

# TEXAS REGISTER

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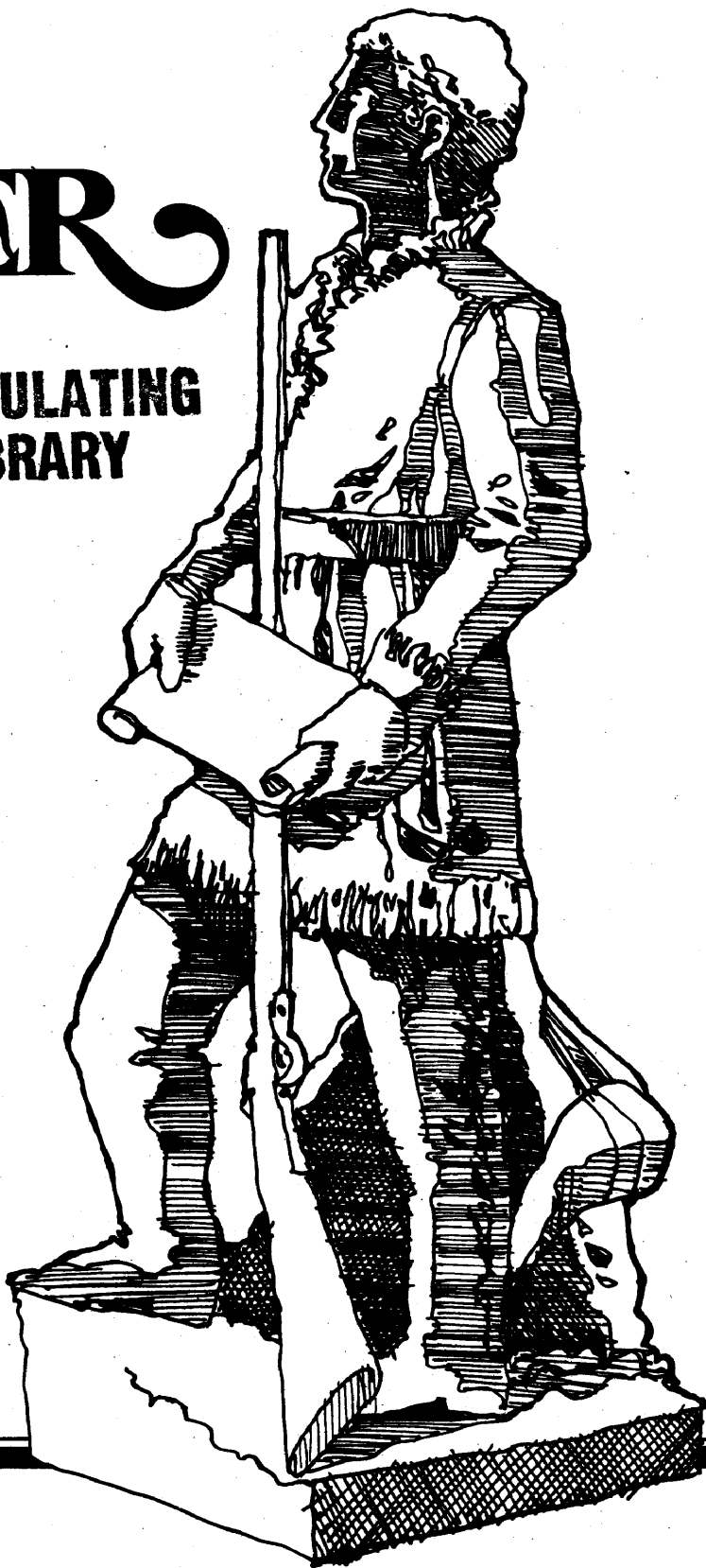
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# NOTES ON THE ISSUE

The Texas Department of Health is proposing the adoption of a state-approved training program in medication administration for personnel in nursing and convalescent homes and related institutions. A training program in medication administration has been in effect in Texas since 1974, when a federal act required the training. The state health department monitors the program, which has been taught through Texas Education Agency-approved community college or adult continuing education courses, using the curriculum developed by the health department. The proposed rule seeks to formally adopt the program and makes some changes to existing policy. Among those changes are the provisions to officially exempt licensed physicians, pharmacists, or nurses from taking the course; add 10 hours to the original 60-hour total; require the registered nurse who teaches the course to have at least two years of current nursing experience which includes administering medications; and allow a registered pharmacist who has at least three years experience and is currently working in a nursing or convalescent facility to assist the registered nurse in teaching part of the course.

The adoption of the program will affect approximately 40 private nursing homes and related institutions in the state which were not formerly under the jurisdiction of Medicaid and other federal requirements. Because the adoption of the program will also affect licensing standards of nursing and custodial care homes, amendments to rules defining these standards are also being proposed at this time.

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

*Artwork: Gary Thornton*

## TEXAS REGISTER



*Office of the  
Secretary of State*

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# PROPOSED RULES

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

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

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

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

## Texas Department of Health Nursing and Convalescent Homes Minimum Licensing Standards for Nursing Homes 301.54.02

The Texas Nursing and Convalescent Homes Act, Article 4442c, Texas Civil Statutes, as amended by Senate Bill 9, First Called Session, 65th Legislature, 1977, requires the department to establish standards covering a state-approved training program in medication administration for all personnel administering medications in nursing and convalescent homes and related institutions. The department presently is planning to adopt these standards in Proposed Rules 301.54.08.001.

In addition, since the medication administration standards proposed in Rule 301.54.08.001 will affect the department's existing licensing standards for nursing homes, it is necessary for the department to amend its licensing standards for nursing homes to conform to the medication administration program. The major amendments that the department proposes in order to accomplish this purpose are:

(1) Rule .002, on definitions, will define drugs and non-licensed nursing personnel (medication aides) and the functions of the latter.

(2) Rule .006, on personnel, will define staffing requirements for medication aides.

(3) Rule .008, on emergency medical care, will delete the duplication of procedures to be used by the nursing home in the obtaining of patients' medications.

(4) Rule .009, on routine medications, will establish procedures concerning the use of drugs and medications in routine situations.

(5) Rule .009 will be further amended to authorize the department to contract with a registered pharmacist for professional pharmaceutical consultation not less than four hours per month to ascertain the status of pharmaceutical services within a facility.

(6) Several other changes of a minor nature will be made in the above-mentioned rules for purposes of clarifying language and correcting terminology.

The department's Bureau of Long-Term Care has determined that the proposed amendments will have no fiscal impact on the state or units of local government. The amendments will modify existing licensing standards, and there will be no increase in costs over and above existing expenditures.

A public hearing on the proposed amendments will be held in the first floor auditorium, Texas Department of Health, 1100 West 49th Street, Austin, 9 a.m., on Tuesday, January 17, 1978. All persons interested in the amendments are invited to attend and offer verbal or written comments and testimony. In addition, written comments on the amendments may be sent directly to the department no later than January 31, 1978. These comments should be addressed to Howard Allen, Executive Assistant, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

These amendments are proposed under the authority of Article 4442c, Texas Revised Civil Statutes.

### .002. *Definitions for the Purpose of These Standards.*

(b) *Physician is a practitioner licensed by the State Board of Medical Examiners, State Board of Dental Examiners, or State Board of Chiropractic Examiners to prescribe and administer dangerous and controlled drugs.* [Physician is a practitioner licensed by the Texas State Board of Medical Examiners engaged in active practice of medicine.]

### (j) *Drug and medication mean:*

(1) *any substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;*

(2) *any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;*

(3) *any substance (other than food) intended to affect the structure or any function of the body of man; and*

(4) *any substance intended for use as a component of any substance specified in .002(j)(1), (2), and (3). It does not include devices or their components, parts, or accessories.*

[(j) Dangerous drugs shall include those pharmaceuticals as defined in Article 72d, Vernon's Penal Code or as amended.]

(k) *Dangerous drug means any drug as defined in Article 4476-14, Section 2, Texas Dangerous Drug Act, Texas Civil Statutes, or as amended.* [Legend pharmaceuticals shall include those pharmaceuticals which bear the legend: "Caution: Federal law prohibits dispensing without prescription."]

(l) *Legend drug shall include all dangerous drugs and controlled drugs and bear the legend: "Caution: Federal law prohibits dispensing without prescription."*

(m) *Controlled substance means a drug, substance,*

or immediate precursor as defined in the Texas Controlled Substance Act, Article 4476-15, Section 1.02(5), Texas Civil Statutes, or as amended, and/or the Federal Controlled Substance Act of 1970, Public Law 91-513.

(n) A poison is any substance that federal or state regulation requires the manufacturer to label as a poison and is to be used externally by the consumer from the original manufacturer's container. Drugs to be taken internally which contain the manufacturer's poison label, but are dispensed by a pharmacist only by or on the prescription order of a physician, are not considered a poison unless regulations specifically require poison labeling by the pharmacist.

(o) Medication aide is a person who has successfully completed a state-approved training program in medication administration. The Texas Department of Health is the approval authority. Upon successful completion of the training, a medication aide may perform only the following medication functions:

(1) after proper authorization by the facility's licensed nurse or the resident's treating physician, administer PRN medications;

(2) observe for and report to the charge nurse reactions and side effects of medications commonly administered to nursing facilities residents;

(3) take and record vital signs prior to administration of some medications which could affect or change the vital signs;

(4) administer and document regularly prescribed oral, rectal, nasal, otic, ophthalmic, and topical medications, except by the aerosol route;

(5) administer oxygen per nasal cannula or a non-sealing face mask only in an emergency when no licensed nursing staff is on duty.

(p) Practices or acts prohibited by nonlicensed nursing personnel (medication aides) after completing a state-approved training program in medication administration:

(1) administer medications by the injection route:

(A) intramuscular route;

(B) intravenous route;

(C) subcutaneous route;

(D) intradermal route;

(E) hypodermoclysis route;

(2) administer medications by the aerosol route:

(A) topical aerosols;

(B) medications used for intermittent positive pressure breathing (IPPB) treatments or other treatments involving the aerosol method of inhalation;

(C) medications used that involve the treatment of the skin requiring sterile techniques;

(3) administer PRN medications unless authorization is obtained from the facility's licensed nurse or the resident's treating physician:

(A) nonlicensed nursing personnel (medication aides) must document in nurses notes symptoms indicated for the medication and the time the symptoms occurred;

(B) nonlicensed nursing personnel (medication aides) must document in nurses notes that the facility's licensed nurse or the treating physician was contacted, symptoms were described, permission was granted to administer the medication, and the time of contact;

(i) Permission to grant the administration of medications shall be on an individual basis;

(ii) Permission to grant the administration of medications shall not be given prior to the time the symptoms occurred;

(C) The administration of the authorized PRN medication must be correctly documented;

(D) The facility's licensed nurse giving permission for administration of the PRN medication shall co-sign the nurses notes on the next tour of duty, or if on-duty in the facility, at the end of that shift;

(4) administer the initial dose of a medication that has not been previously administered to the resident;

(5) administer medication doses that involve any calculation of dosage strength and/or alteration of the originally dispensed dose, except the measure of a prescribed amount of a liquid medication and the crushing of medications;

(6) crush medications unless the initial prior authorization is obtained from the licensed nurse. The licensed nurse shall document initially the authorization for the medication aide to crush medications on the appropriate medication record from which medications are administered;

(7) administer medications by way of the nasogastric tube;

(8) receive or assume responsibility for reducing to writing oral or telephone orders from a physician;

(9) order residents' medications from a pharmacy.

(q) Medication aides must function in accordance with accepted pharmaceutical practices and as set forth in these standards.

(r)(1) Facility is a building consisting of one or more floors or one or more units, or may be a distinct part of a licensed hospital and is licensed as a nursing home by the Texas Department of Health.

.006. Personnel.

(d) Staffing.

(9) Medication aides as described in .002(o) and (p) will function under the direct responsibility and/or supervision of the licensed nurse on duty and ultimately under the responsibility of nurses and administrator of the facility.

.008. Emergency Medical Care.

(e) Each patient of a nursing home, his legal guardian, or a responsible relative shall have unlimited freedom to choose and change the physician, dentist, or pharmacist or such patient at any time, and the nursing home shall not interfere with or limit such right. Such changes shall be recorded on the admission record and all other appropriate forms maintained by the home.

.010. Routine Medications.

(a) Procedures concerning medication.

(1) A patient in a nursing home shall not be administered any medication except on written or verbal orders of a physician [licensed by the Texas State Board of Medical Examiners].

(2) All [dangerous] drugs [and legend pharmaceuticals] shall be prescribed by a physician for an individual patient. Bulk dangerous and/or controlled drugs shall not be maintained in the nursing home, except as outlined in .010(b), "Emergency drug and equipment tray." [Unprescribed bulk legend pharmaceuticals shall not be

maintained in a nursing home.)

(3) The label of each patient's individual *drug container* (prescription) shall be labeled in accordance with all federal and state statutes. *There shall be affixed to the immediate container in which said drug is delivered a label which* (The container shall) clearly *indicates* (indicate) the patient's full name, the prescribing physician's name, prescription number, and name and strength of the drug, *amount dispensed*, date of issue, expiration date of all time-dated drugs, the name, address, and telephone number of pharmacy issuing the drug, *and directions for use*. It is advisable that the manufacturer's name and lot or control number of the medication also appear on the label.

(A) *The dispensing pharmacy will place the small multiple-dose drug container into another container upon which the pharmacy's regular label properly completed is affixed. In addition, multiple-dose containers of drugs which are too small for a regular prescription label to be affixed will have a strip label attached, which contains the name of the patient and the prescription number. Should the two containers become separated, then the small drug container will still have patient identification.*

(4) The medications of each patient are kept and stored in their originally received containers. Transferring between containers is prohibited (by the Texas State Board of Pharmacy).

(5) The director of nurses or the charge licensed nurse (or the charge attendant on the 11 p.m. to 7 a.m. shift) shall call the issuing pharmacist *and/or facility pharmacist* and report any errors suspected in labeling (or any other errors) *and the facility pharmacist for any other pharmaceutical errors.*

(6) Separately locked, *permanently affixed compartments* (securely fastened boxes or drawers) within the medicine storage area *shall be* (cabinets are) provided for storage of *Schedule II drugs of the Controlled Substances Act of 1970, as amended* (narcotics, barbiturates, amphetamines, and other dangerous drugs).

(7) Medications requiring refrigeration must be stored in the medication storage area refrigerator, used only for medicine storage, supplemental feedings, and substances ordered by the physician requiring refrigeration. The medications *may be* (are) kept in (a) separate, *permanently affixed*, locked medication storage compartments (box) *in* (within) a refrigerator at or near the nursing station.

(8) (Poisons and) Medications "for external use only" are kept in a locked area and separate from *internal* (other) medications.

(9) *Poisons are kept in a locked cabinet and separate from all medications.*

(10)(9) Medications which have been discontinued by order of the physician and/or medications of deceased residents *and/or medications which have passed an expiration date* shall be kept under separate lock and key (and, when a quantity has accumulated, the state licensing agency shall be notified in order that proper steps may be taken to destroy these medications in accordance with the Texas State Pharmacy Law.) *Medications will be disposed of in accordance with the Texas State Pharmacy Law.*

(11)(10) Medications are released to patients (on discharge) only on the written or verbal authorization of the attending physician.

(b) Order procedure.

(1) All medications must be ordered in writing by the patient's physician. Oral orders may be taken from a physician only by a licensed nurse, (or on the 11 p.m. to 7 a.m. shift by the attendant in charge.) *pharmacist, or another physician.* This order is immediately reduced to writing, signed by the appropriate individual, and countersigned by the physician within 72 hours.

(2) To maintain the continuity of the patient's therapeutic regimen, medication *shall* (should) be ordered by calling the *issuing pharmacy* (individual pharmacist) at least 24 hours prior to the administration of the last available dose. (This procedure should allow sufficient time for the pharmacist to contact the physician for future medication orders.)

(3) *The facility pharmacist shall review the drug regimen of each patient at least monthly, and submit written records of any irregularities to the director of nurses and administrator. Separate and individual records for each patient shall be maintained to indicate irregularities, date of drug review, and signature of facility pharmacist completing the drug regimen review.* (The charge nurse and the prescribing physician should review, as appropriate, each patient's medications as part of the treatment plan. This should be done at least quarterly).

(4) If a specific amount of medication or the time for discontinuance is not specified, the stop order procedure as detailed in this section will apply.

(c) Administration of medication.

