 1, 1981, 11:20 a.m.
Doc. No. 818690

Texas Coastal and Marine Council

Friday, December 11, 1981, 9 a.m. The Texas Coastal and Marine Council has made an addition to the agenda of a meeting to be held in the Lamar University Library, eighth floor, Beaumont. The agenda now includes a report on the Texas closure shrimp management option.

Information may be obtained from Charles L. Branton, P.O. Box 13407, Austin, Texas 78711-3407, (512) 475-5849.

Filed: December 1, 1981, 2:19 p.m.
Doc. No. 818699

Texas Department of Corrections

Thursday, December 3, 1981, 2 p.m. The Texas Department of Corrections Board held an emergency meeting in the governor's conference room, Austin, to discuss pressing litigation matters.

Information may be obtained from W. J. Estelle, Jr., P. O. Box 99, Huntsville, Texas 77340, (713) 295-6371, ext. 160.

Filed: December 3, 1981, 8:45 a.m.
Doc. No. 818775

Texas Education Agency

Monday, December 7, 1981, 4 p.m. The Select Committee on Public Education Subcommittee on Educational Personnel of the Texas Education Agency held an emergency meeting at 3700 Ross Avenue, Dallas. Items on the agenda included reviews of research outline, the timetable for research, data base resources, other sources, and the role of the advisory panel. A schedule for future meetings and hearings was also discussed. The meeting was called on an emergency basis to help insure that the committee's work can be completed as scheduled. The committee was also uncertain of the schedules of members involved in litigation.

Information may be obtained from Richard Swain, 201 East 11th Street, Austin, Texas 78701, (512) 475-4138.

Filed: December 1, 1981, 4:14 p.m.
Doc. No. 818704

Thursday, December 10, 1981, 10 a.m. The Select Committee on Public Education Subcommittee for Changing Technology in Instruction of the Texas Education Agency will hold an emergency

meeting in the senate finance room, 301, State Capitol, Austin. Items on the agenda include a report concerning the current status of technology in instruction in Texas public schools and a discussion of research questions and development of a timetable for research. The emergency status of the meeting was necessary because the committee chairman had a scheduling conflict with a previously scheduled meeting for December 9.

Information may be obtained from Joe Neely, 201 East 11th Street, Austin, Texas 78701, (512) 475-2633.

Filed: December 3, 1981, 9:57 a.m.
Doc. No. 818778

Employees Retirement System of Texas

Monday, December 14, 1981, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at the agency headquarters, 18th and Brazos, Austin. Items on the agenda include review and approval of minutes of trustees' September 28, 1981, meeting and October 28, 1981, emergency meeting; report on retirements and death benefits for August 1, 1981 to October 31, 1981; report of payments for occupational deaths since August 17, 1981; report of payments to survivors of law enforcement officers, firemen, etc. since August 17, 1981; consideration of investment advisory committee recommendations and action on the investment of the system's funds; presentation by Duff and Phelps, bond advisors, and consideration of a proposal to select a bond advisor; consideration of payment of a life insurance claim to the beneficiary of Kathy D. Nichols, deceased employee; consideration of group insurance advisory committee's recommended plans for use in a dental insurance survey; proposals to conduct a dental insurance survey and selection of a firm to conduct the survey; approval and final action on an amendment to §81.15—Approved Health Maintenance Organizations; action on appeals of contested cases: Ronald A. Blount—life insurance benefits, Dorothy J. Gamble—occupational disability, Lawrence Jenkins—disputed beneficiary of death benefits, Dorothy Nell Johnson—occupational disability, and Burney Quebe—creditable service for retirement; consideration of a joint trustee seminar on current pension issues with other statewide retirement systems; and setting the date for the next meeting. An executive session to consider personnel matters will also be held.

Information may be obtained from Clayton T. Garrison, 18th and Brazos, Austin, Texas, (512) 476-6431.

