

# TEXAS REGISTER

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Office of the Secretary of State

USPS Publication Number 120090

# NOTES ON THE ISSUE

The Commission on Law Enforcement Officer Standards and Education adopts rules governing peace officer qualification certificates and providing for the issuance of separate temporary and permanent qualification certificates, in addition to proficiency certificates at three levels. The adoption, designed to protect the interests of the officers' survivors in the benefits available under state and federal law when an officer is killed in the line of duty, documents the date when the officer was certified by the commission as qualified to be a peace officer or a reserve officer. Further, the adoption is intended to help resolve questions raised in the trial of criminal cases and in civil liability cases as to the authority and qualifications of the individual to act as a peace officer.

The Texas Water Development Board has adopted 930 pages of rules to govern operations of the Department of Water Resources, replacing emergency rules effective since September 1. Because of the volume of this adoption, the text of the rules is not being published. Summaries and procedures for obtaining the full text appear in the Adopted Rules section.

The text of a recent adoption by the Texas State Board of Public Accountancy appears in the In Addition section.

*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

The *Texas Register* is published twice weekly, at least 100 times a year by the Texas Register Division, Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711, telephone (512) 475-7886.

The *Register* contains executive orders of the governor; summaries of attorney general's opinions and summaries of requests for opinions; emergency rules, proposed rules, and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas.

Subscriptions are \$25 for one year. Back issues, when available, are \$1 each.

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*Steven C. Oaks  
Secretary of State*

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## Appointments

### State Board of Barber Examiners

*For six-year terms to expire May 19, 1983:*

Remolo Joe Picciandra  
5001 Rollingwood Drive  
Austin, Texas 78746

Mr. Picciandra is replacing Thomas J. Hullum of Burnet, Burnet County, whose term expired.

Helen Spears  
1923 Timbergrove Circle  
Dallas, Texas 75208

Mrs. Spears is replacing H. M. Lynn D'Lynn of Houston, Harris County, whose term expired.

### State Board of Control

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

Charles S. Coates  
Route 3, Box 68B  
Brenham, Texas 77833

*For a six-year term to expire August 31, 1983:*

A. Sam Waldrop  
1133 Glenwood  
Abilene, Texas 79605

Mr. Coates is being reappointed. Mr. Waldrop is replacing Howard Boswell of Austin, Travis County, whose term expired.

### Texas Cosmetology Commission

*For six-year terms to expire December 31, 1983:*

Nettie Jim Carter  
Box 184  
Petrolia, Texas 76377

James A. McMullen III  
2432 Colonial Parkway  
Fort Worth, Texas 76109

Mrs. Carter is replacing Peggy Gutierrez of Laredo, Webb County, whose term expired. Mr. McMullen is being reappointed.

### Advisory Council for Developmental Disabilities

*For a six-year term to expire July 29, 1980:*

Jim B. Grey  
4617 Houghton  
Fort Worth, Texas 76107

Mr. Grey is replacing Lou M. Ellis of Dallas, Dallas County, who resigned.

### Good Neighbor Commission

*For six-year terms to expire June 18, 1983:*

Arnaldo Ramirez, Sr.  
504 Doherty  
Mission, Texas 78572

Mayor Ramirez is replacing Dan R. Eddy, Jr., of Dallas, Dallas County, whose term expired.

W. Lane (Pic) Rivers  
13635 Pine Rock  
Houston, Texas 77079

Mrs. Rivers is replacing Mrs. Jimmy Day of Brookshire, Waller County, whose term expired.

Jose Alvarado, Jr.  
4501 Bluebelle Street  
Corpus Christi, Texas 78416

Mr. Alvarado is replacing Mrs. Randall Nye of Rio Grande City, Starr County, whose term expired.

### Texas Judicial Council

*For six-year terms to expire July 1, 1981:*

Ben G. Sewell  
81 Saddle Brook Lane  
Houston, Texas 77024

Mr. Sewell is replacing Hugh M. Patterson of Houston, Harris County, who resigned.

Grant Cook  
12522 Mossycup Drive  
Houston, Texas 77024

Mr. Cook is replacing W. St. John Garwood of Austin, Travis County, who resigned.

*For a four-year term to expire January 1, 1981:*

Martin Dies, Jr.  
Chief Justice, 9th Court of Civil Appeals  
Courthouse  
Beaumont, Texas 77701

Judge Dies is replacing Justice T. C. Chadick who resigned. Judge Dies is being shifted on this council from his expired term representing an attorney on the council to Justice Chadick's term representing the Court of Civil Appeals.

*To be effective February 1, 1978, for a four-year term to expire January 1, 1979:*

Ross E. Doughty, Jr.  
Judge, 6th Administrative Judicial District  
Courthouse  
Uvalde, Texas 78801

Judge Doughty is replacing Judge Louis T. Holland of Montague, Montague County, who resigned.

### Advisory Committee to the Natural Resources Council

*Pursuant to Senate Bill 576, 65th Legislature, Regular Session, for terms to expire August 31, 1979:*

John P. Gayle, Jr.  
P.O. Box 712  
West Columbia, Texas 77486

Joe H. Browning  
240 La Jolla  
Athens, Texas 75751

Peter E. Refakis  
210 Leming Street  
Corpus Christi, Texas 78404

John B. Armstrong  
P.O. Box 191  
Kingsville, Texas 78363

William Rapp  
1169 South Tenth Street  
Raymondville, Texas 78580

*For terms to expire August 31, 1981:*

Malcolm M. Kasanoff  
107 Arcadia Drive  
Harlingen, Texas 78550

Earnest H. Cockrell  
Suite 999, The Main Building  
1212 Main Street  
Houston, Texas 77002

Lola L. Bonner  
Drawer 908  
Rockport, Texas 78382

Jerry Kane  
1009 Sudan  
Corpus Christi, Texas 78412

Edna Fuller  
7682 Chantilly  
Galveston, Texas 77551

*For terms to expire August 31, 1983:*

Hubert Oxford III  
2477 Long  
Beaumont, Texas 77702

Reynaldo G. Garza, Jr.  
1874 Sancho Panza Circle  
Brownsville, Texas 78520

Marlin N. Thompson, Jr.  
Route 2, 5016 Bob Hall Road  
Orange, Texas 77630

George R. Brown, Sr.  
P.O. Box 1192  
Bay City, Texas 77414

*To be member and chairman:*

Corbin J. Robertson, Jr.  
601 Jefferson Street  
Houston, Texas 77002

## Policy Board for Services to the Visually Handicapped

*For two-year terms to expire June 21, 1979:*

Garland Wade  
1211 Ruth Avenue  
Austin, Texas 78757

Mrs. Harry C. Bartel  
6103 Cherrylawn Circle  
Austin, Texas 78723

Mrs. Ben H. Bennett  
831 Cherry Street  
Uvalde, Texas 78801

Mitchel Wong  
1700 Stoneridge Terrace  
Austin, Texas 78746

W. A. Criswell  
5901 Swiss Avenue  
Dallas, Texas 75214

The above appointees are being reappointed.

Criss Cole  
6131 Hurst Street  
Houston, Texas 77008

Judge Cole is replacing Lowell Lebermann of Austin, Travis County, who resigned.

*For two-year terms to expire June 21, 1979:*

Frankie Sawyer  
6805 Mira Loma Lane  
Austin, Texas 78723

Margaret Ann Hansen  
4025 Tripoli  
Corpus Christi, Texas 78411

Wilbur C. Treadwell, Jr.  
7311 Waterline Road  
Austin, Texas 78731

Suzanne Pilgrim  
4908 Rollingwood  
Garland, Texas 75041

Mrs. Sawyer is replacing Robert E. Crider of Houston, Harris County, who resigned. Miss Hansen is replacing James Paul Gips of League City, Galveston County, who resigned. Dr. Treadwell is replacing Whitney G. Sampson of Houston, Harris County, whose term expired. Ms. Pilgrim is replacing Georgis M. Myers of Austin, Travis County, whose term expired.

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781075-  
781076

Dolph Briscoe  
Governor of Texas

781028-  
781030

For further information, please call (512) 475-4571.

## State Securities Board

*For a six-year term to expire January 20, 1981:*

J. C. Pace, Jr.  
6308 Indian Creek  
Fort Worth, Texas 76116

Mr. Pace is replacing W. Gene Goodnight of Killeen, Bell County, who resigned.

## Requests for Opinions

### Summary of Request for Opinion RQ-1815

Request from M. L. Brockette, commissioner of education, Austin.

**Summary of Request:** Does the Open Records Act make public the technical proposal of a contractor who has been hired by the Texas Education Agency to evaluate the educational attainments of selected groups of students?

Doc. No. 781078

### Summary of Request for Opinion RQ-1816

Request from Eliseo Sandoval, executive director, Associated City/County Economic Development Corporation of Hidalgo, Edinburg.

**Summary of Request:** Is the Associated City/County Economic Development Corporation of Hidalgo County a governmental body under the terms of the Texas Open Records Act?

Doc. No. 781079



## Opinions

### Summary of Opinion H-1123

Request from Henry Wade, District Attorney, Dallas County, Dallas, concerning whether a county may contract with a private organization for the operation of a rape crisis center.

**Summary of Opinion:** With the cooperation of the sheriff or criminal district attorney, the Dallas County Commissioners Court may provide funds for a contract with a rape crisis center for the performance of services which the county itself might have performed and which are designed to encourage enforcement of criminal laws involving sexual assault.

Doc. No. 781019

### Summary of Opinion H-1124

Request from Edward L. Poole, county attorney *pro tempore*, Amarillo, concerning the disposition of fines levied for failure to appear in court for an alleged violation of a game, fish, or park law.

**Summary of Opinion:** Section 12.106 of the Parks and Wildlife Code, which authorizes the imposition of a fine of alleged violators of fish, game, and park laws who fail to appear in court, is not a "law relating to the protection and conservation of . . . wildlife." Hence, fines collected under it are not subject to Section 12.107, providing for remission of a percentage of certain fines to the Parks and Wildlife Department.

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781077      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

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

# EMERGENCY RULES

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

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

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

## Texas State Board of Dental Examiners

### Conduct

#### Mobile and Moveable Offices 382.19.16.002

The Texas State Board of Dental Examiners has adopted an amendment to Rule 382.19.16.002 as an emergency to insure that treatment begun can be completed on welfare patients and to protect the public health and welfare of the citizens of this state.

This emergency amendment is promulgated under the authority of the Texas Administrative Procedure Act, Rule 382.13.02.050(d) of the Dental Board's Rules of Procedure Governing Grievances, Hearings, and Appeals, and Article 4551d of the Revised Civil Statutes of Texas, as amended.

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

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

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

(c) The name, address, and Texas dental hygiene license number of each dental hygienist who will perform hygiene service.

(d) The name and address of all auxiliary personnel who will be in attendance.

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

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

(g) A general listing of all dental equipment in working order in the mobile unit.

(h) *The source of financing or funding of the project to insure completion of services to be rendered.*

Doc. No. 780840

#### 382.19.16.004, .005

The Texas State Board of Dental Examiners has adopted Rules 382.19.16.004 and 382.19.16.005 as emergency rules. These rules are necessary to protect the health and welfare of welfare recipients being treated by dentists in mobile vans because unlimited time of treatment and failure to report to the board has been detrimental to welfare patients in specific areas.

These emergency rules are promulgated under the authority of the Texas Administrative Procedure Act, Rule 382.13.02.050(d) of the Dental Board's Rules of Procedures Governing Grievances, Hearings, and Appeals, and Article 4551d of the Revised Civil Statutes of Texas, as amended.

*.004. Time Limitation.* Any approval granted hereunder is for a maximum of 30 calendar days but may be renewed upon proper application and approval by the board.

*.005. Report to the Board.* Within 30 days after the expiration of any approval granted hereunder, a report is to be made to the board detailing the number of patients examined and/or treated and the nature of such examinations and treatment.

Doc. No. 780838

## Professional Corporations 382.25.00

The Texas State Board of Dental Examiners has adopted an amendment to Rule 382.25.00.003 on an emergency basis. The substitution of the words "dental members of" for the present language, "dentists employed by," is immediately necessary as an emergency amendment because it conflicts with the final sentence of this section and destroys the intent of the rule. Such amendment is necessary to protect the many dentists who have incorporated under this section and have dental employees, and it is necessary for the protection of the public welfare.

This emergency amendment is promulgated under the authority of the Texas Administrative Procedure Act, Rule 382.13.02.050(d) of the Dental Board's Rules of Procedures Governing Grievances, Hearings, and Appeals, and Article 4551d of the Revised Civil Statutes of Texas, as amended.

*.003. Change in Corporate Memberships.* All *dental members of* [dentists employed by] the corporation must practice dentistry in the office of the corporation, and each of their names must be in the corporate name, either by being incorporators or by charter amendment. The corporate papers of an incorporated dental practice must be amended within one year to properly reflect any changes, additions, or deletions in the dental personnel therein performing any dental service therein and copies of such amendment forwarded to the board office. Provided, further, the names of the dental prac-



tioners not members of the corporation must be listed under the corporate name on or near the entrance of such dental office.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 780842 Carl C. Hardin, Jr.  
Executive Director  
Texas State Board of Dental Examiners

Effective Date: February 3, 1978

Expiration Date: April 4, 1978

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

## Texas Department of Labor and Standards

### Employment Agency Division

#### Labor Agencies 063.22.10

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to Rule 063.22.10.012(b), which outlines the fee that must be paid for the labor agency examination.

The department has received comment from representatives of growers organizations, growers, and labor recruiters complaining that the current examination fee of \$25 is high and only makes the cost of licensing that much higher. After careful study by the staff of the department, we tend to agree with these comments.

This emergency amendment is promulgated under the authority of Article 5221a-5, Texas Civil Statutes.

#### .012. Examinations.

(b) The fee for such examination shall be \$10(\$25) per person per examination. An applicant may take the examination until he achieves a satisfactory score, but each retest will require a separate examination for which a \$10 [\$25] fee will be charged. Successful completion of this examination is a prerequisite of the issuance of a license under this statute.

Doc. No. 781064

### Mobile Home Division

#### Fee Structure 063.55.06

The following rule is intended to comply with specific requirements of the rules (24 Code of Federal Regulations 3282) promulgated by the U.S. Department of Housing and Urban Development, pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, relating to State Administrative Agency (SAA) approvals. The Department of Labor and Standards, in its state plan application submittal for participation in the federal program, is required to promulgate the fee rule. The department has concluded that the requirement imposed by the HUD regulations creates an imminent peril in the event of loss of SAA approval, thereby terminating the department's inspection capabilities.

This rule is promulgated under authority of Texas Civil Statutes, Article 5221f and Article 6252-1-a.

.009. *Monitoring Inspection Fee.* There shall be a fee of \$19 to be paid by each mobile home manufacturer in this state for each mobile home produced in this state. The monitoring inspection fee has been established by the Secretary of the Department of Housing and Urban Development (pursuant to Rule 307 at 24 CFR 3282), who shall distribute the fees collected from all mobile home manufacturers among the approved and conditionally approved states based on the number of new mobile homes whose first location after leaving the manufacturing plant is on the premises of distributor, dealer, or purchaser in that state, and the extent of participation of the state in the joint monitoring program established under the National Mobile Home Construction and Safety Standards Act of 1974.

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781035 G. L. "Lynn" Tate  
Commissioner  
Texas Department of Labor and  
Standards

Effective Date: February 7, 1978

Expiration Date: June 7, 1978

For further information, please call (512) 475-5712.

## Texas Private Employment Agency Regulatory Board

### Procedures and Regulations 398.01.00

The Texas Private Employment Agency Regulatory Board is repealing Emergency Rule 398.01.00.011(a), to become effective immediately upon filing with the secretary of state. This emergency provision is being repealed because of the public comment that has been received in opposition to the rule.

This rule is repealed under the authority of Texas Civil Statutes, Article 5221a-6.

#### .011. Fees to Applicants.

(a) A fee charged to applicants by employment agencies shall not exceed the following percentages, if the projected annual gross earnings are:

\$0 to \$4,999.99—four percent;  
\$5,000 to \$5,999.99—five percent;  
\$6,000 to \$6,999.99—six percent;  
\$7,000 to \$7,999.99—seven percent;  
\$8,000 to \$8,999.99—eight percent;  
\$9,000 to \$9,999.99—nine percent;  
\$10,000 to \$10,999.99—10 percent;  
\$11,000 to \$11,999.99—11 percent;  
\$12,000 to \$12,999.99—12 percent;  
\$13,000 to \$13,999.99—13 percent;  
\$14,000 to \$14,999.99—14 percent;  
\$15,000 to \$15,999.99—15 percent;  
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 \$71,000 to \$71,999.99—71 percent;  
 \$72,000 to \$72,999.99—72 percent;  
 \$73,000 to \$73,999.99—73 percent;  
 \$74,000 to \$74,999.99—74 percent;  
 \$75,000 to \$75,999.99—75 percent;  
 \$76,000 to \$76,999.99—76 percent;  
 \$77,000 to \$77,999.99—77 percent;  
 \$78,000 to \$78,999.99—78 percent;  
 \$79,000 to \$79,999.99—79 percent;  
 \$80,000 to \$80,999.99—80 percent;  
 \$81,000 to \$81,999.99—81 percent;  
 \$82,000 to \$82,999.99—82 percent;

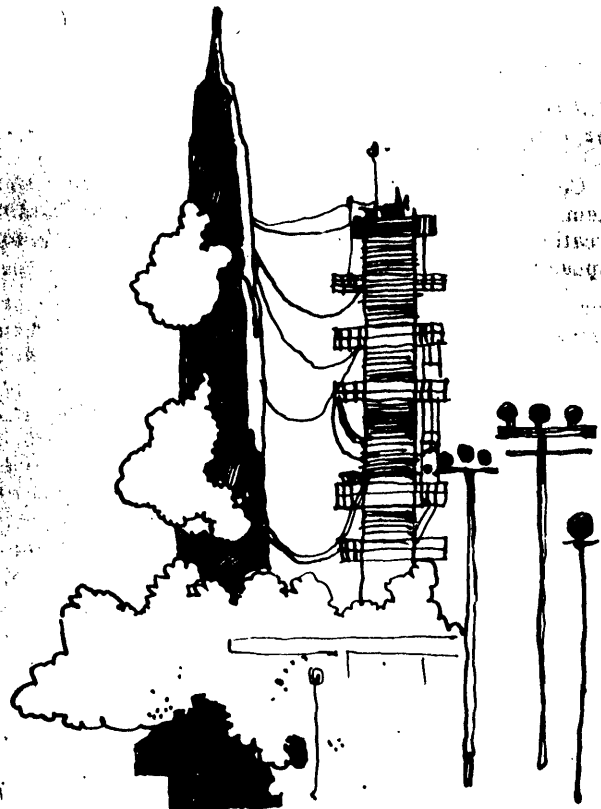
\$83,000 to \$83,999.99—83 percent;  
 \$84,000 to \$84,999.99—84 percent;  
 \$85,000 to \$85,999.99—85 percent;  
 \$86,000 to \$86,999.99—86 percent;  
 \$87,000 to \$87,999.99—87 percent;  
 \$88,000 to \$88,999.99—88 percent;  
 \$89,000 to \$89,999.99—89 percent;  
 \$90,000 to \$90,999.99—90 percent;  
 \$91,000 to \$91,999.99—91 percent;  
 \$92,000 to \$92,999.99—92 percent;  
 \$93,000 to \$93,999.99—93 percent;  
 \$94,000 to \$94,999.99—94 percent;  
 \$95,000 to \$95,999.99—95 percent;  
 \$96,000 to \$96,999.99—96 percent;  
 \$97,000 to \$97,999.99—97 percent;  
 \$98,000 to \$98,999.99—98 percent;  
 \$99,000 to \$99,999.99—99 percent;  
 \$100,000, and above, by individual contract between the ap-  
 plicant and the agency.

