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TEXAS REGISTER

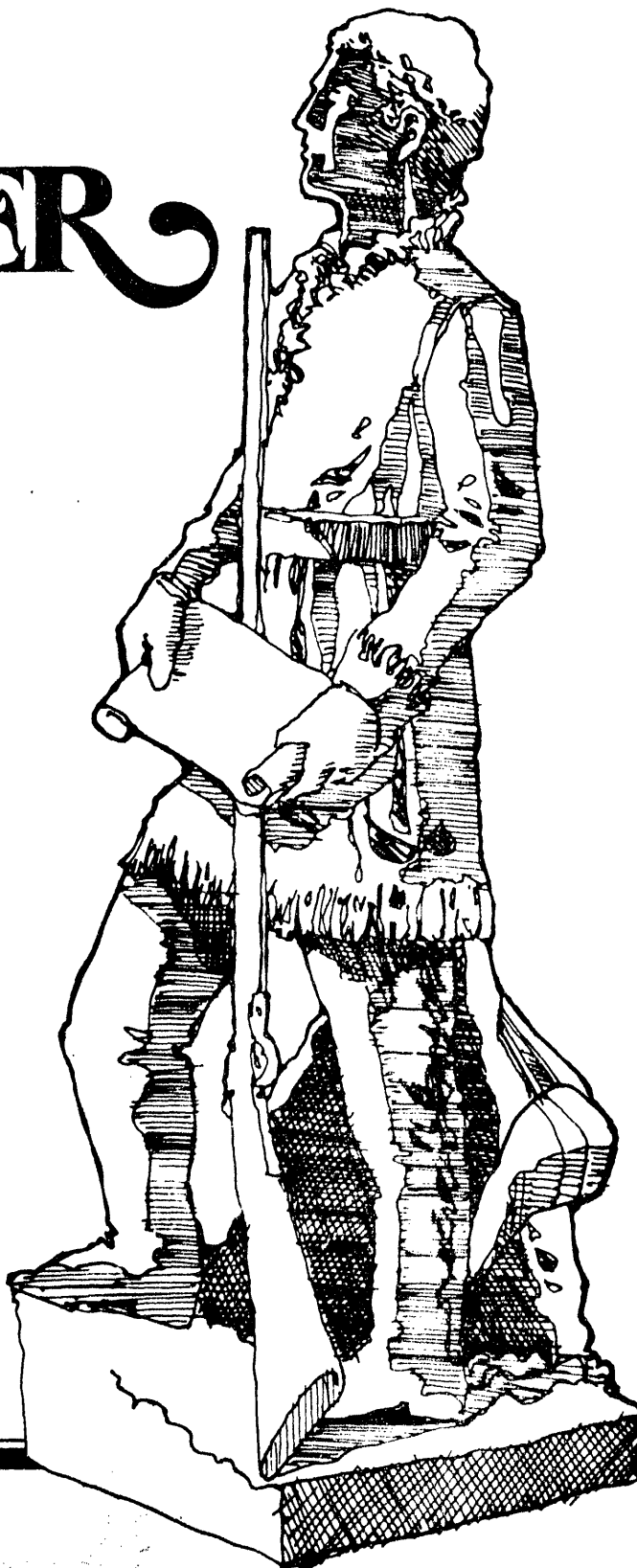
In This Issue...

Emergency rules of the Department of Mental Health and Mental Retardation concerning placement and release of patients

Department of Public Welfare emergency rules on review procedures for nursing care facilities

Teacher certification rules proposed by the Texas Education Agency

Proposed general rules of the Texas Health Facilities Commission



Office of the Secretary of State

Extensive revisions of procedures of the Texas Health Facilities Commission have been proposed for adoption. The new rules are designed to provide a more efficient system for regulating the development, construction, expansion, and/or modification of certain health care facilities and services in Texas. Because of the length of the text, the rules are being published in three issues. Category 315.14, General Rules, is being printed in this issue.

Texas Education Agency is proposing amendments to teacher certification rules and is adopting a rule which amends the statewide plan for adult education programs.

To meet federal compliance requirements, the State Department of Public Welfare has filed emergency rules concerning nursing care facilities which participate in the Medicaid program.

Also filing emergency rules is the Texas Department of Mental Health and Mental Retardation. The department has set guidelines for admissions, transfers, furloughs, and discharges for the state schools for the retarded and has established criteria for the placement of residents in community intermediate care facilities. In a proposed rule, the department is amending a rule which provides a special condition for the initiation of behavior modification programs employing punishment by contingent stimulation.

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

Artwork: Gary Thornton

TEXAS REGISTER



Mark White
Secretary of State

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Requests for Opinions

Summary of Request for Opinion RQ-1410

Request for opinion sent to Attorney General's Opinion Committee by George W. McNeil, State Auditor, Austin.

Summary of Request: Section 54.060, Education Code, provides that residents of a state immediately adjacent to Texas who enrolled in Texas junior colleges located adjacent to the state of the student's residence will pay tuition equivalent to that charged by a similar school in the student's state of residence. In light of this provision, may a private institution qualify as a "similar school"?

Filed: June 24, 1976, 10:08 a.m.

Doc. No. 763421

Summary of Request for Opinion RQ-1411

Request for opinion sent to Attorney General's Opinion Committee by James T. Fitzpatrick, General Counsel, University of Texas System, Austin.

Summary of Request: Are records reflecting transportation of University of Texas regents by university police officers public under the Open Records Act?

Filed: June 24, 1976, 10:08 a.m.

Doc. No. 763422

Summary of Request for Opinion RQ-1412

Request for opinion sent to Attorney General's Opinion Committee by Charles W. Darter, District Attorney, 100th Judicial District, Wellington.

Summary of Request: May a county hospital hire a husband and wife as joint superintendents?

Filed: June 24, 1976, 10:08 a.m.

Doc. No. 763423

Summary of Request for Opinion RQ-1415

Request for opinion sent to Attorney General's Opinion Committee by B. L. DeBerry, Department of Highways and Public Transportation, Austin.

Summary of Request: What is the legal rate of interest on a judgment in an eminent domain case when the condemnation award was prior to the amendment to Article 5069-1.05 and the judgment was subsequent to the amendment?

Filed: June 25, 1976, 2:30 p.m.

Doc. No. 763473

Summary of Request for Opinion RQ-1416

Request for opinion sent to Attorney General's Opinion Committee by Joe Max Shelton, Grayson County Attorney, Sherman.

Summary of Request: Under what circumstances may a Texas general law city expend city funds for the defense of elected city officials and/or employees who have been sued in their official as well as individual capacities?

Issued in Austin, Texas, on June 24, 1976.

Doc. No. 763474

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

Filed: June 25, 1976, 2:29 p.m.

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



Opinions

Summary of Opinion H-840

Request from Waldeen D. Wilson, R.N., Executive Secretary, Board of Vocational Nurse Examiners, Austin, concerning qualifications of the Director of Training of the Board of Vocational Nurse Examiners.

Summary of Opinion: The director of training employed by the Board of Vocational Nurse Examiners must have at least five years experience in teaching nursing in an accredited school of nursing or in an accredited training program.

Filed June 25, 1976, 2:30 p.m.
Doc. No. 763472

Summary of Opinion H-841

Request from Dolph Briscoe, Governor of the State of Texas, Austin, concerning placement of a statue in the Alamo chapel.

Summary of Opinion: Placement within the Alamo chapel of a statue which would require excavation to a depth of four feet would violate the terms of Chapter 7 at 7, 8, Acts of the 29th Legislature, 1905.

Issued in Austin, Texas, on June 25, 1976.

Doc. No. 763500 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: June 29, 1976, 10:24 a.m.

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

Open Records Decisions

Summary of Open Records Decision 135

Request from Donald C. Klein, Executive Director, Texas State Board of Registration for Professional Engineers, Austin, concerning access to an investigative file compiled by the State Board of Registration for Professional Engineers on an individual.

Summary of Decision: An investigative file of the Texas State Board of Professional Engineers is not required to be publicly disclosed under the Open Records Act where there is a reasonable anticipation of litigation against the person who is the subject of the file and the attorney representing the board has determined that the contents of the file should be withheld from public disclosure.

Issued in Austin, Texas, on June 24, 1976.

Doc. No. 763475 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: June 25, 1976, 2:29 p.m.

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

EMERGENCY RULES

1811

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

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

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

Texas Department of Mental Health and Mental Retardation

Rules of the Commissioner of MH/MR Affecting Client (Patient) Care

Criteria for Placement of Residents in Community Intermediate Care Facilities 302.04.11

Clients of the Texas Department of Mental Health and Mental Retardation are being placed in community intermediate care facilities daily. The department is of the opinion that such a pervasive aspect of its operations should be governed by department-wide rules and guidelines. The department further believes that because such rules will critically affect the lives of its clients and potential clients, the public health, safety and welfare requires the adoption of these rules on an emergency basis, to become effective immediately upon filing with the Texas Register Division of the Office of the Secretary of State.

These emergency rules are promulgated under the authority of Section 2.11(b), Article 5547-202, Texas Civil Statutes.

.001. Purpose. The purpose of these rules is to prescribe uniform procedures for the selection, referral, furlough, monitoring, and discharge of mentally retarded persons in community intermediate care facilities.

.002. Application. These rules apply to all facilities of the Texas Department of Mental Health and Mental Retardation.

.003. Definitions. In these rules,

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

(2) "Department facility" means a state mental hospital, a state school for the mentally retarded, a state human development center, or the Rio Grande State Center.

(3) "Superintendent" means the superintendent or director who is the administrative head of a department facility.

(4) "Community center" means a community mental health and mental retardation center that has been approved by the commissioner and the Texas Board of Mental Health and Mental Retardation for the purpose of receiving department grants-in-aid.

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

(6) "Licensed non-certified facility" means a facility

(A) to which the Texas State Department of Health Resources has issued a custodial license, nursing home license, or both; provided, however, that the term shall include an ICF-MR I facility that meets the requirements of subparagraph (B) of this paragraph (6) even though an ICF-MR I facility is not required to be licensed by the State of Texas; and

(B) which is actively pursuing certification as an intermediate care facility or as a skilled nursing facility.

(7) "Licensed, ICF or ICF-MR facility" means a facility that has been licensed and certified at one or more of the following levels of intermediate or skilled care:

- (A) ICF-MR I,
- (B) ICF-II,
- (C) ICF-III,
- (D) Skilled,
- (E) ICF-MR V, or
- (F) ICF-MR VI;

provided, however, that the term shall include an ICF-MR I facility that is certified as such even though it is not required to be licensed by the State of Texas.

(8) "Provider" means the individual, community center, or entity, other than the department and facilities under the control of the department, that maintains control of a community intermediate care facility.

(9) "Client" means a person

(A) who is a patient, resident, or student of, or who is otherwise receiving services from, the department; or

(B) who is placed in a community intermediate care facility in accordance with these rules.

(10) "Department rules" means the rules of the Texas Department of Mental Health and Mental Retardation, which are available for public inspection at each department facility and at the Central Office of the Department, 909 West 45th Street, Austin, Texas.

(11) "Voluntary client" means a client who has been admitted to a department facility in accordance with the Texas statutes and department rules governing the voluntary admission of persons to department facilities.

(12) "Extended services" means any service provided at no charge by the department to an intermediate care facility during the period of time prior to the placement of a client, during the period of time the client is on furlough status while at the intermediate care facility, or during both such periods of time. Physical plant services, food services, or laundry services shall not be extended to intermediate care facilities at any time.

(13) "The department facility's MH/MR liaison worker" means the department facility employee responsible, by contract with the Texas State Department of Public Welfare, for the coordination of referral and follow-up services to intermediate care facilities.

(14) "Mental retardation survey team" means the Texas State Department of Health Resources team designated to survey facilities that have applied for certification under the United States Department of Health, Education, and Welfare regulations codified in Title 45 of the Code of Federal Regulations at 45 CFR 249.12 and 45 CFR 249.13.

(15) "Medical assistance unit" means a unit of the Texas State Department of Public Welfare that is responsible for the independent medical review of care and services provided by participating intermediate care facilities. Each Department of Public Welfare region has an assigned medical assistance unit which participates in determining the level of care required by the client being considered for placement in skilled and intermediate care facilities.

.004. Placements of Mentally Retarded Persons in Licensed Non-Certified Facilities.

(a) Clients must be in residence and receiving services at a licensed facility before it may be surveyed for ICF or ICF-MR certification. The department may place mentally retarded persons in a licensed non-certified facility on an interim basis to allow it to be surveyed for ICF or ICF-MR certification.

(b) The superintendent shall determine that the facility has a current custodial license, nursing home

license, or both, issued by the Texas Department of Health Resources, and that the facility has been licensed by the appropriate city and county regulatory agencies, prior to the placement of any client in a licensed facility which is actively seeking ICF or ICF-MR certification.

(c) The superintendent shall evaluate the facility for the purpose of determining the adequacy of services being offered by it prior to ICF or ICF-MR certification. The evaluation will be accomplished by the superintendent by:

(1) conducting an on-site inspection of the facility which will include an inspection and review of the facility's written policies and practices;

(2) contacting the Texas Department of Health Resources' mental retardation survey team, which conducts a consultation visit to the facility prior to their certification survey, for the purpose of obtaining the team's general impressions of the licensed non-certified facility and its program of services; and

(3) requesting the Texas State Department of Public Welfare's local medical assistance unit to review the licensed non-certified facility and to report their impressions to him.

(d) The superintendent shall advise the provider of all appropriate department rules and any necessary action required by the rules prior to the placement of any client in a licensed facility which is actively seeking ICF or ICF-MR certification.

.005. Placement of Mentally Retarded Persons in a Licensed Facility that is ICF or ICF-MR Certified.

(a) The superintendent shall determine that the license and ICF or ICF-MR certification of the facility is in force and that the facility has current licenses from city and county regulatory agencies prior to the placement of any client in the facility.

(b) The superintendent should conduct an on-site inspection visit of the licensed, ICF or ICF-MR certified facility to determine the availability of quality programs to meet the assessed needs of the client. The on-site visit of the intermediate care facility should be conducted even though certification by the Texas State Department of Health Resources signifies the existence of an acceptable program.

(c) The superintendent shall advise the provider of all appropriate department rules, and any necessary action required by the rules, prior to the placement of any client in a licensed, ICF or ICF-MR certified facility.

.006. Written Contract with Licensed Facility Seeking ICF or ICF-MR Certification or with Licensed, ICF or ICF-MR Certified Facility Required Prior to Placement of Any Client in the Facility; Contract Requirements.

(a) Prior to the placement of any client in a licensed facility seeking ICF or ICF-MR certification or in a licensed, ICF or ICF-MR certified facility, the

superintendent and the provider shall execute a written contract.

(b) The written contract required by paragraph (a) of this rule, and referred to as the ICF/ICF-MR Contract (and illustrated in Exhibit A - .04.11.006, which is attached to these rules), shall include, but shall not be limited to, the following provisions:

(1) a statement that a client will not be placed in a licensed facility seeking ICF or ICF-MR certification or in a licensed, ICF or ICF-MR certified facility that cannot meet the assessed needs of the client.

(2) A statement that the superintendent has the final authority to return a furloughed client to the department facility when the superintendent determines that such action is in the client's best interest.

(3) A statement that the superintendent and his designated representatives shall have access to the premises of the intermediate care facility at any time during the contract period and shall have the authority to inspect client records.

(4) A statement that there is a mutual understanding and acceptance of the joint responsibilities specified in the selection, referral, furlough, monitoring, and discharge process.

(5) A statement specifying the type and duration of department facility services to be extended to the provider prior to the placement of clients and during the contract period.

(6) A statement that the contract will be reviewed by the provider and the superintendent every 90 days until such time as the provider's facility is ICF or ICF-MR certified; provided, however, that such a statement and review shall not be required to be included in a contract to which a licensed, ICF or ICF-MR certified facility and a superintendent are parties.

.007. Selection of Clients for Placement in Intermediate Care Facilities.

(a) The following criteria will apply to all placements:

(1) No client will be placed in an ICF or ICF-MR facility that cannot demonstrate quality programs to meet the assessed needs of the client.

(2) Placement will be made only if it will:

(A) be in the best interest of the client, and
(B) foster the retention or re-establishment of family relationships, community relationships, or both.

(b) The superintendent will utilize the following guidelines and standards to select clients for placement in intermediate care facilities:

(1) the General Guidelines for Placement, attached to these rules as Exhibit B - .04.11.007, which has been developed by the department to assist in the selection of clients for placement in ICF-MR I, ICF-MR V, and ICF-MR VI facilities; and

(2) the standards promulgated by the Texas State Department of Public Welfare to be used in the

selection of clients for placement in intermediate care facilities which are set forth in the following documents:

(A) Standards for Intermediate Care Services in Facilities for Mentally Retarded or Persons with Related Conditions, which pertains to ICF-MR I, ICF-MR V, ICF-MR VI facilities.

(B) Standards for Participation: Intermediate Care II Facility.

(C) Standards for Participation: Intermediate Care III Facility.

(D) Standards for Participation: Skilled Nursing Facilities.

(E) Disabling Habilitative and/or Rehabilitative Conditions to be Considered in Evaluating the Need for Active Treatment for the Mentally Retarded or Persons with Related Conditions, which pertains to ICF-MR I, ICF-MR V, and ICF-MR VI facilities.

.008. Referral of Clients to be Placed in Intermediate Care Facilities: Consultation with Client, Parents, and Guardian; Pre-referral Staffing; Determination of Program Eligibility and Assigned Level of Care.

(a) When criteria for selection have been applied and a client has been tentatively identified for placement in an intermediate care facility, the department facility's MH/MR liaison worker will consult with the client, and parents, or other person legally responsible for the client. Every effort will be made to secure their approval and cooperation in the referral, furlough, monitoring, and discharge processes; provided, however, that no voluntary client will be placed in an intermediate care facility unless informed consent to the placement has been given by the client or by the person legally responsible for the client if the client is a minor or is incompetent.

(b) The department facility's MH/MR liaison worker will arrange a pre-referral staffing for the purpose of making referral for placement of the client in an intermediate care facility.

(c) When the referral for placement of a client in an intermediate care facility has been recommended, the department facility's MH/MR liaison worker will assemble and forward required documentation to the medical assistance unit of the Texas State Department of Public Welfare for the purpose of obtaining a determination as to program eligibility and assigned level of care. A detailed treatment of the department's referral procedures may be found in the document entitled "Role and Responsibilities of the MH/MR Liaison Worker in State Schools for the Mentally Retarded", a copy of which may be obtained from the department.

.009. Referral of Clients to be Placed in Intermediate Care Facilities: Interagency Team Staffing; Representatives to be Included in the Interagency Team Staffing; Material and Provisions Required to be Included in the

Client Treatment/Training Plan.

(a) When the department facility has been notified by the Texas State Department of Public Welfare of its determination as to a client's eligibility and assigned level of care, the department facility's MH/MR liaison worker will arrange an interagency team staffing for the purpose of developing a client Treatment/Training Plan, an example of which is attached to these rules as Exhibit C -.04.11.009.

(b) The interagency team staffing shall include, but not be limited to, the following representatives:

- (1) appropriate members from the department facility;
- (2) intermediate care facility and community center interdisciplinary teams;
- (3) community center representative if a community center serves the area;
- (4) the client, parent, or guardian; and
- (5) other resource and advocacy personnel as deemed appropriate.

(c) The client Treatment/Training Plan shall include, but shall not be limited to, the following material and provisions:

- (1) current assessment data;
- (2) individualized treatment objectives that are separately stated and sequenced within a time frame;
- (3) modes of intervention for the achievement of the objectives;
- (4) conditions for providing and documenting treatment services;
- (5) provision for developmental experiences within the community;
- (6) provision for the monitoring of services; and
- (7) a designation of the responsibilities of each team member in the implementation of the client Treatment/Training Plan.

.010. Furlough of Clients to Intermediate Care Facilities: Compliance with Department Rules Required; Restorative Services; Advanced Written Notice of Furlough Required; Department Personnel to Accompany Client to the Intermediate Care Facility.

(a) Clients will be furloughed to intermediate care facilities in accordance with the following subcategories of the Rules of the Commissioner of MH/MR Affecting Client (Patient) Care:

- (1) Admissions, Transfers, Furloughs and Discharges-- State Mental Health Facilities, 302.04.23; and
- (2) Admissions, Transfers, Furloughs and Discharges-- State Schools for the Retarded, 302.04.24.

(b) The superintendent will provide major restorative services to a client prior to the client's placement in an intermediate care facility.

(c) The department facility's MH/MR liaison worker will give advance written notice of furlough to the client, parent or guardian, community center, advo-

cates, and other service agencies as deemed appropriate prior to the client's placement in an intermediate care facility.

(d) Department facility personnel will accompany clients being placed in intermediate care facilities and will remain there for a reasonable period of time to encourage a satisfactory first-day transition.

.011. Monitoring the Progress of Clients who have been Placed in Intermediate Care Facilities: On-site Evaluation of Progress Made Under the Client Treatment/Training Plan; Conditions Required for the Return of a Furloughed Client to the Department Facility.

(a) The progress of a client under the client Treatment/Training Plan will be monitored at 30 and 90 days after placement of the client in an intermediate care facility by an on-site evaluation of client progress based on the objectives and required documentation specified in the plan. Written results of the on-site evaluation will be made available to all parties to the plan. Recurring deficits in client progress should be reported to the local medical assistance unit and the mental retardation survey team with a copy directed to the deputy commissioner for Mental Retardation Services of the department.

(b) A client who has been furloughed to an intermediate care facility will not be returned to a department facility unless the superintendent concurs with the interagency team's recommendation that return of the client to a department facility would be in the best interest of the client; provided, however, that the superintendent, upon his own initiative, may return a furloughed client to the department facility when the superintendent determines that such action is in the client's best interest because the situation of the client at the intermediate care facility is life-threatening, obviously substandard, or otherwise detrimental.

.012. Discharge of Clients who have been Placed in Intermediate Care Facilities: Interagency Team Staffing, Review, and Recommendation; Available Options Other Than Discharge; Compliance with Department Rules Requires.

(a) An interagency team staffing will be conducted 180 days after furlough and each 180 days thereafter during furlough for the purpose of reviewing client progress and making recommendations for discharge. The interagency team may recommend discharge for a client at any point during the furlough period.