(1) *Drugs and biologicals are administered only by physicians, licensed nursing personnel, or by other personnel who have completed a state-approved training program in medication administration under the conditions outlines in .002(o) and (p). It shall be the duty of the person responsible for administering the medication to ascertain that the medication is in fact taken by the patient.*

(2)(1) The nursing station must have readily available items necessary for the proper administration of all medications. (It shall be the duty of the person responsible for administering the medication to ascertain that the medication is in fact taken by the patient.)

(3)(2) *The person preparing the* (Each) dose *shall administer* (administered) *the dose and* (is) properly record in the *appropriate* clinical record, including dosage, strength, and method of administration.

(4)(3) Medications prescribed *and labeled* for one patient are not administered to any other patient.

(5)(4) Self-administration of medications by patients is not permitted except for emergency drugs on special order of the patient's physician (or in a predischarge type program under the supervision of a licensed nurse).

(6)(5) Medication errors and drug reactions are immediately reported to the patient's physician (and issuing pharmacist and an). *An* entry of the incident and the subsequent *report* (reporting thereof) is made in the patient's record. *The facility pharmacist shall be notified of drug reactions during the next visit to the facility after the occurrence of the drug reaction.*

(d) *Drugs covered by the Controlled Substances Act of 1970* (Narcotics, hypnotics, amphetamines, and other controlled drugs (DACA)).

(1) *A separate record must be maintained for each drug covered by Schedules II, III, and IV of the Controlled Substances Act of 1970* (A separate record is maintained for

each narcotic or other controlled drugs (DACA).|

(2) *The [This] record for each drug must [should] contain the following information: prescription number; name and strength of drug; date received by facility; date and time administered; name of patient; dose; physician's name; signature of person administering dose; and balance verifiable [as can be verified] by drug inventory. Schedule II drugs balances shall be verified by inventory every eight hours (each shift change). Schedule III and IV substances balances shall be verified at least once a week. [All Class "A" narcotics can be dispensed only after receiving a signed prescription. The physician shall be required to write individual prescriptions for such drugs as Demerol and Morphine. The pharmacist may be called to pick up the prescription prior to dispensing, or the prescription taken to the pharmacy.]*

(3) *Schedule V drugs shall be excluded from the requirements in .010(d)(1) and (2).*

(e) All medication orders which do not specifically indicate the number of doses to be administered are automatically stopped after a given time period as shown below.

Stop Order Policy

Drug Type	Stop Order
analgesic, non-narcotic and narcotic	2 weeks
antianemia drugs	1 month
antibiotics, including antibacterials	5 days
anticoagulants	1 month
anti-emetics	3 days
antihistamines	1 month
antineoplastics	1 week
barbiturates	1 month
cardiovascular drugs	1 month
cold preparations	5 days
cough preparations	5 days
dermatologicals	1 week
diuretics	1 month
hormones	1 month
hypnotics and sedatives	1 month
laxatives	1 month
psychotherapeutic agents	1 month
spasmolytics	2 weeks
vitamins	3 months
l cathartics	1 month
l narcotics	2 weeks
l sedatives	1 month
l sulfonamides	5 days

(f) *Emergency drug and equipment tray. The licensed practitioner (staff physician) may keep his stock of inventoried emergency dangerous drugs (and controlled drugs if appropriately registered) [medication] in the nursing home in a locked box with his name on it. It is then his privilege to order a dose from his medication container for his patient to be administered by the licensed nurse on duty. [It is then his privilege to ask the appropriate individual to administer a dose from his medication container to his patient.] The licensed practitioner (staff physician) may authorize in writing other physicians to use from or order the licensed nurse on duty to administer from his emergency drug kit.*

(g) *Each resident of the nursing home, his legal guardian, or a responsible party shall have unlimited freedom to choose and change the physician or pharmacy of such resident at any time, and the nursing home shall*

*not interfere with or limit such right. Such changes shall be recorded on the admission record and all other appropriate forms maintained by the nursing home. [If the facility has a pharmacy, a licensed pharmacist in good standing licensed to practice his profession under the laws of this state shall be employed to administer the pharmacy. The pharmacy is to operate in complete accordance with laws and regulations promulgated by regulating agencies concerned with the distribution and handling of dangerous drugs. When a facility does not have a licensed pharmacy, pharmaceutical services are provided by community pharmacies or dispensing practitioners. It is recommended that the services of a consultant pharmacist be obtained for professional consultation. The patient, his or her responsible family, or his or her guardian shall have complete freedom of choice in selecting the pharmacy dispensing or compounding his or her prescriptions. This choice will not be abridged even if the nursing care facility maintains a pharmacy and a qualified pharmacist within the facility.]*

(h) *Pharmaceutical services.*

(1) *A nursing home which maintains an on-premise licensed pharmacy shall employ a registered pharmacist in good standing to practice the profession of pharmacy. The pharmacy and pharmacist shall operate in complete accordance and compliance with laws and regulations promulgated by regulatory agencies having responsibilities for dangerous and controlled drugs.*

(2) *A nursing home which does not maintain an on-premise licensed pharmacy shall obtain drugs and medications from community pharmacies and/or dispensing practitioners.*

(3) *The services of a pharmacist shall be contracted for professional pharmaceutical consultation not less than four hours per month for the purpose of ascertaining the status of pharmaceutical services within the facility. The responsibilities, functions, and objectives, and the terms of agreement, including financial arrangement and/or other fees paid each facility pharmacist shall be delineated in writing and signed by an authorized representative of the facility and the facility pharmacist.*

(4) *The facility pharmacist, after each visit, shall furnish a written report to the facility administrator of the resultant problems found in the obtaining, storing, administering, disposal, and record-keeping of drugs and medications.*

(5) *The facility pharmacist, along with the facility administrator, director of nurses, and staff physician shall develop written pharmaceutical services, policies, and procedures appropriate for the facility.*

Doc. No. 777413





## Minimum Licensing Standards for Custodial Care Homes 301.54.03

The Texas Nursing and Convalescent Homes Act, Article 4442c, Texas Civil Statutes, as amended by Senate Bill 9, First Called Session, 65th Legislature, 1977, requires the department to establish standards covering a state-approved training program in medication administration for all personnel administering medications in nursing and convalescent homes and related institutions. The department presently is planning to adopt these standards in Proposed Rules 301.54.08.001.

In addition, since the medication administration standards proposed in Rule 301.54.08.001 will affect the department's existing licensing standards for custodial care homes, it is necessary for the department to amend its licensing standards for custodial care homes to conform to the medication administration program. The major amendments that the department proposes in order to accomplish this purpose are:

- (1) Rule .002, on definitions, will define drugs and non-licensed nursing personnel (medication aides) and the functions of the latter.
- (2) Rule .005, on physical plant, will define the type of physical plant requirements necessary for storing medications.
- (3) Rule .006, on personnel, will define staffing requirements for medication aides.
- (4) Rule .008, on emergency medical care, will establish procedures to be used by medication aides in emergency medical care situations.
- (5) Rule .009, on routine medications, will establish procedures concerning the use of drugs and medications in routine situations.
- (6) Rule .009 will be further amended to authorize the department to contract with a registered pharmacist for professional pharmaceutical consultation not less than four hours per month to ascertain the status of pharmaceutical services within a facility.
- (7) Several other changes of a minor nature will be made in the above-mentioned rules for purposes of clarifying language and correcting terminology.

The department's Bureau of Long-Term Care has determined that the proposed amendments will have no fiscal impact on the state or units of local government. The amendments will modify existing licensing standards, and there will be no increase in costs over and above existing expenditures.

A public hearing on the proposed amendments will be held in the first floor auditorium, Texas Department of Health, 1100 West 49th Street, Austin, 9 a.m., on Tuesday, January 17, 1978. All persons interested in the amendments are invited to attend and offer verbal or written comments and testimony. In addition, written comments on the amendments may be sent directly to the department no later than January 31, 1978. These comments should be addressed to Howard Allen, Executive Assistant, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

These amendments are proposed under the authority of Article 4442c, Texas Revised Civil Statutes.

### .002. Definitions for the Purpose of These Standards.

(b) **Physician** is a practitioner licensed by the State Board of Medical Examiners, State Board of Dental Examiners, or State Board of Chiropractic Examiners to prescribe and administer dangerous and controlled drugs. [Physician is a practitioner licensed by the Texas State Board of Medical Examiners engaged in active practice of medicine.]

#### (h) **Drug or medicine means:**

(1) any substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(2) any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(3) any substance (other than food) intended to affect the structure or any function of the body of man; and

(4) any substance intended for use as a component of any substance specified in .002(h)(1), (2), and (3). It does not include devices or their components, parts, or accessories.

(i) **Dangerous drug** means any drug as defined in Article 4476-14, Section 2, Texas Dangerous Drug Act, Texas Civil Statutes, or as amended.

(j) **Legend drug** shall include all dangerous drugs and controlled drugs and bear the legend: "Caution: Federal law prohibits dispensing without prescription."

(k) **Controlled substances** means a drug substance, or immediate precursor as defined in the Texas Controlled Substance Act, Article 4476-15, Section 1.02(5), Texas Civil Statutes, or as amended, and/or the Federal Controlled Substance Act of 1970, Public Law 91-513.

(l) **A poison** is any substance that federal or state regulation requires the manufacturer to label as a poison and is to be used externally by the consumer from the original manufacturer's container. Drugs to be taken internally which contain the manufacturer's poison label, but are dispensed by a pharmacist only by or on the prescription order or a physician are not considered a poison, unless regulations specifically require poison labeling by the pharmacist.

(m) **Medication aide** is a person who has successfully completed a state-approved training program in medication administration. The Texas Department of Health is the approval authority. Upon successful completion of the training, a medication aide may perform only the following medication functions:

(1) after proper authorization by the facility's licensed nurse or the resident's treating physician, administer PRN medications;

(2) observe for and report to the charge nurse reactions and side effects of medications commonly administered to nursing facilities residents;

(3) take and record vital signs prior to administration of some medications which could affect or change the vital signs;

(4) administer and document regularly prescribed oral, rectal, nasal, otic, ophthalmic, and topical medications, except by the aerosol route;

(5) administer oxygen per nasal canula or a non-sealing face mask only in an emergency when no licensed nursing staff is on duty.



(n) *Practices or acts prohibited by nonlicensed nursing personnel (medication aides) after completing a state-approved training program in medication administration:*

- (1) *administer medications by the injection route:*
  - (A) *intramuscular route;*
  - (B) *intravenous route;*
  - (C) *subcutaneous route;*
  - (D) *intra-dermal route;*
  - (E) *hypodermoclysis route;*
- (2) *administer medications by the aerosol route:*
  - (A) *topical aerosols;*
  - (B) *medications used for intermittent positive pressure breathing (IPPB) treatments or other treatments involving the aerosol method of inhalation;*
  - (C) *medications used that involve the treatment of the skin requiring sterile techniques;*
  - (3) *administer PRN medications unless authorization is obtained from the facility's licensed nurse or the resident's treating physician:*
    - (A) *nonlicensed nursing personnel (medication aides) must document in nurses notes symptoms indicated for the medication and the time the symptoms occurred;*
    - (B) *nonlicensed nursing personnel (medication aides) must document in nurses notes that the facility's licensed nurse or the treating physician was contacted, symptoms were described, permission was granted to administer the medication, and the time of contact.*
      - (i) *Permission to grant the administration of medication shall be on an individual basis;*
      - (ii) *Permission to grant the administration of medication shall not be given prior to the time the symptoms occurred.*
    - (C) *The administration of the authorized PRN medication must be correctly documented.*
    - (D) *The facility's licensed nurse giving permission for administration of the PRN medication shall co-sign the nurses notes on the next tour of duty, or if on-duty in the facility, at the end of that shift.*
  - (4) *administer the initial dose of a medication that has not been previously administered to the resident*
  - (5) *administer medication doses that involve any calculation of dosage strength and/or alteration of the originally dispensed dose, except the measure of a prescribed amount of a liquid medication and the crushing of medications*
  - (6) *crush medications unless the initial prior authorization is obtained from the licensed nurse. The licensed nurse shall document initially the authorization for the medication aide to crush medications on the appropriate medication record from which medications are administered;*
  - (7) *administer medications by way of the nasogastric tube;*
  - (8) *receive or assume responsibility for reducing to writing oral or telephone orders from a physician;*
  - (9) *order residents' medications from a pharmacy.*

**.005. Physical Plant.**

- (f) Attendant service unit.
  - (2) *For those residents requiring supervision of routine medications, there shall be a lockable enclosed*

*medication storage area, including a refrigerator if necessary, sufficient to meet the needs of the facility. [There shall be sufficient lockable enclosed medicine storage spaces, including refrigerator storage, if necessary.] The clean utility area described in .005(f)(3) [below] may be used for the medication preparation area, if necessary.*

**.006. Personnel.**

- (d) Staffing.

(4) *Medication aides administering medications to those residents needing this service must function in accordance with accepted pharmaceutical practices, and as set forth in these standards. Medication aides as defined in .002(m) and (n) of these standards shall function under the direct responsibility and/or supervision of the facility's licensed nurse and ultimately the responsibility of the administrator of the facility.*

**.008. Emergency Medical Care.**

(b) *In the event of an acute illness or accident requiring medical and/or nursing care beyond the capabilities of a home providing custodial care, the resident shall be transferred on orders of a physician to a facility such as a skilled nursing home or hospital where needed services and facilities are available; providing, however, until said transfer is made the personnel shall have authority to carry out emergency procedures as prescribed by the resident's physician [a duly licensed physician]. In case of an emergency illness which does not necessitate transfer of the [a] resident from the custodial care home and medications are administered to the resident, the [attendant in charge] licensed nurse, or medication aide if a licensed nurse is not on duty, shall keep a documented and signed [necessary] record of administration of medications and vital signs [temperature in order to keep the attending physician fully informed relative to the health status of the individual resident]. In the event the resident is self-administering medications during an emergency illness which does not necessitate transfer of the resident from the custodial care home, and a licensed nurse or medication aide is not required, the attendant-in-charge shall monitor and record the resident's self-administration of medications. The attendant-in-charge shall keep documented and signed records of the resident's vital signs. All information shall be immediately available to the resident's physician.*

(e) *Each resident of a custodial care home, his legal guardian, or a responsible party [relative] shall have unlimited freedom to choose and change the physician, dentist, or pharmacy [pharmacist] of such resident at any time, and the custodial care home shall not interfere with or limit such right. Such changes shall be recorded on the admission record and all other appropriate forms maintained by the home.*

**.009. Routine Medications.**

- (a) *Procedures concerning drugs and medication.*

(1)(a) *When it becomes necessary to administer routine medications, the custodial care home must establish written policies and procedures to assure the residents that medications are administered in accordance with all appropriate laws and regulations. [and carry out proper safeguards to the residents under medication and all other residents of the home. For those residents requiring supervi-*

sion of routine medications shall be kept in a central medicine cabinet and/or refrigerator under lock and key. Under no circumstances shall the custodial care home endeavor to administer medications or services which would require continuing attention by [trained medical] *licensed nurses* or other paramedical personnel.

(2) *A resident in a custodial care home shall not be administered any drug or medicine except on written or verbal orders of a physician.*

(3) *All dangerous drugs and controlled drugs shall be prescribed by a physician for an individual resident.*

(4) *Bulk dangerous and/or controlled drugs shall not be maintained in the custodial care home.*

(5) *The label of each resident's individual prescription shall be labeled in accordance with all federal and state statutes. There shall be affixed to the immediate container in which said drug is delivered a label which clearly indicates the resident's full name, the prescribing physician's name, prescription number, and name and strength of the drug, number of doses dispensed, date of issue, expiration date of all time-dated drugs, the name, address, and telephone number of pharmacy issuing the drug, and directions for use. The dispensing pharmacy will place the small multiple dose drug container into another container upon which the pharmacy's regular label, properly completed, is affixed. In addition, multiple dose containers of drugs which are too small for a regular prescription label to be affixed will have a strip label attached which contains the name of the patient and the prescription number. Should the two containers become separated, then the small drug container will still have patient identification.*

(6) The medications of each resident are kept and stored in their originally received containers. Transferring between containers is prohibited.

(7) The licensed nurse, the charge medication aide, or the charge attendant shall call the issuing pharmacist and/or facility pharmacist and report any errors suspected or found in medicine labeling; all other errors in pharmaceutical services shall be reported to the facility pharmacist.