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781065      Thomas H. Haynie  
 Chairman  
 Texas Private Employment Agency  
 Regulatory Board

Effective Date: February 7, 1978  
 Expiration Date: June 7, 1978

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



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.

## Coordinating Board, Texas College and University System

### Program Development

#### Approval and Operation of Community/ Junior College Branch Campuses 251.02.22

The Coordinating Board, Texas College and University System, is proposing to adopt Subchapter 251.02.22 relating to creation of out-of-district community/junior college branch campuses.

Texas statutes and Coordinating Board policies and procedures provide for the creation of new public community/junior college districts when minimum criteria for financial support (tax base) and population are met. Law and board rules provide for out-of-district educational services by existing public community/junior colleges for unserved areas where need can be demonstrated but where minimal criteria for establishing a public community/junior college cannot be met. If any area of the state were to meet the provisions for the creation of a new community/junior college, this would not be in conflict with the board's position opposing the creation of new senior colleges and universities.

The staff of the Coordinating Board has determined that there are no fiscal implications for the state or any unit of local government that would result from these rules.

Public comment on the proposed adoption of Subchapter 251.02.22 is invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the Coordinating Board at (512) 475-4361 or by writing to the Coordinating Board at P.O. Box 12788, Austin, Texas 78711.

The adoption of Subchapter 251.02.22 is proposed under the authority of Section 130.086, Vernon's Texas Codes Annotated.

**.001. Purpose.** These rules and regulations define branch campuses of public community/junior colleges and provide for the establishment, authorization, and operation of such campuses.

**.002. Authority.** A community/junior college branch campus must be authorized by the Coordinating Board, Texas College and University System, upon application by the governing board of the parent community/junior college district or upon reclassification of an out-of-district center or extension facility by the Coordinating Board.

**.003. Definitions.** Out-of-district units of community/junior colleges are of two types:

(1) centers or extension facilities, which are subject to Coordinating Board Rules 251.02.12; and,

(2) branch campuses, which are subject to the rules and regulations provided herein. Branch campuses of community/junior colleges operate as out-of-district units of existing community/junior college districts for the purpose of providing the programs outlined by the role and scope statements below on an on-going and permanent basis in an area that satisfies or exceeds statutory and board requirements for the establishment of a community/junior college but does not include such college.

**.004. Conversion and Establishment Provisions.** Consistent with the statutory purposes of a public community/junior college as set out under Rule .005(1) below and in accordance with Coordinating Board guidelines that no community/junior colleges be established without sufficient local support, whenever any center or extension facility reaches an enrollment of 1,500 headcount students in state-supported credit courses, it must exercise one of the options below:

- (1) establish its own community junior college;
- (2) merge with the parent district by annexation;
- (3) convert to a branch campus according to these rules;
- (4) maintain the center or extension facility with fewer than 1,500 headcount students in state-supported credit courses.

**.005. Procedures.** In accordance with a format established by the Coordinating Board staff, each institution wishing to create a branch campus must complete an application documenting that it meets the following criteria:

- (1) Role and scope. In its program aspects, a branch campus of a public community/junior college is equivalent to an independent community college; therefore, in accordance with Vernon's Texas Codes Annotated, Education Code 130.003, Subsection (e), it must provide:
  - (A) technical programs up to two years in length leading to associate degrees or certificates;
  - (B) vocational programs leading directly to employment in semiskilled and skilled occupations;
  - (C) freshman and sophomore courses in arts and sciences;
  - (D) continuing adult education programs for occupational or cultural upgrading;

(E) compensatory education programs designed to fulfill the commitment of an admissions policy allowing enrollment of disadvantaged students;

(F) a continuing program of counseling and guidance designed to assist students in achieving their individual student goals; and,

(G) such other purposes as may be prescribed by the Coordinating Board, Texas College and University System, or local governing boards, in the best interest of postsecondary education in Texas.

(2) Minimum size. The minimum headcount enrollment necessary to establish a branch campus is 1,000 students in state-supported credit courses in the most recent Fall semester. In calculating the enrollment necessary for branch campus establishment or conversion, junior college out-of-district credit enrollment figures will be determined by including the credit students enrolled within the area served by the proposed branch campus. Such areas are defined by school district and/or county boundaries.

(3) Programs and courses. All courses, programs, and degrees must be offered in the name of the parent district; the following criteria will be applied in determining approval:

(A) offerings must be planned and must meet the purposes as described under "role and scope," (1), above;

(B) student records will indicate all courses which are taken at a branch campus;

(C) courses and programs must be developed and operated with the on-going assistance and involvement of the parent district faculty and staff;

(D) at least one half of the instructional faculty teaching at the branch campus must be full-time, permanent instructors in the district's employ.

(4) Description of staffing plan. A separate budget, administration, and support staff sufficient to meet the needs of faculty and students at the branch campus must be maintained.

(5) Funding.

(A) There must be evidence and assurances of a continuing local source of financial support.

(B) Minimum local support must be provided at a level not lower than that provided for the parent college by the parent district or, in the absence of a local tax for the parent district equivalent to the statewide average for junior college districts. Local support may not be made up entirely of student tuition and fees.

(C) Separate accounts for the branch campus will be kept and financial reports submitted as required for community/junior college districts.

(D) State aid will be earned according to appropriate formula rates for in-district courses.

(6) Facilities. Description of real property acquired by purchase, rent, or gift according to Education Code 130.086 must be provided. No formula-generated funds may be used for the purchase, rent, operation, or maintenance of such facilities. Provision of facilities, including the cost of maintenance and operation, is the responsibility of the area within which the branch campus operates.

(7) Regional higher education council review and certification. The regional higher education council within which the branch campus is proposed must review the branch campus application. Should an institution other than the one nearest to the proposed location apply, the council (or councils if the proposed location is between institutions in two or more councils) must recommend to the commissioner of high-

er education the appropriate institution. Council minutes must reflect discussions of the proposal with all public and private colleges and universities within the council(s) affected.

.006. *Continuing Coordinating Board Supervision.*

(a) Program offerings must continue to meet the requirements provided by .005(1) above; exceptions must be approved by the Coordinating Board.

(b) The branch campus must continue to meet the requirements provided by .005 (5) (funding) and .005 (6) (facilities) above; exceptions must be approved by the Coordinating Board.

.007. *Reclassification.*

(a) The territory within which a branch campus of a community/junior college is operated may elect to apply to the Coordinating Board to establish its own junior college at any time in accordance with Coordinating Board rules for establishing such an institution.

(b) The Coordinating Board may withdraw approval for a branch campus whenever the board determines that conditions warrant such action. Such conditions include:

(1) evidence of local effort to establish its own junior college district; such local effort will be reviewed by the Coordinating Board as to the feasibility of establishing a separate junior college or a merger with the parent district;

(2) decline in enrollment below that required to establish a branch campus;

(3) failure to maintain the required level of local support.

.008. *Exclusion and Restrictions.* Community/junior college out-of-district centers of extension facilities which meet or exceed the requirements for the establishment of a branch campus as of the effective date of these rules shall be individually reviewed by the Coordinating Board to determine the feasibility and desirability of applying these rules to them.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 781007

Kenneth H. Ashworth  
Commissioner of Higher Education

Proposed Date of Adoption: March 17, 1978

For further information, please call (512) 475-4361.

## Texas State Board of Dental Examiners

### Conduct

#### Mobile and Moveable Offices 382.19.16.002

The Texas State Board of Dental Examiners is proposing to permanently adopt an amendment to Rule 382.19.16.002 to insure that treatment begun can be completed on welfare patients and to protect the public. The text of this amendment appears in the Emergency Rules section of this issue.

This amendment has no fiscal implication for the state or for units of local government.

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

This amendment is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas, as amended. The proposed date of adoption is March 16, 1978.

Doc. No. 780841

**382.19.16.004, .005**

The Texas State Board of Dental Examiners is proposing two new rules which are necessary to protect the health and welfare of welfare recipients being treated by dentists in mobile vans because unlimited time of treatment and failure to report to the board has been detrimental to welfare patients in specific areas. The text of these rules appears in the Emergency Rules section of this issue.

These new rules have no fiscal implications for the state or for units of local government.

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

These rules are proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas, as amended. The proposed date of adoption is March 16, 1978.

Doc. No. 780839

**Professional Corporations 382.25.00**

The Texas State Board of Dental Examiners is proposing to permanently adopt an amendment to Rule 382.25.00.003, as it appears in the Emergency Rules section of this issue.

This amendment has no fiscal implication for the state or for units of local government.

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

This amendment is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas, as amended. The proposed date of adoption is March 16, 1978.

Doc. No. 780843

**Texas Education Agency  
Foundation School Program  
Transportation 226.41.07.020**

The Texas Education Agency proposes to amend Rule 226.41.07.020 concerning transportation under the Foundation School Program. Districts which have cooperative transportation agreements with colleges will be entitled to funds equal to the actual cost of these services, not to exceed \$80 per student in 1977-78 and \$84 in 1978-79.

The Texas Education Agency has determined that the proposed change in Rule 226.41.07.020 is estimated to have no state or local fiscal implications.

Public comment on the proposed amendment to Rule 226.41.07.020 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Section 16.005 and Subchapter F, Chapter 16, Texas Education Code.

*.020. Cooperative Transportation Agreement with Colleges.*

(a) Policy. Public tax-supported junior colleges and public tax-supported school districts may enter into contracts with each other for the transportation of students who are enrolled and in attendance in either institution.

(b) Administrative procedure. State funds are appropriated only for the transportation of public school pupils. *Districts where students are transported on college buses are entitled to funds equal to the actual cost of these services, not to exceed \$80 per eligible student per year in 1977-78 and \$84 in 1978-79. These amounts shall be prorated for any student enrolled for less than the full year. Districts must have documentation available to verify the actual costs for these services.* [To allocate funds for students transported on college buses, one of the following methods, whichever causes the least cost to the Foundation School Program Transportation Fund, is used:

[(1) calculation of the college route as if it were a regular public school bus route with the capacity being the number of eligible public school pupils transported; or

[(2) allocation of \$75 per pupil per year.] All funds allocated for transportation of public school students by colleges must be paid by the district to the college. Any amount mutually agreeable to both the college and the public school transportation unit may be charged for college students transported by public schools. College student transportation payments are deposited in the county or district transportation fund and used for the payment of transportation costs.

Doc. No. 780853

**226.41.07.031**

The Texas Education Agency proposes to amend Rule 226.41.07.031 concerning transportation under the Foundation School Program. The proposed amendment incorporates into Rule 226.41.07.031 the Administrative Procedure section, which was erroneously included in Rule 226.41.07.038 in the original filing. The formula amounts for transportation allocations are increased in accordance with Senate Bill 1 (65th Legislature, Special Session).

The Texas Education Agency estimates the costs for the provision of regular transportation services under the Foundation School Program as follows:

FY 78	\$ 55,652,000
FY 79	61,453,000
FY 80	62,000,000

FY 81	62,500,000
FY 82	63,000,000

These costs are shared jointly by the state and by school districts under the financing provisions of the Foundation School Program. (Section 16.251, Texas Education Code.)

Public comment on the proposed amendment to Rule 226.41.07.031 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Section 16.005 and Subchapter F, Chapter 16, Texas Education Code.

(a) Policy. The calculation of cost allotments for transportation services shall be as specified by law.

(b) Administrative procedure. *For the 1977-78 school year, the allowable total base cost of maintenance, operation, salaries, depreciation, and other costs for each provided bus route is:*

Capacity of Bus	Base Cost Per Year
72 or more	\$ 5,701
60-71	5,492
49-59	5,283
42-48	5,074
30-41	4,866
20-29	4,657
15-19	3,821
1-14	161 per pupil per year

*For the 1978 school year and thereafter, the allowable total base cost of maintenance, operation, salaries, depreciation, and other costs for each bus route shall be 105 percent multiplied by the allowable total base cost for each bus during the 1977-78 school year. Adjustments to base cost are made as follows:*

(1) for each one percent of travel over dirt roads in excess of 40 percent of the total route length, one half of one percent of base cost allowable is added;

(2) for each five miles or major fraction of five miles in total route length in excess of 55 miles, one percent of the total base cost allowable is added;

(3) for each five miles or major fraction of five miles in total route length less than 45 miles, one percent of the total base cost allowable is deducted;

(4) for routes operated less than the full school year, the allowable, including all adjustments, is prorated on the portion of the school year the route operated.

*If pupils who attend districts which receive transportation funds from the Foundation School Program are transported on buses operated by "budget balance" school districts, each pupil's pro rata share of the allowable cost, including adjustments of the bus route over which he is transported, will be paid to the district he attends.*

## 226.41.07.033-.038

The Texas Education Agency proposes to repeal Rules 226.41.07.033-.038 concerning transportation under the Foundation School Program. All of this material is duplicated elsewhere in the 226.41.07 subchapter. The proposed change is editorial only.

The Texas Education Agency has determined that this proposed change has no state or local fiscal implications.

Public comment on the proposed repeal of Rules 226.41.07.033-.038 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rules are proposed for repeal under the authority of Section 16.005 and Chapter 16, Subchapter F, Texas Education Code.

.033. *Private and Commercial Transportation.* The commissioner of education may approve private or commercial transportation for individual children who live in isolated areas and in cases of extreme hardship. Reference: Section 16.56, Texas Education Code.

.034. *Contract with Public Transportation Company.* Funds may be allocated to transportation units which have, with the approval of the State Board of Education, contracted all or part of their transportation services to a public transportation company. Reference: Section 16.63, Texas Education Code.

.035. *Transportation for Exceptional Children.* The commissioner of education may allocate funds for the transportation of exceptional children as specified by law. (Exceptional Pupil Eligibility, Policy 34.62; Special Transportation for Exceptional Pupils, Policy 35.72.) Reference: Section 16.62, Texas Education Code.

.036. *Transportation of Kindergarten Pupils at Mid-Day.* Reimbursement for additional regular transportation routes for the purpose of transporting eligible kindergarten pupils to or from school at mid-day shall be on the basis of 50 percent of that allocated under the regular transportation formula.

.037. *Transportation for Vocational Education Students.* The commissioner of education shall reimburse school districts for the transportation of vocational education students based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the commissioner of education.

.038. *Transportation for Children Enrolled in Required Statewide Bilingual Education Programs.* Each school district operating an approved program of bilingual education for children of limited English-speaking ability shall be reimbursed for the cost of transporting eligible students from one campus to another within a district or from one district to another when the home district does not offer a bilingual education program. Reference: Section 21.460, Texas Education Code.

**Administrative procedure.** The allowable total base cost of maintenance, operation, salaries, depreciation, and other costs for each approved bus route is:

Capacity of Bus	Base Cost Per Year
72 or more	\$ 5,323
60-71	\$ 5,128
49-59	\$ 4,933
42-48	\$ 4,738
30-41	\$ 4,543
20-29	\$ 4,348
15-19	\$ 3,568
1-14	\$ 150 per pupil per year

**Adjustments to base cost are made as follows:**

(1) For each one percent of travel over dirt roads in excess of 40 percent of the total route length, one half of one percent of base cost allowable is added.

(2) For each five miles or major fraction of five miles in total route length in excess of 55 miles, one percent of the total base cost allowable is added.

(3) For each five miles or major fraction of five miles in total route length less than 45 miles, one percent of the total base cost allowable is deducted.

(4) For routes operated less than the full school year, the allowable, including all adjustments, is prorated on the portion of the school year the route operated.

If pupils who attend districts which receive transportation funds from the Foundation School Program are transported on buses operated by "budget balance" school districts, each pupil's *pro rata* share of the allowable cost, including adjustments of the bus route over which he is transported, will be paid to the district he attends.

If pupils who attend school districts which are not eligible to receive Foundation School Program transportation funds are transported by districts receiving transportation funds, each pupil's *pro rata* share of the cost allowable, including adjustments of the bus route on which he is transported, is deducted from the transporting district's allocation.

Doc. No. 780856

**226.41.07.050**

The Texas Education Agency proposes to amend Rule 226.41.07.050 concerning transportation under the Foundation School Program. Under the proposed change, districts which use private or commercial transportation will be entitled to funds equal to the actual cost of these services up to \$80 per pupil in 1977-78 and \$84 in 1978-79.

Transportation for 277 pupils in 26 school districts was provided under Rule 226.41.07.050 for the 1976-77 school year at a state cost of \$19,969. It is estimated that the number of pupils served will remain fairly constant each year and that the proposed change in the rule will result in state costs of approximately \$23,000 in 1977-78 and \$23,300 for 1978-79 and thereafter. The proposed amendment is not anticipated to have local fiscal implications.

Public comment on the proposed amendment to Rule 226.41.07.050 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Sections 16.005 and 16.206, Texas Education Code.

*.050. Private and Commercial Transportation.*

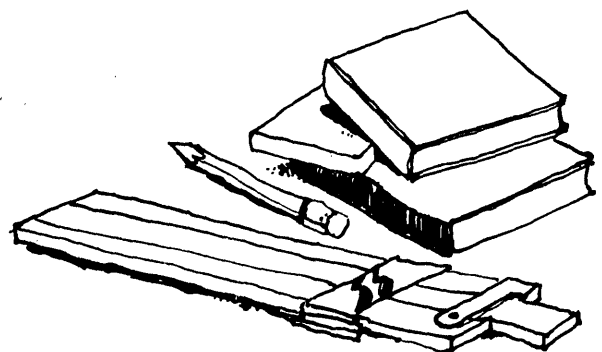
(a) Policy. The commissioner of education may approve private or commercial transportation for individual children who live in isolated areas and in cases of extreme hardship. Reference Section 16.206 [16.56], Texas Education Code.

(b) Administrative procedure. Private and commercial transportation applications are approved individually. *Districts where students are transported by private or commercial transportation are entitled to funds equal to the actual cost of these services, not to exceed \$80 per eligible pupil per year in 1977-78 and \$84 in 1978-79. These amounts shall be prorated for any students enrolled for less than the full year. Districts must have documentation available to verify the actual costs for these services.* [The private transportation allotment is the smallest of the following amounts:

- (1) the actual contract price;
- (2) \$75 per pupil per year not to exceed \$1,450 vehicle; or

(3) the allowance for mileage and drive time calculated as follows: Mileage is 10 cents per mile for the total number of miles approved for the school year. The driver time allowance is the number of approved hours spent in driving multiplied by the prevailing federal minimum hourly wage. Credit for driving time is not given if the car is operated by a pupil, teacher, or other school employee who transports pupils in the regular course of his route to school. Driver time may be allowed a pupil, teacher, or other school employee if special trips involving additional time are made in transporting pupils.]