Filed: December 1, 1981, 1:45 p.m.
Doc. No. 818700

State Employment and Training Council

Wednesday, December 9, 1981, 9 a.m. The State Employment and Training Council will meet in the Crown Room North, Sheraton-Marina Inn, Corpus Christi. Items on the agenda include approval of October 15, 1981, meeting minutes and revised fiscal year 1982 budget; selection of contractors; and reports from representatives attending meetings sponsored by the National Governor's Associa-

tion, the U.S. Conference of Mayors, the National SETC meeting, and the Virginia State SETC Private Industry Council and Prime Sponsor Conference.

Information may be obtained from Stephen E. Smith, Texas Employment Commission Building, Room 504-T, Austin, Texas 78778, (512) 472-1433.

Filed: December 1, 1981, 1:45 p.m.
Doc. No. 818692

Texas Energy and Natural Resources Advisory Council

Thursday, December 3, 1981, 9 a.m. The Texas Energy and Natural Resources Advisory Council made an emergency addition to the agenda of a meeting held in the senate chamber, State Capitol, Austin. The revised agenda now includes a discussion of state severance taxes on crude oil and natural gas projections and reports on water development, conservation planning, and municipal solid waste disposal problems. The emergency status was necessary because a prompt discussion of the agenda items was considered to be of vital interest to Texas citizens.

Information may be obtained from Beth Bullion, 200 East 18th Street, Suite 513, Austin, Texas, (512) 475-0414.

Filed: December 2, 1981, 5:41 p.m.
Doc. No. 818774

Firemen's Pension Commission

Wednesday, December 16, 1981, 10 a.m. The Administration Division of the Firemen's Pension Commission will meet in Room 503-F, Sam Houston Building, Austin. According to the agenda, the board of trustees for the Firefighter's Relief and Retirement Fund of Senate Bill 411 will discuss the pension plan.

Information may be obtained from Hal H. Hood, Sam Houston Building, Room 503-F, Austin, Texas, (512) 475-5879.

Filed: December 2, 1981, 2:06 p.m.
Doc. No. 818758

General Land Office

Tuesday, December 15, 1981, 2 p.m. The Veterans Land Board of the General Land Office will meet in Room 831 of the Stephen F. Austin Building, Austin. Items on the agenda include approval of November 5, 1981, meeting minutes; report of the executive secretary; adoption of a resolution by the board authorizing the chairman to designate the day on which the board will receive bids for bonds; and a discussion of board policy.

Information may be obtained from Richard Keahey, Stephen F. Austin Building, Room 738, Austin, Texas, (512) 475-3766.

Filed: December 2, 1981, 10:47 a.m.
Doc. No. 818753

Good Neighbor Commission

Wednesday, December 9, 1981, 1 p.m. The Good Neighbor Commission will meet in Room 507, Sam Houston Building, Austin. According to the agenda, the commission will conduct an executive session to interview applicants for the position of executive director. After the session, the commission will resume the open meeting and select an executive director.

Information may be obtained from Bob Watson, P.O. Box 12077, Austin, Texas 78711.

Filed: December 1, 1981, 2:54 p.m.
Doc No 818693

Office of the Governor

Tuesday, December 8, 1981, 10 a.m. The Task Force on State Trusts and Asset Management of the Office of the Governor will meet in the Criminal Justice Conference Room, Sam Houston Building, Austin. Agenda items include a discussion of executive order, goals, and objectives and appointments of subcommittees.

Information may be obtained from Oliver L. Albritton, 100 North Main Street, Corsicana, Texas 75110, (512) 475-3021.

Filed: December 2, 1981, 4:21 p.m.
Doc. No. 818762

Thursday, December 10, 1981, 9 a.m. The Governor's Task Force on Small Business of the Office of the Governor will meet in Conference Room 117, Sam Houston Building, Austin. Agenda items include discussion and appointments of subcommittee chairmen and members and staff reports on international trade and licensing and agency regulation.