(8) *Separately locked, permanently affixed compartments within the medicine storage area shall be provided for storage of Schedule II drugs of the Controlled Substances Act of 1970, as amended.*

(9) *Medications requiring refrigeration must be stored in the medication storage area refrigerator, used only for medicine storage, supplemental feedings, and substances ordered by the physician requiring refrigeration. The medications may be kept in a separate, permanently affixed, locked medication storage compartments in a refrigerator at or near the nursing station.*

(10) *Medications "for external use only" are kept in a locked area and separate from internal medications.*

(11) *Poisons are kept in a locked cabinet and separate from all medications.*

(12)(c) Medications which have been discontinued by order of the physician and/or medications of deceased residents and/or medications which have passed an expiration date shall be kept under separate lock and key [and, when a quantity has accumulated, the state licensing agency shall be notified in order that proper steps may be taken to

destroy these medications in accordance with the Texas State Pharmacy Law]. *Medications shall be disposed of in accordance with the Texas State Pharmacy Law.*

(13) *Medications are released to residents only on the written or verbal authorization of the attending physician.*

(b) *Order procedure.*

(1) *All medications must be ordered in writing by the resident's physician. Verbal orders may be taken from a physician only by a licensed nurse, pharmacist, or another physician. This order is immediately reduced to writing, signed by the appropriate individual, and countersigned by the appropriate individual, and countersigned by the physician within 72 hours.*

(2) *To maintain the continuity of the resident's therapeutic regimen, medication shall be ordered by calling the issuing pharmacy at least 24 hours prior to the administration of the last available dose.*

(3) *The facility pharmacist shall review the drug regimen of each patient at least monthly, and submit written reports of any irregularities to the director of nurses and administrator. Separate and individual records for each patient shall be maintained to indicate irregularities, date of drug review, and signature of facility pharmacist completing the drug regimen review.*

(4) *If a specific amount of medication or the time for discontinuance is not specified, the stop order procedure will apply.*

(5) *All medication orders which do not specifically indicate the number of doses to be administered are automatically stopped after a given time period as shown below.*

### Stop Order Policy

Drug Type	Stop Order
analgesic, non-narcotic and narcotic	2 weeks
antianemia drugs	1 month
antibiotics, including antibacterials	5 days
anticoagulants	1 month
anti-emetics	3 days
antihistamines	1 month
antineoplastics	1 week
barbiturates	1 month
cardiovascular drugs	1 month
cold preparations	5 days
cough preparations	5 days
dermatologicals	1 week
diuretics	1 month
hormones	1 month
hypnotics and sedatives	1 month
laxatives	1 month
psychotherapeutic agents	1 month
spasmolytics	2 weeks
vitamins	3 months

[Unprescribed bulk medications shall not be maintained in a custodial care home.]

(c) *Administration of medication.*

(1) *Drugs and biologicals are administered only by physicians, licensed nursing personnel, or by other personnel who have completed a state-approved training*

program in medication administration. It shall be the duty of the person responsible for administering the medication to ascertain that the medication is in fact taken by the resident.

(2) The medication preparation area must have readily available items necessary for the proper administration of all medications.

(3) The person who prepares the medication dose shall administer the dose and properly record the medicine administered in the appropriate clinical record, including dosage, strength, and method of administration.

(4) Medications prescribed and labeled for one resident are not administered to any other resident.

(5) Medication errors and drug reactions are immediately reported to the patient's physician. An entry of the incident and the subsequent report is made in the patient's record. The facility pharmacist shall be notified of drug reactions during the next visit to the facility after the occurrence of the drug reaction.

(d) Drugs covered by the Controlled Substances Act of 1970.

(1) A separate record must be maintained for each drug covered by Schedules II, III, and IV of the Controlled Substances Act of 1970.

(2) The record for each drug must contain the following information: prescription number; name and strength of drug; date received by facility; date and time administered; name of patient; dose; physician's name; signature of person administering dose; and balance verifiable by drug inventory. Schedule II drugs balances shall be verified by inventory every eight hours (each shift change). Schedule III and IV substances balances shall be verified at least once a week.

(3) Schedule V drugs shall be excluded from the requirements in .009(d)(1) and (2).

(f) Pharmaceutical services.

(1) Drugs and medications are provided by community pharmacies and/or dispensing practitioners.

(2) A custodial care home which maintains an on-premise licensed pharmacy shall employ a registered pharmacist in good standing to practice the profession of pharmacy. The pharmacy and pharmacist shall operate in complete accordance and compliance with laws and regulations promulgated by regulatory agencies having responsibilities for dangerous and controlled drugs.

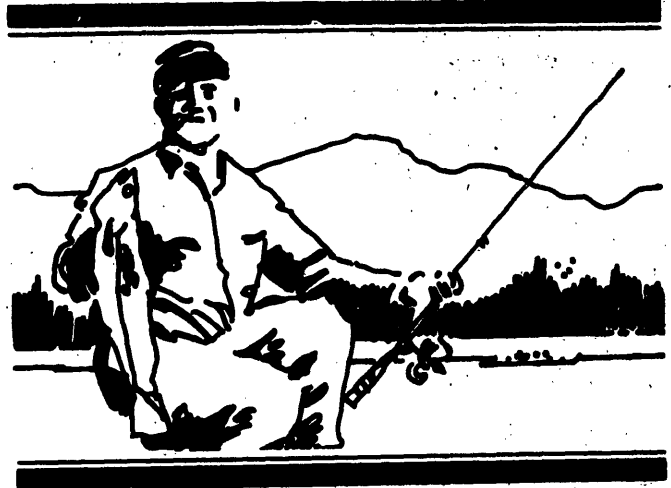
(3) A custodial care home which does not maintain an on-premise licensed pharmacy shall obtain drugs and medications from community pharmacies and/or dispensing practitioners.

(4) The services of a pharmacist shall be contracted for professional pharmaceutical consultation not less than four hours per month for the purpose of ascertaining the status of pharmaceutical services within the facility. The responsibilities, functions, and objectives, and the terms of agreement, including financial arrangement and/or other fees paid each facility pharmacist shall be delineated in writing and signed by an authorized representative of the facility and the facility pharmacist.

(5) The facility pharmacist, after each visit, shall furnish a written report to the facility administrator of the resultant problems found in the obtaining, storing, administering, disposal, and record-keeping of drugs and medications.

(6) The facility pharmacist, along with the facility administrator, director of nurses, and staff physician shall develop written pharmaceutical services, policies, and procedures appropriate for the facility.

Doc. No. 777414



## Medication Administration 301.54.08

The Texas Nursing and Convalescent Homes Act, Article 4442c, Texas Revised Civil Statutes, as amended by Senate Bill 9, First Called Session, 65th Legislature, 1977, requires the department to establish standards covering a state-approved training program in medication administration for all personnel administering medications in nursing and convalescent homes and related institutions. Pursuant to this requirement, the department proposes to adopt by reference a rule on a state-approved training program in medication administration.

The purpose of the program will be to teach and train non-licensed nursing personnel (medical aides) to perform the following medication functions:

(1) After proper authorization by the facility's licensed nurse or the resident's treating physician, to administer PRN medications.

(2) Observe for and report to the charge nurse reactions and side-effects of medications commonly administered to nursing facilities residents.

(3) Take and record vital signs prior to administration of some medications which could affect or change the vital signs.

(4) Administer and document regularly prescribed oral, rectal, nasal, otic, ophthalmic, and topical medications, except the aerosol route.

(5) Administer oxygen per nasal canula or a nonsealing face mask only in an emergency when no licensed nursing staff is on duty.

The program will consist of 70 hours of instruction and training by a registered nurse who may be assisted by a registered

pharmacist. The department will approve the curriculum and the Texas Education Agency will approve the institution and instructors providing the training. Generally, the subject matter of the program's curriculum will include:

- (1) Procedures for preparation and administration of medications.
- (2) Responsibility, control, accountability, storage, and safeguarding of medications.
- (3) Use of reference material.
- (4) Proper documentation of medications in residents' clinical records, including PRN medications.
- (5) Minimum licensing standards for nursing homes and custodial care homes.
- (6) Certification standards for participation.

The department's Bureau of Long-Term Care has determined that the proposed rule will have no fiscal impact on the state or units of local government. The proposed rule will apply to existing long-term care programs and will not increase costs over and above existing expenditures.

A public hearing on the proposed rule will be held in the first floor auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas, at 9 a.m. Tuesday, January 17, 1978. All persons interested in the proposed rule are invited to attend and offer verbal or written comments or testimony. In addition, written comments on the rule may be sent directly to the department no later than January 31, 1978. These comments should be addressed to Howard Allen, Executive Assistant, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

This rule is being proposed under the authority of Article 4442c, Texas Revised Civil Statutes.

*.001. State-Approved Training Program in Medication Administration.* The Texas Department of Health adopts by reference the department's state-approved training program in medication administration. Copies of the program are available upon request and also may be inspected in the department's Bureau of Long-Term Care Facilities, the Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on December 29, 1977.

Doc. No. 777415      Raymond T. Moore, M.D.  
Deputy Commissioner  
Texas Department of Health

Proposed Date of Adoption: After February board meeting  
For further information, please call (512) 458-7470.

## Texas Commission on Jail Standards

The Texas Commission on Jail Standards proposes the adoption of new rules to include some pertinent substance which was previously in Chapter 217.06, Inmate Housing, Rules. The combining of these two chapters will be discussed in terms of the three normal county incarceration facilities, i.e., jails, lockups, and low-risk facilities. The purpose of this adoption is to make easier the use of the rules by sheriffs, custodial personnel, and architects and to clarify previous

ambiguities. This subchapter will pertain to all three types of facilities.

The change will save money for counties as several items of design or equipment which previously were mandatory are to become optional. There will be no additional cost involved in enforcing these rules.

Public comment on the proposed adoption of Rules 217.05.01.001-.004 is invited. Comments may be submitted by telephoning the office of the executive director, (512) 475-2716, or by writing the commission at P.O. Box 12985, Austin, Texas 78711.

(Editor's note: Because of the abbreviated holiday schedule, the text for the following proposed chapters and subchapters of the Texas Commission on Jail Standards Rules will be published in the next issue, January 10. The proposed date of adoption for the following is February 5, 1978:

- 217.05 New Construction
  - .03 New Lock-Up Design, Construction, and Furnishing Requirements
- 217.07 Existing Construction
  - .01 Existing Jail Design, Construction, and Furnishing Requirements
  - .02 Existing Lock-Up Design, Construction, and Furnishing Requirements
  - .03 Existing Low Risk Design, Construction, and Furnishing Requirements.)

## New Construction 217.05.00

These repeals are proposed under the authority of Article 5115.1, Texas Civil Statutes. Because of the length of these rules, only the rule titles and numbers are being published.

- .001. Objectives.
- .002. Analysis.
- .003. Unfinished Areas.
- .004. Facilities.
- .005. Space Allocation.
- .006. Site.
- .007. Jail Operation Requirements.
- .008. Jail Security Requirements.
- .009. Facility Operation.
- .010. Special Security.
- .011. Fire-resistive.
- .012. Vermin Control.
- .013. Public Building.
- .014. Location.
- .015. Inmate Traffic.
- .016. Administrative Space.
- .017. Conference Area.
- .018. Squad Rooms.
- .019. Public Areas.
- .020. Visiting Areas.
- .021. Vehicular Sally Port.
- .022. Inmate Entrance.
- .023. Weapon Storage.
- .024. Processing Areas.
- .025. Identification.
- .026. Storage Area Capacities.
- .027. Medical Supply Storage.

- .028. *Janitorial Storage Space.*
- .029. *Medical Space and Equipment.*
- .030. *Infirmiry.*
- .031. *Infirmiry Components.*
- .032. *Laundry Facilities.*
- .033. *Laundry Plumbing Facilities.*
- .034. *Commissary.*
- .035. *Arsenal.*
- .036. *Guard Stations.*
- .037. *Guard Station Security.*
- .038. *Monitoring System.*
- .039. *Television Monitoring.*
- .040. *Detoxification.*
- .041. *Holding Rooms.*
- .042. *Separation Cells.*
- .043. *Violent Cells.*
- .044. *Painting.*
- .046. *Exercise Area.*
- .047. *Multipurpose Rooms.*
- .048. *Kitchen.*
- .049. *Kitchen Location.*
- .050. *Kitchen Operations.*
- .051. *Dining Space.*
- .052. *Electrical Power and Lighting.*
- .053. *Emergency Electrical Power.*
- .054. *Temperature Level.*
- .055. *Air Flow.*
- .056. *Vision Into Inmate Occupied Area.*
- .057. *Screens.*
- .058. *Plumbing and Drainage.*
- .059. *Flooding Protection.*
- .060. *Sinks.*
- .061. *Access Doors.*
- .062. *Hose Bibbs.*

Doc. No. 777400

### General 217.05.01

This rule is proposed under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Objectives.* Any county contemplating construction, renovation of, or addition to a facility (jail, lockup, or low-risk facility) shall determine the present and future needs and possible expansion of the existing or proposed facility. A clear definition of the functions and objectives for the proposed new facility, renovation, or addition shall then be provided to the commission.

.002. *Analysis.* An analysis of facility population trends based on available data over a period of not less than the preceding five years should be made to determine anticipated capacity of the jail, lockup, or low-risk facility.

.003. *Unfinished Areas.* Planning may provide for the construction of space for future expansion to increase the capacity of the facility. These areas may be constructed "shell only" for future installation of interior walls, equipment, and appurtenances. Such areas shall not in any way compromise the security of the total facility.

.004. *Design Concepts.* Innovative architectural concepts are encouraged to reduce problems of security and mainte-

nance while creating a safe, sanitary, and secure environment for staff and inmates. The facility shall be structurally sound, fire-resistive, and not connected to a building that is not fire-resistive and shall provide for adequate security and safety by having single and multiple-occupancy cells, dormitories, and day rooms of varying dimensions and capacities for inmates confined herein. Facility design should also provide for support functions and equipment to insure safe, secure, and efficient operations.

Doc. No. 777401

### New Jail Design, Construction, and Furnishing Requirements 217.05.02

This adoption is proposed under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Jail Site.* The site should be of sufficient size to provide for the immediate facility and a reasonable projected expansion as well as possible space for indoor recreation. A buffer zone around the building is desirable. Where practical, separate jail buildings should be in near proximity to or connected to local courthouse by a secure means of pedestrian passage.

.002. *Jail Operation Concept.* Unlike a state or federal prison, where only sentenced and classified persons are received, processed, detained, and released on a scheduled basis, a county jail must be planned to receive unclassified persons, hold persons who are not tried or convicted, and allow for receiving, processing, classifying, and release of persons at all times. Design and construction of a jail and personnel assigned to it must permit efficient and secure performance of this type of operation if the best interests of the community and the inmates are to be served.

.003. *Jail Security Requirements.* Jail security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes.

.004. *Special Security.* A jail shall be designed and maintained as a special security unit. When built in conjunction with other governmental functions, the integrity of the security perimeter shall not be compromised.

.005. *Public Building.* A jail of more than 20 inmate capacity shall not be located under, in, or on top of another building which has not been designed for security purposes. This does not preclude the redesign and renovation of existing structures, not originally built for security purposes.

.006. *Inmate Movement into and out of Jail.* Construction should provide for movement of an inmate or detainee into and out of the jail being accomplished without unduly exposing the individual to contact with the public, avoiding the use of public corridors, public elevators and other areas frequented by the public. Where possible, the same security should be provided in the courts building for movement of inmates to and from the court.

.007. *Inmate Movement inside Jail.* The design shall provide for the orderly flow of traffic through strategically located corridors or areas, eliminating all unnecessary cross

traffic and undesirable contacts between differently classified types of inmates.

**.008. Segregation.** Jail design shall provide adequate segregation facilities for segregation of different classifications of inmates, in accordance with the facility classification plan (See 217.12).

**.009. Audible Communication.** Provision shall be made for voice communication between inmates and custodial personnel at all times.

**.010. Monitoring System.** Security areas may have an electronic monitoring system built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001).

**.011. Television Monitoring.** Where closed-circuit television is not included but is planned or anticipated, space and conduits should be provided so that the equipment can be installed without need for alteration of the physical plant.

**.012. Control Areas.** Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating, ventilating, windows, louvers, and equipment;
- (d) location of floor drains outside inmate housing areas;
- (e) location and protection of lighting;
- (f) location and protection of fire-fighting equipment.

Control corridors and/or control areas for locating and protecting the controls for remote-operated doors should be provided where necessary. These areas are also for the purpose of providing safety and protection to operators of the equipment and for preventing unauthorized access to door controls.

**.013. Vermin Control.** Facility construction shall incorporate measures which protect against the entrance of vermin into the institution and breeding or presence of vermin on the premises and retention of objectionable odors in living areas. Choice of materials and construction design shall contribute to efficient maintenance and housekeeping.