(b) If discharge is not recommended, consideration should be given to all available options. Options will include, but not be limited to, the following:

- (1) cancellation of the Treatment/Training Plan and return of the client to the department facility,
- (2) renewal of the Treatment/Training Plan, and

(3) consideration of the appropriateness of the assigned level of care and recommendation of placement to an alternate intermediate care facility consistent with the client's changing needs.

(c) If discharge is recommended by the interagency team and is effected, the discharge will be in accordance with Rules of the Commissioner of MH/MR Affecting Client (Patient) Care; Admissions, Transfers, Furloughs, and Discharges-- State Schools for the Retarded; Rules 302.04.24.023-.027.

.013. Exhibits.

(a) The following exhibits are attached to these rules:

- (1) Exhibit A - .04.11.006 - ICF/ICF-MR Contract.
- (2) Exhibit A - .04.11.007 - General Guidelines for Placement.
- (3) Exhibit C - .04.11.009 - Treatment/Training Plan.

(b) Copies of the exhibits enumerated in paragraph (a) of this rule may be obtained from the Texas Department of Mental Health and Mental Retardation, Box 12668, Capitol Station, Austin, Texas 78711. A charge will be made for this service.

.014. References.

(a) Reference is made to the following statutes:

- (1) Section 16, Article 3871b, Vernon's Annotated Civil Statutes.
- (2) 42 United States Codes Annotated, Sections 1396 *et seq.*
- (3) Senate Bill 52, Section 4b, Article II, Acts of the 64th Legislature; Regular Session (Appropriations Bill).

(b) Reference is made to the following standards and regulations:

- (1) Standards for Intermediate Care Services in Facilities for Mentally Retarded or Persons with Related Conditions.
- (2) Standards for Participation: Intermediate Care II Facility.
- (3) Standards for Participation: Intermediate Care III Facility.
- (4) Standards for Participation: Skilled Nursing Facilities.
- (5) Disabling Habilitative and/or Rehabilitative Conditions to be Considered in Evaluating the Need for Active Treatment for the Mentally Retarded or Persons with Related Conditions.

(6) Role and Responsibilities of the MH/MR Liaison Worker in State Mental Hospitals and State Schools for the Mentally Retarded.

(c) A copy of any of the documents enumerated in paragraph (b) of this rule may be obtained from the Texas State Department of Public Welfare, John H. Reagan Building, Austin, Texas 78711.

(d) Reference is made to the following department publications and rules of the department:

- (1) General Guidelines for Placement;
- (2) Rules of the Commissioner of MH/MR Affecting Client (Patient) Care:

(A) Admissions, Furloughs, Transfers, and Discharges-- State Mental Health Facilities, 302.04.23

(B) Admissions, Furloughs, Transfers, and Discharges-- State Schools for the Mentally Retarded, 302.04.24.

(e) A copy of any of the documents enumerated in paragraph (d) of this rule may be obtained from the Texas Department of Mental Health and Mental Retardation, Box 12668, Capitol Station, Austin, Texas 78711. A charge will be made for this service. The documents enumerated in paragraph (d) of this rule are available for public inspection at the Central Office of the Texas Department of Mental Health and Mental Retardation located at 909 West 45th Street, Austin, Texas, and at each department facility.

.015. Distribution.

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

(b) The superintendent and director of each department facility shall be responsible for the dissemination of the information contained in these rules to:

- (1) the department facility's MH/MR liaison worker;
- (2) the assistant superintendent;
- (3) unit directors if the department facility is a facility for the mentally retarded;
- (4) unit directors if the department facility is a mental health facility where significant numbers of mentally retarded persons reside in the unit, and
- (5) the Chief of Social Services or Social Service Consultants.

.016. Effective Date.

(a) These rules become effective immediately upon filing as emergency rules with the Texas Register Division of the Office of the Secretary of State.

(b) Upon the effective date of these rules, all other instructions, written or verbal, on this subject are rescinded.

Issued in Austin, Texas, on June 25, 1976.

Doc. No. 763489 Kenneth D. Gaver, M.D.
 Commissioner
 Texas Department of Mental
 Health and Mental Retardation

Effective Date: June 28, 1976

Expiration Date: October 25, 1976

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

Admissions, Transfers, Furloughs, and Discharges-- State Schools for the Retarded 302.04.24

Residents at residential facilities for the mentally retarded of the Texas Department of Mental Health and Mental Retardation are being admitted, transferred, furloughed, and discharged daily. The department is of the opinion that such a pervasive aspect of its operations should be governed by department-wide rules and guidelines. The department further believes that because such rules will critically affect the lives of residents and potential residents, public health, safety, and welfare require the adoption of these rules on an emergency basis, to become effective immediately upon filing with the Texas Register Division of the Office of the Secretary of State.

These emergency rules are promulgated under the authority of Section 2.11(b), Article 5547-202, Texas Civil Statutes.

Because of the length of these rules, the *Texas Register* will not publish the complete text. The rules may be examined at the office of the Texas Register Division, Suite 550, Texas Commodore Building, 8th and Brazos Streets, Austin, and at the Texas Department of Mental Health and Mental Retardation at 900 West 45th Street, Austin, during normal working hours. Listed below are the rule numbers and titles.

- .001. *Purpose.*
- .002. *Application.*
- .003. *Definitions.*
- .004. *Admission to a Residential Facility for the Mentally Retarded: Requirements for Admission; Application Process.*
- .005. *Admission to a Residential Facility for the Mentally Retarded: the Nature and Procedures of the Central Waiting List.*
- .006. *Admission to a Residential Facility for the Mentally Retarded: General Provisions.*
- .007. *Admission to a Residential Facility for the Mentally Retarded: Requirements for Regular Placement.*
- .008. *Admission to a Residential Facility for the Mentally Retarded: Requirements for Temporary Placement.*
- .009. *Admission to a Residential Facility for the Mentally Retarded: Requirements for Emergency Placement.*
- .010. *Client Transfers: General Provisions.*
- .011. *Client Transfers: Regular Transfer of a Client Between Texas Residential Facilities for the Mentally Retarded.*
- .012. *Client Transfers: Regular Transfer of a Court-Committed Client from a Texas Residential Facility for the Mentally Retarded to a Texas Residential Facility for the Mentally Ill.*
- .013. *Client Transfers: Regular Transfer of a Voluntarily Admitted Client from a Texas Residential Facility for the Mentally Retarded to a Texas Residential Facility for the Mentally Ill.*
- .014. *Client Transfers: Regular Transfer of a Client from a Texas Residential Facility for the Mentally Ill to a Texas Residential Facility for the Mentally Retarded.*
- .015. *Client Transfers: Temporary Transfer of a Voluntarily or Involuntarily Admitted Client from a Texas Residential Facility for the Mentally Retarded to a Texas Residential Facility for the Mentally Ill.*
- .016. *Client Transfers: Temporary Transfer of a Voluntarily or Involuntarily Admitted Client from a Texas Residential Facility for the Mentally Ill to a Texas Residential Facility for the Mentally Retarded.*
- .017. *Client Transfers: Interstate Transfer of a Client Between a Texas Residential Facility for the Mentally Retarded and a State-owned Residential Facility for the Mentally Retarded in Another State*
- .018. *Client Transfers: Interstate Transfer of a Client Between a Texas Residential Facility for the Mentally Retarded and a Non-state-owned Residential Facility for the Mentally Retarded in Another State.*
- .019. *Client Furlough: Reasons for Furlough.*
- .020. *Client Furlough: Requirements for a Short-term Visit Away from a Residential Facility for the Mentally Retarded.*
- .021. *Client Furlough: Requirements for Furlough of a Client for Specific Programs, Assistance, or Both, or for a Trial Alternate Placement.*
- .022. *Client Furlough: General Provisions.*
- .023. *Client Discharges: Reasons for Discharges.*
- .024. *Client Discharges: Requirements for the Discharge of a Client from a Residential Facility for the Mentally Retarded into Alternate Placement.*
- .025. *Client Discharge: Requirements for the Discharge of a Client from a Residential Facility for the Mentally Retarded Because the Client No Longer Needs Residential Placement.*
- .026. *Client Discharges: Requirements for the Discharge of a Client from a Residential Facility for the Mentally Retarded Because the Client, Parent or Guardian No Longer Desires Residential Placement.*

.027. Client Discharge: Contact and Follow-up Summary of Client Status and Progress to be Made Six Months After Discharge and Documented Within One Year; Re-admission After Alternate Residential Placement in the Community.

.028. Exhibits.

.029. References.

.030. Distribution.

.031. Effective Date.

Issued in Austin, Texas, on June 25, 1976.

Doc. No. 763487 Kenneth D. Gaver, M.D.
 Commissioner
 Texas Department of Mental
 Health and Mental Retardation

Effective Date: June 28, 1976

Expiration Date: October 25, 1976

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

State Department of Public Welfare

Utilization Review

Implementation Procedures for Nursing Facilities 326.44.04

The State Department of Public Welfare conducts utilization review activities under a waived status from the Department of Health, Education, and Welfare (HEW) in nursing care facilities which participate in the Medicaid program. Notification has been received from HEW requiring the department to implement immediately more intensive review procedures to maintain waived status. Therefore, additional procedures have been developed which provide for utilization review activities in nursing care facilities in such a manner and frequency as to meet federal compliance requirements. These rules are submitted as emergency rules, effective July 1, 1976.

These emergency rules are promulgated under the authority of Articles 695c and 695j-1, Texas Civil Statutes.

.001. Pre-Admissions.

(a) A pre-admission is the establishment of need for health care services and/or a level of care determination prior to admission to a nursing care facility.

(b) Pre-admission requests for nursing facility care may be received from various sources and by various means of communication.

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

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

(3) The medical assistance unit or the local DPW office will be responsible for:

(A) mailing the appropriate Medical-Nursing Care Evaluation with a self-addressed envelope to the attending physician;

(B) referring the individual for a financial eligibility determination.

(4) The attending physician is responsible for completing and signing the Medical-Nursing Care Evaluation and returning it to the regional medical assistance unit.

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

(A) If a level of care determination is made, the medical social worker assists the individual in entering a nursing care facility.

(B) The level of care will remain valid for a period of 30 days from the date the form was reviewed. If the individual is admitted to a nursing care facility within the 30-day period, the pre-admission level of care determination will serve as the admission certification. If the individual is not admitted to a nursing care facility within the 30-day period, a new pre-admission determination must be made.

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

(D) If a level of care determination is not made, the attending physician will be contacted within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's need for nursing facility care.

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

(F) The individual and the attending physician will be notified of the decision in writing within five working days of receipt of the Medical-Nursing Care Evaluation. When a level of care determination is made, the notification will include the level of care, the effective date, and the expiration date.

.002. Admissions.

(a) Admission review establishes the existence of a need for health care services and allows a determina-

tion of level of care after the patient has been admitted to a nursing care facility or when a patient makes an application for assistance while in the nursing care facility.

(b) A Patient Transaction Notice must be submitted within 72 hours of admission or when the need for assistance is made known to the facility administrator.

(c) Types of admissions.

(1) When a patient is admitted with a current pre-admission level of care determination, the pre-admission will be processed as an admission.

(2) When a patient is admitted without a current pre-admission level of care determination, a completed Medical-Nursing Care Evaluation signed by the attending physician and the facility director of nurses must be submitted to the medical assistance unit regional office.

(d) All forms must be submitted within the specified time.

(1) The Medical-Nursing Care Evaluation must be received in the MAU regional office within seven calendar days of admission.

(2) All forms must be properly completed. Any forms that are returned for proper completion must be received in the MAU regional office within the original seven-day period.

(e) A decision will be made regarding the need for nursing facility care.

(1) The MAU nurse will establish a level of care based on the medical and nursing care information received.

(2) If the form is received in the MAU regional office within the required seven days, the level of care will become effective on the date of admission. If the form is received after the seventh day following admission, the level of care will become effective on the date the form was received in the MAU regional office.

(3) The MAU medical social worker will complete a Social Evaluation of Need for Nursing Facility Care within five working days from the date the admission Patient Transaction Notice was received in the MAU regional office. This will include an alternate care assessment and discharge planning.

(4) When the effective date for the level of care is determined the first continued stay review date will also be noted.

(5) If the MAU nurse denies a level of care or if the level of care determination differs from that recommended by the attending physician based on the medical and nursing care information received, the following steps will be taken:

(A) The attending physician will be contacted by the MAU nurse or the MAU physician within two working days for additional information prior to the final decision.

(B) If contested by the attending physician, two MAU physicians will concur and make the final determination.

(6) The facility administrator, the patient (or next of kin), and the attending physician will be notified in writing of the final determination not more than five working days from receipt of the Medical-Nursing Care Evaluation.

(A) When a level of care determination is made, the notification will include the level of care, the effective date, and the first continued stay review date.

(B) This will be followed by notification from the state office indicating the established level of care. If financial eligibility has already been established, the Patient Status and Payment Plan Notice will also include the individual payment plan.

(f) A discharge Patient Transaction Notice must be submitted when appropriate.

(g) A re-admission is an admission to the same facility following a Patient Transaction Notice discharge.

(1) A Patient Transaction Notice must be submitted within 72 hours of admission.

(2) In addition, a new admission certification using a Medical-Nursing Care Evaluation will be required when the patient has been in another nursing home.

(3) A new admission certification using a Medical-Nursing Care Evaluation will be required in the following situations:

(A) when more than 30 days have elapsed between the discharge and re-admission date;

(B) when there has been a change in the patient's diagnosis or substantial change in the plan of care;

(C) when the continued stay review has expired between discharge and re-admission.

Doc. No. 763517

Skilled Nursing Facility Procedural Guide 326.44.05

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

(a) A continued stay review is the recertification of the continuing need for nursing facility care and a re-evaluation of the established level of care.

(b) Continued stay reviews must be accomplished every 30 days for the first 90 days and every 60 days thereafter.

(c) A Medical-Nursing Care Evaluation, completed and signed by the attending physician and by the director of nurses, must be submitted to the Utilization Review Committee serving the facility.

(d) All forms should be submitted to the Utilization Review Committee prior to the expiration of the continued stay review date.

(1) All forms must be properly completed.

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

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

(e) The committee will re-evaluate the established level of care. At this time, one of the following actions will be taken:

(1) The established level of care may be sustained by the patient care coordinator.

(2) The established level of care may be lowered by the committee or subgroup including at least one physician.

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

(B) If the attending physician does not respond within two working days after being contacted or does not contest the findings of the committee, subgroup, or the physician who performed the continued stay review, then the findings are final. Written notification of this final determination must be sent to the attending physician, the patient (and next of kin when appropriate), the facility administrator, and the state office of the medical assistance unit (MAU) no later than two days after such final determination and in no event later than three working days after the end of the assigned continued stay period. When appropriate and desired, verbal notification may precede written notification.

(C) If the attending physician contests the findings of the committee, subgroup, or the physician who performed the continued stay review, or if he or she presents additional information relating to the patient's need for continued stay, at least one additional physician member of the Utilization Review Committee (URC) must review the case. If the two physician members determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision must be sent to the attending physician, patient (and next of kin when appropriate), facility administrator, and the Department of

Public Welfare (DPW) no later than three working days after the end of the continued stay period.

(D) If, after referral of a questioned case to the committee or subgroup thereof, the physician(s) determines that continued stay is justified, the attending physician will be notified and a continued stay review date will be established and recorded.

(E) The effective date will be the date the form was reviewed by the committee or subgroup thereof.

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

(3) Termination of nursing facility care.

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

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

(C) Vendor payments to the facility will be made at the rate for the previously established level of care for a period of 15 days or until the patient is transferred, whichever occurs first.

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

(f) The Medical-Nursing Care Evaluation will be forwarded to the local MAU office for processing. This will be followed by notification from the state office.

.002. Utilization Review Committee Staff. Each Utilization Review Committee will be composed of two or more physicians, a patient care coordinator (registered nurse), and other professional personnel representing the services provided by the facility that may be subject to review, such as social services, physical therapy, etc.

.003. Continued Stay Reviews for MAU Doing the Reviews.

(a) Continued stay reviews must be accomplished every 30 days for the first 90 days and every 60 days thereafter.

(b) A Medical-Nursing Care Evaluation, completed and signed by the attending physician and by the director of nurses, must be submitted to the local medical assistance unit (MAU) office serving the facility.

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

(1) All forms must be properly completed.

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

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

(d) The MAU nurse will re-evaluate the established level of care. At this time, one of the following actions will be taken:

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

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

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

(B) If the attending physician does not respond within two working days or does not, after being contacted, contest the findings of the MAU physician, then the findings are final. Written notification of this final determination must be sent to the attending physician, the patient (and next of kin when appropriate), and the facility administrator no later than three working days after the end of the assigned continued stay period. When appropriate and desired, verbal notification may precede written notification.

(C) If the attending physician contests the findings of the MAU physician or if he or she presents additional information relating to the patient's need for continued stay, at least one additional MAU physician must review the case. If the two physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (and next of kin when appropriate), and the facility administrator no later than three working days after the end of the continued stay period.

(D) If after considering all of the evidence the physician(s) determines that continued stay is justified, the attending physician will be notified and a continued stay review date will be established and recorded.

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

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

(3) Termination of nursing facility care.

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

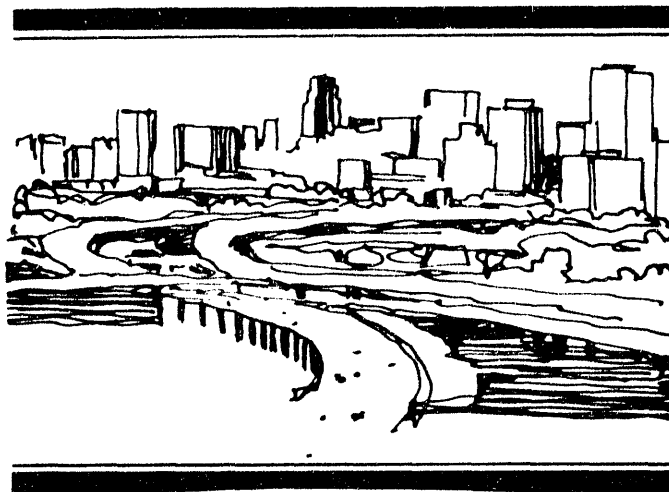
(B) If at least two MAU physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision must be sent to the attending physician, patient (or next of kin), and facility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

(C) Vendor payments to the facility will be made at the rate for the previously established level of care for a period of 15 days or until the patient is transferred, whichever occurs first.

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

(4) Notification indicating the level of care, effective date, and a new continued stay review date will be sent to the patient (and next of kin when appropriate), the facility administrator, and the DPW medical eligibility worker by the MAU. This will be followed by notification from the state office.

Doc No 763518



Intermediate Care Facility Procedural Guide 326.44.06

.001. Continued Stay Reviews for Utilization Review Committee.

(a) A continued stay review is the recertification of the continuing need for nursing facility care and a re-evaluation of the established level of care.

(b) Continued stay reviews must be accomplished every 60 days.

(c) A Medical-Nursing Care Evaluation, completed and signed by the attending physician and by the facility director of nurses, must be submitted to the utilization review committee (URC) serving the facility.

(d) All forms should be submitted to the Utilization Review Committee prior to the expiration of the continued stay review date.

(1) All forms must be properly completed.

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

(3) The Medical-Nursing Care Evaluation requesting a change in level of care may be submitted at any time on changes in diagnosis or substantial change in the plan of care. This will serve as a continued stay review date.

(e) The committee will re-evaluate the established level of care. At this time, one of the following actions will be taken:

(1) Established level of care may be sustained by the patient care coordinator.

(2) The established level of care may be raised or lowered by the committee or subgroup including at least one physician.

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

(B) If the attending physician does not respond within two working days after being contacted or does not contest the findings of the URC physician, then the determination is final. Written notification of this final determination must be sent to the attending physician, the patient (and next of kin when appropriate), the facility administrator, and the Department of Public Welfare (DPW) no later than three working days after the end of the assigned continued stay period. When appropriate and desired, verbal notification may precede written notification.

(C) If the attending physician contests the findings of the URC physician or if he or she presents additional information relating to the patient's need for continued stay, at least an additional URC physician must review the case. If the two physician members determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (next of kin when appropriate), the facility administrator, and DPW no later than three working days after the end of the continued stay period.

(D) If after considering all of the evidence the physician(s) determines that continued stay is justified, the attending physician will be notified and a continued stay review date will be established and recorded.

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

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

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

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

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

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

(5) Termination of nursing facility care.

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

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

(C) Vendor payments to the facility will be made at the rate for the previously established level of care for a period of 15 days or until the patient is transferred, whichever occurs first.

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

(f) The Medical-Nursing Care Evaluation will be forwarded to the local MAU for processing. This will be followed by notification from the state office.

.002. Utilization Review Committee Staff. Each Utilization Review Committee will be composed of two or more physicians, a patient care coordinator (registered nurse), and other professional personnel representing the services provided by the facility that may be subject to review, such as social services, physical therapy, etc.

.003. Continued Stay Reviews for MAU Doing the Reviews.

(a) A continued stay review is the recertification of the continuing need for nursing facility care and re-

evaluation of the established level of care.

(b) Continued stay reviews must be accomplished every 60 days.

(c) A Medical-Nursing Care Evaluation completed and signed by the attending physician and by the director of nurses must be submitted to the local Medical Assistance Unit (MAU) serving the facility.

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

(1) All forms must be properly completed.

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

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

(e) The MAU nurse will re-evaluate the established level of care. At this time, one of the following actions will be taken:

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

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

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

(B) If the attending physician does not respond within two working days after being contacted or does not contest the findings of the MAU physician, then the findings are final. Written notification of this final determination must be sent to the attending physician, the patient (and next of kin when appropriate), and the facility administrator no later than three working days after the end of the assigned continued stay period. When appropriate and desired, verbal notification may precede written notification.

(C) If the attending physician contests the findings of the MAU physician or if he or she presents additional information relating to the patient's need for continued stay, at least one additional MAU physician must review the case. If the two physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (and next of kin when appropriate), and the facility administrator no later than three working days after the end of the continued stay period.

(D) If after considering all of the evidence the physician(s) determines that continued stay is justified, the attending physician will be notified and a

new continued stay review date will be established and recorded.