Information may be obtained from Oliver L. Albritton, 100 North Main Street, Corsicana, Texas 75110, (512) 475-3021.

Filed: December 2, 1981, 4:21 p.m.
Doc. No. 818763

Friday, December 11, 1981, 3 p.m. The Criminal Justice Coordinating Council of the Governor's Office of General Counsel and Criminal Justice will meet in Room 100B, John H. Reagan Building, 1400 Congress, Austin. During the organizational meeting, the council will discuss a workplan for the council staff for the next 12 months and review a Criminal Justice Division grant for the staff of the council, according to the agenda.

Information may be obtained from Johnny McCollum, P.O. Box 12428, Austin, Texas 78711, (512) 475-3901.

Filed: December 1, 1981, 10 07 a.m.
Doc No 818687

Texas Health Facilities Commission

Friday, December 11, 1981, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the Women's Community

Health Center of Beaumont (AO79-0723-031). The commission will also meet in executive session to discuss pending litigation regarding administrative orders AO79-0723-031.

Information may be obtained from Linda E. Zatopek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: December 2, 1981, 9:11 a.m.
Doc. No. 818727

Texas Historical Commission

Wednesday and Thursday, December 9 and 10, 1981, 10 a.m. The Texas Historical Commission has revised the agenda of a hearing to be held in the board room of the Texas Law Center, 1414 Colorado, Austin. Bill Wells, executive director of the Sunset Commission, will serve as chairman of the hearing on the Sunset review process for the Texas Historical Commission, not the Texas Antiquities Committee as previously published.

Information may be obtained from Virginia Wulfkuhle, 105 West 16th Street, Austin, Texas, (512) 475-6328.

Filed: December 1, 1981, 5:01 p.m.
Doc. No. 818726

State Board of Insurance

Wednesday, December 9, 1981, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin, to discuss whether to repeal Rules 059.09.07.002, 059.09.39.001, 059.09.39.002, and 059.09.56.001, since these rules duplicate matters contained in the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas*, and whether to repeal 059.09.48.001 since it is not properly a rule.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas, (512) 475-2950.

Filed: December 1, 1981, 3:12 p.m.
Doc. No. 818659

Thursday, December 10, 1981, 9 a.m. The State Board of Insurance will conduct a public hearing the hearing room, State Highway Building, 11th and Brazos, Austin. The board will consider amendments to Workers' Compensation insurance manual rules, endorsements, and policy forms; and Workers' Compensation and employers' liability insurance rates, rating values and rating plans, including U.S. Longshoremen's and Harbor Workers' rates, other than stevedoring, and rate implications of agenda item rules.

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

Filed: December 1, 1981, 3 13 p.m.
Doc. No 818698

Thursday, December 10, 1981, 10:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance will reconvene a public hearing begun on September 9, 1981, in Room 342, 1110 San Jacinto Street, Austin, to consider Docket 6500—application

of John Harris, David Harris, Isadore Roosth, A. E. Dennis and J. W. Birdwell to acquire control of Peoples Life Insurance Company, Tyler.

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

Filed: December 2, 1981, 3:04 p.m.
Doc. No. 818760

Friday, December 11, 1981, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin, to decide on Title Insurance Rules (hearing held November 10, 1981).

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

Filed: December 3, 1981, 9:57 a.m.
Doc. No. 818779

Texas Juvenile Probation Commission

Wednesday, December 9, 1981, 1 p.m. The Texas Juvenile Probation Commission will meet in the lieutenant governor's committee room, State Capitol, Austin. Items on the agenda include approval of November 20, 1981, meeting minutes; TJPC funding contract extensions; signature authorization; appointment of advisory board screening committee; remarks by the executive director; and approval of the designation and recruiting for certain staff positions.

Information may be obtained from Steve Bonnell or Jim Kester, P.O. Box 13547, Austin, Texas 78711, (512) 475-8735.