**.014. Construction Materials.** Inmate living areas and day rooms shall be constructed of metal, masonry, concrete, or other comparable materials. The purpose of a particular wall or partition and the type of security sought to be achieved should determine the selection of appropriate materials.

**.015. Function.** Space shall be allocated for, but not limited to, the following functions:

- (a) Inmate reception and holding (See 217.09; 217.12)
- (b) Inmate processing (See 217.09; 217.13)
- (c) Shakedown (See 217.10; 217.14)
- (d) Inmate detention (See 217.12; 217.14; 217.15; 217.18)
- (e) Adequate segregation of inmates (See 217.05; 217.07; 217.08; 217.09; 217.12)
- (f) Food service (See 217.07; 217.17)
- (g) Attorney interviews (See 217.09)
- (h) Storage (See 217.15; 217.16; 217.17)
- (j) Visiting (See 217.09)
- (j) Public areas (See 217.05)
- (k) Booking (See 217.09; 217.10; 217.11)

- (l) Identification (See 217.09)
- (m) Dressing in and out (See 217.09; 217.10)
- (n) Sally ports (See 217.12; 217.05;
- (o) Guard stations (See 217.14)
- (p) Line up (See 217.05)
- (q) Laundry (See 217.05; 217.09; 217.15)
- (r) Inmate programs and activities (See 217.19; 217.20; 217.21; 217.22)
- (s) Counseling (See 217.20)
- (t) Medical examination and treatment (See 217.05; 217.09; 217.13)
- (u) Jail administrative office(s) (See 217.05; 217.11; 217.12; 217.13; 217.14; 217.16)
- (v) Multi-purpose rooms
- (w) Squad rooms (See 217.05)
- (x) Recreation and exercise

Space should be allocated for a kitchen, inmate commissary, and library if conditions warrant. It is permissible to use the same room or space allocation for more than one of the listed "functions" where such use will not deny any constitutional rights of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, sanitation, or segregation of the facility.

**.016. Inmate Entrance.** The inmate entrance shall be from the vehicular sally port through a safety vestibule into the processing area. This entrance shall allow for passage of a loaded ambulance cot between interlocking doors. The safety vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

**.017. Processing Area.** Jails shall have a processing area located inside the inmate occupied area, but away from the inmate living areas and day rooms. The processing area shall be designed to readily permit the booking, shakedown, identification, and dressing of inmates. A telephone shall be available for detainees to make the constitutionally recognized phone calls. Processing areas should be provided with drinking fountains and water closets.

**.018. Kitchen.** If food is to be prepared in the jail, the kitchen shall be provided. The kitchen shall be planned for efficient food preparation, and receipt of supplies and storage. It shall be planned for removal of waste and garbage without seriously compromising the security of the facility.

**.019. Kitchen Location.** The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

**.020. Kitchen Operations.** In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

- (a) Issue areas. Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.
- (b) Floor. The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(c) **Ordinances.** Kitchens shall comply with all state and local health ordinances (See 217.04.010).

(d) **Light.** Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(e) **Ventilation.** Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) **Water.** Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) **Storage.** Adequate storage requirements for all kitchen operations and needs shall be provided.

**.021. Dining Space.** Provisions may be made for group dining as well as segregated dining. Group dining should avoid concentrations of more than 24 inmates.

**.022. Commissary.** Space appropriate to capacity of the jail should be provided for an inmate commissary, or a written program established for inmates to obtain supplies from nearby sources (See Section 217.22).

**.023. Storage Area Capacities.** Storage areas based upon facility capacity shall be provided as follows:

(a) For inmate property storage in jails, two cubic feet per inmate, excluding shelving, bins, and baskets.

(b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bin, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

(d) For evidence, adequate and secure storage of evidence shall be provided.

**.024. Janitorial Storage Space.** Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the jail shall be provided.

**.025. Sinks.** Sufficient mop sinks with hot and cold water shall be located to reduce excessive passage back and forth through the security perimeter during performance of janitorial service. Janitor closets and similar areas shall be provided with a lockable door.

**.026. Faucets.** Cold water faucets with standard hose connections shall be provided in plumbing access space or corridors.

**.027. Visiting Areas.** Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband where high and medium risk inmates are involved. Provisions shall be made for handicapped visitors. Additionally, a secure visiting area should be provided for contact visits from law enforcement officers, attorneys, clergy, and probation and parole officers.

**.028. Public Areas.** Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall

not have uncontrolled access to enter the security perimeter. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions shall be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

**.029. Identification.** Space shall be provided for photographing, fingerprinting, and carrying out identification procedures for inmates.

**.030. Vehicular Sally Port.** A jail shall have a vehicular sally port located inside or abutting on the building so designed that inmates may board or disembark from a transportation vehicle inside. Space shall be sufficient to accommodate anticipated transportation vehicles, including buses, where applicable.

**.031. Guard Stations.** A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

**.032. Guard Station Security.** Guard stations shall be locked and protected so as to be inaccessible to unauthorized persons. Where practical, a guard station should have a safe egress to a secure area.

**.033. Laundry Facilities.** A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with jail inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers (See Section 217.15). A water closet and lavatory shall be provided nearby.

**.034. Emergency First Aid Storage.** Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

**.035. Medical Space and Equipment.** Space and equipment for medical examination, treatment, and convalescent care shall be provided in each jail, or a written program shall be established and implemented for medical care comparable to that available to the community where the jail is located (See Section 217.13).

**.036. Medical Supply Storage.** Adequate secure storage for medical supplies and drugs shall be provided.

**.037. Infirmary.**

(a) An infirmary is desirable and the construction of an infirmary should be considered for a jail having a capacity of 50 or more whenever it is anticipated that:

(1) emergency services may have to be rendered frequently;

(2) there is a high frequency of cases requiring recuperative or convalescent care;

(3) convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) Infirmary components. When an infirmary is constructed, the following minimum components shall be included:

(1) nurses station;



(2) locked medication station with storage for individually filled prescriptions;

(3) utility room with sink and storage for nourishment, linen, and equipment;

(4) utility room with double tub sink and clinical service sink with flushing rim;

(5) 80 square feet of floor space per bed;

(6) at least one single occupancy room or cell with 80 square feet of floor space;

(7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;

(8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;

(9) janitor closet;

(10) water closet, lavatory, and shower for use of inmates in the infirmary;

(11) additional elements as dictated by the health care programs as required.

**.038. Administrative Space.** The jail shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

**.039. Multi-Purpose Rooms.** A jail shall have, in addition to any activity or day room area, one or more multi-purpose rooms for group assembly of inmates. The multi-purpose room(s) may be used for conferences, interrogation, contact visits, religious services, education, group counseling, or other special uses.

**.040. Squad Rooms.** Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel, and, if provided, shall be located outside the security perimeter. Consideration should also be given to including space for lounge areas and an education and training center.

**.041. Weapon Storage.** Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

**.042. Arsenal.** An arsenal and gun locker(s) for the issuance, storage, and care of weapons should be provided outside the security perimeter and shall be secure from access by unauthorized persons.

**.043. Exercise Area.** A secure exercise area shall be provided with all jails. This may be a rooftop exercise area, an outside exercise area, or included inside the jail.

**.044. Single Cells.** Single cells shall not be less than eight feet high from finished floor to ceiling and not less than five feet, six inches wide from wall to wall. They shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell. Single cells should comprise at least 50 percent of the total inmate capacity of the facility, but in no event shall comprise less than 30 percent of the total capacity of the facility.

**.045. Multiple-Occupancy Cells.** Multiple-occupancy cells shall be constructed to accommodate two to eight inmates

and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates or increment thereof to be confined therein.

**.046. Dormitories.** Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates or increment thereof to be confined therein. Not more than 40 percent of the inmate capacity of the jail shall be designed for dormitories.

**.047. Day Rooms.** All inmate living areas except special purpose cells shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water available at all times for each group of eight inmates, or increment thereof, to be confined therein. A shower shall be available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities, dining facilities, and other activities. Sufficient lighting shall be provided for reading, recreation, and other similar activities.

**.048. Safety Vestibules.** Safety vestibules shall be provided for each inmate living area and day room used for confinement of three or more inmates within the security perimeter.

(a) Safety vestibules shall have one or more interior doors and a main entrance door.

(b) All doors shall be arranged to be locked, unlocked, opened or closed by control means located outside of the inmate living area and safety vestibule.

**.049. Remote Controls.** Sliding doors, if used, for safety vestibules, dormitories, and day rooms shall be so arranged as to be locked, unlocked, opened to full open position, and closed by control means located outside of the safety vestibule or inmate living area and day room (See 217.24).

**.050. Emergency Operation of Doors.** For emergency operation of all doors to single cells, separation cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, mechanical means shall be provided outside the inmate living area for unlocking all cell doors. The mechanical means should also provide for completely opening sliding cell doors (See 217.24).

**.051. Dimensions.** Single cells, separation cells, multiple-occupancy cells, dormitories and day rooms shall be not less than eight feet from finished floor to ceiling. Safety or inspection corridors shall be not less than four feet wide.

**.052. Furnishings for Inmate Housing Areas.**

(a) **Bunks.** A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined for more than 72 hours. Bunks shall be securely anchored and should have clothes hooks and shelves located nearby.

(b) **Water closets and lavatories.** Water closets and lavatories shall be constructed in such manner and of such material so as to resist vandalism. A combination toilet and lavatory constructed of vandal-resistant material is recommended.

(c) **Showers.** Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of material which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) **Additional furnishings.** Additional furnishings for single cells, multiple-occupancy cells and dormitories may include tables and seats (mandatory for single cells), lockers, mirrors, detention-type electric light fixtures, detention-type heating and ventilation grilles and showers. Where light fixtures or other appurtenances are recessed in or otherwise made an integral part of walls or ceilings, provisions should be made to prevent destruction or removal.

(e) **Tables and seating.** Tables and benches should be constructed of materials which will reduce maintenance. They shall be fire-resistive and securely anchored to floor or wall surfaces. Benches shall be not less than 12 feet wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) **Shields.** Toilet and shower modesty shields are not mandatory, except in holding areas. However, when provided they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

**.053. Detoxification Cells.** A jail shall provide one or more detoxification single cells, multiple-occupancy cells, or dormitories which shall be designed for detention of persons during the detoxification process only. These cells shall include the following features and equipment:

(a) **Seating.** The detoxification cell shall be equipped with stationary benches or bunks no higher than eight inches above the floor.

(b) **Floor drain.** The detoxification cell shall be provided with one or more vandal-resistive flushing floor drains. The floor shall be properly pitched to drains and drains shall have outside water shutoffs and controls. A water closet/lavatory/drinking fountain may be provided.

(c) **Cell size.** The size of detoxification cell shall be determined by the anticipated maximum number of persons received at any one time. A detoxification cell shall not accommodate more than 12 persons and shall have a minimum of 40 square feet of clear floor space for one person plus 18 square feet of clear floor space per additional person.

(d) **The floor and wall materials shall be durable and easily cleaned.**

(e) **Supervision.** The detoxification cell shall be constructed to facilitate supervision of the cell area and to materially reduce noise.

**.054. Holding Rooms (or Cells).** One or more holding rooms shall be provided to temporarily detain inmates pending booking, court appearance, identification, housing assignment, or discharge. Holding rooms shall include the following features and equipment:

(a) **Floor areas.** Minimum floor area of a holding room shall be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned.

(b) **Seating.** Seating shall be sufficient to provide not less than 24 linear inches per person at capacity.

(c) **Plumbing.** A vandal-resistive water closet and lavatory shall be provided for each eight inmates or increment thereof. Each holding room shall have at least one drinking fountain. Plumbing fixtures shall have outside water shutoffs and controls individually by cell. Permanent modesty panels shall be provided.

(d) **Floor drains.** A holding room shall have adequate floor drains.

**.055. Separation Cells.** A jail shall have one or more single-occupancy separation cells to temporarily house selected inmates for extended periods of time. Separation cells shall include the following features and equipment not normally included in other single person cells:

(a) **Area.** Separation cells shall contain a minimum of 40 square feet of clear floor space.

(b) **Plumbing.** Separation cells shall contain vandal-resistive water closet, lavatory, drinking fountain, and floor drain.

(c) **Shower.** Each separation cell shall contain a shower with outside shutoff and controls.

(d) **Furnishings.** Each separation cell shall have table, seating, mirror, bunk, and sufficient lighting to permit reading and shaving in the cell. Shelf and clothes hook may be provided.

**.056. Violent Cells.** A jail may have at least one and necessary additional single occupancy rooms or cells for temporary holding of violent persons or persons suspected of insanity. Violent cells shall include the following features and equipment:

(a) **Size.** The room or cell shall have not less than 40 square feet of clear floor space and a ceiling height of not less than eight feet.

(b) **Furnishings.** The cell shall be equipped with hammock, not less than two feet, three inches wide and six feet, three inches long, made of an elastic or fibrous fabric designed to minimize its use to inflict self injury. A shelf the length of the cell at least two feet, three inches wide and not more than eight inches above the floor covered with padding material identical to that of the floor may be used in lieu of the hammock. A flushing type floor drain with control outside the cell shall also be provided.

(c) **Padding.** Walls shall be completely padded to the ceiling and the floor shall be covered with a material to protect the inmate from self injury. The type of quality of materials used for padding and floor covering shall be designed to prevent self injury and have the capability of being cleaned. It must be fire-resistive and nontoxic in accordance with Section 217.08.

**.057. Lighting.** Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living

area. Light controls, conduit, and light fixtures shall be out of reach of inmates. Light fixtures should be designed and constructed so as to permit servicing from outside the cell, dormitory, or day room. Light switches which cannot be controlled from outside the inmate area should be key front type. Housing and control areas shall be variably illuminated at all times to permit continuous observation of inmates and to permit custodial personnel to perform necessary functions. Exteriors of buildings shall be lighted at night sufficiently to observe a person approaching the entrance.

**.058. Detention Doors.** Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas. Plate doors, where used, shall be constructed of material not less than three-sixteenths inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than one-fourth inch thick. Grating doors shall be constructed of the same type grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening and the material of which these are constructed will not reduce or compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories.

**.059. Electro-Mechanical Locks.** Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical pushbutton unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric pushbutton control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

**.060. Keys.** Keys for detention-type locks shall be heavy-duty and of a sufficient size to prevent easy concealment and/or unauthorized duplication.

**.061. Key Locks.** Where used, detention-type keyed locks shall be manufactured especially for detention use.

**.062. Key Cabinets.** Secured key cabinets should be provided at suitable locations.

**.063. Hinges.** Hinges for heavy-duty detention doors shall be heavy-duty ball-bearing type designed especially for such doors.

**.064. Hand Pulls.** Hand pulls shall be securely anchored to the door.

**.065. Door Stops.** Door stops shall be provided for detention-type doors so as to prevent accidental or purposeful injury to inmates or custodial personnel.

**.066. Door Closers.** Where used, door closers for all detention-type swinging doors shall be heavy-duty types.

**.067. Windows and Screens.** Operable windows shall be equipped with insect and/or security screens. Security level of window materials in inmate occupied areas shall be equal to or greater than perimeter walls of the inmate occupied area to which windows might provide ingress or egress. Window and/or skylights should be provided. Window area shall be commensurate with the architectural expression of the facility, its location and other related factors.

**.068. Vision into Inmate Areas.** Architectural design shall preclude direct vision into inmate-occupied areas from the outside public.

**.069. Walls.** Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved. Open decorative grillwork may be used to facilitate ventilation, temperature control, observation, and audible communication. In all instances, where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

**.070. Floors.** Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. Where hollow metal, grillwork or plate walls join the floor, their supports should be treated so as not to react to water or floor cleaning chemicals. Equally acceptable is a curb approximately three inches high provided underneath such walls.

**.071. Ceilings.** Ceilings should be constructed of material not easily damaged by vandalism.

**.072. Paint.** Washable paint may be used for un tiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

**.073. Emergency Access.** Multi-story facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

**.074. Dropcords.** Dropcords or extension cords shall not be permitted within the security perimeter. Appliances must plug directly into a fixed wall receptacle.

**.075. Vent Grilles.** Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application. Vent grilles shall be securely welded or riveted to steel plate construction and securely anchored where used on concrete, masonry, or other construction.

**.076. Food Passes.** Where used, food passes should not be less than 15 inches wide and four and one-half inches high. Lockable shutters should be provided to prevent passage of contraband.

**.077. Observation Panels.** When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent. They should be provided with a shutter.

**.078. Mirrors.** Mirrors should be constructed of unbreakable material.

**.079. Electrical Power.** Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, a jail shall have sufficient electrical outlets for heated food carts if heated food carts are to be used in food service. If electrical appliances will be permitted in cells or day rooms, fixed wall receptacles will be furnished.