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

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

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

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

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

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

(5) Termination of nursing facility care.

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

(B) If at least two MAU physicians determine that the patient's stay is not medically necessary or appropriate after considering all of the evidence, their determination becomes final. Written notification of this decision will be sent to the attending physician, patient (or next of kin), and the facility administrator not later than three working days after the end of the continued stay review period.

(C) Vendor payments to the facility will be made at the rate for the previously established level of care for a period of 15 days or until the patient is transferred, whichever occurs first.

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

(6) Notification indicating the level of care, effective date, and a new continued stay review date will be sent to the attending physician, patient (and next of kin when appropriate), the facility administrator, and the DPW medical eligibility worker by the MAU. This will be followed by notification from the state office.

Utilization Review Committees 326.44.07

.001. *Development of Utilization Review Committees.*

(a) The Certification Services Section receives notification that the facility has expressed interest in having a Utilization Review Committee (URC).

(b) The Certification Services Section notifies the Utilization Control Division of the facilities that have expressed an interest in having a URC.

(c) The Utilization Control Division notifies the regional medical assistance unit (MAU) of the expressed interest.

(d) The MAU contacts the facility and supplies an application form.

(e) The facility completes the application form and forwards it to the regional MAU office. Committee composition includes two or more physicians, a patient care coordinator, and other professional staff to represent ancillary services provided, such as nursing, social services, physical therapy, etc. The patient care coordinator is to be a registered nurse; therefore, the requirement for nursing services representation will be covered by this committee position.

(f) The MAU evaluates the application and makes recommendations concerning approval of the proposed committee members. The application form and recommendations are forwarded to the Utilization Control Division.

(g) The Utilization Control Division contacts the committee applicants regarding the contract negotiations.

(h) Final approval or disapproval of the committee is made by the Utilization Control Division. The MAU is notified of the approval or disapproval.

(i) The MAU sets up orientation and training sessions for the committee. These training sessions include the following:

(1) supplying committee with appropriate forms;

(2) level of care determination criteria;

(3) level of care determination procedure;

(4) processing of related forms;

(5) physician's appeal procedure;

(6) patient appeal procedure;

(7) waiver notification procedure;

(8) notification procedures for receipt of late medical evaluation forms;

(9) proper use of various notification letters.

(j) The MAU monitors the work of the committee and provides on-going consultation.

(k) Pending approval and completion of contractual arrangements, the MAU continues to perform utilization review activities.

Doc. No. 763520

Medical Assistance Unit Procedures 326.44.08

.001. *Pre-Admissions.*

(a) Requests for nursing facility care received in the local Department of Public Welfare (DPW) office.

(1) The Aged, Blind, and Disabled (ABD) social services worker mails a Medical-Nursing Care Evaluation to the attending physician and encloses an envelope addressed to the regional medical assistance unit (MAU) office.

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

(3) The ABD social services worker completes a Home Care Assessment and a Medical-Social Referral and forwards them along with the appropriate recommendation to the regional MAU office.

(b) Requests for nursing facility care received in the MAU office.

(1) The MAU nurse mails a Medical-Nursing Care Evaluation to the attending physician with a self-addressed envelope.

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

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

(A) The MAU medical social worker completes a Social Evaluation of Need for Nursing Facility Care and makes an initial recommendation within three working days.

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

(C) The Social Evaluation of Need for Nursing Facility Care is forwarded to the regional MAU office.

(4) The MAU nurse notifies the ABD social services worker if the individual is not in a technical medical care facility.

The ABD social services worker completes a Home Care Assessment and submits it, with a Medical-Social Referral and appropriate recommendations, to the MAU within three working days.

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

(1) If a level of care determination is made, the medical social worker assists the individual in entering a nursing care facility.

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

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

(4) If the individual is admitted to a nursing care facility within the 30-day period, the pre-admission level of care determination serves as the admission certification and the level of care remains valid until the first continued stay review date.

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

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

(2) The Medical-Nursing Care Evaluation and the Social Evaluation of Need for Nursing Facility Care or the Home Care Assessment are forwarded to the worker with appropriate recommendations.

(e) If a level of care determination is not made or if it differs from the level of care recommended by the attending physician, the attending physician is contacted within two working days and allowed an opportunity to present his or her views and any additional information relating to the patient's need for nursing facility care.

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

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

(3) The individual and the attending physician are notified of the decision in writing within five working days of receipt of the forms.

(f) Appeals procedure:

(1) The request for an appeal must be made within 60 days from the effective date (review date).

(2) All patients or sponsors are required to contact the MAU of their choice to appeal.

(3) The MAU completes a Petition for Fair Hearing and mails it and a copy of the latest Medical-Nursing Care Evaluation to the regional hearing officer.

(4) The attending physician must be contacted on all adverse decisions (those which disagree with the attending physician's recommendation).

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

(6) Documentation must be made on the Medical-Nursing Care Evaluation indicating the date the attending physician was contacted and whether he or she agreed or disagreed with the decision to change the level of care.

(7) If the attending physician agrees with the decision to change the level of care, the effective date of the change will be the date the review was done.

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

(A) If the patient appeals prior to the effective date, the level of care will remain the same pending the appeal.

(B) If the hearing officer overrules the decision, the level of care will remain the same until the next continued stay review is done.

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

(9) If the patient appeals after the effective date of the level of care change, the hearing officer will be notified and the regular appeals procedures followed.

(10) If the hearing officer overrules the decision to change the level of care, payment will be made retroactively in accordance with the appeal decision.

(11) In all instances except a denial, the new continued stay review date will be established based on the date the review was done.

.002. Admissions.

(a) Patient has current pre-admission level of care determination and the admission form is received in the MAU office.

(1) The MAU nurse changes the Medical-Nursing Care Evaluation from pre-admission to admission, changes the effective date, and establishes a continued stay review date.

(2) The level of care remains the same as that established on the pre-admission level of care determination.

(3) The appropriate persons are notified.

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

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

(2) The Medical-Nursing Care Evaluation must be received within seven days of admission for the effective date to be the date of admission.

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

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

(B) If the level of care differs from that recommended by the attending physician, or if the level of care is denied, the attending physician is notified within two working days and allowed an opportunity to

present his or her views and any additional information relating to the patient's needs for nursing facility care.

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

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

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

(F) The proper individuals are notified of the decision in writing no later than five working days from receipt of the Medical-Nursing Care Evaluation.

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

(c) The appeals procedures for an admission level of care determination are the same as those given for pre-admission. See Rule 326.44.08.001(f).

.003. Continued Stay Review Appeals Procedure. The appeals procedures for a continued stay review are the same as those given for pre-admission. See Rule 326.44.08.001(f).

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

(a) Suspense files are maintained pending receipt

of waiver request forms to be submitted within 15 days.

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

(1) The MAU nurse reviews the form and makes the appropriate recommendations.

(2) All forms and recommendations are forwarded to the MAU physician.

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

(B) If the waiver is denied, the facility is notified.

(i) A second file is set up in the local office for 15-day extension of vendor payments.

(ii) If the Medical-Nursing Care Evaluation or Patient Transaction Notice has not been received on the 15th day, the nursing facility is contacted to determine patient status regarding discharge.

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763521

Raymond W. Vowell
Commissioner
State Department of Public
Welfare

Effective Date: July 1, 1976

Expiration Date: October 28, 1976

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

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

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

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

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

Texas Education Agency

Teacher Certification

Requirements for Teacher Certificates

226.62.03.010

The State Board of Education and the Commissioner of Education propose to amend Rule 226.62.03.010, concerning general requirements for teacher certification. The proposed amendment clarifies requirements for elementary, secondary, and special education certification, as well as methods for obtaining additional endorsements on the teaching certificate.

Public comment on the proposed amendment to Rule 226.62.03.010 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-4789, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

This rule is proposed under the authority of Section 13.034, Texas Education Code.

.010. General Requirements. Policy

The general requirements for teacher certification, and revisions thereof, shall be: (1) in accordance with law;

(2) recommended by the Commissioner of Education; and (3) approved by the State Board of Education.

Administrative Procedure

An individual making application for a Texas teacher certificate must:

- (1) be a citizen of the United States or indicate intent to become a naturalized citizen as evidenced by filing a declaration of intent;
- (2) be at least 18 years of age;
- (3) be of good moral character as evidenced by statements of three individuals;
- (4) be willing to support and defend the constitutions of the United States and Texas;
- (5) have college credit or examination credit in knowledge of the Texas and federal constitutions; and
- (6) be able to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching.

Teacher certificates are issued to individuals who meet the above requirements, who complete approved programs at approved Texas institutions of higher learning, and who are recommended for certification by the institution. Exceptions to the recommendation requirements for certain vocational education certificates are identified in Rule 226.62.03.020 and certificates and degrees earned for out-of-state in Rule 226.62.08.010. *All credit-hour requirements for certificates are semester hours or their equivalent.*

(a) Since the person holding a permanent Texas teacher certificate may be considered to have met the basic requirements for certification, the requirements of professional education shall be considered fully satisfied when the individual has completed at least 12 semester hours of professional education courses of which at least six semester hours are in the area and level of the additional certificate requested.

(b) To be certified to teach on the secondary level, a person shall have at least 24 semester hours in two subjects related to the public secondary school curriculum or at least 48 semester hours in subjects which may be considered as being included in a broad area field.

(c) To be certified on the elementary level, a person shall have at least 12 semester hours in courses specifically designed for teaching subjects in the public elementary school. At least nine semester hours shall be in the basic subjects, such as arithmetic, reading, social studies, and/or science.

(d) To be certified in special education, the individual shall fulfill the specialized requirements of an approved program.

(e) The requirements for additional endorsements may be met by one of the following methods:

- (1) completion of an approved teacher education program for the requested certificate;*

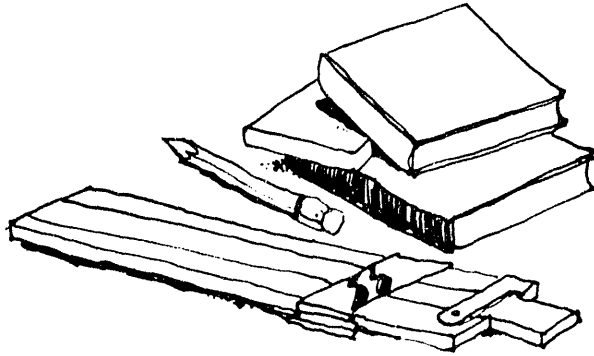
(2) completion of examination(s) covering the required subject(s) if the institution has an approved examination program.

Issued in Austin, Texas, on June 15, 1976.

Doc. No. 763491 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: September 11, 1976

For further information, please call (512) 475-2268.



226.62.03.020

The State Board of Education and the Commissioner of Education propose to amend Rule 226.62.03.020, concerning requirements for teacher certification. The proposed change replaces "hours" with "semester hours" wherever it is appropriate in the description of requirements for teacher certification. Additions to the requirements for the provisional elementary certificate and special education endorsements are proposed.

Public comment on the proposed amendment to Rule 226.62.03.020 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-4789, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

Because of the length of this rule, the text will not be published in the *Register*. The rule may be examined at the offices of the *Texas Register*, Suite 550, Texas Commodore Building, 8th and Brazos Streets, Austin, and at the offices of the Texas Education Agency, 201 East 11th Street, Austin, during normal working hours.

.020. Specific Requirements for Teacher Certification by Class and by Level, Including Areas of Specialization and Endorsements.

Issued in Austin, Texas, on June 25, 1976.

Doc. No. 763492 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: September 11, 1976

For further information, please call (512) 475-2268.

Issuing Teacher Certificates 226.62.04

The State Board of Education and the Commissioner of Education propose to amend Rule 226.62.04.010 concerning procedures for issuing teacher certificates. The proposed change, the addition of subsections (d) and (e) to the administrative procedure section, adds provisions for newly adopted teaching fields and clarifies rules governing the date of issue for teaching certificates. The other sections of the rule are unchanged.

Public comment on the proposed amendment to Rule 226.62.04.010 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-4789, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

This rule is promulgated under the authority of Sections 13.032-13.034, Texas Education Code.

.010. Certificate Issuance Procedures. Administrative Procedure

(d) Newly adopted teaching fields. The division of teacher certification will evaluate credentials for teaching fields newly adopted by the State Board of Education and for which Texas colleges do not yet have a sufficient number of approved programs.

(e) Dates of certificate issuance.

(1) The issuance date of emergency teaching permits and special assignment permits will be the date the application form is signed and notarized by the superintendent or his authorized representative.

(2) The issuance date of certificates will be the date the application form is signed by the applicant and properly notarized. The notarization date must not be prior to the completion date of all certification requirements. (This policy is directed toward certificates and permits evaluated by the division of teacher certification. It does not apply to applications for certificates accompanied by college recommendations or the applications verified by occupational education and technology.)

(3) *The issuance date may be retroactive for as much as 60 days prior to receipt of the application by the division of teacher certification.*

(4) *A certificate is recognized for the entire month in which it was issued.*

(5) *Whenever a teacher changes certification status, converts from an emergency teaching permit to permanent teacher certification, the effective date is the day of permanent certificate issuance. If this date is during the school term, the teacher's salary for foundation school program purposes is changed, effective on that date.*

(6) *Districts will be covered during the processing time of the permit even if the person is not eligible to receive it. Districts will be notified regarding eligibility or ineligibility for permits.*

Issued in Austin, Texas, on June 15, 1976.

Doc. No. 763493 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: September 11, 1976

For further information, please call (512) 475-2268.

Texas Certificate Based on Certificates and College Credentials from Other States 226.62.08

The State Board of Education and the Commissioner of Education propose to amend Rule 226.62.08.010 concerning the issuance of Texas teacher certificates based on certificates and college credentials from other states. The changes clarify requirements, specify the expiration date for the one-year certificate based on college credentials from out-of-state and specify evaluation criteria for applicants for professional certificates. Changes have been made to subsections (a)(1), (d), and (e), and a subsection (f) was added to the administrative procedure section. The rest of the rule is unchanged.

Public comment on the proposed amendment to Rule 226.62.08.010 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-4789, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

This rule is promulgated under the authority of Section 13.042, Texas Education Code.

.010. Issuance of Texas Certificate Based on Certificates and College Credentials from Other States.

Administrative Procedure

(a) Texas certificates which may be issued. Providing all requirements are met, the following Texas teacher certificates may be issued:

(1) a provisional life certificate for those individuals holding a regular classroom certificate (fully certified) based upon at least the bachelor's degree in a teacher education program from another state.

With regard to content of teacher, academic, or general education, the preparation upon which the certificate from another state is issued is required to be at least equal to the Texas requirement in semester hours but not necessarily in content or kind. [Some areas of specialization such as sociology and psychology, which are not approved for a teaching field in teacher preparation at some levels in Texas, may be teaching fields in other states; however, these areas may be honored and recorded for certification in Texas.] Although two teaching fields are required for certification of Texas institution graduates, an out-of-state graduate holding a valid certificate from another state may be granted a Texas certificate for secondary schools provided he has only one single subject teaching field of at least 24 semester hours of credit. No teaching field is recorded on the Texas certificate unless it is approximately equal in semester hours to the requirements for a teaching field in Texas at the time the Texas certificate is issued.

(d) Holder of a Texas degree and an out-of-state certificate. An applicant holding a degree from a Texas institution of higher education and an out-of-state certificate is considered a Texas graduate with respect to the issuance of a Texas certificate unless the applicant's *certificate requirements were* [teacher education program has been] completed *in an accredited out-of-state institution* after his Texas degree [and his out-of-state certificate is based upon a degree program completed in the state issuing his certificate].

(e) Holder of out-of-state degree but no certificate. The holder of an out-of-state degree who does not have a certificate must *have his or her transcripts evaluated by the Division of Teacher Certification, Texas Education Agency. Only degrees granted by institutions which are regionally accredited will be recognized* [obtain a certificate from a Texas institution of higher education as outlined in Rules 226.62.03.010-.020, Teacher Certification Requirements, and Rule 226.62.04.010, Certification Issuance Procedures].

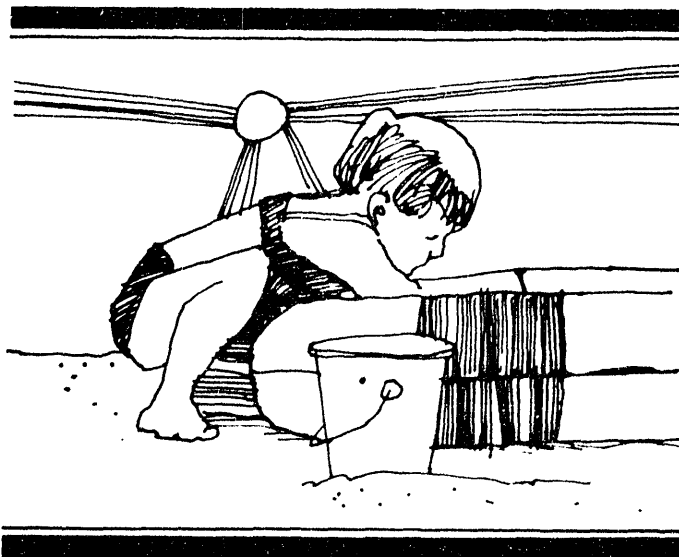
The one-year certificate based on college credentials from out-of-state but no out-of-state certificate is issued for the remainder of the school year in which it is authorized, to expire August 31.

(f) Evaluation of out-of-state applicants for professional certificates. An applicant holding the highest degree from another state and having completed no more than 12 semester hours toward a professional certificate shall be evaluated by a Texas institution, complete the approved program established at the institution, and be recommended for professional certification by the institution.

Issued in Austin, Texas, on June 15, 1976.

Doc. No. 763495 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: September 11, 1976
For further information, please call (512) 475-2268.



Texas Health Facilities Commission

General Rules

The Texas Health Facilities Commission is proposing to adopt permanent rules, designed to clarify and simplify the interim permanent rules which the commission proposes to repeal; and to provide a more efficient and orderly system for the regulation of development, construction, expansion, and/or modification of certain health care facilities and services in the State of Texas. Procedures established under the interim permanent rules, which have proven to be inefficient, will be revised in the proposed permanent rules.

Public comment is invited and will be accepted until July 16, 1976, and should be addressed to Michael R. Sharp, General Counsel, Texas Health Facilities Commission, P. O. Box 15023, Austin, Texas 78761.

A public hearing is scheduled to receive testimony relevant and material to the adoption of the proposed rules. The hearing will be held on July 16, 1976, at 10 a.m., at the offices of the Texas Health Facilities Commission, Suite 407, One Highland Center, Austin.

The text of the rules contained in categories 315.09 through 315.13 was published in the July 2, 1976, issue of the *Register*. Because of space limitations, only the titles of the subcategories contained in categories 315.14 and 315.15 were published in that issue.

The text of category 315.14 appears below. The July 9, 1976, issue of the *Register* will contain the text of the rules in category 315.15. The rules may be inspected in the offices of the *Texas Register*, Suite 550, Texas Commodore Building, 8th and Brazos Streets, Austin, and in the offices of the Texas Health Facilities Commission, Suite 450, One Highland Center, 314 Highland Mall Boulevard, Austin, during normal working hours.

Computation of Time 315.14.01

Rule 315.14.01.001 provides an explanation of the method of computing time and the method of requesting extensions of time for filing pleadings.

This rule is proposed under the provisions of Article 4418(h), Section C, Vernon's Annotated Civil Statutes.

.001. *Computation of Time.*

(a) **Computing time.** In computing any period of time prescribed or allowed by these rules, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or state holiday, in which event the period runs until the end of the next day which is neither Saturday, Sunday, nor a state holiday.

(b) **Extensions.** Unless otherwise provided by statute, the time for filing any pleading, except a notice of intent to contest an application, may be extended by order of the chairman of the commission upon written motion duly filed with him prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefor is not caused by the neglect, indifference, or lack of diligence of the movant. A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

Applications and Fees 315.14.02

Rules 315.14.02.001-.002 provide an explanation of the method of submission of applications and an explanation of application fees.

This rule is proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Applications.

(a) Letters of intent. A letter of intent (THFC Form 20) shall be filed for construction projects at the earliest possible opportunity in the course of planning such construction projects. These forms are available at the commission and must be submitted prior to the filing of an application for a construction project. A copy of the letter of intent will be forwarded to the appropriate Health Systems Agency.

(b) Typewritten or printed. All letters of intent and applications submitted to the commission shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper, and lines shall be double spaced on all attachments. Mimeographed, multigraphed, hectographed, photostated or planographed papers, and the like, will be accepted as typewritten. If printed, the paper shall be unglazed, and the printing shall be in clear type, adequately leaded.

(c) Size of papers and materials submitted. All papers, including attachments, shall be cut or folded so as not to exceed a width of 8-1/2 inches and a length of 14 inches. Attachments shall have inside margins not less than one inch wide.

(d) Number of copies. All applications for certificate of need must include the original and two complete copies of the application and supporting materials before any action will be taken by the commission. All applications for a declaratory ruling or an exemption certificate must include the original and two complete copies of the application before any action will be taken by the commission. One copy of the complete application for certificate of need plus copies of Form 20, 22, and 23 will be forwarded to the appropriate Health Systems Agency.

(e) Forms. All applications for declaratory rulings, exemption certificates, and certificates of need must be prepared in the form and contain the information required by the commission.

.002. Fees.

(a) The following schedule of fees is established for certificate of need applications to be considered by the commission. Establishment of a fee schedule for applications and maximum fees are authorized under Section 3.05 (Article 4418(h), Vernon's Annotated Civil Statutes).

The fee schedule may be examined from time to time to determine appropriations of amounts to project cost level. For a certificate of need application, the fee is:

(1) \$100 minimum; or
(2) 0.35 of 1% of total project cost, whichever is greater, not to exceed \$3,500.

(b) For exemption certificates and declaratory rulings, the fee schedule is set at \$50, until amended.

(c) For projects expanding services only or where cost is not calculable . . . \$100.

Criteria 315.14.03

Rule 315.14.03.001 provides an explanation of the data and criteria used in certificate of need reviews by the commission.

This rule is proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Data and Criteria for Use in Certificate of Need Reviews.

(a) Data shall be obtained from the Texas Department of Health Resources and used in evaluating applications for certificate of need.