Doc. No. 780852



## 226.41.07.070

The Texas Education Agency proposes to amend Rule 226.41.07.070 concerning funds for transportation for exceptional children. The proposed change reflects the increase in allotted per pupil amounts from \$260 to \$278 in 1977-78 and \$292 in 1978-79 and thereafter.

The Texas Education Agency estimates the state costs for providing transportation for exceptional children as follows:

FY 78	\$6,325,000
FY 79	6,700,000
FY 80	7,000,000
FY 81	7,350,000
FY 82	7,700,000

The proposed change in Rule 226.41.07.070 is not anticipated to have local fiscal implications.

Public comment on the proposed amendment to Rule 226.41.07.070 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, Associate Commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Sections 16.005 and 16.209, Texas Education Code.

### .070. Transportation for Exceptional Children.

(a) Policy. The commissioner of education may allocate funds for the transportation of exceptional children as specified by law. (Except Pupil Eligibility, Policy 34.62; Special Transportation for Exceptional Pupils, Policy 35.72.) Reference: Section 16.206 [16.62], Texas Education Code.

(b) Administrative procedure. Transportation units are allocated \$150 for each eligible exceptional pupil transported. When transportation is provided for less than nine months, the allotment is prorated.

[The allotment is computed from a listing of the pupils transported the first Monday in December. This report is due January 15 and contains a certification that all pupils transported meet the requirements of the act.]

[Funds appropriated may be used only for the transportation of exceptional pupils and are deposited in a special account or are closely accounted for in the internal fiscal records of the transporting unit.]

Districts providing transportation services for eligible exceptional students are entitled to funds equal to the actual cost of these services not to exceed **\$278 in 1977-78 or \$292 in 1978-79 and thereafter** [\$260] for each exceptional student transported. Districts must have available documentation to verify the actual costs for these services.

An allotment is computed from a listing of pupils transported at the end of the third quarter. This report is due June 15 and contains a certification that all pupils transported meet the requirements of the act. Districts operating an exceptional children transportation program in the fourth quarter shall file a supplement to the final application requesting funds for students being transported on June 15 in that quarter. This supplement is due on or before July 1.

Funds appropriated may be used only for the transportation of exceptional pupils and must be properly accounted for in the fiscal records of the transporting unit.

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 780855 M. L. Brockette  
Commissioner of Education

Proposed Date of Adoption: March 17, 1978  
For further information, please call (512) 475-7077.

## State Board of Insurance

### Rating and Policy Forms

#### Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements 059.05.01

The State Board of Insurance proposes to amend its Rule 059.05.01.001 which adopted by reference *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements*. The amendments are attached and incorporated herein by reference.

The proposed amendments have no known fiscal implications for the state or for units of local government. (Source: State Board of Insurance staff.)

The proposed amendments to the Texas Automobile Insurance Plan are generally editorial in nature with one substantive change. The editorial changes substitute the phrase "uninsured/underinsured motorists coverage" for the phrase "family protection against uninsured motorists" wherever it appears in the plan. Section 4, Administration of the Plan, is editorially amended to correct the name of one organization, eliminate one organization, and allow an additional member representation from one organization.

The substantive change in Section 6. A. 3. (d) and (e) is to allow a maximum of five cars of one risk to be assigned to each carrier. The current maximum is four cars.

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

These amendments are proposed pursuant to the authority of Article 5.10 of the Texas Insurance Code.

.001. *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements*. The State Board of Insurance adopts by reference the attached *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements as amended in February, 1978*. This document is published by and available from Texas Automobile Insurance Service Office, 221 West 6th Street, Austin, Texas 78701.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 781022 Pat Wagner  
Chief Clerk  
State Board of Insurance

Proposed Date of Adoption: March 17, 1978  
For further information, please call (512) 475-3486.



## Texas State Board of Registration for Professional Engineers

### Practice and Procedure

#### Examinations 383.01.07

The Texas State Board of Registration for Professional Engineers is proposing to amend Rule 383.01.07.001 concerning examinations. An addition to Section (b) would permit a greater number of persons to be eligible to apply for registration as professional engineers in Texas and provide the flexibility needed to allow the board members to use their discretion in determining the examination required under Section 12(b), Texas Engineering Practice Act.

The staff of the Board of Registration for Professional Engineers has determined that there are no fiscal implications for the state or any unit of local government that would result from this addition.

Public comment on the proposed addition to Rule 383.01.07.001 is invited. Comments may be submitted by telephoning the executive director, Donald C. Klein, P.E., at (512) 475-3141, or by writing to him at Room 200, Reagan Building, 1400 Congress, Austin, Texas 78701.

This addition to Rule 383.01.07.001(b) is proposed under the authority of Section 8, Article 3271a, Vernon's Annotated Texas Statutes.

**.001. Applicability.** The following will apply for persons making application under Section 12, Subsection (b), of the act.

(a) Written examinations are held in Austin or places designated by the board. Part I and Part II will normally be offered twice each year, once in the first six months and once in the second six months of each calendar year. Part I is the Fundamentals of Engineering Examination. Part II is the Principles and Practice of Engineering Examination.

(b) Applicants will not be permitted to take Part II until Part I has been passed. *(Exception: Those applicants who have a minimum of 20 years of experience which is acceptable to the board and who are at least 45 years of age may be exempted from one of the examinations.)*

Issued in Austin, Texas, on February 6, 1978.

Doc. No. 781034      Donald C. Klein, P.E.  
Executive Director  
Texas State Board of Registration for  
Professional Engineers

Proposed Date of Adoption: April 26, 1978

For further information, please call (512) 475-3141.

## Texas State Board of Examiners of Psychologists

### Practice 400.03.00

The Texas State Board of Examiners of Psychologists is proposing to amend Rule 400.03.00.008, which addressed the

contractual agreement required of certified psychologists. The phrase "or of an organization or corporation" is to be added after the phrase "licensed psychologist" in the middle of the sentence. This addition is intended to consider alternatives which may be available to certified psychologists in an employment setting.

It is anticipated that this amendment to the rule will have no fiscal implications for state or local government. (Source: Staff of Texas State Board of Examiners of Psychologists.)

Public comment on proposed amendment of Rule 400.03.00.008 is invited. Persons should submit their comments in writing to Patti Smith, Executive Secretary, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, Texas 78751.

This amendment to the rule is proposed under the authority of Article 4512c, Texas Civil Statutes.

**.008. Psychological Services by Employee.** A certified psychologist may offer psychological services as the employee of a licensed psychologist or of an organization or corporation if a contract covering that employment is on file with the board.

Issued in Austin, Texas, on February 6, 1978.

Doc. No. 781082      Patti Smith  
Executive Secretary  
Texas State Board of Examiners of  
Psychologists

Proposed Date of Adoption: March 17, 1978

For further information, please call (512) 458-3295.

## Office of the Secretary of State

### Computer Services 004.15.00

The secretary of state is proposing to amend Rule 004.15.00.001, which sets the fees charged for the extraction of information from the public records maintained on computer by the Computer Services Division of the Office of the Secretary of State. The fees set by the amendment have been established giving due consideration to the expenses involved in providing the public records, and every effort has been made to match the charges with the actual cost of providing the records.

Amendment of the rule is intended to achieve a more equitable distribution of the costs of producing public information stored on computer. The staff of the Computer Services Division estimates that there will be no additional income to the secretary of state as a result of this amendment since the aggregate charges for information will remain approximately the same. There will be no cost to units of the state and local governments as a result of this amendment.

Public comment on the proposed amendment to Rule 004.15.00.001 is invited. Comments may be submitted by telephone or in writing to John Lovelady, Director, Computer Services Division, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711, (512) 475-7881.

The amendment is proposed under the authority of Article 6252-17a, Texas Civil Statutes.

0.1. *Fees and Charges.* The following fees shall be charged for the extraction of information from the public records maintained on computer by the Computer Services Division of the Office of the Secretary of State:

(a) *CPU time—\$80 per execution hour; \$40 per execution hour for program compilation*

*Memory/Batch/On-Line—k bytes x CPU hours x \$0.45 k bytes x elapsed wall clock hours x \$0.0625*

*Disk—\$ 0.00 per program compilation; \$ 0.35 per 1,000 transfers (reads/writes)*

*Card reader—\$ 0.19 per 1,000 cards read*

*Printer—\$ 0.45 per 1,000 lines printed on stock forms provided by the performing agency; \$ 0.35 per 1,000 lines printed for program compilation; \$ 0.25 per 1,000 lines printed on forms supplied by the receiving agency*

*Magnetic tape drives—\$ 3.46 per drive per hour (elapsed time).*

[Computer time—\$36 per wall clock hour per 32k byte memory region. Jobs requiring byte memory region of more than 32k shall be prorated proportionately according to their memory requirements.]

(b) *Personnel costs:*

*Data entry and/or control—five dollars per man hour (one hour minimum)*

*Systems analysis—\$15 per man hour*

*Programming—\$12 per man hour*

[Programming—\$10 per hour.]

(c) *Supplies, authorized travel (at state allowances), and telephone tariffs used specifically for the requesting party will be at the secretary of state's costs (setup charge—six dollars per hour).*

(d) *Costs for performing services on another computer system will be charged at cost (Printouts—\$0.20 per page).*

(e) *If any information is required to be mailed, the cost of postage will be added to the charge for the information.*

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 781033

John F. Pettit

Assistant Secretary of State

Proposed Date of Adoption: March 17, 1978

For further information, please call (512) 475-7881.

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

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

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

## Texas Aeronautics Commission

### Practice and Procedure 105.01.00

Under the authority of Article 46c, Texas Civil Statutes, the Texas Aeronautics Commission has amended Rules 105.01.00.040, .084, and .120 to read as follows:

*.040. Docketing and Notice.*

(a) When the administrator receives an application or other pleading intended to initiate a nonrulemaking proceeding before the agency, and he determines that the pleading substantially complies in all material respects with these rules as to form and content, he shall forthwith assign same to a docket and, if a hearing is required, shall assign an examiner to hear the case unless such case is to be heard by the commission *en banc*.

*.084. Orders.* All orders of the commission shall be in writing and shall set forth the findings of fact and conclusions required by law, either in the body of the order or by reference to an examiner's proposal for decision. Unless otherwise permitted by statute or by these rules, all final orders shall be signed by the chairman of the commission or any other person delegated or authorized by the commission; however, interim orders may be issued for the agency by the director, the administrator, or delegated official. A copy of all orders relating to a proceeding before the agency shall be served forthwith upon all parties to such proceeding.

*.120. Suspension of Rules.* In any case in which a public emergency or imperative public necessity so requires or in any case in which the commission ascertains that the public interest will best be served and the substantive rights of no party will be unduly prejudiced, the commission may suspend the operation of these rules and, to the extent authorized by law, may authorize temporary operating authority, or temporary extension, modification, or suspension of existing authority.

Doc. No. 781083

## Aviation Facilities Development 105.03.00

Under the authority of Article 46c, Texas Civil Statutes, the Texas Aeronautics Commission has amended Rules 105.03.00.104, .105, .113, and .115-.117 to read as follows:

*.104. Eligibility.*

(a) Political subdivisions. Any city, town, county, or community in the State of Texas is eligible for state aid under the program.

*.105. Amount of Grant.* Grants will be 50/50 state/sponsor matching grants with the maximum grant to any applicant in any one fiscal year being the maximum amount set by the legislature in its biennial appropriation bill. An applicant's matching funds may be in cash, in kind, or a combination of both.

*.113. Supplemental Grants.* All airport development funds appropriated by the legislature for any fiscal year or carried forward from any previous fiscal year, and not encumbered by specific grants approved by the commission, shall be available to supplement existing grants to meet unforeseen cost overruns. The chief airport engineer may authorize supplemental grants to cover cost overruns not exceeding 15 percent of the total grant approved by the commission. The director may authorize supplemental grants to cover cost overruns not exceeding 25 percent of the total grant approved by the commission. In no event shall the total amount of the grant plus supplements exceed the maximum amount set by the legislature in its biennial appropriation bill in any one fiscal year.

*.115. Grant Payments.* Grant payments to the sponsor may be authorized upon application to the agency. Such payments will be in proportion to the amount of the project satisfactorily completed at the time of the payment application. No more than 90 percent of the total grant will be paid prior to the completion of the project. The last 10 percent of the grant will be paid only after the staff has inspected and approved the completed project and the sponsor has complied with the zoning requirements of Rule .116.

*.116. Airport Hazard Zoning and Compatible Land Use.* The sponsor shall adopt and enforce comprehensive zoning regulations to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities compatible with normal airport operations. The sponsor shall also acquire and retain aviation easements or other interests in or rights to the use of land or airspace, unless the sponsor can show that acquisition and retention of such interest will be impractical or will result in undue hardship to the sponsor. To assist the sponsor in implementing these measures, the agency, upon request from a sponsor, will provide assistance with respect to airport hazard zoning pursuant to the Texas Airport Zoning Act, Texas Civil Statutes, Article 46e-1 *et seq.*, including (1) preparation of a zoning map, (2) providing a model zoning ordinance/order and procedures for the community to pass such ordinance/order, (3) acting as an airport zoning commission. No sponsor shall be eligible for a subsequent grant under the program unless the sponsor has adopted and passed an airport hazard zoning ordinance/order.

## 117. Land.

(a) Minimum requirements. No construction project will be considered for a grant unless the applicant can assure the acquisition of sufficient land for development, operation, and maintenance of the airport or air navigational facility. This requirement shall include the amount of land needed for construction of necessary runways, taxiways, aircraft parking areas, and for initial and future construction of necessary structures, such as hangars. All land adjacent to or in the immediate vicinity of the airport must be clear of obstructions hazardous to aviation or the sponsor shall provide proof that such obstructions will be removed within the time allotted for completion of the project.

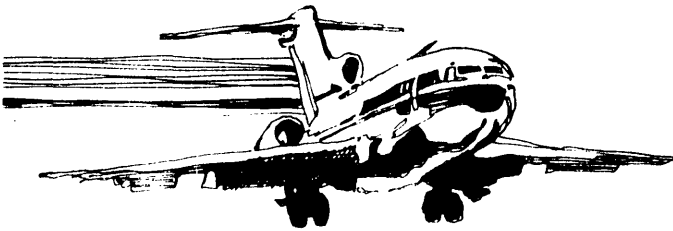
(b) Eligible costs. Only the cost of land needed for present and future development of an airport or air navigational facility and the reasonable cost of removal of an airport hazard are eligible costs under the program. The cost of land acquired subsequent to May 13, 1946, but prior to the approval of a grant, and considered necessary for the project is an eligible cost under the program.

Issued in Austin, Texas, on February 8, 1978.

Doc. No. 781084      Sam A. Lindsay  
    Legal Staff  
    Texas Aeronautics Commission

Effective Date: March 1, 1978

For further information, please call (512) 475-6977.



## Comptroller of Public Accounts

### Tax Administration

#### Sales Tax Division—State Taxes 026.02.20

The comptroller of public accounts is adopting an amendment to Sales Tax Rule 026.02.20.034 relating to wrapping and packaging and export packers.

The adopted amendment has major textual changes added after comments on the proposed amendment were obtained. The procedure in the adopted amendment sets out a simplified procedure for exempting items purchased by export packers.

The amendment exempts crating and packing supplies purchased by an exporter to export personal property under the export clause of the U.S. Constitution. It is a further

clarification of the wrapping and packaging exemption. The crating and packing supplies are exempt when used by the export packer in exporting property for purchasers who contract and pay for such services.

The export packer need not obtain a sales tax permit if all of the crating and packaging supplies are purchased for exporting tangible personal property.

The adopted amendment also reformats the existing rule to conform to *Texas Register* style guidelines.

Under the authority of Texas Taxation—General Annotated, Article 20.11(A) (1969), the comptroller of public accounts has adopted Rule 026.02.20.034 to read as follows:

#### .034. Wrapping, Packing, Packaging Supplies, Containers, Labels, Tags, and Export Packers (20.04(E)(2), 20.04(E)(3)).

##### (a) Wrapping, packing, and packaging supplies.

(1) There are exempted from the taxes imposed by the Texas Limited Sales, Excise, and Use Tax Act the receipts from the sales of all internal and external wrapping, packing, and packaging supplies and materials to any person for use in wrapping, packing, or packaging any tangible personal property for the purpose of expediting or furthering in any way the "sale or rental of tangible personal property or distribution of a newspaper." Wrapping, packing, and packaging supplies when used in connection with the furnishing of a service are taxable.

(2) For the purpose of this ruling, wrapping, packing, and packaging supplies shall include, but not be limited to, wrapping paper, wrapping twine, bags, cartons, crates, crating materials, tape, rope, labels, staples, blue, mailing tubes, excelsior, straw, cardboard covers, separators, shredded paper, cotton batting, shirt board, hay, and lath.

(3) Wrapping, packing, and packaging supplies does not include returnable containers. Wrapping, packing, and packaging supplies must qualify for exemption through their use. A wrapping, packing, or packaging supply would be exempt from the tax where it is used for the purpose of furthering a sale, lease, or rental of tangible personal property, but would be taxable where it is used in performing a service.

**Example:** The following items would be exempt when purchased by a person in the business of selling clothing: shirt boards, polyethylene bags, coat retainers, shoulder guards, trouser guards, and paper shields.

The same items, when used by a laundry or dry cleaner, would be taxable to the laundry or dry cleaner at the time of purchase by them, since there is only a service provided and not a sale of tangible personal property.

Blankets, padding, twine, rope, wrapping paper, packing paper, excelsior, straw, separators, carton bags, shredded paper, and cartons used in the moving and storage trade would be taxable to a moving and storage firm at the time of purchase by it, since the only sale made is the sale of a service.

(b) Containers. There are exempted from the taxes imposed by the Texas Limited Sales and Use Tax Act the receipts from sales, leases, or rentals of, and the storage, use, or other consumption, in this state, of:

(1) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

**Example:** A dairy, purchasing disposable milk cartons, would not have to pay the tax on such containers, if the containers were subsequently filled with dairy products and the container and the dairy products were then sold as a single unit. Throw-away bottles are nonreturnable containers.

(2) Containers when sold with the contents, if the sales price of the content is not required to be included in the measure of the taxes imposed by this law.

(3) Returnable containers when sold with the contents in connection with retail sale of the contents or when resold for refilling.

**Example:** Soft drinks, when sold in glass bottles, are sold in returnable containers. There is no tax on the deposit of such returnable containers when they are returned or resold. The bottler would, however, pay a tax on the bottles at the time he purchases them originally from the manufacturer because they are used by the bottler since they are filled prior to their sale.

As used in this rule, the term "returnable containers" means a container of a kind customarily returned by the buyer of the contents for re-use. All other containers would be "non-returnable containers."