**.080. Emergency Electrical Power.** An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the

life safety requirements (See 217.08). Such systems shall be tested operationally not less than monthly, and a record kept of this testing.

**.081. Temperature Level.** All mechanical equipment for heating, cooling, or air movement shall be designed to provide a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

**.082. Air Flow.** Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

**.083. Plumbing and Drainage.** Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories used by high-risk inmates shall be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. All plumbing in inmate areas shall have a quick shutoff valve or other approved means to prevent flooding.

**.084. Flooding Protection.** Floor drains in inmate housing areas shall be located to reduce the incidence of malicious tampering and flooding. Where practical, a drain shall be located in security corridors and not inside cells or day rooms. Drain covers shall be securely anchored with vandal-proof screws to prevent inmates from using them as assault weapons.

**.085. Access Doors.** Plumbing space, or any other mechanical space, shall have a lockable access door.

**.086. Maintenance.** Maintenance of detention equipment should be accomplished by experienced personnel designed by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

**.087. Inmate Maintenance Prohibited.** Maintenance of locking systems and other security detention devices shall not be performed by inmates.

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## New Low-Risk Design, Construction, and Furnishing Requirements 217.05.04

This adoption is proposed under the authority of Article 5115.1, Texas Civil Statutes.

**.001. Low-Risk Facility Site.** The site should be of sufficient size to provide for the immediate facility and a reasonable projected expansion. A buffer zone around the building is desirable.

**.002. Low-Risk Facility Operation Concept.** Inmates housed in the low-risk facility shall be male or female inmates sentenced to work release, school release, or weekend

detention programs or inmates who require minimal supervision. Unlike a jail or lockup, a low-risk facility does not require a security perimeter. It does, however, require segregation of male and female inmates.

**.003. Low-Risk Facility Security Requirements.** Low-Risk facility security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes, however, the stringent security measure of jails and lockups are not required.

**.004. Special Security.** A low-risk facility need not be designed and maintained as a special security unit. When built in conjunction with other jail or lockup functions, the integrity of the security perimeter shall not be compromised.

**.005. Public Building.** A low-risk facility may be located under, in, or on top of another building which has not been designed for security purposes.

**.006. Inmate Movement Into and Out of Low-Risk Facility.** Construction should provide for movement of an inmate into and out of the facility without unduly exposing the individual to contact with the public.

**.007. Segregation.** Low-risk facility design shall provide adequate male-female segregation facilities in accordance with the facility classification plan (See 217.12). Additional segregation is not required since all inmates will have the same classification.

**.008. Audible Communication.** Provision shall be made for voice communication between inmates and custodial personnel at all times.

**.009. Monitoring System.** An electronic monitoring system may be built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001).

**.010. Television Monitoring.** Where closed-circuit television is not included but is planned or anticipated, space and conduits should be provided so that the equipment can be installed without need for alteration of the physical plant.

**.011. Control Areas.** Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating and ventilating equipment;
- (d) location and protection of security lighting;
- (f) location and protection of fire-fighting equipment.

**.012. Construction Materials.** Inmate living areas and day rooms shall be constructed of conventional materials.

**.013. Low-Risk Facilities.** A low-risk facility shall consist of single cells (rooms) or multiple occupancy cells (rooms) or dormitories for the custody of inmates who are considered to be not dangerous or likely to escape and who may be involved in some type of "release" program. It shall be of sufficient size to accommodate the needs of its daily operation. Minimum dimensions and areas for housing and activity space shall be allocated for, but not limited to the following functions:

- (a) inmate reception;
- (b) inmate detention;
- (c) food service;

- (d) administration;
- (e) storage;
- (f) visiting;
- (g) public areas;
- (h) guard stations;
- (i) laundry;
- (j) inmate programs and activities, counseling and interviews;
- (k) counseling;
- (l) medical examination;
- (m) multi-purpose rooms;
- (n) squad rooms;
- (o) recreation and exercise.

Space should be allocated for a kitchen, inmate commissary, and library if conditions warrant. It is permissible to use the same room or space allocation for more than one of the listed "functions" where such use will not deny any constitutional rights of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, or sanitation.

**.014. Inmate Entrance.** The inmate entrance may be through a conventional vestibule into the receiving area. This entrance shall allow for passage of a loaded ambulance cot between interlocking doors. The vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

**.015. Inmate Reception.** Low-risk facilities shall have a receiving area. The receiving area shall be designed to readily permit the administrative processing of inmates. Receiving areas should be provided with drinking fountains and water closets.

**.016. Kitchen.** If food is to be prepared in the low-risk facility, the kitchen shall be provided. The kitchen shall be planned for efficient food preparation and receipt of supplies and storage.

**.017. Kitchen Location.** The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

**.018. Kitchen Operations.** In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

- (a) Issue areas. Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.
- (b) Floor. The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.
- (c) Ordinances. Kitchens shall comply with all state and local health ordinances (See 217.04.010).
- (d) Light. Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.
- (e) Ventilation. Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any

opening to the outside shall be effectively screened and secured.

(f) Water. Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) Storage. Adequate storage requirements for all kitchen operations and needs shall be provided.

**.019. Dining Space.** Provisions may be made for group dining as well as segregated dining. Group dining should avoid concentrations of more than 24 inmates.

**.020. Commissary.** Space appropriate to capacity of the facility should be provided for an inmate commissary, or a written program established for inmates to obtain supplies from nearby sources (See Section 217.22).

**.021. Storage Area Capacities.** Storage areas based upon facility capacity shall be provided as follows:

- (a) For inmate property storage, four cubic feet per inmate, excluding shelving, bins, and baskets, unless personal property will be maintained in another facility.
- (b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bin, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

**.022. Janitorial Storage Space.** Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the jail shall be provided.

**.023. Sinks.** Sufficient mop sinks with hot and cold water shall be located throughout the facility. Janitor closets and similar areas shall be provided with a lockable door.

**.024. Faucets.** Cold water faucets with standard hose connections shall be provided in plumbing access space or corridors.

**.025. Visiting Areas.** Visitor accommodations shall be provided. Provisions shall be made for handicapped visitors.

**.026. Public Areas.** Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter inmate areas. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions shall be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

**.027. Guard Stations.** A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

**.028. Laundry Facilities.** A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with jail inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers (See Section 217.15). A water closet/lavatory shall be available at all times.

**.029. Exercise Area.** An exercise area shall be provided. This may be a rooftop exercise area, an outside exercise area, or included inside the facility.

**.030. Emergency First Aid Storage.** Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

**.031. Medical Space and Equipment.** Space and equipment for medical examination, treatment, and convalescent care shall be provided in each jail, or a written program shall be established and implemented for medical care comparable to that available to the community where the facility is located (See Section 217.13).

**.032. Medical Supply Storage.** Adequate secure storage for medical supplies and drugs shall be provided.

**.033. Infirmary.**

(a) An infirmary is desirable and the construction of an infirmary should be considered for a low-risk facility having a capacity of 50 or more whenever it is anticipated that:

- (1) emergency services may have to be rendered frequently;
- (2) there is a high frequency of cases requiring recuperative or convalescent care;
- (3) convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) Infirmary components. When an infirmary is constructed, the following minimum components shall be included:

- (1) nurses station;
- (2) locked medication station with storage for individually filled prescriptions;
- (3) utility room with sink and storage for nourishment, linen, and equipment;
- (4) utility room with double tub sink and clinical service sink with flushing rim;
- (5) 80 square feet of floor space per bed;
- (6) at least one single-occupancy room or cell with 80 square feet of floor space;
- (7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;
- (8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;
- (9) janitor closet;
- (10) water closet, lavatory, and shower for use of inmates in the infirmary;

**.034. Administrative Space.** The facility shall provide sufficient space for administrative and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

**.035. Multi-Purpose Rooms.** A low-risk facility shall have, in addition to any activity or day room area, one or more multi-purpose rooms for group assembly of inmates. The multi-purpose room may be used for conferences, interrogations, contact visits, religious services, education, group counseling, or other special uses.

**.036. Squad Rooms.** Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel.

**.037. Weapon Storage.** Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

**.038. Single Cells.** Single cells shall not be less than eight feet high from finished floor to ceiling and not less than five feet, six inches wide from wall to wall. They shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell.

**.039. Multiple-Occupancy Cells.** Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates or increment thereof to be confined therein.

**.040. Dormitories.** Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates or increment thereof to be confined therein. More than 40 percent of the inmate capacity of the low-risk facility shall be designed for dormitories.

**.041. Day Rooms.** All inmate living areas shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water available at all times for each group of eight inmates, or increment thereof, to be confined therein. A shower shall be available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities, dining facilities, and other activities. Sufficient lighting shall be provided for reading, recreation, and other similar activities. Sufficient lighting shall be provided for reading, recreation, and other similar activities.

**.042. Remote Controls.** Sliding doors, if used, shall be so arranged as to be locked, unlocked, opened to full open position, and closed by control means located outside inmate area.

**.043. Emergency Operation of Doors.** For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, mechanical means should be provided outside the inmate living area for unlocking all cell doors. The mechanical means should also provide for completely opening sliding cell doors (See 217.24).

**.044. Dimensions.** Single cells, multiple-occupancy cells, dormitories and day rooms shall be not less than five feet, six inches from wall to wall. Safety or inspection corridors shall be not less than four feet wide.

**.045. Furnishings for Inmate Housing Areas.**

(a) **Bunks.** A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined. Bunks should have clothes hooks and shelves located nearby.

(b) **Water closets and lavatories.** Water closets and lavatories need not be vandal resistive.

(c) **Showers.** Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) **Additional furnishings.** Additional furnishings for single cells, multiple-occupancy cells and dormitories may include tables and seats (mandatory for single cells), lockers, mirrors, light fixtures, and showers.

(e) **Tables and seating.** Tables and seating should be constructed of materials which will reduce maintenance. They shall be fire-resistive. Benches shall be not less than 12 feet wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) **Shields.** Toilet and shower modesty shields are not mandatory, except in holding areas. However, when provided they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

**.046. Lighting.** Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living area. Exteriors of buildings shall be lighted at night sufficiently to observe a person approaching the entrance.

**.047. Doors.** Doors may be of any material commensurate with the degree of security sought. Doors shall be equipped with appropriate hardware and accessories to achieve the degree of security sought.

**.048. Electro-Mechanical Locks.** Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical pushbutton unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric pushbutton control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

**.049. Key Locks.** Conventional locks may be used in lieu of detention key.

**.050. Keys.** Conventional type keys may be used in lieu of detention keys.

**.051. Key Cabinets.** Secured key cabinets should be provided at suitable locations.

**.052. Hinges.** Hinges for doors need not be heavy-duty ball-bearing type but shall be adequate for the weight of the door.

**.053. Hand Pulls.** Hand pulls shall be securely anchored to the door.

**.054. Door Stops.** Door stops shall be provided for doors so as to prevent accidental or purposeful injury to inmates or custodial personnel.

**.055. Door Closers.** Where used, door closers for all detention-type swinging doors shall be appropriate to the weight of the door.

**.056. Windows and Screens.** Operable windows shall be equipped with insect screens. Window and/or skylights should be provided. Window area shall be commensurate with the architectural expression of the facility, its location and other related factors.

**.057. Vision into Inmate Areas.** Architectural design shall preclude direct vision into inmate-occupied areas from the outside public.

**.058. Walls.** Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved.

**.059. Floors.** Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. In all instances, where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

**.060. Ceilings.** Ceilings should be constructed of material not easily damaged by vandalism.

**.061. Paint.** Washable paint may be used for un tiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

**.062. Emergency Access.** Multi-story facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

**.063. Dropcords.** Dropcords or extension cords shall not be permitted within the facility. Appliances must plug directly into a fixed wall receptacle.

**.064. Vent Grilles.** Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application.

**.065. Observation Panels.** When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent.

**.066. Mirrors.** Mirrors need not be constructed of unbreakable material.

**.067. Electrical Power.** Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, a jail shall have sufficient electrical outlets for heated food carts if heated food carts are to be used in food service. If electrical appliances will be permitted in cells or day rooms, fixed wall receptacles will be furnished.



**.068. Emergency Electrical Power.** An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the life safety requirements (See 217.08). Such systems shall be tested operationally and a record kept of this testing.

**.069. Temperature Level.** All mechanical equipment for heating, cooling, or air movement shall be designed to provide a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

**.070. Air Flow.** Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

**.071. Plumbing and Drainage.** Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories need not be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. All plumbing to inmate areas shall have a quick shutoff valve or other approved means to prevent flooding.

**.072. Access Doors.** Plumbing space, or any other mechanical space, shall have a lockable access door.

**.073. Maintenance.** Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

**.074. Inmate Maintenance Prohibited.** Maintenance of locking systems and other security detention devices shall not be performed by inmates.

Doc. No. 777404

## Inmate Housing 217.06.00

These repeals are proposed under the authority of Article 5115.1, Texas Civil Statutes. Because of the length of these rules, only the rule titles and numbers will be published.

- .001. Design Concepts.
- .002. Classification.
- .003. Dimensions.
- .004. Single Cells.
- .005. Multiple-Occupancy Cells.
- .006. Dormitories.
- .007. Day Rooms.
- .008. Safety Vestibules.
- .009. Corridor Width.
- .010. Control Areas.
- .011. Emergency Operation of Doors.
- .012. Audible Communication.
- .013. Construction Materials.
- .014. Detention Doors.
- .015. Walls.

- .016. Floors.
- .017. Ceilings.
- .018. Remote Controls for Dormitories, Day Rooms, and Safety Vestibules.
- .019. Furnishings.
- .020. Tables and Benches.
- .021. Shields.
- .022. Showers.
- .023. Light Fixtures.
- .024. Observation Lighting.
- .025. Vent Grills.
- .026. Windows and Screens.
- .027. Food Passes.
- .028. Observation Panels.
- .029. Visitor Communication.
- .030. Shutters.
- .031. Mirrors.
- .032. Shelves.
- .033. Key Cabinets.
- .034. Key Locks.
- .035. Electro-Mechanical Locks.
- .036. Keys.
- .037. Hinges.
- .038. Hand Pulls.
- .039. Door Stops.
- .040. Door Closers.
- .041. Maintenance.
- .042. Inmate Maintenance Prohibited.

Doc. No. 777405

## Existing Facilities 217.07.00

These repeals are proposed under the authority of Article 5115.1, Texas Civil Statutes. Because of the length of these rules, only the rule titles and numbers are being published.

- .001. Jail Facilities.
- .002. Lockup Facilities.
- .003. Fire Resistive.
- .004. Cell Areas.
- .005. Single Cell and Dormitory Distribution.
- .006. Screens.
- .007. Emergency Access.
- .008. Floor Drains.
- .009. Exercise Area.
- .010. Fire Regulations.
- .011. Electric Wiring.
- .012. Dropcords.
- .013. Light Controls.
- .014. Lighting.
- .015. Exterior Lighting.
- .016. Emergency Power.
- .017. Temperature Level.
- .018. Ventilation.
- .019. Plumbing.
- .020. Segregation.
- .021. Ceiling Height.
- .022. Day Rooms.
- .023. Bunks.
- .024. Safety Vestibules.

- .025. *Violent Cell.*
- .026. *Maintenance.*
- .027. *Inmate Maintenance Prohibited.*
- .028. *Variances.*
- .029. *Applicability.*

Issued in Austin, Texas, on December 29, 1977.

Doc. No. 777406      James Greenwood III  
                                 Chairman  
                                 Commission on Jail Standards

Proposed Date of Adoption: February 5, 1978  
For further information, please call (512) 475-2780.



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

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

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

## Texas Department of Human Resources

### Medical Assistance Programs

#### Cost-Related Principles of Nursing Facility Vendor Rates 326.46.02.001-.022

The Texas Department of Human Resources repeals Rules 326.46.02.001-.022, as proposed in the November 22, 1977, issue of the *Texas Register* (2 TexReg 4478). These rules state the principles which have been used to determine cost-related reimbursement to nursing facilities for care provided to recipients of the department's Medicaid program. Recent changes in federal legislation and rules relating to the Title XIX program necessitate the repeal of these rules and their replacement with new rules which conform to the new federal guidelines. No comments were received on these proposed repeals.

Rules 326.46.02.001-.022 are repealed under the authority of Texas Civil Statutes, Articles 695c and 695j-1, with the approval of the Texas Board of Human Resources.