(1) Geographical areas of data presentation. The basic geographical area of consideration will be the county. For each application, data shall be presented and considered for: the county, Hill-Burton Service Area, Regional Planning Council, Health Service Area, and the state.

(2) Comparable area facilities. For each application, data shall be obtained from the Texas Department of Health Resources regarding similar facilities, and facilities offering similar services.

(3) Available manpower. For each applicant proposing a new or modified facility or new or expanded service, data shall be obtained from the Texas Department of Health Resources regarding manpower specialties available in the geographical areas to be considered.

(4) Cost analysis. Each proposed facility and/or service application will be evaluated on a cost utilizing applicant data and Texas Department of Health Resources data for the proposed area of location.

(b) General. The following are criteria which if applicable shall be considered in making a determination to grant or deny a certificate of need. The burden of proof is on the applicant to establish need as defined by Section 3.10 of the act and by these rules.

(1) Community health care needs will be considered.

(A) Health care requirements of the community or population to be served. Consideration shall be given to each application to determine, within the

perspective of all other existing or approved facilities and services available to the population proposed to be served by an applicant, whether or not additional facilities and/or services are required to provide reasonable health care capability for the proposed area of location.

(B) Population. Total population will be examined by standard areas for the 1960, 1970, and projected 1980 populations. The 1960, 1970, and 1980 populations statistics and projections to be used will be the U.S. Census count as well as any more current U.S. Census data considered. Within the 1970 and 1980 population figures, population groups will be examined. Additional factors for consideration will be growth rate from 1960 to 1970 and estimated growth rate from 1970 to 1980. Density of population, dependency ratio, and mean family size will be considered within the population sector.

(D) Existing and/or approved facilities and services. Data pertaining to all existing and approved facilities or services based upon licensing and other authoritative approval sources shall be examined. All inpatient facilities will be examined on the basis of licensed and surveyed bed capacity. The examination shall include the utilization rate of the licensed and surveyed bed capacity as reported by the Texas Department of Health Resources.

When available, the numbers of procedures within a facility will be compared by the standard geographical areas for at least the following procedures and services: (1) inpatient surgery, (2) orthovoltage therapy, (3) physical therapy, (4) renal dialysis, (5) kidney transplant, (6) outpatient surgery, (7) megavoltage therapy, (8) inhalation therapy, (9) open heart surgery, (10) burn care, (11) tumor registries, (12) communicable diseases, (13) chronic diseases, (14) dental health services, (15) alcohol outpatient treatment, (16) methadone outpatient treatment, (17) MH/MR-- county and state, (18) blood center services, and (19) drug abuse outpatient treatment.

(E) Accessibility of service and facility in travel time. Each application for a facility or service shall be examined for accessibility to the population proposed for service by travel time.

(F) Utilization of facilities/services. For each application, consideration shall be given to the utilization of comparable facilities or services within the prescribed geographical areas. Utilization rates for the licensed bed capacities of all facilities of comparable type shall be examined. Comparison shall be effected for all like services within the prescribed standard areas.

(2) Manpower necessary of a project will be considered.

(A) Manpower availability and requirements. The availability and likelihood of the applicant

to obtain required manpower necessary for the delivery of health services shall be considered.

(B) General medicine and physician specialties. The number of M.D.'s, D.O.'s, dentists, pharmacists, chiropractors, podiatrists, optometrists, and registered and licensed vocational nurses in the proposed service area shall be considered. The ratios of practitioners per capita shall be considered within geographical areas.

(C) Allied health professionals. The availability of allied health professionals will be identified in the five geographical areas of comparison. The applicant will be required to provide convincing evidence that sufficient manpower will be available at the time of the proposed beginning of operation of the facility and/or service.

(D) Other considerations. The ratio of physicians and allied health professionals per square mile; population per physician; as well as critical shortage factors will be considered. Similarly, ratios per square mile and per population will be considered for allied health professionals required to support the proposed project.

(3) Economic feasibility of a project will be considered.

(A) Less costly alternatives. The availability of less costly or more effective alternatives of providing services shall be considered.

(B) Cost analysis. Construction cost for a proposed project relative to like facilities within the areas identified will be considered. Other indicators to be utilized will be cost per bed, cost per square foot, or operation cost per patient day. Cost factors shall include but not be limited to construction, equipment, administrative and professional services, and patient visits.

(C) Services. Service costs will include, but not be limited to, the prorated share of facility cost necessary for the delivery of services; the acquisition cost of equipment and the useful life of the equipment; and the professional allied health manpower and administrative overhead cost.

(D) Revenue sources. In determining economic feasibility of a project, expected revenue sources shall be considered. Major categories of revenue sources include, but are not limited to, social security benefits, federal and state grants, Medicare and Medicaid benefits, insurance, and private payment.

(E) Population economic indicators. Median family income and family income groupings shall be evaluated for respective geographical areas. Area comparisons will be made of retail sales, assessed value and estimated income for taxation, and employment statistics for the service area proposed.

Health care cost indicators will be utilized such as: benefits per capita for social security, Medicare hospital

and Medicare supplementary sources of income, welfare inpatient, welfare outpatient, and local coverage.

(4) Special needs of rural areas will be considered. Consideration shall be given to the unique requirements of sparsely populated areas.

(5) Special services proposed by a project will be considered. A project will be evaluated on the basis of unique or unusual services proposed.

(6) Long-range development plans of the applicant will be considered.

(7) Relationship of a proposed project to the state health plan, state medical facilities plan, the health systems plan, and annual implementation plan shall be considered carefully. Said plans shall be given substantial weight in evaluating project applications. Every applicant shall address the relationship of the project to pertinent existing plans and shall meet the burden of demonstrating compliance with such plan(s) or the special circumstances justifying approval where the plan(s) conflicts with said project.

(8) Special needs and circumstances of facilities proposing substantial service to indigents will be considered.

(9) Special needs and circumstances of facility providing substantial portion of services to persons residing outside area facility location will be considered. Certain facilities provide unique services to clients residing outside the immediate vicinity. Careful evaluation of the special needs and circumstances of those entities which provide substantial services to individuals not residing in the health service area in which such entity is located shall be made. Such entities may include medical and other health professions, schools, multidisciplinary clinics, and specialty centers.

(10) The potential effects of proposed project on existing facility will be considered.

(A) Each project proposed shall be evaluated with respect to its effect upon similar existing previously approved projects within the proposed area of location.

(B) Similar facilities will be compared to determine the impact of additional services or capacity proposed by the application. Particular attention will be given to the economic impact of the proposed project on existing services and facilities within the area.

(11) Special needs and circumstances of Health Maintenance Organizations (HMO) may be considered. Consideration may be given the unique system of health care delivery offered by HMOs. The basic elements of review and the HMO's organizational and financial structure will be considered.

(12) Projects proposing research may be considered. Special consideration may be given to projects primarily concerned with medical research and to projects primarily designed to test innovative health care delivery systems.

(13) Additional criteria shall be utilized for project proposing computerized axial tomography.

(A) Policy. The commission recognizes that computerized axial tomographic scanners are the subject of much national concern and debate. The commission hereby adopts the policy that this equipment, due to the limited quantity of information available regarding economic feasibility, practical application, and operation should be made available on a selective basis to assure the prudent investment of capital funds and the development of significant information regarding the equipment.

Criteria, as described in (B) and (C) below, will be utilized in evaluating applications for certificates of need for the acquisition and operation of computerized axial tomographic scanners, in addition to the criteria set forth above.

(B) Head scanner. The applicant facility or facilities must satisfy the following:

i. There must be maximum physical accessibility and availability of the equipment to large populations with medical conditions reasonably susceptible to diagnosis through use of the equipment. The facility(ies) must have an active neurosurgical service, with at least two fulltime active neurosurgeons certified by the American Board of Neurological Surgery or the American Osteopathic Board of Surgery, who utilize the facility(ies) as a primary source of hospitalization. The activity of the service will be indicated by the number of intracranial procedures, ventricular shunts, epileptic treatments, and head trauma cases.

The facility should have an active neurology service with at least one fulltime qualified neurologist utilizing the facility(ies) as a primary source of hospitalization. The activity of the service will be indicated by the number of neurological consults annually.

The facility(ies) must demonstrate a demand of at least 2,000 procedures annually (based upon five-day week, eight hours per day operation). This demand will be indicated by the facility's previous 12-month volume of nuclear brain scans, cerebral arteriograms, and pneumoencephalograms, which must total 1,000 procedures.

The facility(ies) must demonstrate its geographic proximity to neighboring facilities, and any existing mechanisms and/or agreements for generating patients from outside the facility(ies).

The facility must provide ambulatory services.

The facility must provide access to said equipment from all referral sources in the community.

ii. The operation of said equipment must be economically self-sustaining, as demonstrated by adequate cash-flow projections and supporting financial statements.

iii. The facility(ies) must have appropriate staff to make evaluation of the application of said equipment. A fulltime radiologist, as defined by the American Board of Radiology and the American Osteopathic Board of Radiology, with expertise in neuroradiology, must be on the staff of the facility(ies).

iv. The facility must be willing to make frequent periodic statistical reports to the commission and fully share information regarding the applications, economics, and operations of such equipment.

v. The applicant must be willing and capable of providing assistance in the areas of professional and technical training to facilities subsequently acquiring such equipment.

vi. The facility(ies) must be capable of providing for and maintaining adequately trained technical personnel.

vii. The facility(ies) must demonstrate that the reporting of scanning results to referring physicians will be prompt.

(C) Full body scanner. The criteria in Rule 315.14.03.001 and that set forth in (B) above shall apply to the acquisition and installation of a full body scanner, in addition to the following criteria:

i. In addition to (B)(iii) above, the facility(ies) must have on staff at least two or more board-certified diagnostic radiologists who spend at least 50 percent of their time at the facility(ies). Board certification as a diagnostic radiologist is that provided by the American Board of Radiology or the American Osteopathic Board of Radiology.

ii. The facility(ies) must have on staff at least one intra-thoracic surgeon, one pathologist, and one internist with training in oncology and hematology who spend at least 50 percent of their time at the facility(ies).

iii. The facility(ies) must have at least two fulltime equivalent certified radiologic technologists per scanner.

iv. The facility(ies) must have been performing, at least 12 months prior to submission of an application, at least two of the following three diagnostic modalities: head and body arteriography, nuclear medicine imaging, and ultra-sound.

v. The facility(ies) must present an appropriate scheduling policy which provides an equitable access for patients referred from outside the facility(ies).

These rules are proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Contested/Uncontested Cases and Joint Hearings.

(a) Contested cases. "Contested cases" means a proceeding, including but not restricted to ratemaking and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing.

Each application for a certificate of need becomes a contested case subject to the provisions of the Administrative Procedure and Texas Register Act, hereinafter referred to as the APA, for the reason that for the purposes of the APA the Texas Health Facilities Commission performs a licensing function as set out below:

"License includes the whole or part of any agency permit, certificate, approval, registration, or similar form of permission required by law."

"Licensing includes the agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license."

(b) Uncontested cases. Pursuant to Section 3.09(e) of the act, an uncontested application shall mean an application for a certificate of need for which neither a notice of intent to contest the application has been timely filed nor a request has been granted to make a person a party by the chairman; a request by the applicant has been made to the commission for the application to be reviewed and acted on by the commission without a hearing and the chairman has stipulated with the applicant that the application shall be reviewed and acted on without a hearing.

The commission shall, when considering an uncontested application pursuant to this rule, receive at least the recommendation of the assigned hearings officer.

When considering an uncontested case in open meeting, the commission, at its discretion, may allow final argument by the parties to the application. The time for said arguments and the persons recognized for same shall be at the discretion of the chairman.

(c) Joint hearings. When it is determined by the chairman or his designee that applications are competing, the chairman or his designee may join the applications for one hearing and order process. The chairman or his designee must make the decision that applications are competing within 30 days from the dating of any application. Any subsequent application so joined with another application may have its hearing and order dates accelerated to conform with the original application. The subsequent application must also comply with notice posting requirements prescribed elsewhere in these rules. The subsequent applicant shall post

Hearings 315.14.04

Rules 315.14.04.001-.017 provide an explanation of commission hearings.

notice of the joinder and the new date of hearing, if any, in the same areas required of the original applicant. The notice may also accelerate the time for filing notices of intent to contest the subsequent application.

The joined applications will share the same hearing date as that of the original application, including extensions thereto.

At the hearing, the hearing officer shall first receive the evidence on the original application, and then the evidence on each other application in the order in which it was joined. Applicants may testify against each other's applications and may cross-examine all evidence.

(d) Burden of proof. In the matter of all hearings, meetings, or requests for relief or action of any kind, the applicant, movant, or requesting person shall have the burden of proving that he or she is entitled to the relief requested.

.002. Public Notice.

(a) Meetings. Public notice shall be given of all meetings (not hearings) held by the commission for the purpose of carrying out its duties and functions. Posting of public notice shall conform to all laws governing posting and scheduling.

(b) Applicant publishing notice-- certificate of need. As prescribed in Section 3.07(1)(2) of Article 4418(h), Vernon's Annotated Civil Statutes, the applicant is required to provide notice of a hearing to be held by the commission on an application for certificate of need in the manner described as follows:

(1) by publication in at least one newspaper of general circulation in the largest city in the health systems agency service area which would be served by the proposed service or facility;

(2) by publication in at least one newspaper of general circulation in the locality within which the proposed service or facility would be developed; and

(3) in the style, type, and location normally utilized by the publisher for such notices.

The commission shall provide notice of application acceptance of the applicant by certified mail, return receipt requested. The applicant, not later than the 15th day after said application has been dated, shall publish notice of the scheduled hearing date. If an applicant has not received acknowledgment of application from the commission by the 15th day after submitting application, it shall be the responsibility of the applicant to contact the commission to obtain proper posting information for notification. Notice shall conform to the format prescribed by the commission and include the name and location by city and/or county of facility or proposed facility, a description of the project, date, time, and place of hearing or meeting pertaining to the application, name of applicant filing application. Notice

shall state that anyone wishing to contest the application has until the 30th day from dating of the application to do so. Applicant must furnish immediately to the commission, by certified mail, upon publication, three copies of the newspaper page on which the notice is posted or a publisher's affidavit from each newspaper.

An applicant failing to publish notice under the guidelines prescribed by this rule forfeits application fee and the right to proceed under the application as filed, except where there be extenuating circumstances justifying same in the opinion of the commission. Applicant may reapply with new fee submission and new application as provided for under applications procedures pursuant to Section 3.04, Article 4418(h), *et seq.*

(c) Form and notice. Applicants shall post notice for hearing and/or for hearing extension prescribed in form and content by the commission as follows:

Notice of Hearing

(Name of applicant, i.e., legal owner and name of project) is scheduled to appear at a hearing at _____, m. on _____, 197—, in the offices of the Texas Health Facilities Commission, One Highland Center, Suite 450, Austin, Texas, to petition the commission for a certificate of need to (subject of application and location by city/and or county) . . .

A notice of intent to contest the application may be made by filing a sworn affidavit of intent to do so with the commission using the format prescribed by the commission by no later than 5 p.m. - _____, 197—.

Any person may also file with the commission a request to become a party to the application. Such request should be in affidavit form and should detail the reasons supporting such request.

Note: If no notice of contest has been timely filed or if no application to become a party has been timely granted, the commission may, on request of the applicant, proceed without a hearing on an application for certificate of need at any time after _____, 197—.

Upon dating of an application by the commission, an applicant will receive, with the chairman's acknowledgment, the notice to be filed with relevant information as prescribed by the above form. Applicant shall publish that notice in newspapers of general circulation in the localities specified in that acknowledgment.

.003. *Intent to Contest.* Any person may file a notice of intent to contest an application. Any person may withdraw his intent to contest at any time on application to the chairman of the commission.

After posting of public notices by applicant, any persons wishing to contest said application may do so by filing

with the commission a notice of intent to contest within 30 days after the commission acceptance date. Notice of intent to contest an application must be received by the commission not later than 5 p.m. on the 30th day after an application is dated by the chairman. Should no notice be received by the commission by the appointed time, the commission, after request by applicant (pursuant to Section 3.09(3), Article 4418(h), Vernon's Annotated Civil Statutes), may proceed without a hearing and rule on the application through open meeting provisions by setting a meeting date with proper posting, not sooner than the 46th day after the date of the application.

The form of the notice of intent to contest an application must meet at least the following criteria:

(a) prepared on 8-1/2" x 11" or 8-1/2" x 14" paper;

(b) contain the name of the person intending to contest the application and his representative;

(c) the name of the facility, if any, the contesting person represents or has some interest in;

(d) the legal owner of the facility listed in (c) above;

(e) the reasons why the applicant should not be granted the relief sought; and

(f) an affirmation of truth and acknowledgment exactly as it appears below:

"I do solemnly swear or affirm that the information, dates, and representations submitted and included in this notice of intent to contest are, in each and every respect, true, accurate, and correct to the best of my knowledge and belief, and no misrepresentations of any nature are contained herein."

(Contestant's signature)

(Facility name, if any)

The State of _____

County of _____

Subscribed and sworn to before me, the undersigned authority, by _____ to certify which witness my hand and seal of office this the _____ day of _____, A.D. 197_____.

(Notary public in and for)

_____ County,

Texas (or other official duly authorized to take acknowledgments)

Failure of a person to supply any of the above information by the applicable deadline may result in defective notice of intent to contest, and the application may be considered uncontested after the 45th day after dating of the application, whereupon the commission may dispense with any public hearing on the application upon stipulation with the applicant.

.004. Motions For Postponement, Continuance, Withdrawal, Or Dismissal of Applications Or Other Matters before the Commission.

(a) Motions made prior to hearing for postponement, continuance, withdrawal, or dismissal of applications or other matters which have been duly set for hearing, shall be in writing, shall be filed with the chairman of the commission, and distributed to all parties. Motions for withdrawal or dismissal may be made at any time upon payment of any accrued costs. All motions shall set forth, under oath, the specific grounds upon which the moving party seeks such action and shall make reference to all prior motions of the same nature filed in the same proceeding. Failure to comply with the above, except for good cause shown, may result in denial of the motion or dismissal of the application or other matters in issue. The decisions on such motions rest within the discretion of the chairman of the commission or his designee.

Once an application has proceeded to a hearing, pursuant to the notice issued thereon, no postponement of continuance shall be granted by the chairman without the consent of the applicant(s), unless the commission shall have ordered such postponement or continuance.

.005. Chairman's Prerogative To Reclassify Application. When it is determined by the chairman of the commission that an applicant who has submitted an application requesting certificate of need does not require certificate of need, the chairman may at his option and at any time treat the application as a request for exemption certificate or declaratory ruling.

.006. Notice of Postpone Or Continued Or Rehearings-- Certificate of Need. When a party has shown good cause and when the commission has ordered a rescheduled hearing or a rehearing, movant is required to post notice of the rescheduled hearing or rehearing. Notice shall be posted at the time and in the manner prescribed by the commission. Movant shall furnish immediately by certified mail, upon publication, three copies of the notices posted on each newspaper page or a publisher's affidavit from such newspaper. Notice must state original date of hearing and new hearing date, along with other prescribed information.

.007. Place and Time.

(a) Place. All meetings and hearings will be held at the office of the Texas Health Facilities Commission and so stated in the postings of notice unless another Austin location is specified by the chairman of the commission.

(b) Time. Upon rescheduling a meeting or hearing, a date and time shall be specified. Scheduling will conform to all laws pertaining to open meetings and hearings and to time requirements stipulated for hearings on applications.

.008. Hearing Officer.

(a) Designation and duties. For each hearing on an application, the chairman of the commission or his

designee shall designate a hearings officer who shall be the presiding officer. The hearings officer shall conduct a hearing for each dated application. The officer must be an employee of the commission who is an attorney licensed to practice law in the State of Texas. The officer shall keep a complete record of each hearing and transmit the record to the commission when completed.

(b) Prehearing conference.

(1) In any proceeding, the chairman of the commission or the assigned hearing officer may direct the parties, their attorneys or representatives to appear at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

- (A) the simplification of issues;
- (B) the possibility of making admission or stipulation of fact to avoid the unnecessary introduction of proof;
- (C) the procedure at a hearing;
- (D) the limitation of the number of witnesses; and
- (E) such other matters as may aid in the simplification of the proceedings, and the disposition of the matters in controversy.

(2) Action taken at the conference shall be recorded in an appropriate manner by the hearings officer unless the parties enter into a written agreement otherwise.

.009. *Participating Parties.* "Party" or "informal party" means any person who by formal intervention or action as determined by rule of the commission participates in the consideration of a specific application by the commission.

For the purposes of this definition, "formal intervention" or "action" shall include, but not be limited to, properly filing of notice of intent to contest an application of acceptance of any person as a party who, in affidavit form, made a request to become a party stating the reasons therefor at the discretion of the chairman at any time prior to ordering.

"Interested party" means any person who wishes to present relevant evidence or testimony, as determined by the presiding officer, for or against an application at a hearing but who neither formally intervenes nor takes action which will make him a party to the application and does not have the privileges and responsibilities of a formal party.

Any party or interested party to an application may appear on his own behalf or additionally may only be represented by (1) an attorney authorized to practice law before the highest court of any state; or (2) a *bona fide* fulltime employee or agent who has authorization. The commission reserves the right to discuss the merits

of the application with no other person than those stipulated above. This, however, does not limit the right of any person to seek records under Article 6252-17a, Vernon's Annotated Civil Statutes.

.010. *Conduct and Decorum.* Every party, witness, attorney, other representative, and spectator shall exhibit in all proceedings proper dignity, courtesy, and respect for the commission, its staff, and the hearings officer assigned. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed by the Texas State Bar Act (Article 320a-1, Vernon's Annotated Civil Statutes). Upon violation of this rule, any party, witness, attorney or other representative may be excluded by the presiding officer from any hearing for such period and upon such conditions as are just.