(c) Labels and tags. This tax does not apply to the sale of labels or name plates if:

(1) The purchaser affixes them to property to be sold and sells them along with and as a part of such property, as:

**Example:** Sales of name plates of manufacturers or producers which are permanently affixed to each unit of products sold, such as automobiles and machinery.

(2) The purchaser affixes them to nonreturnable containers of property to be sold, or to returnable containers of such property if a new label is affixed to the container each time it is refilled.

**Example:** Labels affixed to fruit boxes, cans, bottles, and packing cases, by growers, packers, bottlers, and others who place the contents in the containers.

Tax does not apply to sales of feed analysis tags to be attached to containers of feeds and sold along with the container and contents.

Tax applies to sales of such items as advertising matter used in connection with the sale of property or enclosed with the property sold.

(d) Export packer.

(1) An "export packer" is a person who packages property to be exported outside the territorial limits of the United States.

(2) Crating and packaging supplies as listed in (a)(2) above, when purchased by an export packer to export personal property, are exempt under the export clause of the U.S. Constitution, Texas Taxation—General Annotated, Article 20.04(b), whether used to package the export packer's property, that of vendors shipping such property to their foreign customers, or that of purchasers who contract and pay for such services.

(3) An export packer may give exemption certificates to his suppliers on his material purchases, but must maintain records showing which materials were used for the exempt purpose of exporting tangible personal property.

(4) The export packer need not obtain a sales tax permit if all of his crating and packing supplies are purchased for exporting tangible personal property.

Issued in Austin, Texas, on February 8, 1978.

Doc. No. 781089      Bob Bullock  
Comptroller of Public Accounts

Effective Date: March 1, 1978

For further information, please call (512) 475-6872.

## Coordinating Board, Texas College and University System

### Administrative Council

#### General Provisions 251.20.01

Under the authority of Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977, the Administrative Council of the Coordinating Board, Texas College and University System, has adopted Rules 251.20.01.001-.017 to read as follows:

.001. *The Administrative Council.* The Administrative Council shall act as the rulemaking body for determining the basic coverage standards for a uniform group insurance program which all public institutions must meet or exceed.

.002. *Terms of Office—Administrative Council.* Except as noted herein, each member of the Administrative Council shall be selected for a six-year term to expire August 31. The presidents of the six largest senior institutions acting as a group, or three largest junior institutions acting as a group, or the commissioner of higher education, dependent upon how the vacated position was originally filled, shall name an individual to serve the balance of any vacated term.

.003. *Vacancy—Administrative Council.* A vacancy exists when any member selected by the six largest senior-level institutions or the three largest junior-level institutions or appointed by the commissioner of higher education who serve on the Administrative Council:

(1) resigns his or her position on the Administrative Council;

(2) terminates active employment with a public senior-level institution of higher education in Texas, if the position was originally filled by someone selected by the presidents of the six largest senior-level institutions;

(3) terminates active employment with a public junior community college or technical institution in Texas, if the position was originally filled by someone selected by the presidents of the three largest junior/community colleges or technical institutions; or

(4) transfers to an institution that is represented by another sitting council member.

.004. *Election of Officers—Administrative Council.* In September of each year the Administrative Council shall elect a chairman and vice chairman. Should a council member thus elected vacate membership on the council or resign

the office, the council shall at its next scheduled meeting elect a new officer who shall serve until the next annual election in September.

.005. *Appointment of Committees—Administrative Council.* The chairman of the Administrative Council may appoint committees from the council's membership as he or the council may find necessary from time to time, or he may appoint advisory committees from outside its membership as the council deems necessary.

.006. *Meetings—Administrative Council.* The Administrative Council shall meet annually in September and at such other times and places as called by the chairman. A majority of the membership of the council constitutes a quorum.

.007. *Visitor Participation in Administrative Council Meetings.* Unless invited by the Administrative Council, any individual wishing to speak or make a presentation to the Administrative Council shall observe the following procedure:

- (1) Notify the executive secretary at least 10 days prior to a scheduled meeting.
- (2) At the time of notification, submit the presentation in a written form to the executive secretary.
- (3) Notice of the pending presentation shall then be forwarded to all nine council members along with a copy of the proposed presentation.
- (4) All presentations will be limited to five minutes unless the time limit is waived by the council.

.008. *The Advisory Committee.* The advisory committee shall assist in the coordination and correlation of the uniform group insurance and provide for open communication of ideas and suggestions concerning coverages, eligibility, claims, procedures, bidding, administration, and any other aspects of employee insurance benefits.

.009. *Terms of Office—Advisory Committee.* Except as noted herein, each member of the advisory committee shall be elected for a two-year term to expire November 30. The president of the institution from which a vacancy occurs shall appoint an employee from the same institution to serve the balance of the vacated term.

.010. *Vacancy—Advisory Committee.* A vacancy exists when any member of the advisory committee:

- (1) resigns his or her position on the committee; or
- (2) terminates active employment with the institution he or she represents.

.011. *Election Process—Advisory Committee.* The election process for the elections of the advisory committee members every two years shall be as follows:

(1) The president or chief executive officer of each institutional unit, component, or agency shall appoint a nomination and election committee. This committee should be representative of the institution's employees with the size and composition of the committee, depending upon the type and size of the institution.

(2) The nominating and election committee shall nominate a list of candidates, prepare a ballot, and conduct the election. The committee shall make a maximum effort to see that all employees have an opportunity to vote.

(3) The president or chief executive officer shall then certify to the Administrative Council through the Coordinating Board staff the institution's advisory committee member on or before December 1.

.012. *Election of Officers—Advisory Committee.* In December of each year, the advisory committee shall elect a chairman and such other officers as may be necessary. Should a committee member thus elected vacate membership on the committee or resign the office, the committee shall at its next scheduled meeting elect a new officer who shall serve until the next annual election in December.

.013. *Appointment of Subcommittees—Advisory Committee.* The chairman of the advisory committee may appoint subcommittees from the committee's membership as he or the committee may find necessary from time to time.

.014. *Meetings—Advisory Committee.* The advisory committee shall meet annually in December and at such other times and places as called by the chairman. A majority of the membership of the committee constitutes a quorum.

.015. *Open Meetings.*

(a) Meetings of the Administrative Council and the advisory committee are open meetings and are subject to all provisions of the state open meetings procedure. However, in order to elicit testimony of a highly personal or embarrassing nature and therefore unavailable to the committee or council, the chairman may upon his own motion or at the witness' request declare the meeting to be in executive session for the purpose of receiving testimony. A summary of such testimony shall be placed in the minutes, but no reference will be made to identify the witness.

(b) The executive secretary will be responsible for seeing that proper notice is filed with the secretary of state in accordance with such rules.

.016. *Open Records.*

(a) All minutes and other records of the Administrative Council and advisory committee are subject to disclosure under the provisions of Texas Civil Statutes, Article 6252-17a.

(b) The executive secretary of the Administrative Council is directed to serve as custodian of all records of the Administrative Council and advisory committee.

(c) The executive secretary is instructed to make available to any member of the public, the public records of the Administrative Council and advisory committee during normal working hours at the office of the Coordinating Board, Texas College and University System, 111 East 17th Street, Austin.

(d) The cost to any person requesting noncertified photographic reproductions of any public records in the care of the executive secretary may be determined by the actual cost of standard size reproductions as established by the State Board of Control.

.017. *Administrative Costs.* The duties of each member of the Administrative Council and the advisory committee shall be considered additional duties to those required of his other state office or employment, and all expenses incurred by any such member in performing his duties as a member of the council or committee shall be paid out of funds available for those purposes to the institution of which he is an employee or officer.

## Administration of the Texas State College and University Employees Uniform Insurance Benefits Program 251.20.02

The Administrative Council of the Coordinating Board, Texas College and University System, has adopted Rules 251.20.02.001-.025 with one change in the proposed text. The words "basic medical care coverage" in Rule .002(15) have been changed to "basic coverage" automatically provided to each active full-time employee from the first day of his or her employment unless waived by the employee. These rules are promulgated under the authority of Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977, to read as follows:

.001. *Purpose.* These rules are to implement and administer the provisions of Senate Bill 95, the "Texas State College and University Employees Uniform Insurance Benefits Act." It is the purpose of these rules to provide uniformity in the basic group life, accident, and health insurance coverages for all employees of Texas state colleges and universities.

.002. *Definitions.* Unless a different meaning is plainly required by the context, the following words and phrases, as used in these rules, shall have the following meanings:

(1) "Act" shall mean the "Texas State College and University Employees Uniform Benefits Act," Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977.

(2) "Administering carrier" shall mean any carrier or organization, qualified to do business in Texas, designated by the Administrative Council to administer any services, benefits, insurance coverages, or requirements in accordance with the act and the council's regulations thereunder.

(3) "Retired employee" shall mean an employee, as defined in the act, who retires or has retired under a retirement provision under the jurisdiction of:

(A) the Teachers Retirement System of Texas, pursuant to Chapter 3, Title 1, Texas Education Code, as amended;

(B) the Optional Retirement Program, Articles 51.351 *et seq.*, Texas Education Code, as amended; provided, however, that the employee has met service requirements, age requirements, and other applicable requirements as required for retirement under the Teachers Retirement System of Texas;

(C) the Employees Retirement System of Texas, Chapter 352, Acts of the 50th Legislature, 1947, as amended (Vernon's Texas Civil Statutes, Article 6228a), as authorized by Chapter 75, Acts of the 54th Legislature, Regular Session, 1955, as amended (Vernon's Texas Civil Statutes, Article 6228a);

(D) any other federal or state statutory retirement program to which the institution has made employer contributions; provided, however, that the employee has met service requirements, age requirements, and other applicable requirements as required for retirement under the Teachers Retirement System of Texas.

(4) "Carrier" shall mean a qualified carrier as defined in the act.

(5) "Employee" shall mean any person employed by a governing board of a state university, senior or community/junior college, medical or dental unit, technical institute, or any other agency of higher education within the

meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code:

(A) who retires under the provisions cited in the definition of "retired employee";

(B) who receives his compensation for services rendered to a public community/junior college or senior college, university, medical or dental unit, technical institute, or other agency of education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code, on a warrant or check issued pursuant to a payroll certified by an institution or by an elected or duly appointed officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas.

(6) "Employer" shall mean the institutions defined elsewhere in these definitions.

(7) "Group life, accident, or health insurance plan" shall mean any group insurance policy or contract, life, accident, medical, dental, or hospital service agreement, membership or subscription contract, or similar group arrangement provided by an administering carrier.

(8) "Institution" shall mean each association of one or more public community/junior colleges or senior colleges or universities, medical or dental units, technical institutes, or other agencies of higher education under the policy direction of a single governing board.

(9) "Dependent" shall mean the spouse, as defined in the Texas Family Code, of an employee or retired employee, and an unmarried child under 25 years of age including:

(A) an adopted child;

(B) a stepchild, foster child, or other child who is in a regular parent-child relationship;

(C) any such child, regardless of age, who lives with or whose care is provided by an employee or retired employee on a regular basis, if such child is mentally retarded or physically incapacitated to such an extent as to be dependent upon the employee or retired employee for care or support, as the Administrative Council shall determine.

(10) "President" shall mean the duly authorized chief official of any institution covered under the provisions of the act or such other official as may be designated by a governing board to carry out the provisions of the act.

(11) "Qualified carrier" shall mean:

(A) any insurance company authorized to do business in this state by the State Board of Insurance to provide any of the types of insurance coverages, benefits, or services provided for in the act under any of the insurance laws of the State of Texas, which has an adequate surplus, a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in the act as determined by the State Board of Insurance;

(B) any corporation operating under Chapter 20 of the Texas Insurance Code which provides any of the types of coverage, benefits, or services provided for in the act, which has a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in the act as determined by the State Board of Insurance; or

(C) any combination of carriers as herein defined, upon such terms and conditions as may be prescribed by the Administrative Council; provided, however, that for purposes of the act, carriers combining for the purpose of bidding and/or underwriting this program shall not be considered in violation of Sections 15.01 through 15.34, Chapter 15, Title 2,

Competition and Trade Practices. Texas Business and Commerce Code.

(12) "Service" shall mean any personal services of an employee creditable in accordance with rules and regulations promulgated by the Administrative Council.

(13) "Active employee plan" shall mean a plan or program of group insurance as determined by the Administrative Council as defined in the act for all active employees as defined in the act.

(14) "Retired employee plan" shall mean a plan or program of group insurance as determined by the Administrative Council as defined in the act for all retired employees as defined in the act.

(15) "Basic plan" shall mean the basic coverage automatically provided to each active full-time employee from the first day of his or her employment unless waived by the employee.

(16) "Program" shall mean the Uniform Group Insurance Program as established by the Administrative Council.

*.006. Existing Institutional Insurance Program.* The Administrative Council shall determine if existing institutional programs meet, equate to, or exceed standards for basic coverages. If so, such programs may be continued in accordance with existing contractual arrangements between those institutions and their carrier or carriers; provided, however, that each program so continued shall be submitted by the institution for competitive bidding within standards established by the Administrative Council at least once during each four-year period following the effective date of coverage under the act.

*.007. Authorized Carriers.* The State Board of Insurance shall provide, by request of the institution, a list of all carriers authorized to do business in the State of Texas and who will be eligible to bid on the insurance coverage or coverages provided in the act.

*.008. Evaluation of Bidding Contracts.* The State Board of Insurance shall, upon request by the institution, examine and evaluate the bidding contracts and certify their actuarial soundness to the institution within 15 days from the date of request.

*.009. Selection of Carrier.* The institution is not required to select the lowest bid, but shall take into consideration other factors such as ability to service contracts, past experience, financial stability, and other relevant criteria. Should the institution select a carrier whose bid differs from that advertised, such deviation shall be reported to the Administrative Council and the reasons for such deviation shall be fully justified and recorded in the minutes of the next meeting of the Administrative Council.

*.010. Deficiencies in Institutional Programs.*

(a) The Administrative Council shall determine those institutions whose programs contain deficiencies with regard to the basic standards, administrative costs, and practices provided for under Rules .003, .004, and .005. Where such program deficiencies occur, the president of each institution found to be deficient shall be notified of such program deficiencies by the Administrative Council, which shall also report its action to the commissioner of higher education, and the institution shall be provided a reasonable deadline not to exceed two years for correcting said deficiencies. The

affected institution may within 90 days of notification appeal this determination of deficiency to the Coordinating Board, Texas College and University System. The board shall within 90 days from receipt of the appeal either affirm or reverse the decision of the Administrative Council. In case of reversal, the board shall return the appeal to the Administrative Council with written instructions for disposition.

(b) Where institutions do not correct said deficiencies as directed by the Administrative Council, the council shall direct the institution to establish such plans as determined by the council, and report its action to the commissioner of higher education. If such plans are not established within a reasonable time period not to exceed six months from date of notification, the council shall notify the state comptroller of public accounts, who shall withhold state insurance premium matching funds from the affected institutions until notified by the Administrative Council that the deficiencies have been corrected. These notifications to the state comptroller shall be reported to the commissioner of higher education.

*.011. Participation of Two or More Institutions in One Program.* The governing boards of two or more institutions of higher education may procure one or more group contracts with any insurance company or companies authorized to do business in this state, insuring the employees of each participating institution. The purpose of this authorization shall be to provide institutions of higher education with the ability to obtain the benefits of economy and/or improved coverages for their employees which may occur through increased purchasing economies for larger groups of employees.

*.012. Additional Coverage Beyond Basic Coverage Standards.* All contracts for basic coverages negotiated from the effective date of the act shall be in compliance with the basic coverage standards, rules, and regulations promulgated pursuant to the act. Each governing board may provide such additional or optional insurance programs and coverages as it deems desirable for its employees.

*.013. Benefits Certificates.* The institutions shall assure that each employee insured under the act is issued a certificate of insurance setting forth the benefits to which the employee is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy principally affecting the employee.

*.014. Annual Report.* As soon as practicable after the end of each contract year, but not later than 180 days thereafter, each institution covered under the provisions of the act shall submit an annual report to the Administrative Council, comparing the insurance coverages provided and the benefits and services received by its employees insured under the provisions of the act. The Administrative Council shall, within 30 days of receipt of the institutional annual reports, submit the annual reports together with a summary and commentary to the commissioner of higher education for submission to the Coordinating Board, Texas College and University System.

*.015. Reinsurance.* The institutions may arrange with any administering carrier or carriers issuing any policy or policies under the act for the reinsurance of portions of the total amount of insurance under such policy or policies with other qualified carriers which elect to participate in the reinsurance.



*.016. Annual Accounting by Carrier.*

(a) Carriers providing any policy purchased under the act shall provide an accounting to the institution not later than 120 days after the end of each policy year. The accounting for each line of coverage shall set forth, in a form acceptable to the Administrative Council:

(1) the cumulative amount of premiums actually remitted to the carrier under the policy from its date of issue to the end of the policy year, the amount of premiums actually remitted under the policy for each year from the anniversary date to the end of that policy year;

(2) the total of all mortality and other claims, charges, losses, costs, contingency reserves for pending and unreported claims, and expenses incurred for each of the periods corresponding to each of the periods heretofore described in Section (a)(1) of this rule;

(3) the amounts of the allowance for a reasonable profit, contingency reserves, and all other administrative charges corresponding to each of the periods as heretofore described in Section (a)(1) of this rule.

(b) Any excess of the total of Section (a)(1) of this rule over the corresponding sum of Sections (a)(2) and (a)(3) of this rule may be held by the carrier issuing the policy as a special reserve. Such reserve may be used at the discretion of the institution with prior approval of the Administrative Council for, but not limited to, providing additional coverage for participating employees, offsetting necessary employee premium rate increases, or to reduce participating employee premium contributions to the coverage. Any reserve held by the carrier would bear interest at a rate determined each policy year by the carrier and approved by the institution as being consistent with the rate generally used by the carrier for similar funds held under other group insurance policies.

*.017. Exemption from Execution.* All insurance benefits and other payments and transactions made pursuant to the provisions of the act to any employee covered under the provisions of the act shall be exempt from execution, attachment, garnishment, or any other process whatsoever.

*.018. Death Claims.* The amount of group life insurance and group accidental death and dismemberment insurance in force on an employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order:

(1) To the beneficiary or beneficiaries designated by the employee in a signed and witnessed writing received before death in the employing office. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

(2) If no beneficiary is designated in accordance with Section (1) of this rule, payment shall be made in accordance with the death benefit provisions of the Teacher Retirement System of Texas, Chapter 3, Title 1, Texas Education Code, as amended.

*.019. Automatic Coverage.*

(a) An employee is eligible for coverage as of that person's first day actively at work for an institution or first day as an annuitant of a retirement program.

(b) No eligible employee shall be denied enrollment in any of the coverages provided by the act; provided, however, that the employee may waive in writing any or all such coverages. Each policy of insurance shall provide for auto-

matic coverage on the date the employee becomes eligible for insurance. From the first day of employment, each active full-time employee who has not waived basic coverage or selected optional coverages shall be protected by a basic plan of insurance coverage automatically. The premium for such coverage shall not exceed the amount of the employer contribution. Each employee who is automatically covered under this rule may subsequently retain or waive the basic plan and may make application for any other coverages provided under the act within institutional and Administrative Council standards.