Filed: December 1, 1981, 3:45 p.m.
Doc. No. 818697

Texas Board of Land Surveying

Friday, December 18, 1981, 9 a.m. The Texas Board of Land Surveying will meet at 1106 Clayton Lane, 210 West, Austin. According to the agenda, the Special Rules Committee will present its recommendations to the board regarding amended wording to a proposed rule on certification and monumentation of surveys.

Information may be obtained from Betty J. Pope, 1105 Clayton Lane, 210 West, Austin, Texas, (512) 452-9427.

Filed: December 3, 1981, 9:04 a.m.
Doc. No. 818777

December 2, 1981, 10 a.m. The Special Rules Committee of the Texas Board of Land Surveying held an emergency meeting at 1106 Clayton Lane, 210 West, Austin. The committee reviewed wording of a proposed rule published in the October 6, 1981, issue of the *Texas Register*, regarding certification and monumentation of surveys. The committee had been directed to submit its comments and any revisions to the language of the proposed rule to the board at the next meeting. The emergency status was necessary

because this date was the only date on which members of the committee could all meet.

Information may be obtained from Betty J. Pope, 1106 Clayton Lane, 210 West, Austin, Texas, (512) 452-9427.

Filed: December 1, 1981, 1:57 p.m.
Doc. No. 818696

Texas Motor Vehicle Commission

Wednesday, December 16, 1981, 9:30 a.m. The Texas Motor Vehicle Commission will meet in Suite 200, 815 Brazos, Austin. Items on the agenda include consideration of Proceedings 220—application of Jim Story Chevrolet, El Paso; 240—application of Houston BMW North, Inc., Houston; 209—Searcy Bus Sales v. Ward Industries, Inc., et al; 241—Anita Gentle v. Southpoint Porsche-Audi Associates and Porsche Audi Division of VWOA; license revocation of Steimpel Motor Company, Weatherford; and the financial report.

Information may be obtained from Russell Harding, 815 Brazos, Suite 200, Austin, Texas 78701, (512) 476-3587.

Filed: December 1, 1981, 1:56 p.m.
Doc. No. 818701

Board of Nurse Examiners

Tuesday, Wednesday, and Thursday, December 8-10, 8 a.m. each day. The Board of Nurse Examiners has made an emergency addition to the agenda of a meeting to be held in the Lone Star Room, Sunrise Motor Hotel, 7622 IH 35 North, Austin. Under the report of the executive secretary, the board will also consider the proposed rule for licensure of persons with criminal convictions. The emergency status of the item is necessary to comply with House Bill 247, as there will not be another meeting until January which would not allow enough time to meet the February deadline.

Information may be obtained from Margaret Rowland, R.N., 510 South Congress, Room 216, Austin, Texas 78704, (512) 478-9602.

Filed: December 2, 1981, 1:58 p.m.
Doc. No. 818756

Board of Pardons and Paroles

Monday-Friday, December 14-18, 1981, 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 to take action upon gubernatorial directives.

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

Filed: December 1, 1981, 10:26 a.m.
Doc. No. 818686

Texas Peanut Producers Board

Thursday, December 17, 1981, 1 p.m. The Texas Peanut Producers Board of the Texas Department of Agriculture will meet in the conference room of Howard Johnson's Motor Inn, 7800 IH 35 North, Austin. Items on the agenda include a report from the National Peanut Council; peanut program report; proposal on reporting a newsletter; and an assessment report.

Information may be obtained from Joe Boswell, P.O. Box 398, Gorman, Texas 76454, (817) 734-2853.

Filed: December 2, 1981, 2:37 p.m.
Doc. No. 818759

Public Utility Commission of Texas

Thursday, December 10, 1981, 10:30 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, on the merits of Docket 2969—inquiry of the Public Utility Commission of Texas into rates charged by Haysco Water Supply Corporation.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 1, 1981, 1:51 p.m.
Doc. No. 818694

Monday, December 14, 1981, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4201—application of Continental Telephone Company of the West for a rate/tariff revision (water).