.011. *Order of Proceedings.*

(a) Proceedings and testimony. On the day and time designated for hearing, the hearing officer will convene and call to order the hearing. The hearing officer will announce the name of the application, the purpose of the hearing, and a brief statement of jurisdictional facts. The hearing officer will notify all present who expect to testify at the hearing to sign an oath which will be provided. The hearing officer will further inform those present that no testimony will be received from those not signing the oath. The hearing officer will announce that a record of the hearing will be made. The hearing officer will state that the proceedings will be conducted under the rules of the APA (Article 6252-13a, Vernon's Annotated Civil Statutes). The hearing officer will inform those present that the applicant will have the right to open and conclude in adducing his evidence. The hearing officer will also state what documents will receive official notice by the commission. At the close of the applicant's evidence the hearing officer will ask for any other testimony which would be considered to be in favor of the applicant's position to be offered at that time. This would include evidence from interested parties, either orally or in writing.

By motion, a party who has either filed notice to contest or requested to become a party and who has been granted that status by the commission, may then offer testimony or evidence. At the close of this evidence, testimony or evidence may be received from interested parties opposing the application.

The hearing officer or designee will administer verbally the oath that has been reduced to writing and signed by the witness prior to testifying, or at the option of the hearing officer all witnesses may be sworn simultaneously. The administrative officer, if any, shall be identified by the hearing officer. The hearing officer may recess the hearing at any time he or she

deems it proper and necessary, either on his or her own motion or by motion of one of the parties or interested parties.

(b) Agreements to be in writing. No stipulation or agreement between the parties, their attorneys or representatives, with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives unless it has been dictated into the record during the course of a hearing or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate away any right or privilege afforded by these rules.

(c) Reopening of hearings on new evidence prior to commission order. A hearing may not be reopened by any party after the adjournment of the hearing except where new evidence is offered which was unobtainable at the time of the previous hearing and such new evidence is submitted to the chairman of the commission, who shall determine whether to reopen the hearing in order to include such new evidence as part of the record. The chairman may grant a rehearing when he deems such evidence necessary for proper determination on the application. The burden on the party seeking to reopen the hearing will be to show that such new evidence has been uncovered which is material to the issues raised by the application.

The party requesting reopening of the hearing must include an agreement between the applicant and the commission moving the order date later than the 90th day after the dating of the application. The new order date will be agreed upon in writing by the party applying for the reopening of the hearing and the commission and the new order date will be on a day calculated to give the hearing officer an adequate opportunity to prepare a complete record for the commission's review. If, however, the application by a party for a reopening of the hearing is denied, the chairman of the commission shall notify the party requesting the reopening of the hearing of the denial and the reasons therefor.

The chairman will establish the date, time, and location of the rehearing, and the hearing officer will give notice to all parties, interested parties, and persons who previously signed witness oath forms at the prior hearing. Such notice shall contain the date, time, and place of the reopened hearing and state what new evidence will be considered. Such notice shall be transmitted to these persons no later than 10 days before the reopening of the hearing as provided by the APA.

If a hearing is reopened, the hearing officer who presided over the initial hearing (or if unavailable, a substitute named by the chairman) shall preside over the reopened hearing. All parties and interested parties at the initial hearing will be allowed to offer

testimony and cross-examine witnesses. However, the reopened hearing will be limited to only the evidence deduced by the chairman of the commission to be new.

On the conclusion of the rehearing on new evidence, the presiding officer shall prepare the complete record for the commission's review. The complete record will consist of the items and evidence of the initial hearing and any recommendation from that hearing, plus the additional evidence received at the reopened hearing and any further recommendation of the presiding officer.

At the reopened hearing on new evidence, the hearing officer shall limit testimony to the area of new evidence. It shall be the sole discretion of the officer to decide what evidence is admitted. At the reopened hearing on new evidence, testimony may be offered either orally or in writing, and testimony will not be limited to parties or interested parties which have appeared at the original hearing on the application. Any new interested party who wishes to testify will be required only to sign the witnesses oath and affidavit before testifying. The rules and regulations for hearings established by the commission and the rules set forth in the APA shall apply to the reopened hearing.

.012. Transcription Requests.

(a) At all hearings which have two or more parties, a written verbatim transcript shall be required. The cost shall be shared equally by the parties. The chairman, at his discretion, may require a written verbatim transcript in a hearing in which there is only one party. That party shall be required to pay said costs. In all cases of written verbatim transcript, the commission shall be furnished a copy without charge. The reporting service utilized for said written verbatim transcripts will be designated by the chairman. Requests for verbatim written transcripts shall be made by the fourth working day prior to the scheduled date of hearing. Transcripts shall be prepared and delivered to the commission and all parties by the fourth working day following the conclusion of the hearing, unless sooner required by the commission. Working days shall not include Saturdays, Sundays, or state holidays.

(b) Any party may request a written verbatim transcript of a hearing, and the cost of same will be shared by all parties equally. For hearings in which written verbatim transcripts are not requested or required, the commission shall electronically record the proceedings at no cost to the parties. Later requests for copies of the electronically recorded transcripts shall be made available to requesting persons at a charge to include the cost of providing same.

.013. Rules of Evidence.

(a) The hearing officer at a hearing or at a rehearing on new evidence may limit the amount of testimony received if the evidence is irrelevant, im-

material, or unduly repetitious. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The commission shall give effect to the rules or privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record.

(b) If the original is not readily available, documentary evidence may be received in the form of copies or excerpts. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the hearing officer may limit those admitted to a number which are typical and representative, and may, in his or her discretion, require the abstracting of the relevant data from the documents and presentation of the abstracts in the form of an exhibit, provided, however, that before making such requirement, the officer shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made.

(c) Official notice may be taken of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the agency's specialized knowledge. Parties shall be notified, either before or during the hearing, or by reference in preliminary reports, or otherwise, of the material officially noticed.

(d) The hearing officer may also seek to consolidate the testimony of interested parties or parties to the application if the evidence to be offered by a group can be effectively consolidated into one document or the testimony of one witness. The standard by which the hearing officer should judge this consolidation is whether or not each person in the group can offer unique or new evidence that has not been previously introduced.

.014. Exhibits.

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

(b) Tender and service. The original of each exhibit offered shall be tendered to the hearing officer or a designee for identification and one copy to each other party of record or his attorney or representative.

(c) Excluded exhibits. In the event an exhibit has been identified, objected to, and excluded, it shall be given an exhibit number for purposes of identification

and shall be included in the record.

(d) After hearing. Unless specifically directed by the hearing officer or by the commission itself, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing except in rehearings on new evidence.

.015. *Offer of Proof.* When testimony is excluded by the hearing officer, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony prior to the conclusion of hearing, and such offer of proof shall be sufficient to preserve the point for review by the commission. The hearing officer may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining any objections to questions asked on cross-examination may be preserved without making an offer of proof.

.016. *Subpoenas.* Following written request by a party or on its own motion by the chairman of the commission or his designee:

(a) Subpoenas for the attendance of a witness from any place in the State of Texas at a hearing in a pending proceeding may be issued by the chairman, his designee, or, during the course of a hearing, by the hearing officer.

(b) Motions for subpoenas to compel the production of books, papers, accounts, or documents shall be addressed to the commission, shall be verified, and shall specify as nearly as may be practicable the books, papers, accounts, or documents desired and the material and relevant facts to be proved by them. If the matter sought is relevant, material, and necessary and will not result in harrassment, imposition, or undue inconvenience or expense to the party to be required to produce the same, the commission, any member thereof, or the chairman or his designee may issue a subpoena compelling production of books, papers, accounts, or documents as deemed necessary.

(c) Such subpoenas shall be issued only after a showing of good cause and deposit of sums sufficient to insure payment of expenses incident to the subpoenas. Service of subpoenas and payment of witness fees shall be made in the manner prescribed in the APA.

.017. *Depositions.* If a written request is made to the commission, the taking and use of depositions in any proceeding shall be governed by Section 14 of the APA.

Hearing Officer's Report and Recommendation 315.14.05

Rule 315.14.05.001 provides an explanation of the official record and written recommendation the hearing officer must submit to the commission.

This rule is proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Report and Recommendation to the Commission. The hearing officer shall keep a complete record of each hearing and transmit the record to the commission when completed. Each record must include at least the following but will not be limited to: (1) evidence received or considered; (2) a statement of matters officially noted; (3) objections and rulings thereon; (4) staff memoranda or data submitted to or considered by the hearing officer or the commission in connection with the hearings; (5) the recommendations of the hearing officer concerning the approval or disapproval of the application; and (6) any other information deemed by the hearing officer to be relevant to the application. The hearing officer shall forward to the commission a complete record of the hearing on an application for a certificate of need not later than the 75th day following the date of the application. If the date of the hearing was delayed pursuant to Section 3.06(h)(2) of the act, however, the deadline for forwarding the record is extended accordingly.

Actions and Proceedings of the Commission 315.14.06

Rules 315.14.06.001-.004 provide an explanation of the commission meetings on applications and commission orders.

These rules are proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Review. The commission shall meet in open meeting to review each certificate of need application. Such meeting shall be conducted according to notice and time requirements of applicable statutes. At the meeting, the hearing officer who presided over the applicant's hearing on the application and rehearing on new evidence, if any, shall present his or her recommendation to the commission.

The criteria for the commission's review shall be as set forth in Section 3.10 of the Texas Health Planning and Development Act and these rules. Any person may request oral argument prior to the final determination on any matter before the commission, but oral argument shall be allowed only in the sound discretion of the chairman.

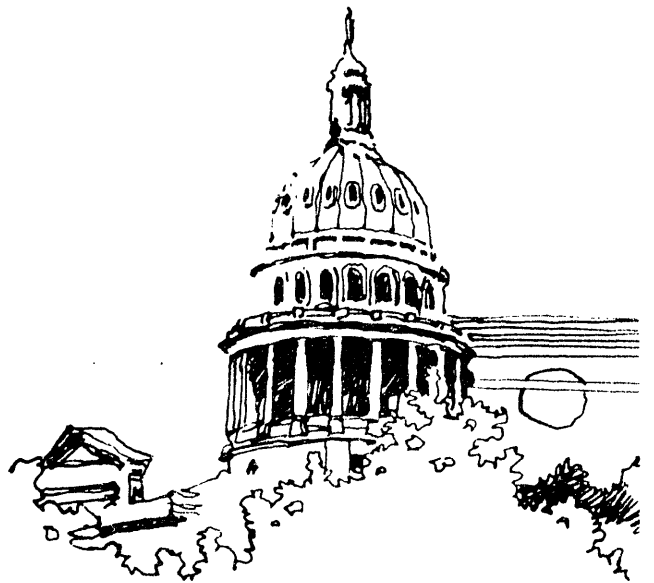
No oral or written evidence shall be presented to the commission at the time of the review and deliberation of matters in open meeting. Oral argument shall be limited to the evidence of record in the matter under consideration. If at any time during the hearing pro-

cess, however, a member or all members of the commission desire to attend a hearing or rehearing on new evidence the commissioner or commission shall not officially comment on any matter at the hearing or respond to questions.

.002. Orderings. Pursuant to Section 3.11 of the Texas Health Planning and Development Act, the commission shall either grant or deny certificate of need by written order not later than the 90th day following the dating of the application, unless the date of the hearing was delayed pursuant to Section 3.06(h)(2) of this act, in which case the deadline for the order is extended accordingly, or unless a later date is agreed upon in writing by the parties and the commission. As directed by the act, copies of the order must be forwarded to the applicant, the appropriate health systems agency, and the parties of record. Copies of the order and the record of the hearing or hearings shall be filed together in the office of the commission, indexed, and made available for public inspection, to the extent requested by law.

.003. Form and Content of Orders. Orders of the commission may be conditional. A final order must include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

.004. Motions For Rehearing After Final Order. All motions for rehearing after the final order shall be filed with the commission as provided by the Administrative Procedure and Texas Register Act, Section 16(c).



Judicial Review 315.14.07

Rules 315.14.07.001-.004 provide an explanation of the preliminary procedures for appeal of a commission order.

This rule is proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Certificate of Need. As provided in Section 3.15 of the act, "an applicant or party who is aggrieved by an order of the commission granting or denying a certificate of need is entitled to judicial review under the substantial evidence rule." A petition for judicial review shall be filed as provided in Section 19 of the Administrative Procedure and Texas Register Act.

.002. Exemption Certificate Under Section 3.02 of the Act. As provided in Section 3.02(e) of the act, "If the application for an exemption certificate is denied, the applicant may apply for a certificate of need, and if the application for a certificate of need is denied, the applicant may raise in proceedings for judicial review as provided by this act any error of the commission in denying the exemption certificate." A petition for judicial review shall be filed as provided in Section 19 of the Administrative Procedure and Texas Register Act.

.003. Declaratory Ruling. As provided in Section 3.03 of this act, "If the commission rules that a certificate of need or an exemption certificate is required, the applicant may apply for an exemption certificate or a certificate of need and may seek judicial review of the declaratory ruling only in proceedings to review the denial of a certificate of need as provided by this act." A petition for judicial review shall be filed as provided in Section 10 of the Administrative Procedure and Texas Register Act.

.004. Exemption Certificate Under Section 6.02 of the Act. Pursuant to Section 6.02(c) of the act the commission states that if the application under 6.02 is denied, the applicant may apply for a certificate of need, and if the application for a certificate of need is denied, the applicant may raise in proceedings for judicial review as provided by this act any error of the commission in denying the exemption certificate under 6.02 of the act. A petition for judicial review shall be filed as provided in Section 10 of the Administrative Procedure and Texas Register Act.

Forfeiture or Revocations of Certificate and Rulings 315.14.08

Rules 315.14.08.001-.002 provide an explanation of the forfeiture and revocation of a certificate.

These rules are proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Certificate of Need Forfeiture Proceedings. When notice and hearing are required by the act, the provisions relating to contested cases, notice, and hearing and records in the Administrative Procedure and Texas Register Act shall apply.

.002. Revocation of Certificate and Rulings. The commission, upon its own motion or at the request of any person, may initiate reconsideration of any order or ruling. The commission shall schedule a hearing, provide notice to the public and parties, conduct a hearing unless stipulated otherwise by the parties, review the record (if any) and recommendations of the hearing officer, and rule upon the issue of forfeiture or revocation.

.003. Automatic Forfeiture. A certificate of need is subject to forfeiture automatically for failure to begin development of an approved project within 180 days after the date of the order. The former certificate holder may petition the commission for the renewal of the certificate forfeited under this subsection not later than 30 days after the date of forfeiture, and the commission may consider the petition without a hearing. The commission must approve or disapprove the petition by written order within 30 days after the date of receipt of the petition. A written order approving the petition constitutes reissuance of the certificate of need.

Violations and Enforcement 315.14.09

Rule 315.14.09.001 provides an explanation of the commission action authorized to enforce the act.

This rule is proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. Authority and Province of Enforcement. As provided in Section 3.14 of the act:

(a) A person who initiates the development of a project without having a required certificate of need or an exemption certificate is in violation of this act.

(b) If requested by the commission, the attorney general may institute a legal action to enjoin an alleged violation of this act.

(c) No agency of the state or any of its political subdivisions may appropriate or grant funds or assist in any way a person, applicant, facility, or certificate holder who is or whose project is in violation of this act.

(d) No permit to build or license to operate a facility or license to provide a service may be issued for a project or to a person in violation of this act by the state or a political subdivision or instrumentality of the state.

Annual Report of Commission 315.14.10

Rule 315.14.10.001 provides an explanation of the official reports the commission submits to the governor and the legislature.

This rule is proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. *Preparation and Submission.* The commission will prepare and submit an annual report to the governor and the legislature, as prescribed in Section 2.06(4) of Article 4418(h), Vernon's Annotated Civil Statutes. The annual report will describe the commission's purpose, duties, and the previous year's activities which will include a financial statement.

Interagency Contracts and Funds 315.14.11

Rules 315.14.11.001-.002 provide an explanation of the interagency assistance and commission funding authority.

These rules are proposed under the provisions of Section C, Article 4418(h), Vernon's Annotated Civil Statutes.

.001. *Interagency Cooperation.* For the purpose of instituting and carrying out regulatory functions, pursuant to Section 1.06 of the act, the commission will from time to time request information and assistance from those state agencies having functions relevant to commission matters.

Further, and in accord with Section 2.01 of the act, the Department of Health Resources and the commission shall coordinate administrative responsibilities in order to avoid unnecessary duplication of facilities and services.

.002. *Contracts and Receipts of Funds for Duties and Functions.* For the purpose of carrying out its duties and functions, the commission may apply for, contract for, receive, and expend any appropriations or grants from the state, the federal government, or any other public source, subject to any limitations and conditions prescribed by legislative appropriation (Section 2.09, Article 4418(h), Vernon's Annotated Civil Statutes).

Issued in Austin, Texas, on June 23, 1976.

Doc. No. 763368-
763378 Melvin Rowland
Chairman
Texas Health Facilities
Commission

Proposed Date of Adoption: August 1, 1976

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



State Department of Highways and Public Transportation

Maintenance Division-- Rules and Regulations

General 101.18.01

The State Department of Highways and Public Transportation proposes to amend the *Texas Manual on Uniform Traffic Control Devices for Streets and Highways*, which was adopted by reference in Section (a) of Rule 101.18.01.001. The proposed revisions are to Volume 1, Part 1, Section A: Signs, Introduction; Section B: Regulatory Signs; Section C: Warning Signs; Section D: Guide Signs, Subsection 1-- Conventional Roads; Section E: Illustrations; and Appendix 1-A: Definitions.

These proposed revisions reflect changes in federal, state, and departmental regulations with respect to certain traffic control devices. The purpose of this revision is to bring the Texas manual into conformance with these current regulations insofar as they apply to such traffic control devices. These revisions apply basically to traffic signs and do not affect pavement markings or traffic signals. Generally, these revisions are proposed: (1) to delete certain obsolete and non-standards signs; (2) to add new and recently developed signs; (3) to change certain signs to more economical designs; (4) to revise general usage of certain signs; and (5) to remove obsolete text "Texas Highway Department" from certain signs.

Public comment on the proposed amendment to Rule 101.18.01.001 is invited. Comments may be submitted by writing the Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701.

The amendment to Rule 101.18.01.001 is proposed under the authority of Article 6701d, Texas Civil Statutes.

.001. Uniform Traffic Control Devices.

(a) *The Texas Manual on Uniform Traffic Control Devices for Streets and Highways, Volume [Volumes] 1 as amended in June, 1976, and Volume 2, which are filed with this rule and hereby incorporated by reference, were prepared as required by law to govern standards and specifications for all such traffic control devices to be erected and maintained upon all highways within this state, including those under local jurisdiction.*

Issued in Austin, Texas, on June 24, 1976.

Doc. No. 763528 Bobby Dell Adcock
Minute Order Clerk
State Department of Highways
and Public Transportation

Proposed Date of Adoption: August 5, 1976
For further information, please call (512) 928-1150.

Texas Department of Mental Health and Mental Retardation

Rules of the Commissioner of MH/MR Affecting Client (Patient) Care

Behavior Therapy Modification Programs 302.04.07

The Texas Department of Mental Health and Mental Retardation is proposing to amend Rule 302.04.07.009(c)(4), which provides a special condition for the initiation of behavior modification programs employing punishment by contingent stimulation.

The proposed amendment makes a technical change in the wording of the rule. The word "incompatible" is substituted for the word "compatible."

Public comment on the proposed amendment to Rule 302.04.07.009(c)(4) is invited. Written comments may be submitted to Kenneth D. Gaver, M.D., Commis-

sioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Capitol Station, Austin, Texas 78711.

The proposed amendment to Rule 302.04.07.009(c)(4) is promulgated under the authority of Section 2.11(b), Article 5547-202, Texas Civil Statutes.

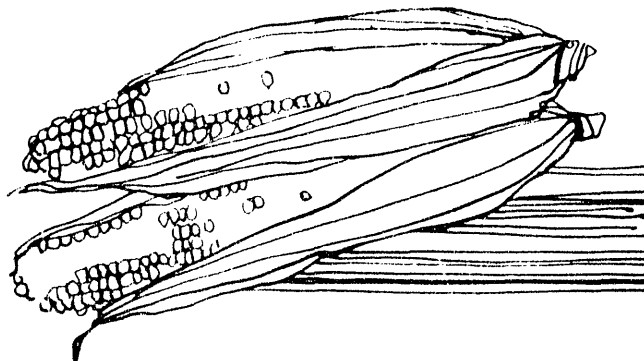
.009. Special Conditions for Initiation of Approval of Programs Employing Punishment by Contingent Stimulation.

(c)(4) A program for differentially reinforcing a class of behaviors which are *incompatible* (compatible) with the undesirable response (responses) is designed and targeted for simultaneous implementation with the program utilizing punishment by contingent stimulation.

Issued in Austin, Texas, on June 30, 1976.

Doc No. 763544 Kenneth D. Gaver, M.C.
Commissioner
Texas Department of Mental
Health and Mental Retardation

Proposed Date of Adoption: August 5, 1976
For further information, please call (512) 454-3761



Texas Private Employment Agency Regulatory Board

Procedures and Regulations 398.01.00

The Texas Private Employment Agency Regulatory Board is proposing to amend Rule 398.01.00.009(a), which prescribes the method by which a private employment agency may advertise its services to the public.

The proposed amendment would expand the name appellations which an agency could use to comply with this ruling.

The amendment is proposed by the board at the urging of the Association of Executive Recruiting Consultants and members of executive search firms in order that they may more accurately represent their services to the public.

Public comment on the proposed amendment to Rule 398.01.00.009(a) is invited. Persons should submit their comments in writing to Larry E. Kosta, Director, Employment Agency Division, P.O. Box 12157, Capitol Station, Austin, Texas 78711.

Amendments to Rule 398.01.00.009(a) are proposed under the authority of Article 5221a-6, Texas Civil Statutes.

.009. Advertising.

(a) All employment agencies licensed under this act shall in all advertising, including but not limited to newspapers or other publications, billboards, radio, television, cards, printed notices, circulars, contracts, letterheads, and all other material made available for public distribution, except envelopes, plainly and clearly disclose that the advertising is for an employment agency. The following appellations only shall satisfy this requirement: employment agency, employment service, personnel service, personnel consultants, personnel agency, placement service, employment consultants, *executive selection*, or executive search consultants.

Issued in Austin, Texas, on June 22, 1976.