(c) An employee who is ineligible for an employer contribution adequate to pay the full premium for the basic plan is eligible for coverage only after appropriate payroll deduction is authorized.

*.020. Coverage for Dependents.* Any employee or retired employee shall be entitled to secure for his dependents any uniform group insurance coverages provided for such dependents under these rules. Such payments for such coverages for dependents shall be deducted from the monthly pay of the employee or paid in such other manner and form as the Administrative Council may approve.

*.021. Payment of Premiums.* Each institution and agency covered under the provisions of the act shall contribute monthly to the cost of each insured employee's coverage no less than the amount appropriated therefor by the legislature in the General Appropriations Act or as determined by the governing board of the institution in its respective official operating budget, if the employees are compensated from funds appropriated by such budgets rather than by the General Appropriations Act. The employee shall authorize in writing and in a form satisfactory to the institution a deduction from his monthly compensation of the difference between the total cost of benefits and the amount contributed therefor by the institution or agency.

*.022. Certification of Amount Necessary to Pay Employer Contribution.* On or before the first day of November next preceding each regular session of the legislature, the institutions and agencies covered under the provisions of the act shall certify to the Legislative Budget Board and Budget Division of the Governor's Budget and Planning Office the amount necessary to pay employer contributions for each active and retired employee from the effective date of the act. The Legislative Budget Board and the Governor's Budget and Planning Office will establish procedures to insure that eligible institutions request appropriate funds to support this program and shall present appropriate budget recommendations to the legislature. The Teacher Retirement System of Texas, Optional Retirement Program carriers, and Employees Retirement System of Texas shall furnish each institution such information as may be deemed necessary by the Administrative Council to provide retired employees with the coverages and employer contributions provided under the act.

*.023. Administrative Costs for Administration of the Act.* No employee covered under the provisions of the act shall be required to pay out of the amount of employer contributions due him or out of the amount of his additional premiums due for selected coverages, any administrative costs, fees, or tax whatsoever to pay expenses of a state institution, the Coordinating Board, or committees as established for administering the act.

**.024. Studies, Reports, Records, and Audits.**

(a) Each institution shall furnish to the Administrative Council such information as the Administrative Council determines to be necessary for a continuing study of the operation and administration of the act, including surveys and reports on group insurance coverage and benefits.

(b) Each contract entered into under the act shall contain provisions requiring administering carriers to:

(1) furnish such reasonable reports as the Administrative Council determines to be necessary to enable it to carry out its functions under the act; and

(2) permit the Administrative Council and representatives of the state auditor to examine records of the carriers as may be necessary to carry out the purpose of the act.

(c) Each institution shall keep such records, make such certifications, and furnish the Administrative Council with such information and reports as may be necessary to enable the Administrative Council to carry out its functions under the act.

**.025. Effective Date for Basic Coverages.** Basic coverages shall be provided by each institution covered under the act beginning no later than September 1, 1979.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 781053 James McWhorter  
Executive Secretary  
Coordinating Board, Texas College  
and University System

Effective Date: February 28, 1978

For further information, please call (512) 475-2033.

## Texas State Board of Dental Examiners

### State Dental Peer Review/Grievance Committee

#### Immunity for Peer Review, Judicial, or Grievance Committees 382.12.02

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

**.001. Peer Review/Grievance Committee Areas.** The State of Texas shall be and is hereby divided into 25 areas to comply with new Revised Civil Statutes of Texas, Article 4551i, as amended, which provides immunity to peer review, judicial, or grievance committees of a dental society or association which has not less than 75 percent of the licensed dentists in such area as members. The areas and the counties comprising each area and the number assigned to the area are as follows:

- |   |                                      |
|---|--------------------------------------|
| 1st District<br>Lamar<br>Red River<br>Bowie<br>Cass<br>Morris<br>Hopkins<br>Delta | Franklin<br>Titus                    |
| 2nd District<br>Cass<br>Morris<br>Hopkins<br>Delta                                | Jefferson<br>Orange<br>Tyler<br>Polk |

- Jasper
- Newton
- San Jacinto
- Hardin
- Chambers

- 3rd District
- Wood
- Camp
- Upshur
- Marion
- Gregg
- Harrison
- Smith
- Van Zandt
- Cherokee
- Panola
- Rusk
- Angelina
- San Augustine
- Sabine
- Nacogdoches
- Shelby

- 4th District
- Denton
- Cooke
- Grayson
- Collin
- Fannin
- Hunt
- Rockwall
- Kaufman

- 5th District
- Dallas

- 6th District
- Ellis
- Hill
- Navarro
- Limestone
- Freestone
- Henderson
- Anderson
- Leon

- 7th District
- Houston
- Trinity
- Madison
- Grimes
- Brazos
- Burleson
- Austin
- Waller
- Washington
- Montgomery
- Robertson
- Walker

- 8th District
- Harris
- Fort Bend
- Wharton
- Liberty

- 9th District
- Matagorda
- Brazoria
- Galveston

- 10th District
- Willfamson
- Travis
- Bastrop
- Lee
- Hays

- 11th District
- Milam
- Falls
- Bell
- Coryell
- Bosque
- McLennan

- 12th District
- Tarrant
- Parker
- Palo Pinto
- Wise
- Johnson
- Hood
- Somervell
- Erath

- 13th District
- Hardeman
- Foard
- Knox
- Wilbarger
- Baylor
- Throckmorton
- Wichita
- Archer
- Young
- Clay
- Jack
- Montague

- 14th District
- Caldwell
- Guadalupe
- Gonzales
- Lavaca
- Colorado
- Victoria
- Refugio
- Jackson
- Calhoun
- Fayette
- DeWitt
- Karnes
- Goliad
- Aransas
- Live Oak

- 15-A District
- Bee
- San Patricio
- Nueces
- Duval
- McMullen

Jim Wells  
Kleberg

15-B District  
Zapata  
Jim Hogg  
Brooks  
Kenedy  
Starr  
Hidalgo  
Willacy  
Cameron

16th District  
El Paso  
Hudspeth  
Culberson  
Presidio  
Jeff Davis  
Brewster  
Terrell

17th District  
Haskell  
Scurry  
Fisher  
Jones  
Shackelford  
Stephensen  
Mitchell  
Nolan  
Taylor  
Callahan  
Eastland  
Comanche  
Hamilton

18th District  
Dallam  
Sherman  
Hansford  
Ochiltree  
Lipscomb  
Hartley  
Moore  
Hutchinson  
Roberts  
Hemphill  
Oldham  
Potter  
Carson  
Gray  
Wheeler  
Deaf Smith  
Randall  
Armstrong  
Donley  
Collingsworth  
Parmer  
Castro  
Swisher  
Briscoe  
Hall  
Childress  
Motley  
Cottle

## 19th District

Bailey  
Lamb  
Hale  
Floyd  
Cochran  
Hockley  
Lubbock  
Crosby  
Dickens  
King  
Yoakum  
Terry  
Lynn  
Garza  
Kent  
Stonewall  
Borden

## 20th District

Val Verde  
Edwards  
Real  
Bandera  
Kinney  
Uvalde  
Medina  
Bexar  
Comal  
Wilson  
Maverick  
Zavala  
Frio  
Atascosa

## 21-A District

Glasscock  
Sterling  
Coke  
Runnels  
Coleman  
Reagan  
Irion  
Tom Green  
Crockett  
Sutton  
Schleicher

## 21-B District

Brown  
Concho  
Menard  
Kimble  
Kerr  
McCulloch  
Mason  
Gillespie  
Kendall  
Mills  
San Saba  
Lampasas  
Llano  
Blanco  
Burnet

## 21-C District

Gaines  
Dawson  
Andrews

Martin  
Howard  
Loving  
Winkler

Ector  
Midland  
Ward  
Crane  
Upton

23rd District  
Dimmit  
La Salle  
Webb

Doc. No. 780845



## Conduct

## Telephone Directory Listings 382.19.04

These rules are promulgated under the authority of Article 4451d of the Revised Civil Statutes of Texas, as amended.

.001. *Requirements.* A dental licensee may have not more than two professional listings such as are usually contained in a telephone book, one in the white and one in the yellow section, and such listing shall be in regularly used small size type and not be printed in large or boldface type, or be multi-colored, or set in a border of any kind. Such listings may contain only the name, the dental degree or degrees conferred on such licensee, the address, and the telephone numbers of the practitioner at such address. Where a practitioner limits his practice to one specialty, he may add, immediately following his alphabetical listing, in the white section, such limitation of practice or specialty as provided in these rules. In the yellow or classified section of the telephone directories regularly published by the telephone company or companies serving the area where the dental office is located, the dentist may properly list under one of the following permitted headings: (a) general dentistry, (b) endodontics, (c) oral surgery (extractions) or oral and maxillofacial surgery, (d) orthodontics—straightening, (e) pedodontics—children's dentistry, (f) periodontics, (g) prosthodontics—complete or partial dentures. Provided, however, a Texas dental licensee who has two earned related dental degrees and/or certificates in different specialties may apply to the board to grant him permission to announce and practice in both specialties. A prac-

itioner shall not list or permit the listing of his name or address under any separate limitation of practice or specialty heading unless he actually limits his practice to such specialty, nor shall he permit his name or address to appear at any address at which he is not practicing.

.002. *Metro-Plex Directories.* A dentist practicing dentistry in a village, town, or city which is served by both local and metropolitan telephone systems may only list his name, etc., as provided in Rule 382.19.04.001 hereinbefore, in the telephone directories officially published by the telephone company or companies which serves his area where his office is located; provided further, however, such listings shall be limited to not more than three such telephone directories published and serving the area where the dental office is located.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 780844      Carl C. Hardin, Jr.  
Executive Director  
Texas State Board of Dental  
Examiners

Effective Date: February 23, 1978

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

## Texas Education Agency Occupational Education and Technology

### Adoption by Reference 226.32.93

The Texas Education Agency has repealed the following rules adopting federal regulations by reference. The agency found that nothing was added to the force or effect of these regulations by adopting them as rules under the Administrative Procedure and Texas Register Act.

The repeals are effected under the authority of the following federal regulations, which were previously adopted by reference:

- .010. *Public Law 90-576.*
- .020. *Public Law 93-380.*
- .030. *45 CFR, Part 100, Federal Register, Volume 38, Number 213, November 6, 1973.*
- .040. *45 CFR, Part 102, Federal Register, Volume 40, Number 38, February 25, 1975.*
- .050. *45 CFR, Part 102, Federal Register, Volume 40, Number 239, December 11, 1975.*
- .060. *45 CFR, Part 103, Federal Register, Volume 39, Number 159, August 15, 1974.*
- .070. *45 CFR, Part 103, Subpart E, Federal Register, Volume 40, March 4, 1975.*

Doc. Nos. 780857-780863

## Pupil Services

### Pupil Eligibility for Transportation Services 226.34.62

The Texas Education Agency has amended Rules 226.34.62.010 and .020 concerning pupil eligibility for

transportation services. The only substantive change in these rules concerns transportation of vocational students who may now be transported to another secondary public school as well as to an area vocational school or to another campus within their own district. Editorial changes which moved material from Rule .020 to .010 were also made.

No public comment was received on the proposed amendment concerning vocational students; however, comments were received on the provisions of existing Regulation 226.34.62.020 concerning exceptional pupil eligibility for transportation. The State Board of Education has undertaken a thorough review of all regulations concerning education of the handicapped. At the board's February 11 meeting, proposed amendments to rules in the 226.35.70 series will be reviewed before publication in the *Texas Register* as proposed rule changes. Action by the board on these changes is now tentatively scheduled for April 8. Recommendations for substantive revisions in Rule 226.34.62.020 are scheduled for preliminary review and filing authorization by the board in March. At present, Rules 226.34.62.010-.020 are adopted with one change from the text as proposed. The words "to be eligible for transportation" have been deleted from subsection (1)(B) of Rule .010. The word "where" has been added to Section (b)(1), Rule .020, paragraph two.

These amendments are promulgated under the authority of Sections 16.201-16.211 and 16.63, Texas Education Code.

#### .010. *Regular Pupil Eligibility.*

(a) Policy. Eligibility for regular pupils shall be determined as defined by law and procedures as established by the commissioner of education.

(b) Administrative procedure. Regulations for determining regular pupil eligibility are as follows:

##### (1) General requirements.

(A) The pupil must reside at least two miles from the school he attends, as measured by the nearest commonly traveled public road.

(B) The pupil must reside in the district and attendance area (as designated by the district board of trustees); or,

(i) be an approved transfer pupil (Rule 226.23.04.030); or

(ii) be assigned as a vocational education student to another campus within a district, to another secondary public school, or an area vocational school, or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency;

(iii) be assigned as a bilingual education student from one campus to another within a district or to an approved bilingual education program in another district if the home district does not provide bilingual education.

(C) A transfer pupil is eligible when the school he would have attended in the home district and the school he attends in the receiving district are both located more than two miles from his residence.

(D) A public school district operating a kindergarten program on a one-half day basis may make application for bus service to transport these pupils to or from school at midday. All such eligible bus pupils are expected to attend the same half-day session. If the school district is unable to accommodate all eligible kindergarten bus pupils in the same half-day, special approval must be secured from the commissioner of education.

(E) No student is eligible for transportation reimbursement for more than three quarters of any one year.

(2) Special requirements.

(A) To be eligible for private transportation, pupils must live two or more miles from an established school bus route in addition to other regular pupil eligibility requirements.

(B) Districts where unusual transportation situations exist, as a result of a federal court order or a school district voluntary plan for desegregation approved by the Office of Civil Rights of the Department of Health, Education, and Welfare, are provided the following guidelines:

(i) A pupil living less than two miles from a school teaching his grade in what had been his normal attendance zone becomes eligible for state transportation purposes if he, as a result of a federal court order or a school district voluntary desegregation plan approved by the Department of Health, Education, and Welfare, is assigned to attend another school that is two or more miles from his residence.

(ii) A pupil who transfers voluntarily from the school in his normal attendance zone, as a result of the provisions of a school district desegregation plan or school district policy on transfers within the district, shall not be considered eligible for state transportation purposes.

(iii) A pupil who transfers voluntarily from the school in his normal attendance zone, as a majority to minority transfer, pursuant to the provisions of a federal court order, shall be considered eligible for state transportation if he meets all other eligibility requirements.

.020. *Exceptional Pupil Eligibility.*

(a) Policy. Eligibility for exceptional pupils shall be determined when a pupil is eligible for or when enrolled in a special education class and is unable to attend class without special transportation. The commissioner of education shall establish procedures for determining eligibility. (Special Transportation for Exceptional Pupils, Policy 226.34.64.010 and Policy 226.35.72.100.)

(b) Administrative procedure. Regulations for determining exceptional pupil eligibility are as follows:

(1) General guidelines. Consideration for pupil eligibility is based upon the definitions for exceptional children, as contained in Policy and Administrative Procedure sections of 226.35.71.020.

Pupils may live within the school district, within one of the school districts in a cooperative program, or be transferred to a district where special education services are available. The child who is eligible for and placed in special education classes does not automatically qualify for special transportation reimbursement. Specific reasons why a child needs special transportation and the type of special transportation required and furnished shall be documented annually in the pupil's eligibility file. No student is eligible for Exceptional Children Transportation reimbursement for more than three quarters of any one year.

(2) Committee determination of transportation eligibility. The local special education Admission, Review, and Dismissal Committee shall annually be responsible for:

(A) determining the need for special transportation; and

(B) determining the type of special transportation needed.

The documented record of this determination shall then become a part of the pupil's special education eligibility file. The specific reason for special transportation shall be written in the dated record of the committee's action above the committee member's signatures.

(3) Specific guidelines. The following guidelines relative to pupil characteristics should be taken into consideration in determining individual eligibility for special transportation.

(A) Visually handicapped. Visually handicapped pupils who may be eligible for special transportation services are those who either have no vision or whose visual impairments after correction result in educational handicaps requiring special provisions for maximal educational achievement. The primary factor in determining the need for special transportation is the pupil's safety. Sufficient mobility skills for safe travel on a regular school bus precludes special transportation services.

(B) Orthopedically handicapped and other health impaired. This includes all children who have orthopedic handicaps or other health impairments and whose physical conditions and/or special health problems result in the need for special provisions for educational purposes. Major consideration for determining the pupil's need for transportation should be the safety-limiting characteristics:

(i) the pupil using a wheelchair, crutches, and/or braces which may either be of danger to the child or other children while riding a regular school bus;

(ii) certain severely involved cerebral palsied children;

(iii) children of extreme low vitality or other health reasons; and

(iv) certain children who may be so hyperactive they cannot be safely transported on a regular bus.

Consideration should be given to the feasibility of providing special transportation to certain homebound students so they may attend a class of physically handicapped children in school.

(C) Auditorially handicapped. Children who are deaf or severely hard of hearing and are eligible for special services may be considered for special transportation services. An inability of the child to communicate successfully, as well as safety factors, may necessitate special transportation.

(D) Trainable mentally retarded. Because of an inability to acquire necessary skills as determined by a substantially reduced rate of intellectual development, the trainable mentally retarded may be considered for special transportation. Generally, the majority of these pupils will not be able to ride regular transportation for social and/or safety reasons. However, there may be some cases of older trainable children in which it would be desirable both for social and economic reasons for them to ride regular transportation.

(E) Educable mentally retarded. The educable mentally retarded (EMR) are those children who reveal a reduced rate of intellectual development and a mental capacity and level of academic achievement below that of their peer group, as evidenced by significant deficits in all essential learning processes. Under certain circumstances they may be considered for special transportation:

(i) the younger educable retarded whose mental age may be 3-1/2 to 5 years;

(ii) the educable retardate who, because of epilepsy or some similar health impairment, may find it necessary to use special transportation for his own safety and the safety of other children;

(iii) certain social factors may deem it necessary for the EMR to use special transportation.

One of the objectives in the training and education of the educable mentally retarded is the acquisition of vocational proficiency. The ability to find one's way is a prerequisite to this objective. Special transportation will be approved only where there is a proven manifested need.

(F) Emotionally disturbed. Emotionally disturbed children are those whose emotional condition is such that they cannot learn at the expected rate and level for their age and/or adjust adequately socially in a regular school program. These children may be considered for special transportation due to:

(i) hyperactive behavior which may result from over stimulus of peer group activity and which may involve the factor of safety for himself and for others;

(ii) an inability to react favorably with his environmental conditions, especially due to impulsive responses to depression or withdrawal;

(iii) overaggressive behavior, losing contact with reality, may also interfere with a child's use of regular transportation.

A primary goal for the emotionally disturbed child, however, is the development of his social/emotional adaptability in all areas of self-help.