Doc. No. 777385

#### 326.46.02.023-.044

The Texas Department of Human Resources adopts the proposed rules in the category for cost-related principles of nursing facility vendor rates, Rules 326.46.02.023-.044, as proposed in the November 22, 1977, issue of the *Texas Register* (2 TexReg 4479). The methodology described in these rules enables the department to determine, on at least an annual basis, a cost-related reimbursement system based upon statistical data obtained through the use of a uniform cost report.

These adopted rules became necessary as a result of recent changes in federal legislation and regulations relating to the

Title XIX Program. Although Texas has utilized a cost-related reimbursement system for providers of long term care services since the inception of the state's Title XIX Program, it was necessary for the department to modify the statement of principles used in determining cost-related rates.

These cost-related principles were developed at the direction of the Department of Health, Education, and Welfare and were submitted to, and approved by, that department subsequent to their development.

Although several comments were received on the proposed material, most of the issues raised related to accounting methods mandated by federal regulations or state law. One comment suggested changing the allowable costs to include items unrelated to the nursing facility and care provided. Such a change would be unacceptable because it is not the intent of Title XIX Long Term Care Program to reimburse for items not directly related to nursing facility care. Other comments objected to the use of "caps" in cost centers, as well as the level of the "caps" established. However, "caps" are an accepted method of removing unreasonably high costs. Another comment expressed concern for the amount of discretion allowed the department in various matters. This concern was studied, but it was felt that the discretion was necessary for good management of the program. In addition, the department's discretion is subject to public comment and review by the Texas Board of Human Resources.

Several comments from another state agency pointed out that portions of the rules conflict with the accounting methods applicable to government-supported institutions. These comments were noted and appropriate adjustments will be made to the rules after future negotiation with that agency. However, since the federal government has mandated that these rules be in effect for January, 1978, no changes have been made to the proposed text at this time.

Providers will be notified immediately of any change in the reimbursement schedule.

These rules are adopted under the authority of Texas Civil Statutes, Articles 695c and Article 695j-1, and with the approval of the Texas Board of Human Resources.

#### .023. Introduction.

(a) Under the Texas Medicaid nursing facilities program, the amount paid to any provider of services covered under the state plan to recipients is required by Section 249 of Public Law 92-603 to be cost related.

(b) It will be the responsibility of the Texas Department of Human Resources to determine the vendor reimbursement under such a cost-related method.

(c) Texas has, since the beginning of its program, utilized cost-related principles in determining rates for long-term care facilities. These cost-related principles have continued to be acceptable to the Department of Health, Education, and Welfare for the determination of vendor rates on and after July 1, 1976.

(d) The principles of reimbursement and related policies described herein establish the guidelines and procedures to be used by the Texas Department of Human Resources in determining costs, under a cost-related method, and a reasonable vendor payment on and after January 1, 1978.

(e) The principles of reimbursement are to be applied on behalf of the program by the Texas Department of Human

## Resources.

(f) Consideration is given to the various levels of care required by recipients and the classification of certified and contracted facilities.

(g) An important role of the Texas Department of Human Resources, in addition to claims processing and payment, is to furnish consultative services to providers in the development of accounting and cost finding procedures which will assure adequate statistical data to maintain accurate cost-relatedness.

### .024. Cost Reimbursement.

(a) In formulating methods for making fair and equitable reimbursement for services provided recipients of the program, payment is to be made on the basis of prospective rates. These rates are based upon historical cost data and updated by appropriate national and state indexes, such as consumer price indexes, wholesale price indexes, U.S. labor statistics, Texas labor statistics, and U.S. economic statistics. These indexes are used to update reported costs to the current levels of operational cost. All necessary and proper expenses of an institution in the production of services are recognized. Cost-finding techniques will be based upon an occupancy rate of 85 percent for the yearly average. (Facilities maintaining an occupancy rate of over 85 percent yearly will be calculated at actual occupancy rate.) These weighted figures will be used in the overall averaging of rates of facilities of similar classification. Furthermore, the share of the total institutional cost that is borne by the program is related to the care furnished recipients so that no part of their cost would need to be borne by other patients. Conversely, costs attributable to other patients of the institution are not to be borne by the program. Thus, the application of this approach with appropriate accounting support will result in meeting the actual cost of services to recipients.

(b) Putting these several points together, certain tests have been evolved for the principle of reimbursement and certain goals have been established that they should be designed to accomplish. In general terms, these are the tests or objectives:

(1) that the methods of reimbursement should result in current payments that are cost-related and prospectively anticipate increased cost so that the institutions will not be disadvantaged;

(2) that there be a division of the allowable costs between recipients of this program and other patients of the provider that takes account of the actual use of services by the recipients of this program and that is fair to each provider under contract;

(3) that the principle should result in the equitable treatment of both nonprofit organization and profit-making organization;

(4) that there should be a recognition of the need of providers to keep pace of growing needs and to make improvements.

(c) As formulated herein, the principles give recognition to such factors as depreciation, interest, bad debts, certain educational costs, compensation of owners, and an allowance for a reasonable return on equity capital of facilities. With respect to allowable costs, some items of inclusion and exclusion are:

(1) An appropriate part of the net cost of certain approved educational activities will be included.

(2) Cost incurred for research purposes over and

above-usual patient care will not be included.

(3) Grants, gifts, and income from endowments will not be deducted from operating costs unless they are designated by the donor for the payment of specific operating costs.

(4) The value of services provided by nonpaid workers as members of an organization (including services of members of religious orders), having an agreement with the provider to furnish such service, is includable in the amount that would be paid others for similar work.

(5) Bad debts from a welfare recipient's applied income will be allowed as deductions from revenue after documented bona fide efforts at collections and are not to be included in allowable costs.

(6) Charity and courtesy allowances are not includable, although fringe benefits allowances for employees under a formal plan will be includable as part of their compensation.

(7) A reasonable allowance of compensation for the services of owners in profit-making organizations will be allowed provided their services are actually performed in a necessary function.

(8) The department's cost questionnaire for a given year contains the detailed list of items of expense that are allowable costs for that period.

(d) Depreciation will be on a historical cost basis calculated by the straight line method (excluding land). In those instances where repairs or improvements have extended the life of the item, a depreciation adjustment will be allowed. Assets financed by nonfederal public funds may be depreciated. Although funding of depreciation is not required, there is an incentive for it since income from funded depreciation is not considered as an offset which must be taken to reduce the interest expense that is allowable as a program cost.

(e) A return on net owners equity capital of contracted profit-making facilities may be paid as an allowable cost. When it is determined this will be paid, the rate of return on equity capital will be determined each year by the Board of Human Resources. The upper limits will not exceed those allowable under Title XVIII. Payment for return on equity capital will be paid on a percentage basis as part of the uniform rate to proprietary providers.

### .025. Apportionment of Allowable Costs.

(a) Consistent with prevailing practices where third-party organizations pay for health care on a cost-related basis, reimbursement under the Title XIX Program involves a determination of (1) each provider's allowable cost for producing services, and (2) the share of these costs which is to be borne by Title XIX. The providers' costs are to be determined in accordance with the principles viewed in the preceding discussion relating to allowable cost. The share to be borne by Title XIX is to be determined in accordance with principles relating to reapportionment of costs.

(b) To the extent reasonably possible, the program share of a provider's total allowable cost will be the same as the program's share of the provider's total service. This result is essential for carrying out the statutory directive that the program's payments to providers should be such that the cost of covered services for recipients would not be passed on to nonrecipients, nor would the cost of services for nonrecipients be borne by the program.

(c) For the application of the approach to components

which represent types of service, the breakdown of total cost is accomplished by cost-finding techniques under which indirect cost and nonrevenue activities are allocated to revenue-producing components for which charges are made as services are provided.

**.026. Methods of Apportionment under Title XIX.** The method of apportionment under Title XIX Program in the state of Texas more closely approximates the departmental method as used in Title XVIII. The method used, however, closely follows the chart of accounts currently in use in this state. The chart of accounts is used for the facility record keeping, reporting, and the subsequent analysis for apportionment.

**.027. Payments to Providers.**

(a) The Texas Department of Human Resources will establish a basis for payment to contracted providers.

(b) Payments will be cost-related.

(c) Payments will be prospective, based upon historical cost adjusted by economic indexes. (See .024(a).)

(d) Quality assurance penalties of not less than \$100 nor more than \$500 for each act of violation will be imposed upon facilities failing to maintain acceptable participation standards. These participation standards include such items as admission planning, utilization of care and services, continued stay review, patient health, safety, and discharge planning.

**.028. Financial Data and Reports.**

(a) General. The principles of cost reimbursement will require that providers maintain sufficient financial records and statistical data for proper determination of costs payable under the program. Standardized definitions, accounting, statistics, audit, and reporting requirements specified in 45 Code of Federal Regulations 250.30(a)(3)(ii) will be followed.

Over a three-year period beginning as of the close of the first cost-reporting year, no less than one-third of the participating long-term care facilities will be audited each year. Beginning three years after the end of the first cost reporting year, on-site audits of the financial and statistical records will be performed each year in at least 15 percent of participating facilities, at least five percent of which shall be selected on a random sample basis and the remainder of which shall be selected on the basis of exceptional profiles. The Title XIX Program in Texas makes use of data available from the institution's chart of accounts to arrive at proper payments by classification of the facility. Upon conclusion of each audit of a facility, the auditor shall submit to DHR a report of the audit which will be kept by DHR for a period not less than three years following the report's submission date.

Overpayments found in audits will be accounted for on the SRS OA-41 report no later than the second quarter following the quarter in which it was found.

(b) Cost reports will be required from providers on an annual basis with reporting periods based upon a calendar year.

In interpretations and application of the principles of cost findings, the Texas Department of Human Resources will be an important source of consultative assistance to providers and will be able to deal with questions and problems on a day-to-day basis.

(c) Record-keeping requirements for new providers. A newly participating provider of services shall make available

for examinations its fiscal and other records for the purposes of determining such provider's on-going record-keeping capabilities. This examination is intended to assure that (1) the provider has an adequate on-going system for following the chart of accounts and for furnishing the records needs to provide accurate cost data and other information capable of verification by qualified auditors and adequate for cost reporting purposes, and (2) that no financial arrangement exists that will thwart the commitment of the program to reimburse providers the reasonable cost of services furnished recipients. The data and information to be examined includes costs, revenues, statistics, and other information pertinent to reimbursement.

(d) Continued provider record-keeping requirements.

(1) The provider will furnish such information to the Texas Department of Human Resources as may be necessary

(A) to assure proper payment by the program including the extent to which there is any common ownership or control between providers or other organizations, and as may be needed to identify the parties responsible for submitting program cost reports;

(B) to receive vendor payments;

(C) to satisfy program or recipient overpayment determinations.

(2) The provider shall permit the Texas Department of Human Resources to examine such records and documents as are necessary to ascertain information pertinent to the determination of the proper amount of allowable costs. These records shall include but not be limited to matters of provider ownership, organization and operation, fiscal, medical and other record-keeping systems, federal income tax status, asset acquisition, lease-sale or other actions, franchise or management arrangements, patient service charge schedule, recipient personal fund account, matters pertinent to cost of operation, amounts of income received by source, and purpose and flow of funds and working capital.

(3) The provider, when requested, shall furnish the Texas Department of Human Resources copies of all charges made to recipients in order that a determination may be made on both allowable cost and charges.

(e) Suspension of program payments to a provider. When the Texas Department of Human Resources determines that a provider does not maintain or no longer maintains adequate records for the determination of reasonable cost under the program, payments to such providers shall be suspended until the department is assured that adequate records are maintained. Before suspending payments to a provider, the department shall send written notice to such provider of its intent to suspend payments. The notice shall explain the basis for the determination with respect to the provider's records and shall identify the provider's record-keeping deficiencies. The provider will be given an opportunity to submit a statement (including any pertinent evidence) as to why the suspension should not be put into effect.

**.029. Depreciation; Allowance for Depreciation Based on Asset Cost.**

(a) Principle. An appropriate allowance for depreciation on buildings and equipment is an allowable cost. The depreciation must be:

(1) identifiable and recorded in the provider's accounting records;

(2) originally based on the historical cost of the asset or fair market value at the time of donation in the case of do-

nated assets; and

(3) prorated, by the straight-line method, over the estimated useful life of the asset.

(b) Definitions.

(1) Historical cost (book value). Historical cost for the Texas Title XIX Program is the original cost of the facility land and equipment (related to patient care and necessary for the operation of the facility), plus capital improvement cost minus any monies received by the facility from the department to meet life safety code requirements. The principle would apply whether the costs were incurred or donated. The original transaction and subsequent capital improvements must meet fair market value principles.

(2) Fair market value. Fair market value is the price that the asset would bring by bona fide bargaining between well informed buyers and sellers or builders at the date of the acquisition.

(c) Recording of depreciation. Appropriate recording in the facility and reporting to the department by cost questionnaire of depreciation will be:

- (1) identification of the depreciable assets in use,
- (2) the assets historical cost,
- (3) estimated useful life based upon guidelines published by the Internal Revenue Service, and
- (4) the assets accumulated depreciation based upon the straight-line method.

(d) Funding of depreciation. Although funding of depreciation is not required, it is strongly recommended that providers use this mechanism as a means of conserving funds for replacement of depreciable assets. As an incentive for funding, investment income on funded depreciation will not be treated as a reduction of allowable interest expense.

(e) Caps and ceilings based upon statistical data and not lower than the 70th percentile may be applied to the historical cost to assure reasonable, necessary, and proper cost.

**.030. Depreciation.** Depreciation is allowed on assets financed by nonfederal public funds.

**.031. Interest Expense.**

(a) Principle. Necessary and proper interest on both current and capital indebtedness is an allowable cost.

(b) Definitions.

(1) Interest. Interest is the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term. This is usually for such purposes as working capital for normal operating expenses. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes such as acquisition of facilities and equipment and capital improvement. Generally, loans for capital purposes are long-term loans.

(2) Necessary. Necessary requires that the interest:

(A) be incurred on a loan made to satisfy a financial need of the provider. Loans which result in excess funds or investments would not be considered necessary;

(B) be incurred on a loan made for purpose reasonably related to patient care;

(C) be reduced by investment income except where such income is from gifts and grants whether restricted or unrestricted and which are held separate and not commingled with other funds. Income from funded depreciation or provider's qualified pension funds is not used to reduce interest expense.

(3) Proper. Proper requires that interest:

(A) must meet the requirements of "necessary" under Item (2)(B) above;

(B) be incurred at a rate not in excess of what a prudent borrower would have to pay in the money market at the time the loan was made. For purposes of cost finding and allowances of interest expense the department will calculate the allowable interest amount for each transaction;

(C) interest expense incurred or indebtedness established with lenders or lending organizations related by control, ownership, or personal relationship is recognized as long as such incurred indebtedness meets the department's determination of "necessary" and "prudent;"

(D) loans must be related to patient care or safety.

**.032. Bad Debts, Charity, and Courtesy Allowances.**

(a) Principle. Bad debts, charity, and courtesy allowances are deductions from revenue and are not to be included in allowable cost.

(b) Definition.

(1) Bad debts. Bad debts are amounts considered to be uncollectible from accounts or notes receivable which were created or acquired in providing services. Accounts receivable and notes receivable are designations for claims arising from the provision of services and are collectible in money in the relatively near future.

(2) Charity allowances. Charity allowances are reductions in charges made by the provider of services because of the medical indigency of the patient. This is not an allowable cost.

(3) Courtesy allowances. Courtesy allowances indicate a reduction in the charge in the form of an allowance to physicians, clergy, members of religious orders, and others, as approved by the governing body of the provider for services received from the provider. Employee fringe benefits, such as hospitalization and personal health programs, are not considered to be courtesy allowances. Courtesy allowances are not an allowable cost.

(c) Normal accounting treatment, reduction in revenue. Bad debts, charity, and courtesy allowances represent reductions in revenue. The failure to collect charges for services provided does not add to the cost of providing the services. Such costs have already been incurred in the production of the services.

(d) Criteria for bad debt allowance. A bad debt must meet the following criteria to be allowable as a deduction from revenue:

(1) The provider must be able to establish that reasonable collection efforts were made.

(2) The debt was actually uncollectible when claimed as worthless.

(3) Sound business judgment establishes that there was no likelihood of recoveries at any time in the future.

(e) Charging of bad debts and bad debt recoveries. The amounts uncollectible from specific recipients are to be charged off as bad debts in the accounting period in which the accounts are deemed to be worthless. In some cases, an amount previously written off as a bad debt and deducted from revenue may be recoverable in a subsequent accounting period. In such cases the income therefrom must be included in revenues for the period in which the collection was made.

(f) Charity allowances. Charity allowances have no relationship to recipient benefits under the Title XIX Program and are not allowable costs. The cost to the provider of



the employee fringe benefit programs is an allowable element of reimbursement.