Doc. No. 763530 Mary E. Evins
 Chairperson
 Texas Private Employment
 Agency Regulatory Board

Proposed Date of Adoption: Indefinite

For further information, please call (512) 475-7026

State Department of Public Welfare

General Information

Temporary Adoptions 326.01.01

The Department of Public Welfare proposes to amend its rule adopting by reference the *Food Stamp Handbook* to reflect changes to Sections 4121 through 4122.4 of the handbook. The department makes this change in response to a change in United States

Department of Agriculture policy. With this amendment, volunteer reimbursements are excluded as income to the food stamp household.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 298, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of the publication of this *Register*.

This amendment is proposed under the authority of Article 695c, Texas Civil Statutes.

.002. Food Stamp Handbook. The Department of Public Welfare adopts by reference the rules contained in the policy and procedure narrative sections of the *Food Stamp Handbook as amended in July, 1976*.

Issued in Austin, Texas, on June 28, 1976.

Doc No. 763513 Raymond W. Vowell
 Commissioner
 State Department of Public
 Welfare

Proposed Date of Adoption: August 5, 1976

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

The Department of Public Welfare proposes to amend its rule adopting by reference the *Food Stamp Handbook*. This amendment is to reflect minor changes to Sections 4200 through 4212 of the handbook and adds a management report for use in determining the reliability of earned income verification provided by recipients and employers. The amendment is proposed to clarify existing procedures.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 281, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of the publication of this *Register*.

This amendment is proposed under the authority of Article 695c, Texas Civil Statutes

.002. Food Stamp Handbook. The Department of Public Welfare adopts by reference the rules contained in the policy and procedure narrative sections of the *Food Stamp Handbook as amended in July, 1976*.

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763514 Raymond W. Vowell
 Commissioner
 State Department of Public
 Welfare

Proposed Date of Adoption: August 5, 1976

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

Purchased Health Services

Medicaid Procedures for Providers 326.36.01

The State Department of Public Welfare proposes to amend its adoption by reference of the *Blue Cross Medicaid Manual for Providers of Services* to exclude item 12 on page 8. This portion of the manual limits chiropractic benefits to only those Medicaid recipients who are enrolled in Part B of Medicare.

Proposed Rule 326.46.99.001 extends chiropractic services as a Medicaid program benefit to all Title XIX recipients through the department's health insuring agent. Therefore, to eliminate conflicting rules, the amendment to Rule 326.36.01.001 is proposed.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 343, John H. Reagan Building, Austin, Texas 78701, within 30 days of the publication of this *Register*.

This amendment is proposed under the authority of Articles 695c and 695j-1, Texas Civil Statutes.

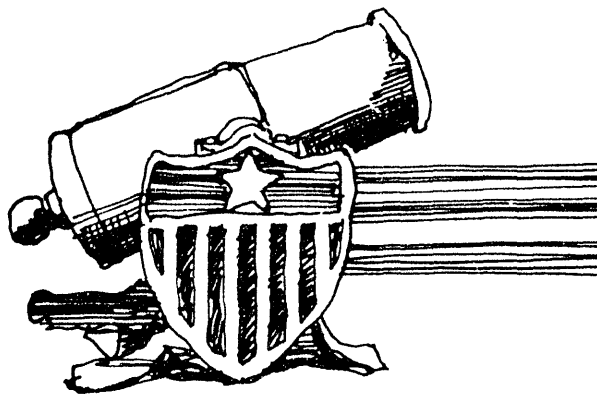
.001. *Blue Cross Medicaid Manual for Providers of Services*. The Department of Public Welfare adopts by reference the *Blue Cross Medicaid Manual for Providers of Services with the exception of item 12, Chiropractic Benefits, on page 8*.

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763515 Raymond W. Vowell
 Commissioner
 State Department of Public
 Welfare

Proposed Date of Adoption: August 5, 1976

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



Medicaid Chiropractic Program 326.36.05

The State Department of Public Welfare proposes rules which stipulate the requirements for reimbursement of Title XIX Medicaid chiropractic services. Claims filed by chiropractors with the department's health insuring agent must contain a diagnosis, the location of subluxation, the symptoms, documentation of x-ray, and the treatment phase. Covered services are reimbursed at 95 percent of the present Medicare allowable charge. All claims are subject to filing deadlines.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 343, John H. Reagan Building, Austin, Texas 78701, within 30 days of the publication of this *Register*.

These rules are proposed under the authority of Articles 695c and 695j-1, Texas Civil Statutes.

.001. *Claims Documentation*. Before a claim filed for reimbursement of chiropractic services can be considered for payment, the claim form must contain the following information:

(a) A diagnosis. The primary diagnosis must be subluxation, either so stated or identified by a term descriptive of subluxation. The descriptive term should refer either to the condition of the spinal joint involved or to the direction of the position assumed by the bone names.

(b) Location of subluxation. The precise level of the subluxation must be specified to substantiate a claim for manipulation of the spine. This designation is made in relation to the part of the spine in which the subluxation is identified. The level of subluxation may be specified in the following ways:

(1) the exact bone may be listed (C5, T1, etc.);

(2) the location may be used if it implies several bones (lumbo-sacral, occiput and C1, etc.).

(c) The symptoms. A description of the symptoms associated with subluxation must be shown on the claim form. They must bear a direct relationship to the level of subluxation.

(d) Documentation of x-ray. The claim form must indicate that an x-ray film is available demonstrating the existence of a subluxation at the specified level of the spine. The date of the x-ray is also required on the claim form. In the case of an acute condition, the x-ray must be taken no more than three months prior to the initial date of treatment and for a chronic condition the x-ray must not have been taken more than 12 months prior to the initial course of treatment. The claim form must also specify the condition as acute or chronic.

(e) Treatment phase. The number of manual manipulations that have been performed (e.g., second, fifth, tenth treatment, etc.) must be stated.

(f) If all of the above requested information is not shown on the claim form, the missing information will be requested from the chiropractor, resulting in delay of processing for Medicaid payment.

.002. *Reimbursement.* Coverage services will be reimbursed at 95 percent of the present Medicare allowable charge.

.003. *Filing Deadline.* All claims are subject to a 90-day filing deadline, and must be received by the health insuring agent no later than 90 days from the date service was provided.

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763516 Raymond W. Vowell
Commissioner
State Department of Public
Welfare

Proposed Date of Adoption: August 5, 1976

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

Medical Assistance Programs

Support Documents 326.46.99

The State Department of Public Welfare proposes to amend its adoption by reference of the *Texas State Plan for Medical Assistance* to include chiropractic services as an item of service for all Title XIX recipients. This rule is being proposed to comply with the legislative intent expressed in an appropriation for these services. Chiropractic service benefits will be provided through the department's health insuring agent.

This proposed amendment limits coverage of chiropractic services to services which consist of medically necessary treatment or correction by means of manual manipulation of the spine, by use of hands only, to correct a subluxation demonstrated by x-ray to exist. The x-ray must be done prior to such treatment. The chiropractor must be licensed to practice in Texas and must meet the uniform minimum standards promulgated by the Secretary of the Department of Health, Education, and Welfare under Title XVIII of the Social Security Act. Coverage for chiropractic service is limited to no more than 24 visits per recipient per contract year. The contract year begins September 1 and ends August 31.

Under this proposed amendment, documenting x-rays will be kept on file and are subject to utilization review and audit procedures. Coverage does not extend to the diagnostic, therapeutic services, or adjunctive therapies furnished by a chiropractor or by others under his or her orders or direction.

This exclusion applies to the x-ray taken for the purpose of determining the existence of a subluxation of the spine. Braces or supports, even though ordered by a medical doctor (M.D.) or doctor of osteopathy (D.O.) and supplied by a chiropractor, are not reimbursable items.

This proposed amendment was filed as an emergency amendment to Rule 326.46.99.001 on June 24, 1976.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 343, John H. Reagan Building, Austin, Texas 78701, within 30 days of the publication of this *Register*.

This amendment is proposed under the authority of Articles 695c and 695j-1, Texas Civil Statutes.

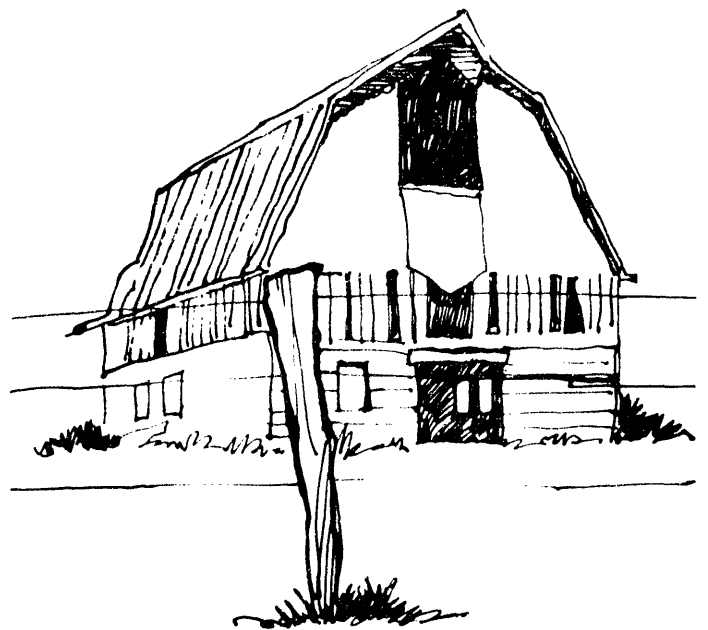
.001. *Texas State Plan for Medical Assistance.* The Department of Public Welfare adopts by reference the rules contained in the *Texas State Plan for Medical Assistance* under Title XIX of the Social Security Act, with the exception of Amendment 12, *as amended in June, 1976.*

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763522 Raymond W. Vowell
Commissioner
State Department of Public
Welfare

Proposed Date of Adoption: August 5, 1976

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



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

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

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

Texas Education Agency Adaptations for Special Populations Adoption by Reference 226.35.93

The State Board of Education and the Commissioner of Education have amended Rule 226.35.93.060, the permanent adoption by reference of *The State of Texas Annual Program Plan for Adult Education Programs*. The state plan has been amended as of June 1976. The rule has also been rephrased to make clear that it is the state plan which is being adopted and not Public Law 91-230 which was adopted under Rule 226.35.93.010.

Public hearings on the proposed plan were held in May and June. Testimony was heard from individuals and from groups, including the Advisory Council for Technical-Vocational Education in Texas and the Texas Public Junior College Association. Changes were made in the proposed plan in response to suggestions made at these hearings.

Rule 226.35.93.060 is adopted with one change in the text proposed. The amended date is changed from May 1976 to June 1976.

This rule is promulgated under the authority of Public Law 91-230, as amended by Public Laws 91-600, 92-318, 93-29, 93-380, 94-23, 45 Code of Federal Regulations (CFR), Chapter 1, Part 166, *Federal Register*, Volume 40, Number 79, April 23, 1975, and 45 CFR, Chapter 1, Part 166, *Federal Register*, Volume 40, Number 205, October 22, 1975.

.060. *Public Law 91-230—The State of Texas Annual Program Plan for Adult Education Programs*. The rules for adult education are described in *The State of Texas Annual Program Plan for Adult Education Programs*, as amended, June 1976, which is adopted by this reference as the Texas Education Agency's official rule. This plan was developed as a requirement under Public Law 91-230, as amended by Public Laws 91-600, 92-318, 93-29, 93-380, 94-23, 45 CFR, Chapter 1, Part 166, *Federal Register*, Volume 40, Number 79, April 23, 1975, and 45 CFR, Chapter 1, Part 166, *Federal Register*, Volume 40, Number 205, October 22, 1975. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency (headquarters) Building, 201 East 11th Street, Austin, Texas.

Issued in Austin, Texas, on June 14, 1976.

Doc. No 763490 M. L. Brockett
Commissioner of Education

Effective Date: July 18, 1976

For further information, please call (512) 475-2268.

Commission on Fire Protection Personnel Standards and Education Standards Manual

Minimum Standards for Fire Suppression Personnel 211.02.04

The following rule amendments are adopted under the authority of Article 4413(35), Vernon's Texas Civil Statutes. Subsections 1 through 22 under Section A of the rule remain unchanged.

.400. *Minimum Standards for Fire Suppression Personnel*.

A. Basic Fire Fighter Certificate, hereinafter called Basic Certificate. Successful completion of 335 hours of instruction in the following minimum prescribed subject areas at a certified training school is required for Basic Fire Fighter Certification. Training must be completed at a school approved or operated by the commission within the first 12 months of effective date of employment beginning on or after September 1, 1972.

Note: In order to obtain any of the following fire fighter certificates, the applicant must have completed one year of service in fire suppression activities prior to issuance of the certificate in the discipline. Previous departmental accredited training is acceptable where applicable.

23. Fire and Arson Investigation. 12 Class Hours. The arson problem; the law of arson, the firefighter's responsibility in fire investigation, and arson detection; responsibility of preliminary investigation to determine the origin and cause of fire; value of photographs, sketches, reports of the fire officer; surveying the premises; and preservation of evidence.

B. Intermediate Fire Fighter Certificate.

C. Advanced Fire Fighter Certificate.

2. Each applicant shall have acquired the following combination of education and training points, combined with the prescribed years of fire protection experience, or the college degree designated and approved by the commission, combined with the prescribed years of fire protection experience. The first part of the line represents education and training points while the second part, following the comma, represents years of fire protection experience:

40, 12 or

60, 9 or

associate degree, 9 or

baccalaureate degree, 4

D. Master Fire Fighter Certificate. In addition to the requirements set forth in Section IV, Part C, the following requirements must be met for the award of the master certificate. Each applicant shall possess an advanced fire fighter certificate and shall have acquired the following education and years of fire protection experience. The first part of the line represents the required education while the second part, following the comma, represents years of fire protection experience:

associate degree, 12 or

baccalaureate degree, 6 or

master's degree, 4.

Issued in Austin, Texas, on June 23, 1976.

Doc. No. 763541 Garland W. Fulbright
Executive Director
Commission on Fire Protection
Personnel Standards and
Education

Effective Date: August 5, 1976

For further information, please call (512) 459-8701

Minimum Standards for Fire Prevention Personnel 211.02.06

The following amendments are adopted under the authority of Article 4413(35), Vernon's Texas Civil Statutes.

.600. *Minimum Standards for Fire Prevention Personnel.* Personnel, whether in a fire department, state agency, educational institution, political subdivision, or in private industry, who are either fulltime fire prevention inspectors or who are employed fulltime in a combined position as a fire prevention inspector and fire and arson investigator*, and who comply with the following minimum requirements for the various levels of inspector, may be eligible for certification by the commission.

(* Must be certified as provided in Rule 211.01.07.007.)
Note: Fire prevention inspection personnel shall complete certification requirements, as certified inspector, within two years of initial appointment to such position.

Further: In order to obtain any of the following inspector certificates, the applicant must have completed one year of service in fire prevention activities prior to issuance of the certificate in this discipline. Previous departmental accredited training is acceptable where applicable.

B. Intermediate Certified Inspector.

5. Each applicant shall have acquired the following combination of education and training points combined with the prescribed years of fire protection experience, or the college courses designated and approved by the commission, combined with the prescribed years of fire protection experience.

C. Advanced Certified Inspector.

1. Each applicant shall be an intermediate certified inspector.

2. Each applicant must be a fulltime inspector.

3. Each applicant shall have acquired the following combination of education and/or training points, combined with the prescribed years of fire protection experience. The first part of the line represents education and training points while the second part, following the comma, represents years of fire protection experience:

40, 12

60, 9

associate degree, 9 or

baccalaureate degree, 4

4. All programs to be eligible for credit shall be submitted to and approved in writing by the commission prior to commencement of the program. (Repeat

programs or courses of study will not be accepted for credit.)

D. Master Certified Inspector

3. Each applicant shall have acquired the following education and years of fire protection experience. The first part of the line represents education while the second part, following the comma, represents years of fire protection experience:

associate degree, 12

baccalaureate degree, 6 or

master's degree (or equivalent), 4

Issued in Austin, Texas, on June 23, 1976.

Doc No. 763542 Garland W. Fulbright
 Executive Director
 Commission on Fire Protection
 Personnel Standards and
 Education

Effective Date: July 29, 1976

For further information, please call (512) 459-8701.

Minimum Standards for Fire and Arson Investigative Personnel 211.02.07

The following amendments are adopted under the authority of Article 4413c(35), Vernon's Texas Civil Statutes.

700. *Minimum Standards for Fire and Arson Investigative Personnel.* In accordance with the provisions and standards hereinafter set forth, the Texas Commission on Fire Protection Personnel Standards and Education shall, acting by and through the executive director of said commission, award the following certificates to qualified applicants:

A. Basic Fire and Arson Investigator Certificate. Fire department fire and arson investigators must possess a current police officer basic certificate issued by the Texas Commission on Law Enforcement Standards and Education as a prerequisite and must complete within two years from date of appointment to such position, the following subjects in order to be certified. Applicant must also have served in such position for a period of one year prior to the issuance of a certificate in this discipline.

B. Intermediate Fire and Arson Investigator Certificate.

1. Each applicant must possess a basic fire and arson investigator certificate.

2. Each applicant must possess an intermediate law enforcement officer certificate.

3. Each applicant must complete 40 additional class hours of accredited training.

4. Each applicant shall have acquired the following combination of education and training points, combined with the prescribed years of fire protection experience. The first part of the line represents education and training points while the second part, following the comma, represents years of fire protection experience:

20, 8

40, 6

60, 4

associate degree, 4 or

baccalaureate degree, 2

5. All programs to be eligible for credit shall be submitted to and approved in writing by the commission prior to commencement of the program. (Repeat programs or courses of study will not be accepted for credit.)

C. Advanced Fire and Arson Investigator Certificate.

1. Each applicant must possess an advanced law enforcement officer certificate and must also possess an intermediate fire and arson investigator certificate.

2. Each applicant must complete an additional 40 hours of accredited training.

3. Each applicant shall have acquired the following combination of education and training points, combined with the prescribed years of fire protection experience. The first part of the line represents education and training points while the second part, following the comma, represents years of fire protection experience:

40, 12

60, 9

associate degree, 9 or

baccalaureate degree, 4

4. All programs to be eligible for credit shall be submitted to and approved in writing by the commission prior to commencement of fire program. (Repeat programs will not be accepted for credit.)

D. Master Fire and Arson Investigator Certificate.

1. In addition to the requirements set forth in Section C, the following requirements must be met for the award of the master fire and arson investigator certificate.

2. Each applicant shall possess an advanced fire and arson investigator certificate and shall have acquired the following education and years of fire protection experience. The first part of the line represents education while the second part, following the comma, represents years of fire protection experience:

associate degree, 12

baccalaureate degree, 6 or

master's degree, 4

Issued in Austin, Texas, on June 23, 1976.

Doc No 763543 **Garland W. Fulbright**
 Executive Director
 Commission on Fire Protection
 Personnel Standards and
 Education

Effective Date: July 29, 1976

For further information, please call (512) 459-8701.

State Department of Highways and Public Transportation

Maintenance Division-- Rules and Regulations

General 101.18.01.005

Under the authority of Article 6666, Texas Civil Statutes, the State Department of Highways and Public Transportation has amended Section (c) of Rule 101.18.01.005 to read as follows:

.005. Installation, Operation, and Maintenance of Traffic Signals.

(c) The department is responsible for authorizing traffic signals to be installed at locations on the state highway system other than freeways and expressways in incorporated cities of 15,000 or more population (latest federal census). The cost of installation, operation, and maintenance of these signals is the responsibility of the city, except that the department may provide for the installation of traffic signals when the installation is financed in part with federal-aid funds.

Issued in Austin, Texas, on June 25, 1976.

Doc. No 763523 **Bobby Dell Adcock**
 Minute Order Clerk
 State Department of Highways
 and Public Transportation

Effective Date: July 19, 1976

For further information, please call (512) 928-1150.

101.18.01.006

Under the authority of Article 6666, Texas Civil Statutes, the State Department of Highways and Public Transportation has amended Section (c)(3) of Rule 101.18.01.006 to read as follows:

.006. Payment for and Erection of Signs (and Supplemental Flashing Beacons) by Others on State Highway Routes.

(c)(3) The requested change in name cannot be accomplished within the available space on the existing sign or requires changes in the sign support.

Issued in Austin, Texas, on June 25, 1976.

Doc. No 763524 **Bobby Dell Adcock**
 Minute Order Clerk
 State Department of Highways
 and Public Transportation

Effective Date: July 19, 1976

For further information, please call (512) 928-1150



Commission on Jail Standards

The Commission on Jail Standards has withdrawn the following subcategories of rules, which were proposed in the March 12, 1976 (Volume 1, Number 20) issue of the *Texas Register*.

Definitions, 217.01.01.001-.019
 Variances, 217.01.02.001-.002
 Approval Procedures, 217.01.12.001-.004
 New Construction Planning, 217.01.13.001-.092
 Inmate Housing Facilities, 217.01.64.001-.058
 Standards for Existing Rules, 217.01.77.001-.036

Doc. Nos 763540, 763549-763553

Railroad Commission of Texas

Oil and Gas Division

General Conservation Rules of Statewide Application 051.02.02

By notice issued in the *Texas Register* on April 13, 1976, the Railroad Commission of Texas announced the proposed amendments to its General Conservation Rules of Statewide Application 051.02.02.030, .031, and .080, concerning gas market demand determination procedures for gas well allowable determination.

Pursuant to a hearing held in this matter on May 6, 1976, the commission concluded that an advisory study group should be selected to review such rules, and that new notice giving consideration to the committee's work should be issued before further action is taken.

Pursuant to this commission action, the proposed amendment to Rules 051.02.02.030, .031, and .080 is withdrawn.

Issued in Austin, Texas, on June 22, 1976.

Doc No 763471 Arthur H. Barbeck, Chief
 Engineer
 Oil and Gas Division
 Railroad Commission of Texas

Filed: June 25, 1976, 1 55 p m

For further information, please call (512) 475-6155

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes the date and time of filing. Notices are posted on the bulletin board outside the offices of the Secretary of State on the first floor in the East Wing of the State Capitol.

Coordinating Board, Texas College and University System

Emergency Amendment to Agenda

A meeting of the Consultant/Certification Committee to Evaluate Applications for Certificate of Authority to Grant Degrees of the Coordinating Board, Texas College and University System will be held on Tuesday, July 6, 1976, 9:30 a.m., in Room 1-108, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. The committee was originally scheduled to meet at 8 a.m. and will consider reports of site evaluation teams in connection with certificates of authority to grant degrees.