(G) Language and/or learning disabilities. Language and/or learning disabled children are those who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations. These may include children diagnosed as having specific developmental dyslexia. Special transportation may be considered for these children who are at a young age and whose acquisition of language, speech, reading, and reasoning are so impaired that the use of regular transportation may be impractical. Children whose problems of perception are severely impaired may also find it necessary for special transportation.

(H) Multihandicapped. The multihandicapped are those children who have a combination of two or more handicapped conditions, one or both of which may be so severe that special transportation may be considered. Criteria for determining special transportation for these children should be based on the suggested reasons, as set forth in the above paragraphs, for the various handicapping conditions.

(I) Pregnancy. Pregnant students may be considered for special transportation where it is determined that regular transportation may be hazardous to the safety of the unborn child.

Doc. No. 780851

## Transportation Special Provisions 226.34.64

The Texas Education Agency has amended Rule 226.34.64.010 concerning public school transportation. Only the Administrative Procedure section of the rule is changed. The rest of the rule remains unchanged.

The amendment changes the maximum per pupil amount allowed for special education transportation from \$260 to \$278 in 1977-1978 and \$292 in 1978-79 and thereafter. This change is in accordance with the provisions of Senate Bill 1, 65th Legislature, Special Session.

No public comments were received on the proposed amendment to Rule 226.34.64.010; however, comments were received on the language of the existing rule. The State Board of Education has undertaken a thorough review of all regulations concerning education of the handicapped. At the board's February 11 meeting, proposed amendments to rules in the 226.35.70 series will be reviewed before publication in the *Texas Register* as proposed rule changes. Action by the board on these changes is now tentatively scheduled for April 8. Recommendations for further revisions in Rule 226.34.64.010 are scheduled for preliminary review and filing authorization by the board in March. At present, Rule 226.34.64.010 is adopted with no change from the text as it appeared in the October 11, 1977, issue of the *Texas Register* (2 TexReg 3871).

This amendment is promulgated under the authority of Sections 16.201-16.211 and Section 21.460, Texas Education Code.

### .010. Special Transportation Provisions for Certain Educational Programs.

(b) Administrative procedure. The special provisions which are made for transporting pupils in the following programs are:

(1) Special education. A public school district having a special education program may provide services for pupils who are visually handicapped, orthopedically handicapped and other health impaired, auditorially handicapped, trainable mentally retarded, educable mentally retarded, emotionally disturbed, language and/or learning disabled, and multihandicapped. The transportation program for exceptional children must be operated in accordance with the following guidelines and requirements:

(A) Application.

(i) Each district participating in exceptional children transportation for the first time shall file an initial application for exceptional children transportation with the Transportation Section of the Texas Education Agency on or before September 15 for the current year.

(ii) All districts participating in an exceptional children transportation program shall file with the Texas Education Agency a final application which shall be due annually on or before June 15. A district shall certify that students being served shall meet the statutory requirements for this service. If a district shall desire to operate a part of the exceptional children program in the fourth quarter of the current school year in lieu of another quarter, a supplement to the application, including a list of students being transported on June 15 or the nearest school day, shall be filed on or before July 1.

(iii) School districts, in completing the final request for funds for the Exceptional Children Transportation Report, will apply only for the amount of the actual cost of transportation not to exceed \$278 in 1977-78 and \$292 in 1978-79 and thereafter per eligible pupil.

(B) Routes. Each bus route operated by a school district shall be planned to provide the transportation service required by each eligible pupil. These services shall be

transportation from the child's home to school and return to home. When a child is picked up or delivered to a different address, a request must be made in writing and be on file. The system of routes shall be substantiated by a narrative description of each route, including the address of each pupil pick-up point, the time elapsed from the first pupil pick-up to the last pupil discharged, the number of miles covered by each route, the number of exceptional and regional day school deaf pupils on each route, and a map or series of maps showing the course of each route. The most direct route to serve eligible students between home and school should be established.

(C) General guidelines and requirements.

(i) It is interpreted that the legislative intent for special transportation was for the school district to own and operate special vehicles for eligible exceptional children.

(ii) Children eligible for special education and who can utilize regular transportation services shall be transported, if eligible (Regular Pupil Eligibility, Rule 226.34.62.010), on regular routes.

(iii) Buses may be funded only once from Foundation Program Funds.

(iv) Buses shall transport only eligible exceptional pupils, as defined in 226.34.62.020.

(v) Private or contract transportation consisting of nonschool-owned vehicles may be used in some instances with prior approval of the Texas Education Agency.

(vi) Care shall be exercised in finding and removing any hazards to children. The safety and comfort of the pupils transported shall be protected.

(vii) Special modification of equipment, as well as the type of equipment chosen, should be a major consideration for the safety of the children being transported.

(viii) In some cases, schools may wish to consult the child's family physician for advice about transportation requirements for the protection of the child.

(ix) Schools may not use vehicles such as pick-ups or open vehicles as special transportation. Small buses are considered to be most feasible. Each route load will depend on the number and kinds of pupils transported. Precaution should be observed to prevent overcrowding of special buses.

(x) In very unusual cases where specific needs can most feasibly be met, private or contract transportation for certain eligible exceptional children may be made. The best interest of the child and parent must be given serious consideration in making such arrangements. Each contract shall be retained by the school district for review and audit.

(xi) In emergency situations, a special education vehicle should be available for eligible handicapped pupils.

(xii) Special education vehicles may be used to transport eligible exceptional children on field trip travel. In using these vehicles for field trip activity, the district's Exceptional Children Transportation Fund must be reimbursed at a rate based on the actual cost per mile, as approved by the local board of trustees.

(xiii) Pupils attending a regional day school for the deaf may be transported with exceptional children on a per pupil cost basis from funds provided by the regional day schools for the deaf program only when this transportation does not change the service required for eligible exceptional pupils. (Transportation Allocation, 226.41.07.070.)

(2) Vocational education student. Eligible vocational education students may be transported by bus under the following conditions:

(A) notification of the transportation of vocational education students shall be made to the Texas Education Agency on the appropriate forms by September 20. Special requests should be made for programs initiated during the school year;

(B) a separate application is made for the reimbursement of funds for the transportation of vocational education students. (Transportation Allocation, 226.41.07.080.)

Doc. No. 780850

## Adult

### Adoption by Reference 226.35.93

The Texas Education Agency has repealed the following rules adopting federal regulations by reference. The agency found that nothing was added to the force or effect of these regulations by adopting them as rules under the Administrative Procedure and Texas Register Act.

The repeals are effected under the authority of the following federal regulations, which were previously adopted by reference:

- .010. Public Law 91-230.
- .030. Public Law 94-23.
- .040. 45 CFR, Chapter 1, Part 166, Federal Register, Volume 40, Number 79, April 23, 1975.
- .050. 45 CFR, Chapter 1, Part 166, Federal Register, Volume 40, Number 205, October 22, 1975.
- .080. Public Law 93-203.
- .090. 29 CFR, Federal Register, Volume 40, Number 101, May 23, 1975.
- .120. 45 CFR, Chapter 1, Part 160c, Federal Register, Volume 40, Number 240, December 12, 1975.

Doc. Nos. 780864-780866, 780867, 780867a, and 780868-780869

## Adaptations for Special Populations

### Adoption by Reference 226.35.95

The Texas Education Agency has repealed the following rule adopting federal regulations by reference. The agency found that nothing was added to the force or effect of these regulations by adopting them as rules under the Administrative Procedure and Texas Register Act.

The repeal is effected under the authority of the following federal regulation, which was previously adopted by reference:

- .010. Public Law 89-10.

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 780870

M. L. Brockette  
Commissioner of Education

Effective Date: February 24, 1978

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

## Texas Department of Health

### General Sanitation

#### Sanitary Conditions of Barber Shops, Barber Schools, and Colleges 301.76.07

The Texas Board of Health has adopted Subchapter 301.76.07, "Sanitary Conditions in Barber Shops, Barber Schools" as proposed in the May 24, 1977, issue of the *Texas Register* (2 TexReg 2042). A public hearing on the proposed rules was held by the Texas Department of Health. The following amendments have been made based on testimony received at the hearing and subsequent comments and recommendations received:

(1) the phrases "beauty parlor," "hairdressing establishment," and "manicuring parlor" have been deleted where they appear because these facilities are covered by Article 8451a, "Texas Cosmetology Regulatory Act," and do not come under the jurisdiction of Article 8407a, "Law Governing the Practice of Barbering."

(2) The first sentence of Rule .003(b) has been deleted because the proper washing and disinfection of hairbrushes and neck dusters are adequately covered in Rule .003(a) and Rule .005.

(3) Rule .005 has been amended by adding a sentence that would also permit the use of 70 percent alcohol and the use of spray type disinfectants approved by the Environmental Protection Agency in the disinfection of metallic instruments with a cutting edge because the use of other approved disinfectants may result in corrosive damage to cutting edges.

(4) In Rule .006, a minimum wash water temperature of 150 degrees Fahrenheit for not less than 20 minutes has been established for washing and sanitizing towels and washcloths. Also, a bleach or sanitizing cycle using 100 ppm of available chlorine for three minutes is permitted in addition to wash and rinse cycles. These changes have been made because temperatures of 212 degrees Fahrenheit are not necessary for the proper sanitizing of laundry items and boiling temperatures are no longer used in commercial or noncommercial laundry processes.

(5) Other minor changes have been made for clarification such as rephrasing or addition or deletion of words.

The rules have been promulgated under the authority of Article 8407a, Vernon's Texas Civil Statutes.

#### .001. Shop Conditions.

(a) Establishments to be lighted and ventilated. Every public barber shop and barber school and college as defined in Article 8401, Vernon's Texas Civil Statutes, shall be properly and adequately lighted and ventilated. An adequate volume of air must be exhausted to remove contaminants from aerosol products. Fresh air must be provided to replace air exhausted.

(b) Walls, ceilings, etc. to be kept clean. The walls, ceilings, furniture and other fixtures, and all other exposed surfaces in every such establishment shall be kept clean, free from dust, and maintained in a state of good repair.

(c) Floors to be kept clean. Floors of every such establishment shall be thoroughly cleaned each day. All hair dropping upon the floor shall be removed therefrom as soon as

practicable and in such a manner as not to cause a nuisance. Floors shall be maintained in a state of good repair.

(d) Establishments shall be suitably equipped to give adequate service to patrons and shall never be used as a living, dining, or sleeping apartment.

(e) A barber shop or barber school or college must be in a separate room from sleeping quarters and the owner or operator shall permit no person to sleep in any room used wholly or in part as such facility. There shall be no entrances from the facility opening directly into sleeping quarters.

(f) A barber shop or barber school or college must be separated from a place where food is prepared or served by a solid wall from floor to ceiling of lath or plaster or glass or other solid material.

#### .002. Water Supply, Sewerage, and Toilet Facilities.

(a) All barber shops, barber schools, or colleges shall be supplied with an adequate supply of hot and cold water under pressure. When water is not obtained from an acceptable public supply, water must meet the bacteriological, chemical, and physical requirements for drinking water systems of the Texas Department of Health. Whenever possible, the source of water supply shall be from an existing public drinking water system. Cross connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited. Protection against backflow and back siphonage shall be provided by proper airgaps or approved backflow preventers where necessary.

(b) Adequate and safe sewerage facilities shall be provided. Whenever possible, the facility shall be connected to a public sewerage facility. Where public sewerage is not available, adequate treatment facilities meeting the standards of the Texas Department of Health and approved by the local health authority shall be installed to dispose of sewage.

(c) Toilet facilities with flush toilets shall be suitably located in adequately and properly ventilated compartments with self-closing doors. Toilet facilities in toilet rooms, separate for each sex, shall be provided in all places of employment in accordance with the following table. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where only one toilet room is required, contains at least one water closet and can be locked from the inside, the rule, requiring separate toilet rooms for each sex can be waived. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purposes of the table.

Number Employees	Number Water Closets
1-15	1
16-35	2
36-55	3

When persons other than employees are permitted use of toilet facilities on the premise, the number of such facilities shall be appropriately increased in accordance with the table. For each three required toilet facilities, at least one lavatory shall be located either in the toilet room or adjacent thereto. Where only one or two toilet facilities are provided, at least one lavatory so located shall be provided.

(d) Washing facilities to be provided. Every such establishment shall be provided with suitable and adequate washing facilities for barbering services. Sinks or wash basins must be of nonabsorbent material and properly trapped.



(e) **Drinking water facilities.** Where fountain facilities designed for drinking from the stream are provided for dispensing drinking water, such facilities shall be equipped with approved type angle jet fountain heads. No common drinking cups are permitted.

**.003. Use of Equipment.**

(a) No barber or other person affected by these rules shall use on any person a comb, hairbrush, hair duster, mug, shaving brush, razor, shears, scissors, clippers, or tweezers or any similar articles that are not thoroughly cleaned and disinfected since last used.

(b) The use of vacuum type devices for removal of loose hair is satisfactory provided that the portion of the device coming in contact with the patron is easily removed and constructed for easy cleaning and disinfection and shall be disinfected prior to use on each patron.

**.004. Attendants to Wash Hands.** Attendants shall wash their hands thoroughly with soap and hot water before attending any person.

**.005. Instruments to be Cleaned and Disinfected.** All brushes, combs, razors, scissors, tweezers, blackhead removers, files, pushers, buffers, and all massage and scalp applicators used in any such establishment shall be thoroughly cleaned and disinfected after each and every separate use. The disinfectant, germicide, or bactericide used shall be approved by the Environmental Protection Agency and used according to label instructions. When not in use, instruments may be placed in dry disinfectant equipment or under germicidal ultraviolet light. Metallic instruments with a cutting edge may be disinfected after proper washing by wiping carefully with a clean cotton pad saturated with a 70 percent alcohol solution, or clipper blades may be disinfected with spray-type disinfectants approved by the Environmental Protection Agency.

**.006. Towels.**

(a) Individual towels required. No towels or washcloths shall be used in any such establishment for more than one person without being properly laundered and sanitized by regular commercial laundering or noncommercial laundering process. The process shall include washing with a laundry detergent and rinsing at a minimum temperature of 150 degrees Fahrenheit for not less than 20 minutes. A bleach or sanitizing cycle using a rinse containing 100 ppm of available chlorine for three minutes may be used in addition to the above wash and rinse cycle. A pre-drying procedure for towels and washcloths will facilitate the removal of hair. Pre- or post-drying temperatures should not exceed 165 degrees Fahrenheit.

(b) Wet towels and washcloths must be removed from work-stands upon completion of service to the patron.

(c) Individual headrest coverage required. Before any patron attended at any such establishment is permitted to recline in a chair, the headrest of the chair shall be covered with a clean towel or clean sheet of paper not previously used for any other purposes.

(d) Dipping towels, shaving mugs, brushes, etc., in water containers is prohibited.

(e) Clean linens, such as face towels, steam towels, and other linens used in any such establishment shall be kept in a closed cabinet at all times.

(f) Single-use towels may be used on only one person.

**.007. Use of Stick Astringent Prohibited.** No alums or other astringent in stick or lump form shall be used in any such establishment. (Powdered or liquid caustics are suggested.)

**.008. Creams, Lotions, and Cosmetics.** All creams, lotions, and other cosmetics used for patrons must be kept in clean and closed containers.

**.009. Powder Boxes.** Open powder boxes must not be used in a reception room and booths for patrons. Powder must be in shakers or similar receptacles.

**.010. Sanitary Removal of Creams and Semisolid Substances.** Creams and other semisolid substances must be dipped from the container with disinfected articles or spatula; removing such substances with the fingers is prohibited.

**.011. Communicable Diseases and Infections.**

(a) Employees. No person who is knowingly affected with a disease in communicable form shall work or be employed in such establishment as required in Article 8404, Vernon's Texas Civil Statutes.

(b) Patrons. No person who to their own knowledge is affected with a known disease in communicable form shall be attended in any such establishment.

**.012. Regulations to be Posted.** Sufficient copies of these regulations shall be kept posted in conspicuous places in every such establishment.

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 781006

Raymond T. Moore, M.D.  
Deputy Commissioner  
Texas Department of Health

Effective Date: February 27, 1978

For further information, please call (512) 458-7521.

## Texas Department of Human Resources

### Child Support Collection

#### Budgeting Process 326.20.25

The Department of Human Resources has adopted amendments to Rules 326.20.25.001-.002 concerning procedures required when the amount collected on the monthly child support equals or exceeds the amount of the AFDC grant payment. The amendments result from changes in federal regulations.

The proposed amendments were published in the November 22, 1977, issue of the *Texas Register*; no comments were received. However, several minor language changes have been made to clarify existing policy. These amendments are promulgated under the authority of Article 695c, Texas Revised Civil Statutes, and with the permission of the Texas Board of Human Resources.

**.001. Collections.**

(a) Child support payments are made to the Department of Human Resources and disbursed by the State Office. If applicable, child support payments are made through the local court registry.

(b) If an assignment of support rights is in effect, child support payments are not considered as income in the AFDC budgeting unless excesses are due under the distribution process. The first month in which the amount of child support collected on the monthly obligation equals or exceeds the amount of the AFDC assistance grant, the AFDC recipient is sent a notification letter from State Office. The AFDC eligibility worker reviews the case and takes action to deny, if appropriate. Collection of child support during the appeal process continues and all collections recovered subsequent to the notification letter are put in escrow and not distributed until the AFDC case has been reviewed.

(c) Collections received on the monthly obligation during the month in which the amount equaled or exceeded the AFDC grant amount are frozen and held undistributed until a review has been made of the AFDC case. If the AFDC case is denied, this frozen amount is paid to the family in the month following the review. If the AFDC grant is not denied, the collection amount is distributed as it would be during any other month. Excess amounts, if any, are distributed to the AFDC family in the month following the AFDC review.

#### .002. Post-AFDC.

(a) When an AFDC family ceases to receive AFDC assistance, the state continues to collect child support payments and pay without cost the current monthly child support payment to the family. This post-AFDC period begins with the first month after the effective date of the denial of the AFDC case and continues for three months. During this three-month period, priority is given to the collection of the current support payments.

(b) At the beginning of the second month, a notice is sent to the former recipient which explains that continuation of child support collection services are available upon application. This continuation of collection services does not require an application fee. However, any costs incurred are deducted. The former recipient is instructed to contact the local child support unit if he or she wishes to request a continuation of child support collection services.

(c) At the end of the second month of this three-month post-AFDC period, if the former recipient fails to request continuation of collection services or makes known his or her intent not to authorize this collection service, the local unit begins taking the necessary action to have the current child support payments sent directly to the family. If the former recipient requests that these collection services continue, the type of case shall be changed from post-AFDC to non-AFDC, with appropriate costs deducted for actual costs incurred.

Doc. No. 780849

## Medicaid Eligibility

### Budgeting for Individuals Related to SSI Program Budget to Determine Eligibility 326.25.35

The Department of Human Resources adopts the amendment to Section (c) of its rule about determining eligibility for medical assistance for persons receiving care in Title XIX long-term care facilities as proposed in the December 2, 1977, issue of the *Texas Register*. This amendment was adopted on an emergency basis in July, 1977. As a result of this amend-

ment, the income eligibility cap for nursing facility care in long-term health care facilities is increased from \$370 to \$395. This increase is necessary to maintain the eligibility of recipients who would be denied medical assistance as a result of the July, 1977, increase in Social Security benefits. No negative comments were received and no changes have been made to the proposed text.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Articles 695c and 695j-1, Texas Civil Statutes.