**.033. Cost of Certain Educational Activities.**

(a) Principle. An appropriate part of the net cost of educational activities necessary to meet the continual educational requirements by state or federal statutes for maintenance of licensure status of health care professionals is an allowable cost.

(b) Definitions.

(1) Continuing education. The continuing education must be to maintain, not obtain, licensing requirements of individuals.

(2) Net cost. Net cost means the reasonable cost of approved continuing educational activities. The approval of a program must be from a national or state professional organization.

These continuing educational activities, as well as orientation and on-the-job training, are treated as an administrative operating cost.

(c) Research cost. Costs incurred for research purposes are not includable as allowable costs.

**.034. Grants, Gifts, and Income from Endowments.**

(a) Principle. Unrestricted grants, gifts, and income from endowments should not be deducted from operating costs in computing reimbursable costs. Grants, gifts, or endowment income designated by donor for paying specific operating costs should be deducted from the particular operating cost or group of costs.

(b) Definitions.

(1) Unrestricted grants, gifts, income from endowments. Unrestricted grants, gifts, and income from endowments or funds, cash or otherwise, given to provider without restrictions by the donor as to their use.

(2) Designated or restricted grants, gifts, and income from endowments. Designated or restricted grants, gifts, and income from endowments or funds, cash or otherwise, which must be used only for the specific purpose designated by the donor. This does not refer to unrestricted grants, gifts, or income from endowments which have been restricted for a specific purpose by the provider.

(c) Application.

(1) Unrestricted funds, cash or otherwise, are generally the property of the provider to be used in any manner its management deems appropriate and should not be deducted from operating costs. It would be inequitable to require providers to use the unrestricted funds to reduce the payments for care. The use of these funds is generally a means of recovering costs which are not otherwise recoverable.

(2) Donor-restricted funds which are designated for paying certain operating expenses should apply and serve to reduce these costs or groups of costs and benefit all patients who use services covered by the donations. If such costs are not reduced, the provider would secure reimbursement for the same expense twice. It would be reimbursed through the donor-restricted contribution as well as from patients and third-party payors. Donor-restricted funds applicable to a recipient's cost of basic care can be treated as recipient income and possibly could affect eligibility for program benefits for that recipient.

**.035. Value of Services of Nonpaid Workers.**

(a) Principle. The value of services in positions customarily held by full-time employees performed on a regular schedule basis by individuals as unpaid members of organizations under arrangements between such organization and the provider for the performance of such services without direct remuneration from the provider to such individuals is allowed as an operating expense for the determination of allowable costs subject to the limitations contained in Section B of this rule. The amounts allowed are not to exceed those paid others for similar work. Such amounts must be identifiable in the records of the institution as a legal obligation for operating expenses.

(b) Limitations, services of nonpaid workers. The services must be performed on a regularly scheduled basis in positions customarily held by full-time employees and necessary to enable the provider to carry out the functions of normal patient care and operation of the facility. The value of services of the type for which providers generally do not compensate individuals performing such services is not allowable as a reimbursable cost under the Title XIX Program. For example, donated services of individuals in distributing books and magazines to patients or in serving in a provider canteen or cafeteria or in a provider gift shop would not be reimbursable.

**.036. Allowances and Refund of Expenses.**

(a) Principle. Allowances and refunds are to be a reduction of the related expenses.

(b) Definitions.

(1) Allowances. Allowances are deductions granted for damage, delay, shortage, imperfection, or other causes excluding discounts and returns.

(2) Refunds. Refunds are amounts paid back or credit allowed on an account for an over-collection.

(c) Application. Allowances and rebates received from purchase of goods or services and refunds of previous expense payments are clearly reductions in costs and must be reflected in the determination of allowable costs.

**.037. Compensation of Owners.**

(a) Principle. A reasonable allowance of compensation for services of owners is an allowable cost, provided the services are actually performed in a necessary function.

(b) Definition.

(1) Compensation. Compensation means the total benefit received by the owner for the services he actually provides to the facility. It includes:

(A) salary amounts paid for managerial, administrative, professional, and other services;

(B) amounts paid by the facility for the personal benefit of the owner;

(C) the cost of assets and services which the owner receives from the facility;

(D) deferred compensation.

(2) Reasonableness. Reasonableness requires that the compensation allowance:

(A) be such an amount that would ordinarily be paid for comparable services by comparable facilities and for purposes of cost-finding and cost-related payments as determined by the Texas Department of Human Resources;

(B) depend upon the fact and circumstances of each case.

(3) Necessary. Necessary requires that the function:

(A) be such that, had the owner not provided the service, the facility would have had to employ another person



to perform the services;

(B) be pertinent to the operation and sound conduct of the facility.

(c) Application.

(1) Owners of provider organizations who often provide services as managers, administrators, or in other capacities. In such cases it is equitable that reasonable compensation for the services provided by an allowable cost. To do otherwise would disadvantage such owner in comparison with corporate providers or providers employing persons to perform similar services.

(2) Ordinarily, compensation paid to owners is a distribution of profit. However, where the owner provides necessary services for the facility, the facility is in effect employing his services and a reasonable compensation for these services is an allowable cost. In corporate providers, the salaries of owners who are also employees are subject to the same requirements of reasonableness. Where the services are provided on less than a full-time basis, the allowable compensation should reflect an amount proportionate to a full-time basis. Reasonableness of compensation for cost-finding purposes and cost-related payments will be determined by the Texas Department of Human Resources. To do so means the department must compare the compensation paid for comparable services and responsibilities in comparable facilities.

(d) Payment requirements.

(1) Sole proprietorships and partnerships. The allowance for compensation of the services of sole proprietors and partners is the amount determined to be reasonable for value of the service provided (not to exceed the amount claimed) for these services (in an annual cost report submitted by the provider) and for cost-finding purposes and cost-related purposes, be judged as necessary and appropriate by the Texas Department of Human Resources. Such allowances are allowable costs, regardless of whether there is any actual distribution of profit or other payments to the owner. The operating profit (or loss) of the provider does not affect the allowance of compensation for the owner's services.

(2) Corporation. To be includable in allowable costs, compensation for services provided as an employee, officer, or director by persons owning stock in the corporate provider must be paid (by cash, negotiable instrument, or kind) during the cost reporting period in which the compensation is earned or within 75 days thereafter. If this payment is not made during this time period, the unpaid compensation is not includable in allowable costs. For this purpose, an instrument, to be negotiable, must be in writing and signed; must contain an unconditional promise or order to pay a certain sum of money on demand at a fixed and determinable future time; and must be payable to order or to the bearer. The same general rules apply to corporations as to proprietorships and partnerships in the compensation allowed under cost finding and cost-related reimbursement.

#### .038. Cost to Related Organizations.

(a) Principle. Costs applicable to services, facilities, and supplies furnished to providers by organizations related to the provider by common ownership or control are includable in the allowable costs of the provider at the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere. Under the principles of cost-finding and cost-related payments under the Title XIX Nursing Home Program, the reasonable-

ness of such costs will be determined by the Texas Department of Human Resources. Identification of related organizations and costs will be recorded on the department's cost questionnaire.

(b) Definitions.

(1) Related to provider. Related to the provider means that the provider to a significant extent is associated or affiliated with or has control of or is controlled by the organization furnishing the facilities, services, or supplies.

(2) Common ownership. Common ownership exists when an individual or individuals possess significant ownership or equity in the provider and the facility or organization serving the provider.

(3) Control. Control exists where an individual or an organization has the power, directly or indirectly, to significantly influence or direct actions or policies of an organization or facility.

(c) Application.

(1) Individuals and organizations associate with others for various reasons and by various means. Some deem it appropriate to do so to assure a steady flow of supplies and services, to reduce competition, to gain a tax advantage, to extend influence, and for other reasons. These goals may be accomplished by means of ownership or control, by financial assistance, by management assistance, and other means.

(2) Where the provider obtains an item of service, facilities, or supplies from an organization, even though it is a separate legal entity and the organization is owned or controlled by the owner(s) of the provider, in effect the items are obtained from itself. An example would be a corporation building a nursing home facility and then leasing it to another corporation controlled by the owners. Therefore, reimbursable costs should include the costs for these items at the cost to the supplying organization. For principles of cost finding and compensation by the Title XIX Program on a cost-related basis, the reasonableness of such costs will be determined by the Texas Department of Human Resources.

#### .039. Return on Equity Capital of Contracted Providers.

(a) Principle. An allowance of a reasonable return on equity capital invested and used in the provision of patient care may be allowable as an element of the reasonable cost for services furnished recipients by nursing home providers. The amount allowable on an annual basis is determined by applying to the provider's equity capital a reasonable percentage determined by the Board of Human Resources

(b) Application. Profit-making institutions historically have financed capital expenditures through funds invested by owners in expectation of earning a return. Capital resources of a facility, represented by owner or donor investment and by debt capital, provide the physical assets which are used as a base for services to recipients in nursing facilities. A return on investments, therefore, is needed to avoid withdrawal of capital and attract additional capital needed for expansion. For purposes of computing the allowable return the provider's equity capital means:

(1) The provider's investment in plant, property, equipment, and operating capital related to patient care (less the adjusted historical cost depreciation) and funds deposited by provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds, or who has accrued such costs (less non-concurrent debt related to such investment of deposited funds);

(2) Return on investment as an element of allowable costs is subject to apportionment in the same manner as other elements of allowable costs.

**.040. Separate Vendor Payments.** Under certain circumstances, recipients in need of specialized rehabilitative services may have separate vendor payments made in their behalf for these services by the Title XIX Program. Because of the inaccessibility of these services in some areas, these services are difficult to compensate under a uniform cost-related rate.

**.041. Costs Related to Patient Care.**

(a) Principle. All payments to nursing facilities under Title XIX must be cost-related, as determined by cost-finding techniques; be related to covered services needed and supplied; and be reasonable. Reasonable costs include all necessary and proper costs incurred in providing the needed services within the capability of the facility, subject to the principles relating to specific items of revenue and costs.

(b) Definitions.

(1) Reasonable costs. Reasonable costs are those items of expense, direct or indirect, necessary to meet the defined needs of Title XIX recipients for covered or allowed services and a return on investment necessary to obtain qualified providers. Reasonable cost of care is dependent upon definitions of the quality, quantity, and intensity of care.

(2) Necessary and proper costs. Necessary and proper costs are costs relating, directly or indirectly, to providing patients/recipients acceptable quality levels of service necessary to obtain acceptable levels of health care (used in its broad context). Necessary and proper cost should not be static but should expand to meet the expected and often demanded higher levels of health achievement. This implies orderly, controlled growth and quality control.

(c) Application. It is the intent of the Title XIX Program to maximize the use of the health care tax dollars and concurrently be fair to providers. Proper costs require services be supplied at the lowest level entry point into the health care delivery systems consistent with good health care. Because of the desired efficiencies in the delivery of services, multiple levels of long-term care in facilities and in alternate care have been implemented.

Each provider level of care is expected to deliver the required excellence within its capability. Proper match between the purpose of the facility or agency and the needs, not wants, of the recipient is essential.

**.042. Determination of Cost of Services Provided to Recipients.**

(a) Principle. To determine and maintain reasonable, necessary, and proper costs, the department has used established cost-finding techniques. Use of chart of accounts has permitted fractionalization, thus identification, of cost elements. Each element may, at the discretion of the Board of Human Resources, have ceilings or caps based upon statistical data to assure reasonable, necessary, and proper cost. Thus, desk audits are done on all cost questionnaires used to gather essential data. A sufficient number of on-site audits are conducted each year by trained departmental auditors to assure validity of submitted data. These mechanisms are augmented by computer techniques to isolate deviant or variant data elements. Basic statistical routines, cross classification procedures, and frequency distribution tabula-

tions are used in analyzing cost study data. Caps and ceilings are determined from analyzing the mean, median, mode, and percentile for each cost center. After the percentile has been determined, appropriate ceilings or caps will be applied to each cost center. Supplemental items of information will be gathered to aid in the analytical process and be included in the cost data base.

(b) Definitions.

(1) Chart of accounts. Chart of accounts is the accounting method currently used in long-term care facilities of the state. This method has concurrence of the providers and the department.

(2) Apportionment. Apportionment means an allocation or distribution of allowable cost between Medicaid recipients and other patients.

(3) Ceilings or caps. Ceilings or caps are internal tolerance levels established solely for departmental use in the prudent administration of the program.

(c) Application. By use of a system utilizing classification of facilities, assessment of recipient's needs (level of care determination), cost data by chart of accounts, audits, medical reviews, independent professional reviews, application of quality assurance penalties, and departmental internal tolerance levels, appropriate costs are determined. A desk audit is made on each questionnaire within six months after submission of the cost report to the department.

An automated cost-finding analysis will be performed annually upon nursing facility financial information. The following steps will be included in this cost-finding process:

(1) An initial error check run will be made on each facility's cost report. This computer run will check for mathematical errors internal to the cost report and check for ranges on variables to spot data entry errors. Output from this computer run will be an exception listing by facility, which may be used to check for possible data entry errors that need correction.

(2) Corrections and any necessary supplemental information will be incorporated in the cost data base.

(3) A facility report will be produced for each facility to display an analysis of each facility's costs by level of care. The report will summarize questionnaire data and any supplemental data by major revenue and cost centers using the departmental step-down method, as described in 20 Code of Federal Regulations 405.453(d)(1). Also, unit costs will be shown for various cost items, for cost centers, and for various costs groupings, all of which will be by various common units of measure.

**.043. Adequate Cost Data and Cost Findings.**

(a) Principle. Providers receiving vendor rates must provide adequate cost data. This must be based on their financial and statistical records which must be capable of verification by qualified auditors. The cost data must be based on an approved method of cost finding and on the accrual basis of accounting. Where analysis of a provider's cost report data indicates less than full compliance with principles defining allowable costs under the Texas Medical Assistance Program, auditing procedures contained in 45 Code of Federal Regulations 250.39(a)(3)(ii) will be conducted.

(b) Definitions.

(1) Cost finding. Cost finding is the process of recasting the data derived from the accounts ordinarily kept by the providers to ascertain costs of the various types of services

provided. It is the determination of these costs by the allocation of direct cost and proration of indirect cost.

(2) **Accrual basis of accounting.** Under the accrual basis of accounting, revenue is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(c) **Adequacy of cost information.** Adequate cost information must be obtained from the provider's records to support payments made for services provided to recipients. The requirement of adequacy of data implies that the data be accurate and in sufficient detail to accomplish the purpose for which it is intended. Adequate data must be capable of being audited and consistent with good business concepts. This is applicable whether the organization is operated for profit or on a nonprofit basis. It is a reasonable expectation on the part of any agency paying for services on a cost-related basis. In order to provide the required cost data and not impair incomparability, financial, and statistical records should be maintained in a manner consistent from one period to another.

(d) **Cost-finding methods.** After the close of an accounting period, an appropriate method of cost finding is to be used to determine the actual cost of services provided during that period.

(e) **Accounting basis.** The cost data submitted must be based on the accrual basis of accounting.

(f) **Cost reports.** For cost-reporting purposes, the program requires each provider of service to submit periodic reports of its operations which generally cover a consecutive 12-month period of the provider's operations. Amended cost reports to revise cost report information which has been previously submitted by a provider may be permitted or required as determined by the Texas Department of Human Resources. The department will require after January 1, 1977, that all facilities use a calendar year accounting period. Due date of cost reports.

(1) Cost reports are due on or before the last day of the third month following the close of the calendar year.

(2) A 30-day extension of the due date of the cost reports may, for good cause, be granted by the department.

*.044. Payment to Contracted Nursing Facilities.*

(a) The department will continue to consider factors such as level of care, size of facility, geographical area, cost of living, and minimum wage in establishing the types of rates. When significant differences in cost are determined by these factors, reasonable cost-related rates will be set accordingly.

Appropriate providers of services will be reimbursed the reasonable cost for covered services as defined in the department's standards of participation. In no case will the prospective payment rate exceed a facility's customary charge to the general public.

In order to determine the factors which may cause significant cost differences between facilities, various computer models will be run using the financial information data base to detect causal relationship between those factors and a facility's costs. The simulation models will employ statistical regression techniques to measure the strength of correlation between factors and costs and to measure the percentage of variation in costs explained by a particular factor. When the percentage variation is quite significant for a particular factor, the factor can be used as a predictor of costs. The following steps will be performed in this analysis:

(b) Computer files will be structured from the financial information data base to produce a data base for the simulation models.

(c) Statewide averages, standard deviations, and distribution statistics will be produced by level of care and by cost report items, cost centers, and unit costs from the financial information data base.