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 2, 1981, 9:04 a.m.
Doc. No. 818729

Friday, December 18, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4197—application of Southwestern Public Service Company for a rate/tariff revision (electric).

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 2, 1981, 9:04 a.m.
Doc. No. 818730

Tuesday, December 29, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin,

in Docket 3976—application of St. Paul Industrial Training School for certificate of convenience and necessity to provide sewer utility service within Henderson County (water).

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 2, 1981, 9:04 a.m.
Doc. No. 818731

Wednesday, January 6, 1982, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4135—application by North Town Acres Water Company for a certificate of convenience and necessity within Navarro County (water).

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 2, 1981, 1:57 p.m.
Doc. No. 818756

Wednesday, February 24, 1982, 10 a.m. The hearings division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing on the merits of Docket No. 4145 - appeals of Texas - New Mexico Power Company from the ratemaking ordinances of the cities of Darrrouzett, Booker, Follett, Texas City, Dickinson, Brazoria, West Columbia, LaMarque, League City, Sweeney, and Friendswood - will be held at the commission offices at the above date and time.

Information may be obtained from Phillip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 2, 1981, 9:04 a.m.
Doc. No. 818732

Texas Surplus Property Agency

Tuesday, December 15, 1981, 1:30 p.m. The Governing Board of the Texas Surplus Property Agency will meet at 2103 Ackerman Road, San Antonio. Items on the agenda include approval of the August 20, 1981, meeting minutes; election of board officers; discussion and action of depositing agency funds in the state treasury in accordance with House Bill 1623; and the executive director's report on the agency's financial condition and federal legislation that affects the donation program.

Information may be obtained from Robert A. Davis, Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: December 3, 1981, 9:07 a.m.
Doc. No. 818733

Texas Water Commission

Tuesday, December 15, 1981, 2 p.m. The Texas Water Commission will conduct a hearing in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin, to consider and act to affirm, modify, or set aside Temporary Order 81-9E, issued by the

commission on November 24, 1981, to Jefferson Lake Sulphur Company.

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

Filed: December 1, 1981, 2:53 p.m.
Doc. No. 818702

Tuesday, January 12, 1982, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding a petition for the organization of Coppel Municipal Utility District 2, containing 262.2261 acres.

Information may be obtained from May Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: December 1, 1981, 2:54 p.m.
Doc. No. 818703

Regional Agencies

Meetings Filed December 2, 1981

The Bell County Appraisal District, will meet in the commissioners' courtroom, second floor, Bell County Courthouse, on December 16, 1981, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-3521.

The Bexar Appraisal District, Board of Directors, will meet at 533 South Main, San Antonio on December 10, 1981, at 5 p.m. Information may be obtained from Bill Burnette, P.O. Box 9497, San Antonio, Texas 78204, (512) 224-8511.

The Carson County Appraisal District, Board of Directors, will meet at 706 Daffdil Street, White Deer, on December 10, 1981, at 6 p.m. Information may be obtained from Dianne Brock, Box 970, Panhandle, Texas 79068-0970.

The Coastal Bend Council of Governments, Membership Committee, will meet in the central jury room, county courthouse, 901 Leopard, Corpus Christi, on December 11, 1981, at 2 p.m. Information may be obtained from John Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The Region XX Education Service Center, Board of Directors, will meet at ESC-XX in the conference center, 1314 Hines Avenue, San Antonio, on December 16, 1981, at 3 p.m. Information may be obtained from Dr. Dwain M. Estes, 1550 North East Loop 410, San Antonio, Texas 78209, (512) 271-7611.