#### .011. Budget to Determine Eligibility.

(c) To simplify this determination, the department has established a standard chart figure of \$395 to represent a composite of the budgetary needs for an individual in a non-institutional setting. Gross income, minus certain deductions, is measured against this standard to determine eligibility for medical assistance. If there is a deficit of one cent or more, need is established. This procedure must be followed at the time of application and for every redetermination and the computations recorded on the MAO worksheet.

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 780847

Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Effective Date: February 24, 1978

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

## Community Care for Aged, Blind, and Disabled Adults

The Texas Department of Human Resources has adopted the following amendments and additions to Rules 326.58.52.001-.003, .006, .009, .012-.014, .018-.019, and .021-.024 concerning the Texas Home Care Program, as published in the November 18, 1977, issue of the *Texas Register*. Several changes have been made in the proposed text as a result of public comments. The additions and amendments which were proposed for Subchapter .51, rules regarding protective services for adults, are not being adopted at this time in order to allow for further consideration of comments received regarding these changes.

The following statements concern those rule amendments and additions which are being adopted. Suggestions were made as to the need for adding to the reasons given for the termination of family care services for specific clients. While the list of reasons given in the text was not intended to be exhaustive, a change was made in the proposed rules to indicate that a number of additional, reasonable circumstances might warrant the reduction of family care services.

Changes were made, as a result of public comment, to clarify the distinction between individual and contract agency providers of family care services. In addition, textual material regarding the program term "self sufficiency" was altered due to suggestions received. A lack of clarity was pointed out in the text regarding the responsibility of contract agencies for the utilization of DHR casework forms. Changes have been made to provide more specific guidelines in this area.

The text of the rules was also altered as a result of public comment to clarify the state policy for authorizing services. A number of comments were received which dealt with matters not within the scope of the rule changes being proposed. However, some of the suggestions offered have been forwarded to staff divisions responsible for those policy and procedural areas.

**In-Home Care Program 326.58.52.001, .002, .003, .006, .009, .012, .013, .014, .018, .019, .021, .022, .023, and .024**

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources adopts the amendments and additions to the following rules.

**.001. Definition.**

(a) In-home care consists of:

- (1) The assessment of client needs.
- (2) The arrangement for and monitoring of the delivery of homemaker, chore, and family care services in the homes of eligible, blind, or disabled adults.

(b) Services are offered to help the client achieve or maintain self-sufficiency; prevent or remedy abuse, neglect, or exploitation; and prevent inappropriate institutionalization. The in-home care services are:

- (1) Chore.
- (2) Family care.
- (3) Homemaker.

**.002. Homemaker Services.**

(a) Homemaker service is provided through purchase of service contracts. It includes care of a client in his or her home to help maintain, strengthen, and safeguard the client's functioning in the home through the services of a trained and supervised homemaker.

(b) The homemaker provides personal care to the client and performs related household tasks. Services may include support services, such as transportation; information and referral (without regard to income); and integral but subordinate medical or remedial services.

**.003. Chore Services.**

(a) Chore services include the performance of household tasks, shopping, meal preparation, simple household repairs, and other necessary home maintenance tasks which permit a client unable to perform such tasks to remain in his or her home.

(b) Chore services are directed to the client's environment and do not involve the client's personal care.

(c) Chore services provider's duties include:

- (1) Housecleaning.
- (2) Laundry.
- (3) Shopping.
- (4) Preparation of meals.
- (5) Simple household repairs.
- (6) Yard maintenance.
- (7) Reporting to the contract provider agency significant or hazardous changes in the client's circumstances or condition.

(d) Services may include support services, such as transportation, and information and referral, without regard to income.

(e) On a pilot project basis, there is a provision for purchase of materials for recipient homeowners only not to exceed \$200 per home per year.

**.006. Sources of Services.**

(a) Homemaker and chore services are obtained through purchase of service contracts. The agencies must meet the department's minimum standards for the services they agree to provide. The agencies must comply with the department's eligibility and priority criteria. The contract provider agencies may have as their sole function the provision of homemaker or chore services, or they may be multi-purpose agencies, such as family service bureaus, home health agencies, and community action agencies.

**.009. Family Care Services.**

(a) Service description. Family care services are provided through purchase of service agreements with individual providers or contract provider agencies. Services may be provided by a family member or a person having the capacity for a family-like relationship with the client, such as a neighbor or a friend. Services are provided for the person who, because of advanced age or physical infirmity, cannot care for his or her needs. Family care services consist of activities, such as performance of household tasks, provision of personal care, companionship, and protective supervision. Services may also include support services and integral but subordinate medical or remedial services. The following are definitions of service terms:

(1) Household tasks—meal preparation, bed making, laundry services, light housekeeping, and other similar services related to the care of aged or infirm persons.

(2) Personal care services—assistance in dressing, eating, personal grooming, bathing, getting in and out of bed, or exercising. Medically related personal care tasks, such as administering medications, irrigating catheter or colostomy, may not be performed unless the family care services provider has been thoroughly trained to perform such tasks and does so with the approval and written direction of the client's physician.

(3) Fellowship—providing friendship and social contact, such as sharing in mutual interests, experiences or activities, reading to the client, assisting in personal correspondence, etc.

(4) Protective supervision—overseeing the activities of and/or looking in on the person, who, because of age, failing eyesight, senescence, general frailty, or illness, needs some assistance in protecting himself from physical harm.

(5) Transportation—driving or accompanying client to a doctor, shopping, or on other errands.

(b) In addition, the family care services provider must report to the social services worker any significant change in the client's condition that might require a change in the service plan.

(c) Family care services may be provided by a person who either lives with the client (live-in) or who periodically comes to the client's home (live-out) and may or may not be related to the person receiving services.

**.012. Service Plan for Family Care Services.** Family care services are obtained for the client by negotiating a fee for service contract with individual providers or from contract agencies. The client, with the advice and assistance of the social services worker, recruits individuals who are willing to

provide family care services. The department is responsible for approving payments.

*.013. Selection and Assessment of Family Care Services Provider.*

(a) The worker assists the client in interviewing the prospective family care services provider, in determining whether the provider meets the department's Minimum Standards for Family Care Service Providers for Aged, Blind, or Disabled Adults, and in determining whether the provider has the ability to perform the tasks required for the particular client. To assess the provider's abilities, the client and worker should observe the provider's performance and/or contact personal references regarding the provider's reliability, competence, and integrity.

*.014. Task Assignment—Individual Provider.*

(a) Once the service plan has been developed for the client, the social services worker assists the client in making specific task assignments to be required of the service provider. The Services Authorization—Provider Agreement form lists the possible tasks that might be required. The social services worker should discuss the form with the client, the client's family, and the prospective provider. It is important that the client have a clear understanding with the provider as to the tasks to be performed, their frequency and duration, and the amount of service which the department can approve for payment.

(b) The task assignment sheet categorizes the tasks as follows: personal care, health care, household, protective supervision, and transportation.

(c) Health care tasks may be assigned to the family care services provider only if he has been thoroughly trained by an attending physician, registered nurse, or registered therapist to perform such tasks and has the approval and written direction of the client's attending physician.

(d) The social services worker should be familiar with the services offered by home health agencies in the community. The majority of community care aged, blind, and disabled clients are Supplemental Security Income recipients and have Medicaid (Title XIX) coverage. Most of those with Medicaid also have Medicare (Title XVIII) coverage. In many instances the services of home health agencies are available to clients. These services often include teaching the client's family or other person to perform certain health care tasks needed for care of the client at home, such as motion exercises, checking temperature or pulse, and skin care.

(e) If the client is not receiving services from a home health agency, the initial task assignment sheet may include only personal care, household, and protective supervision. Health care tasks are added later as the appropriate consultations and arrangements are completed.

(f) After the client has decided which tasks are to be performed, the social services worker assists the client in completing the Service Authorization-Provider Agreement form, detailing the specific tasks and the number of units of service approved for DHR payment. The worker uses the form to convert the time required for performance of tasks to units of services. The units, when multiplied by the dollar rate per unit, yield a fee for service.

(g) Instructions for use of the Service Authorization-Provider Agreement form contain guidelines for use in estimating the number of units of service required by a family care client. Estimated task times are included for per-

sonal care, household, and health care tasks. No time estimates are included for protective supervision tasks because time to perform these tasks varies.

(h) The monthly cost is calculated by multiplying the number of units required per week times the rate, times the average number of weeks in a month.

(i) If the tasks to be assigned add up to portions of hours, the worker rounds off to the next higher half-hour before converting to units.

(j) In the case of one-time only and unusually heavy tasks, such as cleaning a stove or removal of a large accumulation of trash, one or two units may be allocated for the service each month until such time as the cost of the required units is prorated over the period covered by the contract.

(k) Intensive care situations requiring many units of service each day for a few days may require prorating the units over a month's time as long as the cost for the month remains within DHR ceilings. The worker should evaluate such a situation with the client and interested friends and relatives. A client requiring many hours of service per day for more than a few days may require hospitalization, professional home health services, or nursing facility placement. Intensive care situations are not within the strict intentions of this service.

*.018. Individual Provider Agreement.*

(a) The Service Authorization-Provider Agreement form includes a task assignment sheet. Both should be discussed thoroughly with the client and the provider to gain mutual understanding as to the frequency and duration of services to be provided. The agreement states the number of units of service per week to be provided, the dollar rate per unit to be paid, and the beginning and termination dates of services. In the agreement, the provider acknowledges that he or she is not an employee of the department, that he or she is responsible for reporting income and paying any income tax required in accordance with Internal Revenue Service requirements, and that he or she understands that the department will not make O.A.S.D.I. (Social Security) deductions or payments in his or her behalf. The form is signed by the family care services provider and the client. If more than 90 hours per month are required, the social services worker and DHR supervisor sign the agreement to indicate approval for payment. The agreement must be renewed prior to the date the contract expires. Family care payments for services not covered in the contract are invalid.

*.019. Approval for Payment for Family Care Services.*

(a) Continuing departmental approval for payment for family care services is indicated by monthly approval of the Purchase Voucher for Individual Providers form. The social services worker must provide a Purchase Voucher for Individual Providers to the family care services provider each month for signature. A Purchase Voucher for Individual Providers is completed by the local DHR social services office and forwarded to the provider for signature.

*.021. Reassessment.*

(a) During the sixth month following the last assessment, or earlier if necessary, a complete reassessment must be done by the social services worker for each client receiving family care services. A new task assignment sheet and individual provider agreement must be completed at that time.

(b) The social services worker must:

(1) Visit the client as often as necessary. The worker should be aware that at each visit, one or more of the following services may be required:

(A) Counseling the client and family in matters such as money management, adjustment to living, family and community relationships, and personal care.

(B) Developing resources for transportation for essential errands.

**.022. Changes in Service Plan.**

(a) The family care services provider must report to the social services worker any significant change in the client's condition that might require a change in the service plan. A change in condition includes the removal of the client from his or her residence, or improved or decreased functional capacity.

(b) The worker makes a change in the service plan after a reassessment of the client's condition if the worker determines that the change in the condition requires a change in the service plan. In addition to changing the service plan, the worker has these other options:

(1) Make necessary referrals to a home health agency.

(2) Arrange for technical medical care.

(3) Make necessary referrals to agencies capable of providing more appropriate services, such as homemaker or chore service.

(4) Make necessary referrals for any other services that might be appropriate.

(c) At the time of entering into the agreement with the client, the worker must inform the family care service provider of the possibility of change in the quantity or type of service.

**.023. Termination of Approval for Payment.**

(a) The individual provider agreement indicates the planned date of service termination. If payment for services will terminate prior to the agreed date, the social services worker notifies the provider in writing that approval for payment terminates on a specific date. Reasons for payment termination are:

(1) The client's eligibility status changes.

(2) Death of the client or removal of the client from place of residence.

(3) The client no longer wishes to receive the services of the family care services provider.

(4) The social services worker or client determines that the provider's performance of required tasks is unsatisfactory or that the provider has failed to meet the department's minimum standards.

(5) Changes in department policy affect the department's ability to pay for services to the client.

(6) Client's capacity for self-care improves to the extent that family care is no longer warranted.

(7) Client's capacity for self-care deteriorates to the point that institutionalization is warranted and continuation of family care services would be inappropriate and inadequate.

(8) Provider decides to terminate contract.

(b) Termination of approval for payment is effective upon receipt of the written notification. The worker must give the provider the notification of termination of services as soon as possible.

(c) If approval for payment is terminated because the provider's performance of required tasks is unsatisfactory,

the provider has failed to meet the department's minimum standards, or the provider no longer wishes to provide services, provision must be made for continuation of services to the client.

**.024. Monitoring.** The social services worker is responsible for monitoring the delivery of family care services. This requires that the social services worker have regular contact with the client through home visits. The worker observes the delivery of services and obtains comments and observations from the client regarding the effectiveness of services. The worker also confers regularly with the family care services provider to assess the adequacy of services and to determine the continued need for services. While monitoring the delivery of services, the worker has an opportunity to identify any problems and to counsel the service provider and the client to resolve any misunderstandings or adjustment problems.

Doc. No. 781040

**326.58.52.004-.005, .007-.008, .010-.011, .015-.017, .025**

The Texas Department of Human Resources has adopted the repeal of Rules 326.58.52.004-.005, .007-.008, .010-.011, .015-.017, and .025, regarding the application of the client's income to cost of family care services. The proposed repeals were published in the November 18, 1977, issue of the *Texas Register* (2 TexReg 4437). The repeal of these rules is due to new eligibility conditions, to an alteration in casework procedures, and to the reorganization of in-home and out-of-home services to clients of the Aged, Blind, and Disabled Adults Program.

The department is not adopting the repeal of Rules 326.58.51.004-.005, .007-.014, and .016, regarding Protective Services for Adults as proposed in the November 18, 1977, issue of the *Texas Register* in order to allow time for further consideration of comments received regarding these changes. No comments were received in connection with the repeal of the remaining rules.

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources has repealed Rules 326.58.52.004-.005, .007-.008, .010-.011, .015-.017, .025.

Doc. No. 781041

**326.58.52.027**

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources adopts the amendments and additions to the following rule.

**.027. Levels of Authorized Service.**

(a) The following limits and conditions are placed on family care services to be purchased by DHR for clients:

(1) 1-90 units of service per month—May be approved and authorized by the experience caseworker without approval of the supervisor. The supervisor still retains responsibility for decisions at this level. If a question about the case exists in the worker's mind, the supervisor should be consulted before a final decision is made.

(2) 91-180 units of service per month—May be recommended by the worker but also requires approval of the supervisor.

(3) 181-300 units of service per month—If a client's need is determined to require this level of service, the worker may recommend it. Approval by supervisor and ABD regional program director is required.

(4) 301-480 units of service per month—Considered as an extreme emergency, this level of service requires the same procedure as Level 3 above. It may be authorized for not more than 30 days.

(b) The rationale underlying this procedure is to allow the worker freedom to authorize service at Level 1 without the necessity for further approval and delay. This does not preclude the regional administrative staff from setting up a control mechanism in order to monitor budget expenditures.

Doc. No. 781042

## Community Care Services 326.58.53.001-.005

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources adopts the amendments and additions to the following rules.

### .001. Program Description.

(a) Community Care for Aged, Blind, and Disabled Adults (CCABD) is one of the services provided by the Texas Department of Human Resources (DHR). The CCABD Program includes a variety of services aimed at the goals of Title XX of the Social Security Act. The CCABD Program offers community or home-based care for the aged, blind, and disabled adults of Texas who are not self-sufficient. The CCABD Program attempts to prevent inappropriate institutionalization of eligible adults.

(b) The CCABD Program offers the following services to eligible clients: chore services, family care services, homemaker services, day activity services, and home-delivered and congregate meals, health assessment services, and alternative living plans. The CCABD Program provides protective services for all adults in Texas based on need, without regard to their income or financial status. Protective services for adults is regarded as the priority service in the above continuation of CCABD services. CCABD also provides information and referral (I&R) services for adults as needed.

### .002. Definition of Program Terms.

(a) Community care. Services provided within the client's own home, neighborhood, or community as opposed to services within an institution.

(b) Target population. Aged, blind, and disabled adults in Texas who qualify for CCABD services because they are recipients of Supplemental Security Income (SSI), Medical Assistance Only (MAO), or whose income is below 60 percent of the state's median income, adjusted for family size; except for information and referral (I&R) and protective services clients for whom services are delivered without regard to income.

(c) Adult. A person 18 years old or older.

(d) Aged. A person 65 years old or older.

(e) Blind. An individual without sight, or who is experiencing progressive deterioration of sight which may

result in loss of sight within five years. A written or verbal statement of an optometrist or physician skilled in treating eye disease is required to substantiate either condition.

(f) Disabled. An adult is considered to be disabled if he or she cannot engage in any substantial gainful activity because of a medically determined physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months, or which will result in death. In exceptional instances, however, disability may be shorter than one year, in which case the hardship of the client may require service in spite of the length of time involved.

(g) Self-sufficiency. For the assessment of client needs, self-sufficiency means a situation in which the client fulfills all of the following criteria:

(1) is able to maintain his or her home in a clean, safe, and hazard-free condition;

(2) is able to maintain his or her nutritional, medical, physical, personal care needs, and personal safety;

(3) is able to obtain other needed community resources.

(h) IE (income eligible). Refers to an aged, blind, or disabled adult, who is not an SSI recipient, but who qualifies for CCABD services on the basis of having an income that is equal to or less than 60 percent of the state's median income, adjusted for family size.

(i) MAO (medical assistance only).

(1) Individuals residing in a Title XIX-approved medical facility who would be eligible for SSI benefits if they were residing outside such facility except that their income exceeds the SSI payment standard but is within the maximum established by DHR, that is, equal to or less than 60 percent of the state's median income.

(2) Individuals who were receiving both public assistance money grants and social security benefits in August, 1972, continue to be eligible for Title XIX coverage under Type Program 03. These individuals must meet SSI eligibility criteria in the current month, with the exclusion of the amount of the October, 1972, 20 percent increase. However, subsequent increases in social security benefits are not exempt from consideration unless the legislation initiating the increase also specifically provides an exemption.

(3) Individuals covered by Section 503 of Public Law 94-566. The basic eligibility requirements for this new coverage group are:

(A) the individual must have received an SSI cash grant in June, 1977; and

(B) the individual must have become ineligible for SSI effective July 1, 1977, due solely to the 5.9 percent cost-of-living increase in the social security benefits paid to the individual and/or his or her spouse; and

(C) the individual must continue to meet all SSI eligibility criteria except for income. Countable income, minus the July, 1977, increase amount, must be less than the appropriate SSI payment standard, which is based on the living arrangement of the individual.

(j) Institution. Refers to a nursing home; state school or hospital for the blind, handicapped, mentally ill, or mentally retarded; or other facility of care which is not regarded as a community-based living arrangement as defined in these rules.