(d) Computer simulation models will be run to produce statistics upon which to base decisions regarding the rate structure. Various cap and ceiling screens will be applied to the costs in the financial data base in these simulation runs to ensure reasonable and proper allowable costs. Finally, each model will produce a set of level of care rates resulting from the application of the cost screens and the particular factors used to explain cost variations. Cost variation predictor model examples are as follows:

(1) Facility-by-facility base model.

(2) Facilities within geographical areas such as health service areas (HSA's).

(3) Facilities by total number of beds.

(4) Facilities by total number of beds within HSA's or other geographic area.

Issued in Austin, Texas, on December 28, 1977.

Doc. No. 777386

Jerome Chapman  
Commissioner  
Texas Department of Human  
Resources

Effective Date: January 17, 1978

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

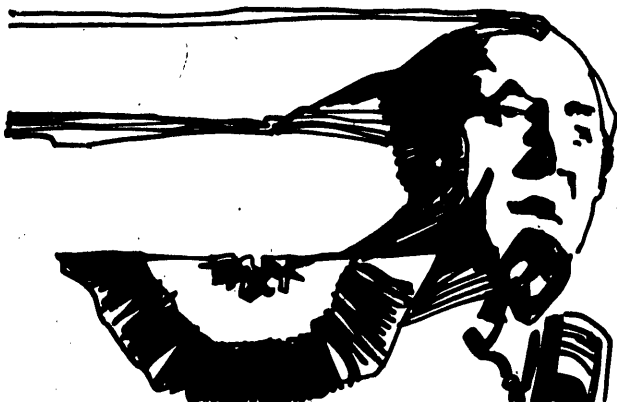
The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must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

## Texas Air Control Board

**Monday, January 9, 1978, 9:30 a.m.** The Texas Air Control Board will meet in the auditorium, 8520 Shoal Creek Boulevard, Austin. The summarized agenda includes the following items: election of vice-chairman; reports by executive director; hearing examiner's reports; consideration for adoption of revisions to Regulation VI and VII; consideration of adoption of resolution designating attainment and nonattainment areas; and new business.

Additional information may be obtained from John B. Tunney, 8520 Shoal Creek Boulevard, Austin, Texas 78758, telephone (512) 451-5711.

Filed: December 29, 1977, 3:49 p.m.  
Doc. No. 777419



## Texas Education Agency

**Tuesday, January 28, 1978, 2 p.m.** The Texas Education Agency will conduct a public hearing at 201 East 11th Street,

Austin, regarding TEA Proposed Rule 226.33.34.052, Display of Learning Systems and Supplementary Instructional Materials during the textbook adoption process (2 TexReg 4153). This hearing will be held in accordance with TEA Rules 226.93.04.010-.060. Persons desiring to appear and give testimony must give written notice to the commissioner of education at least five calendar days before the hearing date.

Additional information may be obtained from M. L. Brockette, 201 East 11th Street, Austin, Texas 78701.

Filed: December 30, 1977, 9:23 a.m.  
Doc. No. 777421

## General Land Office

**Tuesday, January 3, 1978, 2 p.m.** The Board for Lease of Texas Department of Corrections of the General Land Office met in emergency session in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin, to consider five geophysical permit applications.

Additional information may be obtained from H. E. White, Room 749, Stephen F. Austin Building, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed: December 29, 1977, 4:32 p.m.  
Doc. No. 777420

## Texas Department of Health

**Friday, January 20, 1978, 10 a.m.** The Technical Advisory Committee on Maternal and Child Health of the Texas Department of Health will meet in the first floor board room, 1100 West 49th Street, Austin. The committee will conduct an overview of the Texas Department of Health; hear comments from the Department of Health, Education and Welfare; consider suggestions from the committee on the proposed six-year plan; decide on the role the committee would like to assume; and arrange for conference calls.

Additional information may be obtained from Mary Ann Micka, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7445.

Filed: December 27, 1977, 9:37 a.m.  
Doc. No. 777335

## Texas Department of Human Resources

**Tuesday, January 10, 1-5 p.m. and Wednesday, January 11, 1978, 9 a.m.-1 p.m.** The Financial and Social Services Advisory Committee of the Texas Department of Human Resources will meet in Room 411, John H. Reagan Building, Austin. The summarized agenda includes the following items: chairperson report; explanation of LAR Process; subcommittee work on goal/subgoal recommendations (possible

evening sessions on January 10). On Wednesday, Commissioner Chapman will speak, followed by subcommittee reports, FSSAC recommendations, and discussion of further involvement in LAR.

Additional information may be obtained from Sandra Moreno, Winters Building, Austin, Texas 78701, telephone (512) 475-5721.

Filed: December 29, 1977, 3:49 p.m.

Doc. No. 777418

## Library Systems Act Advisory Board

*Monday, January 16, 7:45 p.m. and Tuesday, January 17, 1978, 10 a.m.* The Library Systems Act Advisory Board will meet in Room 202, Lorenzo De Zavala State Archives Building, Austin, to discuss accreditation standards for membership in the Texas State Library System for 1980-81.

Additional information may be obtained from Jimmy Hausenfluke, P.O. Box 12927, Austin, Texas 78711, telephone (512) 475-6652.

Filed: December 30, 1977, 12:20 p.m.

Doc. No. 777431

## Texas Parks and Wildlife Department

*Tuesday, January 24, 1978, 2 p.m.* The Fisheries Division/Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin, to consider applications from the following: Tom W. Bradfield, for a permit to remove a total of 321 cubic yards of sand from Aransas Bay, Aransas County; and Dewey Materials, for a permit to remove approximately 200 cubic yards of sand and 200 cubic yards of gravel per month from the San Jacinto River, Montgomery County.

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

Filed: December 27, 1977, 3:05 p.m.

Doc. No. 777349

## Texas State Board of Registration for Professional Engineers

*Thursday, January 12, 1978, 10 a.m.* The Texas State Board of Registration for Professional Engineers has cancelled the special called meeting to be held in Room 200, John H. Reagan Building, 1400 Congress, Austin.

Additional information may be obtained from Donald C. Klein, P.E., Room 200, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-3143.

Filed: December 30, 1977, 11:35 a.m.

Doc. No. 777426

## Public Utility Commission Of Texas

*Tuesday, January 17, 1978, 9 a.m.* The Public Utility Commission of Texas will conduct a pre-hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, concerning an application from V.L.S., Inc., for a certificate of convenience and necessity to provide water utility service within McLennan County (Docket No. 1331), as summarized.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: December 30, 1977, 9:54 a.m.

Doc. No. 777424

*Monday, February 27, 1978, 9:30 a.m.* The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, concerning an application of Southwestern Public Service to amend a certificate of convenience and necessity within Lubbock County (Docket No. 917).

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: December 27, 1977, 9:28 a.m.

Doc. No. 777333

## Railroad Commission of Texas

*Monday, January 9, 1978, 9 a.m.* The Gas Utilities Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the agenda includes the following items: Examiner Glenn E. Johnson, Southern Union Gas Company, appeal from actions by Cities and Towns of Monahans, Wink, Barstow, Pecos, and Pyote (Docket No. 667); rejection of applications for an increase in natural gas rates; Examiner James P. Grove IV, Rule 051.04.03.026, Proposed Special Rules of Practice and Procedure and Substantive Rules Relating to Construction Work in Progress (Docket No. 1164); and Examiner James P. Grove IV, Rule 051.04.03.029, Special Rules of Practice and Procedure and Substantive Rules Adjustment to Revenues (Docket No. 1166).

Additional information may be obtained from Joy Wood, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: December 30, 1977, 11:23 a.m.  
Doc. No. 777427

**Monday, January 9, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider the following items, as summarized: exceptions to various statewide rules; proper pluggings; temporary field rules; oil and gas field discoveries; and tidal disposal.

Additional information may be obtained from Sandra S. Mott, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-6155.

Filed: December 30, 1977, 11:24 a.m.  
Doc. No. 777428



**Monday, January 9, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider new oil and gas field discoveries and a plugging matter, as summarized.

Additional information may be obtained from Sandra S. Mott, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-6155.

Filed: December 30, 1977, 11:24 a.m.  
Doc. No. 777429

**Monday, January 9, 1978, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets,

Austin. As summarized, the agenda includes consideration of uncontested applications: to amend authority, for bus rate, for motor brokers license, to divide authority, to lease authority, for new authority, for change of name, for interstate exempt authority, for rail rate, for reinstatement, to sell authority, for truck rate, and for voluntary suspension.

Additional information may be obtained from Denna Braun, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-4739.

Filed: December 30, 1977, 11:25 a.m.  
Doc. No. 777432

## University of Texas at Austin

**Monday, January 2, 1978, 9:30 a.m.** The Athletics Council for Men of the University of Texas at Austin met in Room 325, LeBaron Hotel, 1055 Regal Row, Dallas, to consider football coaches' contracts and salaries and funding of athletics facilities (executive session).

Additional information may be obtained from Haila Kauffman, P.O. Box 7399, Austin, Texas 78712, telephone (512) 471-1441.

Filed: December 29, 1977, 10:29 a.m.  
Doc. No. 777397

## Veterans Affairs Commission

**Saturday, January 21, 1978, 9:30 a.m.** The Veterans Affairs Commission will meet in Rom 321, Sam Houston Building, 201 East 14th Street, Austin. In this regular meeting, the commissioners will hear reports on commission activities and will make decisions relative to general administrative matters pertaining to Texas' veterans counseling and assistance program.

Additional information may be obtained from Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, telephone (512) 475-4185.

Filed: December 30, 1977, 9:55 a.m.  
Doc. No. 777423

## Texas Water Commission

**Monday, January 9, 1978, 10 a.m.** The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress, Austin. As summarized, the agenda will include the following: adoption of order on water quality matters; examiner's proposals for decision on water quality matters; consideration of voluntary suspensions of permits; consideration of voluntary cancellation of permit; final decision on application; consideration of granting of contractual applications and application for extension of time; and consideration of private sewage facility regulations.

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

Filed: December 29, 1977, 3:28 p.m.

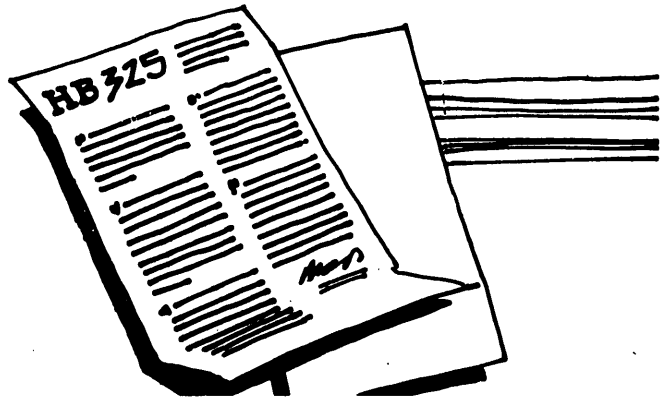
Doc. No. 777416

## Regional Agencies

### Meetings Filed December 30, 1977

*The East Texas CETA Consortium*, Board of Directors, met in the Blue Room, Allied Citizens Bank, Kilgore, on January 4, 1978, at 2 p.m. Further information may be obtained from Don R. Edmonds, fifth floor, Citizens Bank Building, Kilgore, Texas 75662, telephone (214) 984-8641.

Doc. No. 777422





## East Texas Council of Governments

### Hiring Private Consultant

**Description of Study:** The East Texas Council of Governments (ETCOG) has received a grant through the Texas Department of Community Affairs and the U.S. Civil Service Commission to provide personnel management services to six cities and one county in the ETCOG region. The services include: (1) job classifications and pay plans; (2) personnel policies; (3) affirmative action plans; and (4) recruiting procedures. ETCOG has hired a private consulting firm to provide the service.

**Name of Consulting Firm:** Reedie and Associates, Inc., Walter Reedie, President, Austin, Texas.

**Amount of Contract:** \$19,400.

**Due Date of Reports:** July 15, 1978.

Issued in Kilgore, Texas, on December 27, 1977.

Doc. No. 777399      Don R. Edmonds  
Executive Director  
East Texas Council of Governments

Filed: December 29, 1977, 11:01 a.m.

For further information, please call (214) 984-8641.



## Texas Health Facilities Commission

### Notice of Applications

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings or exemption certificates accepted during the period of December 20-26, 1977.

Should any person wish to contest the application for a declaratory ruling or an exemption certificate, that person must file a notice of intent to contest the application with the

chairman of the commission within 12 days after the enclosed listing is published. The first day for calculating this 12-day period is the first calendar day following the dating of the publishing. The 12th day will expire at 5 p.m. on the 12th consecutive day after said publishing if the 12th day is a working day. If the 12th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. When notice of intent to contest is mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, it must be postmarked no later than the day prior to the last day allowed for filing notice of intent to contest.

The contents and form of a notice of intent to become a party to an application for a declaratory ruling or exemption certificate must meet the minimum criteria set out in Rule 506. Failure of a party to supply the minimum necessary information in the correct form by the 12th day will result in a defective notice of intent to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02, 3.03, or 6.02 of Article 4418(h), Vernon's Annotated Texas Statutes, and Rules 302, 502, and 515.

In the following notice, the applicant is listed first, the file number second, and the relief sought and project description third. EC indicates exemption certificate and DR indicates declaratory ruling.

Valley Hemodialysis Center, Inc., Brownsville  
AS77-1220-011

EC—Relocate facility to another Brownsville location with 100 square feet increase in space

Lubbock State School, Lubbock  
AA77-1221-001

EC—Construct four outdoor picnic tables and shelters

David C. Carlyle, M.D., Galveston  
AO77-1221-004

DR—That neither an exemption certificate or certificate of need is required to construct and operate a private physician's office to provide ambulatory medical care

Harris Hospital, Fort Worth  
AH77-1221-008

DR—That neither an exemption certificate or certificate of need is required to purchase 35 percent interest in Fifth Avenue Clinic, Fort Worth, which consists of office space for five physicians and ancillary support services of Harris Hospital

South Dallas Dialysis Center, Dallas  
AS77-1222-017

EC—Relocate center to 1525 West Mockingbird Lane, Dallas, and expand peritoneal service from two to four stations

Timberlawn Psychiatric Hospital, Inc., Dallas  
AH77-1221-017

EC/DR—Consolidate family and marital-oriented services currently offered into the Timberlawn Clinic for Family and Marital Assessment with renovation of existing clinic and purchase of videotaping and audiotaping equipment.

Dallas North Dialysis Center, Dallas  
AS77-1222-020

**EC**—Relocate four home-training stations from Southwestern Dialysis Center to Dallas North Dialysis Center, add three self-care training stations, and redesignate approved service to allow either hemodialysis and/or self-care dialysis on existing 10-chair capacity

Oak Cliff Dialysis Center, Dallas  
AS77-1222-023

**EC**—Add four hemodialysis machines to facility presently licensed for eight machines

Fort Bend Nursing Home, Rosenberg  
AN77-1219-005

**EC**—Construct a 600 square-foot building for laundry

Issued in Austin, Texas, on December 29, 1977.

Doc. No. 777411      William D. Darling  
                                 General Counsel  
                                 Texas Health Facilities Commission

Filed: December 29, 1977, 11:49 a.m.

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

## Texas Department of Human Resources

### Notice of Hearing on Health Care for the Elderly and the Handicapped

A public hearing on health care for the elderly and the handicapped will be held on Friday, January 13, 1978, from 9 a.m. until noon, in the Town Hall Room, City Hall, 118 East Tyler, Harlingen. Registration will begin at 8:30 a.m.

The purpose of the hearing is to obtain information from providers, recipients, and other interested parties regarding

alternate care, the need for home care services, gaps in service availability, problems and issues in service delivery, means of cooperation between agencies, and funding issues.

The hearing is sponsored by the Texas Department of Human Resources in a joint effort with the Texas Legislature. Senator Chet Brooks will chair the hearing.

In conjunction with this hearing, a series of six other hearings will be conducted across the state from January through July, 1978. Announcements will be made for these hearings as dates and sites are confirmed.

The hearing in Harlingen will be followed on the afternoon of the 13th by a hearing on nursing home issues, conducted by the Senate Committee on Human Resources, also chaired by Senator Brooks.

For additional information, please contact Dr. Suzette Ashworth in Austin at (512) 459-4291.

Issued in Austin, Texas, on December 28, 1977.

Doc. No. 777384      Marilyn P. Gips  
                                 Chief, Systems and Procedures  
                                 Bureau  
                                 Texas Department of Human  
                                 Resources

Filed: December 28, 1977, 5 p.m.

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

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