The Panhandle Regional Planning Commission, A-95 Project Notification and Review Committee, will meet in the Gibraltar Savings Building conference room, Eighth and Jackson, Amarillo, on

December 10, 1981, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

Permian Basin Regional Planning Commission, Board of Directors, will meet at the commission offices, Midland Air Terminal, on December 9, 1981, at 1:30 p.m. Information may be obtained from Pam Hammit, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

Doc. No. 818728

Meetings Filed December 3, 1981

The Alamo Area Council of Governments, Executive Committee, will meet at the Holiday Inn (Airport), Prairie Room, 77 North East Loop 410, San Antonio, on December 9, 1981, 10:30 a.m. Information may be obtained from Al J. Notzon, III, 400 Three Americas Building, San Antonio, Texas 78205, (512) 225-5201.

The Alamo Area Council of Governments, Area Council, will meet at the Holiday Inn (Airport), Prairie Room, 77 North East Loop 410, San Antonio, December 9, 1981, 11:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Archer County Appraisal District, Board of Directors, will meet in the Archer County Courthouse, Archer City, on December 15, 1981, at 5 p.m. Information may be obtained from Patricia Wachsman, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Region XVI Education Service Center, Board of Directors will meet at 1601 South Cleveland, Amarillo, on December 18, 1981, 10:30 a.m. Information may be obtained from Dr. Kenneth M. Laycock, Box 30600, Amarillo, Texas 79120, (806) 376-5521.

The Ellis County Appraisal District, will meet at 406 Sycamore Street, Waxahachie, on December 10, 1981, 7 p.m. Information may be obtained from Gray Chamberlain, 406 Sycamore Street, Waxahachie, Texas (214) 937-3552.

The Fisher County Appraisal District, Board, will meet in the hospitality room of the Fisher County Courthouse, Roby, on December 14, 1981, 7 p.m. Information may be obtained from Billie L. Holcomb, P.O. Box 516, Roby, Texas 79543.

The South Plains Association of Governments, Board of Directors, will meet at the Lubbock Memorial Civic Center, Lubbock, on December 8, 1981, 2 p.m. Information may be obtained from Jerry D. Casstevens, 1709 26th Street, Lubbock, Texas 79411, (806) 762-8721.

Doc. No. 818776

The following documents are required to be published in the *Register*: applications to purchase control of state banks filed by the Banking Commissioner of Texas pursuant to Texas Civil Statutes, Article 342-401a(B)(6); changes in interest rate filed by the Savings and Loan Commissioner of Texas pursuant to Texas Civil Statutes, Article 5069-1.07; and consultant proposal requests and awards filed by state agencies, regional councils of government, and the Texas State Library pursuant to Texas Civil Statutes, Article 6252-11c. In order to allow agencies to communicate information quickly and effectively, other information of general interest to the public of Texas is published as space allows.

Texas Commission on Alcoholism Request for Proposals

The Texas Commission on Alcoholism (TCA), under the authority of Texas Civil Statutes, Article 5561c, §18, is soliciting proposals for community-based projects in Texas that will provide alcohol addiction and abuse, primary and secondary prevention, treatment, and rehabilitation services.

Public agencies and institutions and private nonprofit organizations may apply, except those that would deliver services in the Alamo Area Region (State Planning Region 18) and the Ark-Tex Region (State Planning Region 5). Those regions will be served through mini-block grants to the local councils of governments.

One million dollars in state funds are available under this request. Approved projects will be funded for the period June 1, 1982, through May 31, 1983, for a maximum award of \$100,000. Contractor match will be required at a minimum of 5.0% of the TCA award.

The deadline for proposal submission is 5 p.m. on February 12, 1982.

To obtain a proposal packet or more information, contact Grants and Contracts Department, Texas Commission on Alcoholism, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 475-2577.

Issued in Austin, Texas, on November 30, 1981.

Doc. No 818678 Ross Newby
Executive Director
Texas Commission on Alcoholism

Filed: November 30, 1981, 3:05 p.m.
For further information, please call (512) 475-2577.