Additional information may be obtained from Dr. Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, telephone (512) 475-4361.

Filed July 1, 1976, 10:39 a.m.

Doc No. 763567

Meeting

A meeting of the Advisory Council for Continuing Education for Nurses (Project ACCENT) of the Coordinating Board, Texas College and University System will be held on Monday and Tuesday, November 8 and 9, 1976, 9:30 a.m. and 8 a.m. respectively, at Room 1-108

(Library), Joe C. Thompson Conference Center, 26th and Red River Streets, Austin, to consider detailed analysis of regional recommendations leading to the preparation of the final report.

Additional information may be obtained from Dr. Kenneth H. Ashworth, P.O. Box 12788, Capitol Station, Austin, Texas 78711, telephone (512) 475-4361.

Filed June 29, 1976, 10:15 a.m.

Doc No. 763504

Credit Union Department Meeting

A meeting of the Credit Union Commission of the Credit Union Department will be held on Friday, July 9, 1976, 10 a.m., in Suite 206-E, 1106 Clayton Lane, Austin, to consider central credit unions; community credit unions; overlapping of fields of membership; merger and conversion of charters; supervision fees; examination fees; and real estate escrow alternative.

Additional information may be obtained from Harry L. Elliott, Suite 206-E, 1106 Clayton Lane, Austin, Texas 78723, telephone (512) 475-2295.

Filed June 30, 1976, 3:16 p.m.

Doc No. 763555

Texas Education Agency Meeting

A meeting of the State Board of Education of the Texas Education Agency will be held on Friday, July 9, 1976, 2 p.m., at 150 East Riverside Drive, Austin. The executive session will consider business pertaining to personnel.

Additional information may be obtained from M. L. Brockette, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3271.

Filed July 1, 1976, 10:47 a.m.

Doc No. 763564

Meeting

A meeting of the State Board of Education of the Texas Education Agency will be held on Saturday, July 10, 1976, 8:30 a.m., at East Riverside Drive, Austin, to consider an appeal on a decision of the commissioner; agency administration; school accreditation; advisory groups; special education; teacher education and certification; vocational education; textbooks; procedures of the board; computer services; bus driver training; contracts; pupil transportation; the permanent school fund; and other business. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from M. L. Brockette, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3271.

Filed July 1 1976, 10 47 a m

Doc No 763565

Governor's Energy Advisory Council

Meeting

A meeting of the Staff Representatives of the Governor's Energy Advisory Council will be held on Thursday, July 8, 1976, 2 p.m., in the 5th floor conference room, 7703 North Lamar, Austin, to consider the calendar of events; to review the proposed 1977-78 GEAC budget; and to discuss the state conservation program guidelines.

Additional information may be obtained from Susan Conway, 7703 North Lamar, Austin, Texas 78752, telephone (512) 475-5491.

Filed June 30 1976 1 50 p m

Doc No 763548

General Land Office

Hearing

A hearing by the Texas Coastal Management Program of the General Land Office will be held on Monday, August 9, 1976, 9 a.m., at the Fort Brown Hotel, 1900 East Elizabeth, Brownsville, to receive public testimony and recommendations for changes in the current coastal management process.

Additional information may be obtained from Gary Catron, General Land Office, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6902.

Filed July 1, 1976, 10.17 a.m.

Doc. No. 763560

Hearing

A hearing by the Texas Coastal Management Program of the General Land Office will be held on Wednesday, August 11, 1976, 9 a.m., at the Holiday Inn-Emerald Beach, 1102 South Shoreline, Corpus Christi, to receive public testimony and recommendations for changes in the current coastal management process.

Additional information may be obtained from Gary Catron, General Land Office, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6902.

Filed July 1, 1976, 10 16 a m

Doc No 763561

Joint Advisory Committee on Government Operations

Meeting

A meeting of the Policy and Structure Subcommittee of the Joint Advisory Committee on Government Operations will be held on Thursday, July 15, 1976, 10 a.m., in the Lieutenant Governor's Committee Room, State Capitol, Austin, to consider a report from the Education Subcommittee.

Additional information may be obtained from Bill Wells, Room 704, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-6565.

Filed June 30, 1976, 1 05 p m

Doc No 763546

Meeting

A meeting of the Policy and Structure Subcommittee of the Joint Advisory Committee on Government Operations will be held on Friday, July 16, 1976, 10 a.m., in Room 301, State Capitol, Austin, to consider report from Health and Welfare Subcommittee.

Additional information may be obtained from Bill Wells, Room 704, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-6565.

Filed: June 30, 1976, 1 05 p m

Doc No 763547

Office of the Governor

Emergency Meeting

An emergency meeting of the Texas Coordinating Commission for State Health and Welfare Services of the Governor's Budget and Planning Office will be held on Tuesday, July 6, 1976, 10 a.m., in the Old Supreme Court Room, State Capitol, Austin, for a review of third cycle Health Systems Agency applications. The meeting was scheduled as an emergency to meet the required federal deadline.

Additional information may be obtained from Bud Walker, 411 West 13th, Austin, Texas 78701, telephone (512) 475-6981.

Filed June 29 1976, 10:23 a.m.
Doc No 763525

Texas Health Facilities Commission

Meeting

A meeting of the Texas Health Facilities Commission will be held on Thursday, July 8, 1976, 10 a.m., in Suite 450, One Highland Center, 314 Highland Mall Boulevard, Austin, to consider nine applications for exemption certificates, declaratory rulings, and certificates of need. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Michael R. Sharp, P. O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

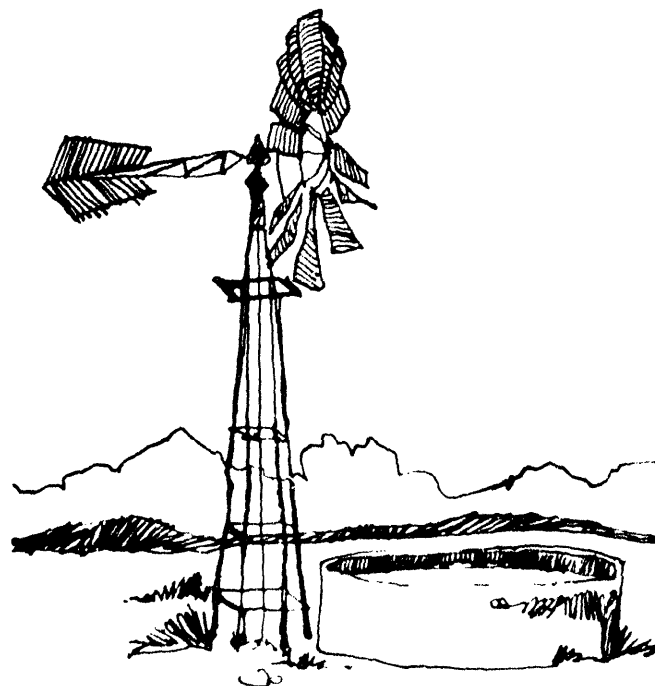
Filed June 30, 1976, 3:23 p.m.
Doc No 763554

Addition to Agenda

An addition was made to the agenda of a meeting of the Texas Health Facilities Commission to be held on Thursday, July 8, 1976, 10 a.m., in Suite 450, One Highland Center, 314 Highland Mall Boulevard, Austin, to include consideration of an application for a motion for rehearing.

Additional information may be obtained from Michael R. Sharp, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: June 30, 1976, 4:25 p.m.
Doc. No. 763557



Board of Examiners in the Fitting and Dispensing of Hearing Aids

Emergency Meeting

A meeting of the Board of Examiners in the Fitting and Dispensing of Hearing Aids will be held on Thursday, July 8, 1976, 10 a.m., at the Austin Hilton Inn, 6000 Middle Fiskville, Austin. The board will hear the chairman's report and will consider partial payment of fees; clarification of exemption provisions of law; reciprocity with Missouri; cancellation of licenses for failure to pay renewal fees; possible revision of Article 4566, Vernon's Annotated Civil Statutes; and board hearings: Board versus Audiphone Co. and Board versus Kauffman.

Additional information may be obtained from Lehman Marks, Suite 105, 1212 Guadalupe, Austin, Texas 78701, telephone (512) 475-3429.

Filed: July 1, 1976, 11:34 a.m.
Doc No. 763569

State Board of Insurance

Hearing

A hearing of the State Board of Insurance will be held on Thursday, July 15, 1976, 9 a.m., in Room 117, Sam Houston Building, Austin, to consider automobile casualty insurance rates, rating plans, manual rules, endorsement forms for both voluntary and assigned risks policies, physical damage rates, rating plans, manual rules, endorsement forms, and such other matters.

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

Filed June 29, 1976, 10:08 a.m.

Doc. No. 763505

Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Monday, July 19, 1976, 2:30 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider an application of the New Community Service Corporation, Houston, for initial certificate of authority to act as a health maintenance organization.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed June 29, 1976, 10:08 a.m.

Doc. No. 763506

Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, July 20, 1976, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider compliance with Article 3.05(b) in the purchase by United Bankers Life Insurance Company, Dallas, of its own corporate stock.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed June 29, 1976, 10:08 a.m.

Doc. No. 763507

Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, July 21, 1976, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider an application of Allied Bankers Life Insurance Company (stock life company), Dallas, for approval of an amendment to articles of incorporation increasing capital stock.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed June 29, 1976, 10:08 a.m.

Doc. No. 763508

Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, July 22, 1976, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider an application of Security Assurance Company (stock life company), Scottsdale, Arizona, for admission to Texas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed June 29, 1976, 10:09 a.m.

Doc. No. 763509

Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, July 23, 1976, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider an application of Capitol American Life Insurance Company (stock life company), Phoenix, Arizona, for admission to Texas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed June 29, 1976, 10:09 a.m.

Doc. No. 763510

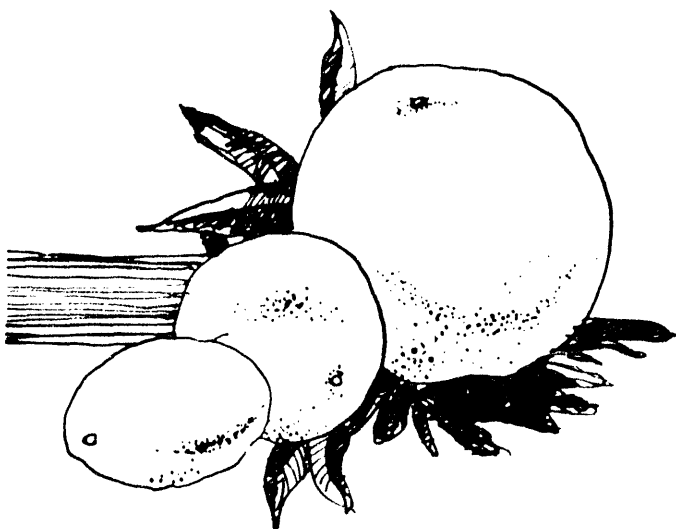
Hearing

A hearing by the State Board of Insurance will be held on Tuesday, August 17, 1976, 10 a.m., in Room 408, 1110 San Jacinto, Austin, to hear an appeal by Walter Robb, Tucson, Arizona, and Michael Meyers, Albuquerque, New Mexico, from Commissioner's Orders 52093 and 52094, dated February 3, 1976, revoking non-resident agent's license.

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

Filed June 29 1976 10 08 a m

Doc No 763511



Texas Advisory Commission on Intergovernmental Relations

Meeting

A meeting of the Public Services Committee of the Texas Advisory Commission on Intergovernmental Relations will be held on Friday, July 9, 1976, 1:30 p.m., in the Statesman Room, Austin Hilton Inn, 6000 Middle Fiskville, Austin. The agenda includes a staff progress report on possible reorganization and simplification of the Texas Constitution.

Additional information may be obtained from Louise Winecup, Room 622, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed June 30 1976 11 24 a m

Doc No 763537

Texas Department of Mental Health and Mental Retardation

Meeting

A meeting of the Committee to Examine Appointees Requiring Board Approval of the Texas Board of Mental Health and Mental Retardation will be held on Thursday, July 8, 1976, 1 p.m., at 909 West 45th Street, Austin, to consider the appointment of the Deputy Commissioner for Community Services; the Superintendent of the San Angelo Center; and the Superintendent of the Richmond State School.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Capitol Station, Austin, Texas 78711, telephone (512) 454-3761.

Filed June 29 1976 3 56 p m

Doc No 763531

Meeting

A meeting of the Business Committee of the Texas Board of Mental Health and Mental Retardation will be held on Thursday, July 8, 1976, 7:30 p.m., at 909 West 45th Street, Austin. The Business Committee will discuss the allocation of unallocated construction funds to repair a fire-damaged building at Austin State Hospital and the roof of the Infirmary at Mexia State School; to transfer funds to provide for cost of utilities; to consider a program of the Central Office; and to discuss quarterly budget additions and revisions. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Capitol Station, Austin, Texas 78711, telephone (512) 454-3761.

Filed June 29 1976 3 56 p m

Doc No 763532

Meeting

A meeting of the Board of the Texas Department of Mental Health and Mental Retardation will be held on Friday, July 9, 1976, 10 a.m., at 909 West 45th Street, Austin. The board will consider recommendations from the Business Committee, Committee to Examine Appointees Requiring Board Approval, and the Executive Committee. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Capitol Station, Austin, Texas 78711, telephone (512) 454-3761.

Filed June 29 1976 3 56 p.m.

Doc No 763533

Merit System Council

Hearing

A hearing by the Merit System Council will be held on Thursday, July 8, 1976, 1:30 p.m., at 507 Brown Building, Austin, to consider appeals.

Additional information may be obtained from Leo F. Brockmann, P.O. Box 1389, Austin, Texas 78701, telephone (512) 477-9665.

Filed July 1, 1976, 10 38 a.m.

Doc No 763570

Texas Board of Licensure for Nursing Home Administrators

Meeting

A meeting of the Texas Board of Licensure for Nursing Home Administrators will be held on Wednesday, July 14, 1976, 2 p.m., at the Sheraton Inn, Tyler, to discuss possible changes in the requirements of becoming nursing home administrators in Texas and other information necessary for board business.

Additional information may be obtained from E. M. Lawrence, Jr., P.O. Box 9706, Austin, Texas 78766, telephone (512) 926-9530.

Filed July 1, 1976, 11 01 a.m.

Doc No. 763562

Texas Optometry Board Meeting

A meeting of the Texas Optometry Board will be held on Wednesday, July 7, 1976, 8 p.m., in the Driskill Hotel, Austin. A special meeting for a grading session will determine those candidates successfully passing the board examination. The general business meeting will include discussion and possible action on matters concerning an optometric survey form, position of executive secretary, mailing to licensees, letter concerning particular lease exemption, report of counsels and committees, and formal hearing concerning advertising permit.

Additional information may be obtained from Lois Ewald, Room 115, 603 West 13th Austin, Texas 78701, telephone (512) 475-4133.

Filed June 29 1976 1 47 p.m.

Doc No 763529

Texas Parks and Wildlife Department

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Commission of the Texas Parks and Wildlife Department held on Tuesday, June 29, 1976, 9 a.m., in Room 117, Sam Houston Building, Austin, to conclude consideration of an acquisition project, a Rio Grande Valley site.

Additional information may be obtained from Perry Spalding, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-3074.

Filed June 28, 1976, 1 43 p.m.

Doc. No 763488



Hearing

A hearing by the Parks Division of the Texas Parks and Wildlife Department will be held on Thursday, August 5, 1976, 2 p.m., in Room 100, John H. Reagan Building, Austin, regarding the Development Concept Plan of the Jose Antonio Navarro State Historic Site, San Antonio, Bexar County. Development will include preservation, restoration, and repair of three buildings, adaptation of parts of the three buildings for interpretive and operational uses, landscaping, and provision for restroom and maintenance facilities, etc.

Additional information may be obtained from Dr. Harold D. Toy, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-2666.

Filed June 29, 1976 11 29 a m

Doc No 763527

Hearing

A hearing by the Parks Division of the Texas Parks and Wildlife Department will be held on Thursday, August 5, 1976, 2:30 p.m., in Room 100, John H. Reagan Building, Austin.

The hearing, as authorized by the provisions of Article 5421q, Vernon's Civil Statutes, regards a proposed Development Concept Plan for Lake Arrowhead State Recreation Area, Clay County. Facilities will include additional parking at the boat ramp area, boat dock, rip rap erosion control, breakwater, picnic sites, tent campsites, comfort station, restrooms, group picnic shelter, playgrounds, roads, parking, and utilities improvements, etc.

Additional information may be obtained from Dr. Harold D. Toy, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-2666.

Filed June 30 1976 12 04 p m

Doc No 763538

Board of Polygraph Examiners

Meeting

A meeting of the Board of Polygraph Examiners will be held Thursday through Saturday, July 22-24, 1976, 9 a.m. each day, at the Gourmet Inn, III 35, New Braunfels, to administer licensing examination; to approve

April 1976 minutes; to approve intern, reinstatement, and reciprocity applications; to review board investigations; to discuss proposed rules relative to examiner conduct and procedures; and to conduct general business

Additional information may be obtained from Gene R. Danish, Box 9346, San Antonio, Texas 78285, telephone (512) 225-7484.

Filed July 1 1976 10 39 a m

Doc No 763566

Public Utility Commission of Texas

Meeting

A meeting of the Public Utility Commission of Texas will be held on Thursday, August 5, 1976, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider applications by answering services for the counties of Andrews, Brewster, Crockett, Dawson, Ector, El Paso, Gaines, Glasscock, Howard, Jeff Davis, Midland, Pecos, Reagan, Reeves, Upton, Ward, and appropriate surrounding counties. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Roy J. Henderson, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 475-7921.

Filed June 29, 1976 10 14 a m

Doc No 763501

Railroad Commission of Texas

Emergency Meeting

An emergency meeting of the Oil and Gas Division of the Railroad Commission of Texas was held on Thursday, July 1, 1976, 11 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to consider the applica-

tion of Good Hope Refineries, Inc.'s motion to postpone the hearing scheduled for July 14, 1976, on Oil and Gas Docket 4-66,188. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from A. H. Barbeck, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711, telephone (512) 475-3003.

Filed June 30, 1976, 4 52 p m

Doc No. 763559

State Rural Medical Education Board

Meeting

A meeting of the State Rural Medical Education Board will be held on Sunday, July 11, 1976, 9 a.m., in the 10th floor conference room, Southwest Tower Building, 211 East 7th, Austin, to approve loan applications and to review the budget and other routine business.

Additional information may be obtained from J. C. Randolph, Suite 900, 211 East 7th, Austin, Texas 78701, telephone (512) 474-5983.

Filed June 30, 1976, 12 10 p m

Doc No. 763545

Teacher Retirement System of Texas

Meeting

A meeting of the Medical Board of the Teacher Retirement System of Texas will be held on Sunday, July 25, 1976, 10 a.m., at 1001 Trinity Street, Austin, to consider member applications for disability retirement and the necessity for annual re-examination of certain persons receiving disability benefits.

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

Filed June 30, 1976, 10 47 a m

Doc No. 763535

Tourist Development Agency

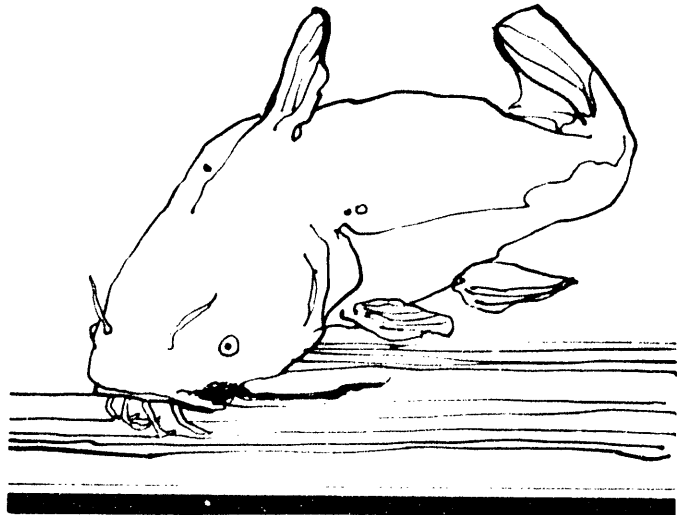
Meeting

A meeting of the Board of the Tourist Development Agency will be held on Wednesday, July 21, 1976, 10 a.m., in Room 1033, Stephen F. Austin Building, Austin, to consider and adopt the proposed media plan for Fiscal 1977 advertising program.

Additional information may be obtained from Margaret Russell, P. O. Box 12008, Capitol Station, Austin, Texas 78711, telephone (512) 475-4326.

Filed June 29, 1976, 10 13 a m

Doc No. 763502



Veterans Affairs Commission

Meeting

A meeting of the Veterans Affairs Commission will be held on Saturday, July 24, 1976, 10 a.m., at the Shamrock Hilton Hotel, Houston. The regular meeting will be held to consider reports on activities of the commission and to make decisions relative to general administrative matters pertaining to Texas' veterans counseling and assistance program.

Additional information may be obtained from Charles L. Morris, P. O. Box 12277, Capitol Station, Austin, Texas 78711, telephone (512) 475-4185.

Filed June 29, 1976, 10 13 a m

Doc No. 763503

Texas Water Rights Commission

Meeting

A meeting of the Texas Water Rights Commission will be held on Monday, July 12, 1976, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider applications for bonds by Fort Bend County Municipal Utility District No. 2, Benbrook Water and Sewer Authority of Tarrant County, and Fountainhead Municipal Utility District; an application for the use of surplus funds by Flower Mound Municipal Utility District No. 1; an application for the release of escrowed funds by Coastal Industrial Water Authority; the setting of a hearing date on a petition for the creation of Encino Park Municipal Utility District No. 1 of Bexar County; additional information concerning the dissolution of Dallas County Levee Improvement District No. 1, and consideration of a staff recommendation that a bond application be returned to Montgomery County Municipal Utility District No. 30.