Office of the Attorney General Solid Waste Enforcements

Notice is hereby given by the State of Texas of the following resolution of the Texas Solid Waste Disposal Act enforcement lawsuit. Thirty days from the date of this notice, an agreed final judgment will be submitted to the court indicated below for entry. The identity of the subject litigation and the terms of the agreed judgment are as follows:

Case Title: State of Texas v. Chemical Manufacturing Exchange, Inc., et al.

Cause Number and Court: 80A-202, 173rd Judicial District Court of Houston County

Waste Sites: Houston County; Latexo, 100 Old Latexo Road, and a saltwater injection well—Houston County, Woodbine formation, Guice 2; RRC 16015

Injunction: Defendants enjoined to properly dispose of all contaminated soils and from storing, processing, or disposing of solid wastes in violation of the Texas Solid Waste Disposal Act.

Civil Penalty: Chemical Manufacturing Exchange, Inc.—\$8,000; George Bartee Construction Co.—\$2,000

This agreed judgment will be submitted in resolution of alleged violations of the Texas Solid Waste Disposal Act and agency regulations promulgated thereunder. Comments and requests for copies/inspection of the judgment may be directed to Texas Attorney General's Office, Environmental Protection Division, P.O. Box 12548, Austin, Texas 78711, (512) 475-4143.

Issued in Austin, Texas, on November 16, 1981.

Doc. No. 818677 Susan Plettman
Assistant Attorney General

Filed: November 30, 1981, 2 p.m.
For further information, please call (512) 475-4143.

Texas Department of Human Resources

Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources hereby furnishes notice of contract award. The consultant proposal request was published in the October 16, 1981, issue of the *Texas Register* (6 TexReg 3850).

Description. The contractor will perform audits of the cost reports of long-term care facilities in the State of Texas.

Contractor. The contractor is Deloitte Haskins & Sells, 1200 Travis, Houston, Texas 77002.

Amount and Period of Contract. The total value of the contract is not to exceed \$493,500. The beginning date of the contract is November 22, 1981, and the closing date is December 31, 1982.

Due Date of Report. A final report is due not later than December 31, 1982.

Issued in Austin, Texas, on December 2, 1981.

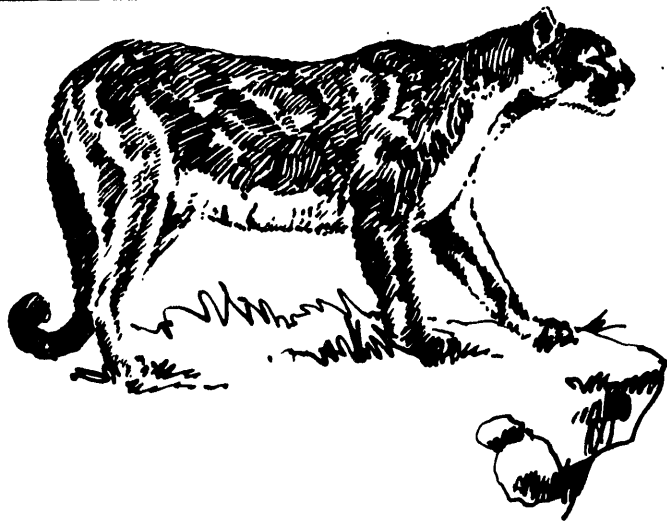
Doc. No. 818741 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: December 2, 1981, 9:47 a.m.
For further information, please call (512) 441-3355, ext. 2037.

Texas Parks and Wildlife Department

Correction of Error

A proposal by the Texas Parks and Wildlife Department contained an error as published in the November 27, 1981, issue of the *Texas Register* (6 TexReg 4367). Further information on \$65.379 and \$65.382 may be obtained by calling (512) 479-4973 or 1-(800) 792-1112; not the numbers listed.



Texas Water Commission

Notice of Applications For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of November 23, thru November 27, 1981.

No public hearing will be held on these applications unless an affected person 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; and (2) a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, 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 30 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, (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 27, 1981

Texas Department of Corrections (South Grimes Co. Unit), Huntsville; domestic sewage facility; south-southwest from the City of Courtney in Grimes County; 12458; new permit

Atchison, Topeka and Santa Fe Railway Co., Amarillo; main line fueling facility; south of the City of Temple in Bell County; 02545; new permit

Jim Ethridge, doing business as Fabens Delinting Plant, Fabens; wastewater treatment facility; at the intersection of East First Street and Railroad Row in the City of Fabens in El Paso County; 00516; renewal

Frank W. Murphy Manufacturer, Int., Houston; wastewater treatment facility; west of Rosenberg in Fort Bend County; 12437; new permit

Texas Department of Corrections (Jester Unit), Huntsville; wastewater treatment facility; on the Beauford H. Jester State Prison farm in Fort Bend County; 11475-03; new permit

Central Power and Light Co., Corpus Christi; domestic sewage facility; adjacent to Coletto Creek Reservoir in Goliad County; 02159; amendment

Leeman Smith, doing business as Country Club Estates Mobile Home Park, Denison; domestic sewage facility; east of the Country Club Estates Mobile Home Park in Grayson County; 12469; new permit

Houston Lighting and Power Co., Houston; T. H. Wharton steam electric station; northwest of the City of Houston in Harris County; 01039; renewal

TMC Funding, Inc., Houston; wastewater treatment facility; northwest of the intersection of Richey Road and Hardy Road in Harris County; 12470; new permit

Houston Lighting and Power Co., Houston; H. O. Clarke steam electric station; at the intersection of Hiram Clarke Road and U.S. Highway 90A in the City of Houston, Harris County; 01027; renewal

M. A. Finger, Houston; domestic wastewater facility; south of IH 10 and west of West Belt Drive in Harris County; 12459; new permit

Roy H. Cullen, Houston; wastewater treatment facility; bounded on the north by Hunting Bayou in Harris County; 12467; new permit

Harris County Fresh Water Supply District 63, Alief; domestic sewage facility; 13000 Westheimer Road in Harris County; 12260-01; renewal

City of Levelland; wastewater treatment facility; southwest of the City of Levelland in Hockley County; 10965; amendment

Big Three Industries, Inc., Houston; domestic wastewater facility; east of Addicks-Fairbanks Road in Harris County; 02543; new permit

Newpark Shipbuilding and Repair, Inc., Houston; wastewater treatment facility; on Brady Island in the City of Houston, Harris County; 02034; renewal

Clyde B. Smith, doing business as Tapatio Springs, Boerne; wastewater treatment facility; south of the Johns Road Crossing of Frederick Creek in Kendall County; 12404; new permit

City of Shallowater; wastewater treatment facility; on the east side of FM 179 in Lubbock County; 10609; amendment

City of Bay City; domestic wastewater facility; south-east of the intersection of State Highway 60 with the Lower Colorado River Authority Canal in Matagorda County; 10123-01; amendment

Texas Electric Service Co., Fort Worth; wastewater treatment facility; adjacent to Lake Colorado City in Mitchell County; 00554; renewal

City of Big Lake; wastewater treatment facility; in the east side of the City of Big Lake in Reagan County; 10038; amendment

Kelly Springfield Tire Co., Tyler; wastewater treatment facility; on the south side of State Highway 31 in the City of Tyler, Smith County; 01589; amendment

Issued in Austin, Texas, on November 25, 1981.

Doc. No. 818604 Mary Ann Helmer
Chief Clerk
Texas Water Commission

Filed: November 25, 1981, 11:17 a.m.
For further information, please call (512) 475-4514.

Each issue of the *Register* includes a conversion table of *Texas Administrative Code* titles affected for that issue. Once a month a guide to agency activity for the previous month is published, as well as a cumulation of TAC titles affected for the previous month. Quarterly and annual indexes to the *Texas Register* are published separately and bound in light blue for distinction.

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