The agenda also includes setting hearing dates on applications for permits in the Trinity River Basin, Colorado River Basin, Brazos River Basin, Red River Basin, and San Jacinto Brazos Coastal Basin; consideration of proposed amendments to Rules 129.03.20.001-002 (conference before hearings) and Rules 129.03.13.001-003 (relating to parties); setting of a hearing date on applications for temporary permits; commission action on final adoption of Rules 129.21.10.004 and 129.09.30.006; final commission action on Application 3586 of Cameron M. Wright; and consideration of application by Red River Authority for extension of time to acquire a contract with Corps of Engineers regarding Lake Texoma. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13207, Austin, Texas 78711, telephone (512) 475-4514.

Filed June 30, 1976 4:05 p.m.

Doc No 763556

Hearing

A hearing by the Texas Water Rights Commission will be held on Wednesday, July 28, 1976, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the petition for creation of Harris County Municipal Utility District No. 105. The complete notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13207, Austin, Texas 78711, telephone (512) 475-4514.

Filed June 29, 1976 10:33 a.m.

Doc No 763498

Texas Water Well Drillers Board

Meeting

A meeting of the Texas Water Well Drillers Board will be held on Tuesday, July 6, 1976, 9:30 a.m., in Room 119, Stephen F. Austin Building, 1700 North Congress, Austin, to consider certification of new applicants for registration; a report on the water well drillers examination; a progress report on registration of new drillers; report on investigator's activities; consideration of complaints and violations of the Water Well Drillers Act, and nomination of officers for FY 1977.

Additional information may be obtained from Fred Osborne, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-3787.

Filed June 28, 1976 2:47 p.m.

Doc No 763496

Quasi-State Agencies

Meetings Filed June 28, 1976

The Education Service Center Region VIII, Board of Directors, met at 203 West 1st, Mount Pleasant, on June 30, 1976, at 6:30 p.m. Further information may be obtained from Thomas Carney, 100 North Riddle, Mount Pleasant, Texas 75455, telephone (214) 572-6676.

Doc No 763497



Meetings Filed June 29, 1976

The Alamo Area Council of Governments, Executive Committee, will meet in Room 532, Three Americas Building, 118 Broadway, San Antonio, on July 14, 1976, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

The Ark-Tex Council of Governments, Executive Committee, met at the Colonial House Restaurant, Paris, on July 1, 1976, at 5 p.m. Further information may be obtained from Genevieve Watson, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

The Ark-Tex Council of Governments, Board of Directors, met at Paris City Hall, Paris, on July 1, 1976, at 7:30 p.m. Further information may be obtained from Genevieve Watson, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

The Education Service Center Region VII, Board of Directors, will meet in the Hunting Room, Community Inn, Kilgore, on July 6, 1976, at 6:30 p.m. Further information may be obtained from Von Rhea Beane, P.O. Box 1622, Kilgore, Texas 75662, telephone (214) 984-3071.

The Austin-Travis County MH/MR Center, Board of Trustees, met in the conference room, 1430 Collier Street, Austin, on July 1, 1976, at 7 p.m. Further information may be obtained from John W. Weimer, 1430 Collier, Austin Texas 78704, telephone (512) 447-4141.

The Central Texas Health Systems Agency, Board of Directors, will meet at the Austin Hilton Inn, 6000 Middle Fiskville Road, Austin, on July 23, 1976, at 7 p.m. Further information may be obtained from Irwin R. Salmanson, P.O. Box 15027, Austin, Texas 78761, telephone (512) 472-2431.

Doc. No 763526



Meetings Filed June 30, 1976

The Ark-Tex Council of Governments, Area Agency on Aging, will meet in the Community Room, 1st National Bank, Mount Pleasant, on July 6, 1976, at 1:30 p.m. Further information may be obtained from Beverly Cherney, P.O. Box 5307, Texarkana, Texas 75501, telephone (214) 774-3481.

The Colorado River Municipal Water District, Board of Directors, will meet at 400 East 24th, Big Spring, on July 8, 1976, at 10 a.m. Further information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, telephone (915) 267-6341.

The Central Texas RC&D Project, Executive Council, will meet at the Chateau Vill Motor Hotel, Highway 84 East, Gatesville, on July 13, 1976, at noon. Further information may be obtained from Pam Vernon, P.O. Box 729, Belton, Texas 76513, telephone (817) 939-1801.

The CETA Consortium Region XI, Prime Sponsor and Planning Committee, will meet at 216 North 5th, Waco, on July 9, 1976, at 10 a.m. Further information may be obtained from Tony Byars, 216 North 5th, Waco, Texas 76701, telephone (817) 756-7171.

The Education Service Center Region VII, Board of Directors, will meet at the Community Inn, Hunting Room, Kilgore, on July 6, 1976, at 6:30 p.m. Further information may be obtained from Von Rhea Beane, P.O. Box 1622, Kilgore, Texas 75662, telephone (214) 984-3071.

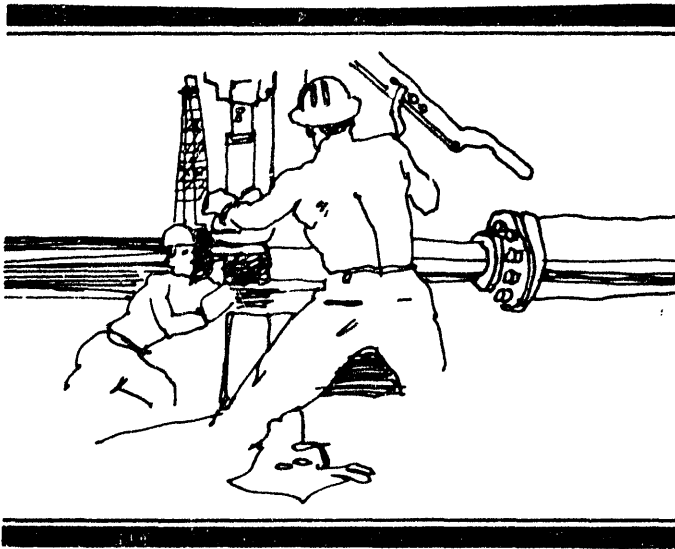
Doc No 763536

Meetings Filed July 1, 1976

The Brazos River Authority Board of Directors, Water Utilization Committee, will meet at 1400 Cobbs Drive, Waco, on July 7, 1976, at 10 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

The Brazos River Authority Board of Directors, Water Resources Development Committee, will meet at 1400 Cobbs Drive, Waco, on July 7, 1976, at 1 p.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

Doc. No. 763568



Texas Commission on Alcoholism

Role of the Commission

The Texas Commission on Alcoholism serves the people of Texas through the leadership of a broad spectrum of programs aimed at reducing, and ultimately preventing, alcohol abuse and alcoholism in the state. Alcoholism is ranked with heart disease, cancer, and mental illness as one of the nation's major health problems. There are an estimated 460,000 alcohol abusers and alcoholic persons in Texas, and millions more are affected by the alcohol problems of family members, friends, and fellow workers. The goal of the Texas Commission on Alcoholism is to respond to the needs of these citizens through a statewide delivery system of treatment and rehabilitation services, information and education programs, and training and research projects. To this end, it annually develops and implements *The Texas State Plan for the Prevention, Treatment, and Control of Alcohol Abuse and Alcoholism*.

Legislation

The Texas Commission on Alcoholism was created in 1953 by the 53rd Legislature of the State of Texas with the passage of House Bill 559, now Article 5561c, Vernon's Annotated Texas Statutes. It is mandated to "coordinate the efforts of all interested and affected State and local agencies; develop educational and preventive programs; and promote the establishment of constructive programs for treatment aimed at the reclamation, rehabilitation and successful re-establishment in society of alcoholics." Recognizing alcoholism as a treatable illness and a public health problem

affecting both the general welfare and the economy of the state, Article 5561c also specifies clearly the obligation of the state to provide treatment rather than punitive action for the alcoholic person. The significance of this legislation is evident from the fact that the bill has been used as a model for similar legislation in several other states.

Corresponding federal legislation was incorporated into the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), which was supplemented in 1974 by Public Law 93-282, Federal Assistance to State and Local Alcoholism and Alcohol Abuse Programs. The federal legislation requires that a single state agency be designated to administer a statewide plan for the prevention, treatment, and control of alcohol abuse and alcoholism. In 1971, the Texas Commission on Alcoholism was so designated by the Governor of Texas, who assigned to the commission the "primary responsibility for planning and implementing projects for the development of effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism in Texas."

Responding to the governor's order, the commission developed the first *Texas State Plan for the Prevention, Treatment, and Control of Alcohol Abuse and Alcoholism* in 1971. Compiled with the help of citizen planning committees throughout the state, the document represented the first comprehensive approach to statewide alcoholism programming in Texas. It was also the first such state plan to be submitted nationally, and formed the basis for federal formula grant funds allocated to Texas under P.L. 91-616.

The Regional Concept

In order to implement the *State Plan*, the commission designated one agency in each of the state planning regions as regional alcoholism authorities. The 24 regional authorities comprise the statewide network for the delivery of services to prevent, treat, and control alcohol abuse and alcoholism. Each regional alcoholism authority employs a regional alcoholism services developer with formula grant funds provided by the commission. In general, the responsibilities of the regional authorities center on planning and development of resources; coordination of regional alcoholism services; education, information, and training; and evaluation of programs.

Organization

Six commissioners serve as the governing body of the Texas Commission on Alcoholism. Appointed by the governor and confirmed by the senate, they serve six-year overlapping terms of office. The commissioners

designate an executive director for the commission, and set policies which are carried out by commission staff. Acting in an advisory capacity is the State Alcoholism Advisory Council, comprised of some 50 citizens concerned with alcoholism problems. Representing a broad range of geographic, ethnic, and professional interests throughout the state, as well as many state agencies involved in alcoholism programming, these citizens serve as advisors to the commission on a voluntary basis.

The work of the commission is organized into four major areas of activity, including administration; field services; education, information, and training; and occupational alcoholism programming.

Administrative Division

The Administrative Division directs the programs and activities of the commission and is responsible for its fiscal management. This division includes the Grants Management Section, which administers and monitors federal formula grant funds allocated to Texas under the provisions of P.L. 91-616 and P.L. 93-282. The Grants Management Section provides technical assistance, review, and comment to various state agencies and organizations making applications to federal and other funding sources for alcoholism project grant funds.

The annual preparation of the *State Plan* is another responsibility of the Administrative Division. The *State Plan* is based on input from commission staff, the State Alcoholism Advisory Council, the 24 regional alcoholism authorities, and other state agencies working in alcoholism-related areas. It identifies existing alcoholism services, surveys regional needs and attitudes, and provides for expansion and development of new resources. The heart of the *State Plan* is an Action Plan which presents ranked priorities for action by the commission in the coming year. Approval of the annual *State Plan* by the regional office of the U.S. Department of Health, Education, and Welfare is required in order for the commission to receive federal formula grant funds.

Education, Information, and Training Division

"If prevention efforts are to succeed, and if the national epidemic of alcoholism is to be brought under control, heavy reliance must be placed on the concept of responsibility. That concept is fundamental because the use of alcohol is permitted by society, is widely accepted in our culture, and is a matter of individual choice by law . . . Fundamental to responsibility is a strongly positive self-image or self-respect for oneself and his well-being. This, in turn, results in the assumption of responsibilities and obligations toward others . . . It is in the understanding of all the facts that sound decision-making has its origin. The ultimate goal is to change the

widespread unhealthy attitudes and practices of American society in the use of alcohol."

These notes on the responsible use of alcohol, excerpted from draft working papers of the National Institute of Alcohol Abuse and Alcoholism (1974), indicate the underlying philosophy of the commission's activity in the areas of education, public information, and training.

The Education, Information, and Training Division assists in developing alcohol education materials for use in the public schools, conducts special workshops to familiarize teachers with the principles and methods of alcohol education, and assists in designing college-level curricula concerning alcohol use and abuse for preprofessional training in various care-giving disciplines. In the area of continuing education for professionals in alcohol-related disciplines, the commission cosponsors with the Division of Extension of The University of Texas at Austin an Annual Institute of Alcohol Studies. Smaller Regional Institutes of Alcohol Studies are held throughout the year in many state planning regions.

The division provides training aimed at improving the quality of services to alcoholics and alcohol abusers and their families through improving the skills of personnel. Training programs are designed for criminal justice personnel, health care professionals, government agency staff, and educators, as well as for alcoholism treatment personnel.

In the area of public information, the Education, Information, and Training Division produces pamphlets and brochures, agency reports, and periodicals. News releases, public announcements, and other information concerning activities of the commission and new knowledge about alcoholism are regularly distributed. Radio and television are employed to increase public awareness about alcohol use and abuse. Public service announcements are provided to the media along with staff assistance for planning and evaluation of special programming in the field of alcoholism. The commission also maintains a library of current films about alcoholism for loan to the public, and acts as a distribution center for literature which is for sale at cost. Lists of available films and literature may be obtained on request from the commission.

Field Services Division

Because of the size of Texas and the diversity of its population, the programs of the commission are planned and implemented on a regional basis. Six area offices with area coordinators are located in Amarillo, Austin, Corpus Christi, El Paso, Fort Worth, and Houston. Each area coordinator is responsible for developing alcoholism services and providing technical assistance to programs operating in the state planning regions in his area. For additional staff support,

the commission is also authorized to provide an education specialist in each area office.

Major activities of the area offices focus on implementation of the *State Plan*, including planning, development, and coordination of alcoholism services; education, public information, and training; liaison with treatment and rehabilitation agencies; and development of local support for the regional alcoholism service delivery system. The area offices are the commission's representatives in the field and act as clearinghouses for local requests for assistance in all facets of commission activities.

Coordination of regional planning is achieved through close work between the commission's area office staff and the regional alcoholism authorities, who are charged with similar responsibilities within their regions. Joint efforts by the commission's area offices and the regional authorities have significantly increased the effectiveness of existing alcoholism programming and have resulted in the establishment of new services to meet local needs.

Occupational Alcoholism Division

In response to an increasing number of requests for assistance in the area of industrial alcoholism, the commission recently established an Occupational Alcoholism Division to work with Texas employers in both the public and private sectors. Its responsibility is to help combat the estimated \$400 million lost annually by business, industry, and government in Texas as a result of absenteeism, impaired job efficiency, medical expenses, and accidents caused by employees with drinking problems.

This division sponsors workshops and seminars on occupational programs, frequently in cooperation with the Texas Manufacturers Association, the Texas AFL-CIO, and others, to inform employers of the benefits of employee assistance programs. It assists employers to establish policies, procedures, supervisory training, and direct employee counseling and referral services for such programs. Occupational alcoholism specialists are assigned to some of the commission's area offices as well as to the central office.

The goal of the Occupational Alcoholism Division is to have employee assistance programs operating at all levels of business, industry, military, and government employment in Texas. To help in reaching this goal, federal funds designated specifically for occupational programming have been awarded annually to the commission.

Texas Commission on Alcoholism
K. E. Beahan, Executive Director
809 Sam Houston State Office Building
Austin, Texas 78701

Area Offices

Area I:

Box 12074, American National Bank Building
Amarillo, Texas 79101

Area II:

1315 Calhoun Street, Suite 13
Fort Worth, Texas 76102

Area III:

2211 East Missouri Avenue, Suite N-21
El Paso, Texas 79903

Area IV:

1709 San Antonio Street
Austin, Texas 78701

Area V:

2472 Bolsover Street, Suite 273
Houston, Texas 77005

Area VI:

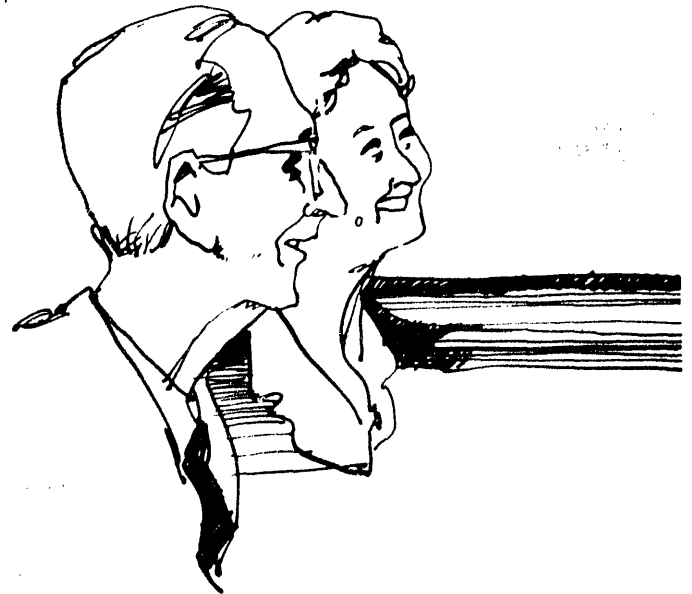
Palm Plaza South, Suite 410
1800 South Staples
Corpus Christi, Texas 78404

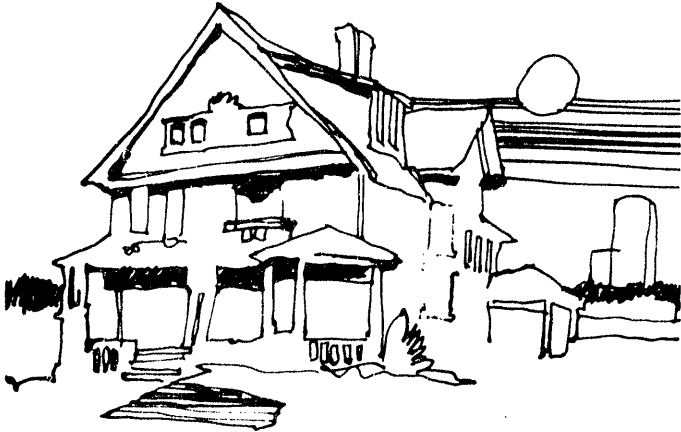
Issued in Austin, Texas, on June 21, 1976.

Doc. No. 763419 Manuel Fernandez
Administrative Assistant
Texas Commission on
Alcoholism

Filed: June 24, 1976, 10:03 a.m.

For further information, please call (512) 475-2577.





State Securities Board

Description of the Board

At the time of its creation in 1957, the State Securities Board assumed duties previously performed by the Secretary of State and the Board of Insurance Commissioners in administering the provisions of the Texas Securities Act. The board is composed of three members appointed by the governor. The Securities Commissioner is appointed by the board and serves at the pleasure of the board. The purpose of the agency is accomplished in three basic ways:

1. By requiring the registration of all securities sold in this state, unless the securities or the securities transactions fall clearly within one of the specific exemptions of the act. This function is carried out through the Securities Registration Division and the Institutional Registration Division.

2. By requiring all securities dealers and salesmen who sell securities in this state to become licensed by this agency, a process involving a thorough inquiry into the person's background to determine his personal and business repute and a written examination to determine his competence. These duties are performed by the Dealer Registration Division.

3. By vigorously investigating suspected violations of the act with the objective of preventing such violations where possible and, where the violation has already occurred, of assembling the needed evidence (usually of a complex nature) and preparing and presenting the case either in an administrative hearing before the commissioner or through the attorney

general in civil injunctive actions or to the appropriate district or county attorney for criminal prosecution. This responsibility falls on the Enforcement Division, which operates on a branch office concept in order to place personnel closer to their work. Branch offices are located in Dallas, Houston, and Lubbock, in addition to the main division office in Austin.

The theory of securities regulation is that of "full disclosure," which means that the prospective buyer of securities is entitled to be informed of all material facts needed to make an informed investment decision.

The Securities Act adds a further measure of protection for investors by requiring not only a full disclosure of all material facts about the proposed securities issue, but also that the securities be "fair, just, and equitable" to the prospective investor. A determination of this nature requires that the State Securities Board make a qualitative analysis of the securities.

The agency does not endorse, recommend, or in any way guarantee the securities it registers; and the individuals it licenses are under specific statutory responsibilities. It ascertains, with regard to securities, that the price the public is being asked to pay is fair in relation to the price paid by insiders, that conflicts of interest between insiders and public investors are eliminated or minimized, and that promotional expenses are reasonable.

In 1958, the board's first year of operation, only \$165 million in securities registrations were processed. In contrast, during 1975 a total of \$1.45 billion in securities registrations were processed by the department.

The fees collected by the board are deposited in the General Revenue Fund and have always exceeded funds expended by the agency for its operations. This allows the agency to carry out its mandate without costs to the taxpaying public.

Questions concerning the Texas Securities Act and operations of the State Securities Board may be directed to the main office in Austin at State Securities Board, P.O. Box 13167, Capitol Station, Austin, Texas 78711, telephone (512) 475-4561, or to any of the following branch offices:

State Securities Board
1313 Oak Cliff Bank Building
400 South Zang
Dallas, Texas 75208
telephone (214) 942-8760

State Securities Board
3100 West Alabama
Houston, Texas 77006
telephone (713) 528-6128

State Securities Board
 Vickers Building
 1507 13th Street
 Lubbock, Texas 79401
 telephone (806) 762-8010.

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763534 Roy W. Mouer
 Securities Commissioner

Filed: June 29, 1976, 4:19 p.m.

For further information, please call (512) 475-4561.

Office of State-Federal Relations

Meeting

Oil and Gas Recovery Techniques

The Technology Task Group of the National Petroleum Council's Committee on Enhanced Recovery Techniques for Oil and Gas in the United States will hold public meetings in Houston to review and to discuss

calculation results, methodology for relating production to time, examples of the extrapolation process, and environmental considerations. Meetings will be conducted in the Conference Room of the Exxon Production Research Company, 3120 Buffalo Speedway, at 9:30 a.m. on July 7 and 8:30 a.m. on July 8.

Persons who wish to speak at the meeting must apply to the National Petroleum Council, 1625 K Street, N.W., Washington, D.C. 20036, Ken BeLiew, Director, telephone (202) 393-6100. Written statements may be filed with the council either before or after the meeting.

The purpose of the National Petroleum Council is to provide the Secretary of the Interior with advice, information, and recommendations on matters relating to petroleum and the petroleum industry.

Additional information may be obtained from Dennis Thomas, P.O. Box 13005, Capitol Station, Austin, Texas 78711, telephone (512) 475-7805.

Issued in Austin, Texas, on June 28, 1976.

Doc. No. 763512 Dennis Thomas
 Associate Director
 Office of State-Federal
 Relations

Filed: June 29, 1976, 10:07 a.m.

For further information, please call (512) 475-7805.