**.003. Applicable Title XX Goals.**

(a) The following are the applicable Title XX goals for this program:

- (1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- (2) achieving or maintaining self-sufficiency to reduce or prevent dependency;
- (3) preventing or remedying abuse, neglect, or exploitation of children and adults unable to protect themselves, or preserving, rehabilitating, or uniting families;
- (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;
- (5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to persons in institutions.

**.004. Priorities for Service.**

(a) Limitations on funds available to the department necessitate the setting of priorities to determine when and under what conditions services may be purchased so the greatest number of adults in the most critical need may be served.

(b) Within available funds, priority for services is given to:

- (1) aged, blind, or disabled adults who are recipients of Supplemental Security Income (SSI) or Medical Assistance Only (MAO) who are released from nursing facilities or institutions;
- (2) all persons not included in the above group who are recipients of SSI who are 65 years old or older;
- (3) other adults age 18 to 65 years who are recipients of SSI;
- (4) other aged, blind, or disabled adults with incomes equal to or less than 60 percent of the state's median income.

**.005. Authorization for New Clients—with Regard to Income.**

(a) Within available funds, services are authorized for new clients in priorities (2), (3), and (4) of Rule 326.58.53.004 if, in the judgment of the worker or contract agency staff, the provision of such service will serve to prevent or delay inappropriate institutionalization. The CCABD Program is not intended to serve clients who, even with the provision of services, should still be placed in an institutional care facility.

(b) The priority and eligibility criteria in (a) of this rule do not apply to protective services for adults and information and referral, which are approved by DHR without regard to income.

Doc. No. 781043

**326.58.53.006-.030**

The Texas Department of Human Resources has adopted the repeal of Rules 326.58.53.006-.030, regarding community care services. The proposed repeals were published in the November 18, 1977, issue of the *Texas Register* (2 TexReg 4437). The repeal of these rules is due to new eligibility conditions, to an alteration in casework procedures, and to the reorganization of in-home and out-of-home services to clients of the Aged, Blind, and Disabled Adults Program.

The department is not adopting the repeal of Rules 326.58.51.004-.005, .007-.014, and .016, regarding Protective

Services for Adults as proposed in the November 18, 1977, issue of the *Texas Register* in order to allow time for further consideration of comments received regarding these changes. No comments were received in connection with the repeal of the remaining rules.

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources has repealed Rules 326.58.53.006-.030.

Doc. No. 781044

**326.58.53.031-.048**

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of the board, the Texas Department of Human Resources adopts the amendments and additions to the following rules.

**.031. Roles and Responsibilities of Workers.**

(a) DHR's CCABD social services delivery system emphasizes assessment of client needs; provision of needed services to eligible clients through contract, direct provision, or referral; and outreach and resource development. The worker functions as broker, coordinator, and protector to ensure that a client receives needed services. The information and referral service (I&R) is an integral part of DHR's service system. I&R includes need identification, resource identification, linkage, follow-up, resource development, and evaluation and monitoring. If the client is not eligible for services through Title XX, I&R should be provided in his or her behalf to community services that can serve the client.

(b) Broker. The worker must assume responsibility for ensuring that each client is linked to the service he or she needs. The worker must be able to complete an assessment of the client's service needs, have knowledge of resources available to meet those needs, and the ability to develop resources if not available. The worker must also be able to mobilize and arrange for community resources on behalf of a client. The worker may also be involved in research about service needs of client groups and development of community resources to meet those needs.

(c) Coordinator. If more than one service is arranged for a client, the worker must coordinate the delivery of the services. Included in such coordination is the delivery of DHR services and programs. Additional services are those delivered through other agencies, such as the Governor's Committee on Aging, Texas Department of Mental Health and Mental Retardation, or local United Way agencies. As coordinator, the worker also helps prevent duplication of services to the client.

(d) Protector. The worker acts on behalf of adults who are unable to protect themselves from abuse, neglect, or exploitation. This rule includes working with courts, law enforcement agencies, and community groups on behalf of citizens at risk. In addition to criminal abuse and neglect, people in some communities are improperly served by welfare, health, employment, educational, and other systems. The worker interviews and mediates to bring needed changes to the attention of those with power to make such changes.

(e) When agencies, including DHR, cannot respond to the client's needs, then the CCABD staff has the responsibility to be advocates on behalf of the client and to mobilize the required resources.

### .032. Intake.

(a) Request for services. Requests for services can originate through any of the following:

(1) Referrals from other agencies, organizations, and DHR divisions.

(2) Walk-in requests from clients or interested individuals.

(3) Referrals from the client or his or her relatives, friends, or interested individuals.

(b) Except for providing information and referral services, a personal contact in the office or home should be made with all individuals referred to DHR.

(c) The intake process begins at the time a request for service is made. All contacts made by individuals requiring service must be recorded by the DHR worker. In the intake process the worker must:

(1) explore and record the individual's request to determine the nature and extent of the problem;

(2) immediately assess the urgency of the individual's request to determine if services are needed immediately; and

(3) provide general information regarding DHR services; and

(4) accept an application for DHR services, if requested by the individual.

### .033. Information and Referral.

(a) At the time of the initial contact with the client, or upon receipt of a referral, the worker must assess the client's situation and determine if the client needs social services through direct delivery or purchase of services, or if he or she requires services of other agencies. If the client needs more than information and if other agency services are indicated, a referral should be made to the appropriate agency or community resource after consulting with the client. A referral, even if no DHR service or payment for service is indicated, is a part of DHR's service. DHR provides information about services provided under Title XX and related service programs, brief assessments and appropriate referral, and follow-up with community resources.

(b) In making referrals to another agency or DHR office, the worker must give the client the office address; telephone number; name of person to contact, if known; appointment date; and any information which might be helpful.

(c) I&R services are provided without regard to income. The worker must keep a record of I&R service given, and periodically report on the Service Activity form.

### .034. Eligibility Determination.

(a) Without regard to income: A client receiving only I&R does not need to file a written application for services. A worker documents the need for protective services by a narrative recording in the case record. Need must be redetermined every six months for services to continue. Redetermination of need is documented by case recording.

(b) With regard to income. For all services other than I&R or adult protective services, the worker's determination of eligibility is based on a dated and signed application indicating that the applicant or recipient is eligible for social services. The worker certifies eligibility with regard to income on an Application and Eligibility Certification for Social Services form. When a client receives services from DHR and a contract services provider, the eligibility determination must be made by the DHR worker and each agency separately. For services purchased under individual provider

agreements, eligibility determinations are made by DHR staff.

(c) CCABD workers will closely coordinate activities with Medical Eligibility workers in arranging for referrals of clients entering and exiting nursing homes.

.035. Notification of Eligibility or Ineligibility. The worker must notify clients of their eligibility or ineligibility. Eligible clients can be notified orally. The worker records the date of oral notification in the case record. Clients who are ineligible for social services must be notified of their ineligibility on the Notification of Denial, Reduction, or Termination of Social Services form. When possible, an oral explanation of the decision to reduce, deny, or terminate service should precede the notification by the form.

### .036. Client's Rights and Responsibilities.

(a) At the time of eligibility determination and redetermination, staff of DHR or the contracting agency must inform clients about their rights and obligations under the program.

(b) Applicants must be informed of the following:

(1) Right to fair hearing. The client or individual acting on behalf of the client may appeal denial, reduction, or termination of services, or failure to act upon requests for services with reasonable promptness. The worker must inform the client of the procedure for requesting fair hearings.

(2) Nondiscrimination. In accord with the Civil Rights Act of 1964, there shall be no discrimination in regard to receiving social services on the basis of sex, religion, race, color, handicap, or national origin.

(3) Provision of information. The applicant must give all information necessary to establish eligibility. The worker must inform the client that falsification of such information may be grounds for penalty for theft.

(4) Reporting changes. The client must promptly report any changes in income or size of family, loss of assistance grant or Medicaid benefits, or any other changes in circumstances that affect eligibility for social services. Willful failure to report changes, which results in the continuation of services for which the client is no longer eligible, may constitute fraud.

(5) Confidential nature of client information. Information collected to determine eligibility for services, whether collected by DHR staff or contract provider agencies, is confidential under state and federal statutes and regulations. Information concerning an individual is generally available to that individual.

(6) Citizenship and residency. An individual who resides in Texas may qualify to receive services regardless of citizenship or duration of residency.

(7) Freedom to reject services. An individual can reject offers of services except for child protective services and certain services required in WIN.

(8) Reduction or termination of social services. In all cases of denial, termination, or reduction, the client has the right to request a fair hearing. The client makes the request to the worker, who, in turn, notifies the appeals officer. The worker must inform the client of this right at the time eligibility status is determined and at such time that service is denied, terminated, or reduced. The client may be asked to sign a statement, Collateral Contact Authorization form, giving the worker permission to obtain additional information deemed necessary to certify the client's eligibility status.



*.037. Registration.*

(a) Clients receiving social services directly delivered by DHR or by a contract provider agency must be registered with the Social Services Management System (SSMS) by means of a Client Registration form as soon as eligibility has been determined. Clients receiving only I&R are not registered.

(b) The worker or the contract provider agency closes the client registration when services to the client are discontinued. Client registration is automatically closed by the system if no claim for service by a contract provider agency is received within six months. In referring a client to a contract provider agency, the worker opens and closes the registration by using the appropriate action code on the form. The agency will immediately open the registration upon receipt of the referral. However, certain services delivered by other state agencies under special interagency agreements with DHR, such as those with Texas Department of Mental Health and Mental Retardation (TDMHMR) and Texas Rehabilitation Commission (TRC), are not required with SSMS.

*.038. Assessment of Client's Needs.*

(a) The worker completes an assessment of the client's needs on the Client Needs Assessment form. The worker does this as soon as it is determined that the client requires services beyond I&R and the client's eligibility is determined. The worker determines the unique needs of the client and matches services to those needs. The worker's decision, during assessment or reassessment, determines the services delivered by DHR. Information for assessing client need is obtained by face-to-face interviews with the client.

(b) The worker must have a thorough knowledge of DHR social services programs, purchased social services, home health programs, and other community resources that are available. During the assessment phase, the worker begins a survey of resources that could be used to meet the client's service needs. The worker should consider home health agencies and other medically-oriented programs as viable sources if appropriate to meet the client's needs.

(c) Before making a recommendation for a service resource, the worker should discuss the available resources with the client and/or family, and with the appropriate social services agencies. In some cases it may be necessary to discuss the recommendations with the treating physicians. The client or guardian is free to accept or reject a particular service. DHR reserves the right to determine those cases in which vendor or provider payments will be made.

*.039. Development of Service Plan.*

(a) The service plan can call for various combinations of in-home care, out-of-home care, medical, and other services. The combinations are based on the worker's assessment of the client's needs, the client's resources, other available community resources, and the client's eligibility for available services.

(b) The client should participate in the planning and decision-making process to the fullest possible extent.

(c) Service plan elements include:

- (1) identification of client's presenting problems;
- (2) assessment of client's physical health, functional well-being or impairment, mental health, social resources, and general needs;
- (3) assisting client to articulate or clarify goals he or she wishes to achieve;

(4) considering all possible social and health services, or combinations of these, that would meet client's needs, objectives, and goals;

(5) specifying what is to be done, such as the services and resources that help the client achieve the stated goals.

*.040. Referral to Contracting Agencies.*

(a) The program director for purchased social services, in cooperation with the program director having ABD social services responsibilities, develops regional or local systems for referring clients to contract provider agencies, and advises social services staff on use of such referral systems.

(b) The worker refers the client for service to agencies Title XVIII, XIX, and XX services through a Contract Provider Referral form. The worker enters the name of service being requested for the client, such as homemaker or chore services. Determination of the client's eligibility/priority status and client-registration is a responsibility of the contract provider agency.

(c) The agency must respond to the referral within 10 working days of the date on which the referral is made by returning Part C of the contract Provider Referral form to the worker. The response must indicate whether or not services have been or will be initiated as requested. If services will be provided, the anticipated date of service initiation must be indicated on Part C of the form. If services will not be provided, the reason for denial must be indicated.

(d) If the worker does not receive Part C by the 10th working day after which it was sent to the contract provider agency, the worker must immediately contact the agency to determine the reason for the delay and the status of the referral. After the contract provider agency advises the worker of the date on which services to the client will be initiated, the worker must contact the client no later than 10 working days after the service initiation date. The worker contacts the client to see if the client is satisfied with the arrangements and to see if any further direct services are needed. If the worker determines that no further direct services are required, the worker records this and closes the case, if it is open. However, in each case, the worker must follow-up the referral.

(e) If services cannot be delivered as requested and the client meets the eligibility and priority criteria, the worker does not close the case until other arrangements have been made, such as, referral to another contract provider agency, or until all possible alternatives have been exhausted.

*.041. Reporting and Recording.*

(a) The worker must report all contacts with clients or potential clients on the appropriate forms or logs, or narrative recording in the case record for protective service cases.

(b) If service is denied, reduced, or terminated, the worker notifies the client on a Notification of Denial, Reduction, or Termination of Social Services form. The client uses this information to apply for a fair hearing on DHR's decision. The contract agency is responsible for the completion of the Client Registration form, the Application and Eligibility Certification for Social Services form, the Notification of Denial, Reduction, or Termination of Social Services form, when appropriate for clients; and for the completion of the Client Needs Assessment form every six months.

(c) Unless the client is referred to a contract agency, it is the worker's responsibility to monitor:

- (1) the status of the client;
- (2) the quality of care provided.

(d) A reassessment of the client's needs and a recertification of the client's eligibility must be done every six months. The DHR worker performs the reassessment and eligibility procedures for clients serviced by individual providers; agencies perform the same for their clients.

(e) The contract provider agency must monitor the status of clients referred for service as well as the quality of service delivered by its workers. The agency must reassess its client's needs.

**.042. Evaluation.** At the time of reassessment, the worker determines any change in the needs of the client or circumstances that warrant the setting of new objectives in meeting the client's needs. The DHR worker or contract provider agency supervisor must be informed by the direct service provider and the client of any change in the condition or needs of the client. A change requires reassessment.

**.043. Purchase of Service (POS) Procedures—Contracts.**

(a) Purchase of Service (POS) is a procedure by which DHR develops agreements and contracts with individuals and agency providers to obtain service delivery to clients. DHR purchases services from:

(1) individual providers (family care agreements and family foster homes) and,

(2) contract provider agencies (all other contracted services).

(b) Service definitions.

(1) Purchase of service from individual providers.

Agreements with individual providers are established between the client and the provider with DHR assisting the client in arranging for the provision of social services under Title XX. The provider is independent and is not employed by DHR.

(2) Purchase of service from contract provider agencies. Contracts between DHR and agencies or organizations in order to provide training, evaluation, consultation, and social services to eligible clients under Title XX.

(3) Unit of service. A designated amount of delivered service by which the service can be measured.

(4) Unit rate. A specified and agreed upon amount to be reimbursed by DHR to a provider for the delivery of one unit of service. The rate must not exceed the established ceilings.

**.044. Purchase of Service Casework Procedures.**

(a) Intake. The contract provider agency must conduct the intake when a client applies for service directly with the agency. If the client requires protective services, the agency refers the client to the DHR caseworker.

(b) Follow-up, monitoring, and evaluation. The evaluation of a contract is carried out by regional staff three months prior to the expiration date of the existing contract.

(c) Methods of payment. There are two methods of payment for purchase of service contracts with agencies. The budget must be set up as a monthly control mechanism.

(1) Payment by cost reimbursement only is directly related to the allowable, reimbursable costs incurred by the contract provider agency. No unit rate is necessary when cost reimbursement is used. This method is applicable for the following services:

- (A) Protective services
- (B) Day activity services
- (C) Congregate meals
- (D) Home-delivered meals

- (E) Health assessment service
- (F) Alternative living plans (except family foster homes).

**.045. Cost Reimbursement with Ceiling on Unit Cost.**

(a) Under this method, reimbursement is also based on allowable, reimbursable cost incurred by the contract provider agency. In addition, this cost must be at or under the prescribed ceilings for the services. A flat rate or negotiated rate is not utilized in payment, but a rate is calculated for the purpose of determining the unit cost. Each contract provider agency is required to provide service at or below the established ceiling and may not exceed the ceiling. Monthly deviations are allowable as long as the annual unit cost for the contract year is at, or below, the unit cost ceiling.

(b) Regional POS staff have the primary responsibility for ensuring compliance. State Office CCABD Division will conduct periodic reviews to monitor compliance. This method is applicable for the following services:

- (1) Chore service
- (2) Family care, when purchased from agency provider
- (3) Homemaker service.

**.046. Start-Up Costs on Contracts.** All new CCABD-related contracts may be initiated on a cost reimbursement basis for up to six months. Every contract provider agency is required to deliver the service at or below the established ceilings for the seventh and subsequent months. Regional staff may limit the cost reimbursement phase of any new contract to fewer than six months. In no case may a purely cost reimbursement system be continued beyond the sixth month in any contract delivering services which require a ceiling on unit cost.

**.047. Contract Format.**

(a) The following program components must be included in a CCABD contract with DHR:

- (1) Title XX goals addressed.
- (2) Measurable program objectives.
- (3) Priorities and selection criteria of client categories to be served.
- (4) Clients to be served by category.
- (5) List of specific services to be purchased through contract.
- (6) Statement of needs assessment for service.
- (7) Referral procedures.
- (8) Staff development and training, if appropriate.

(b) The State Contracts Division of DHR administers, reviews, and monitors special contracts with other state agencies according to guidelines and standards established by the State Contracts Division. Regions negotiate with these agencies concerning the contents of the contracts, but final approval is given by the State Contracts Division.

**.048. Productivity and Unit Rates.**

(a) The productivity rate is the ratio of direct client contact hours to the on-the-job hours in a given period.

(b) The unit rate is the amount paid by DHR for the delivery of one unit of service.

### Health-Related Services 326.58.54

The Texas Department of Human Resources has adopted the repeal of Rules 326.58.54.001-.014, regarding health-related services. The proposed repeals were published in the November 18, 1977, issue of the *Texas Register* (2 TexReg 4437). The repeal of these rules is due to new eligibility conditions, to an alteration in casework procedures, and to the reorganization of in-home and out-of-home services to clients of the Aged, Blind, and Disabled Adults Program.

The department is not adopting the repeal of Rules 326.58.51.004-.005, .007-.014, and .016, regarding Protective Services for Adults as proposed in the November 18, 1977, issue of the *Texas Register* in order to allow time for further consideration of comments received regarding these changes. No comments were received in connection with the repeal of the remaining rules.

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources has repealed Rules 326.58.54.001-.014.

Doc. No. 781046

### Out-of-Home Care 326.58.55.001-.002

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources adopts the amendments and additions to the following rules.

#### .001. Definition.

(a) Out-of-home care includes community-based care for clients through a variety of activities. Out-of-home care also includes necessary support services such as transportation, information and referral, and needed integral but subordinate medical and remedial services to be arranged for by referral to home health agencies for services available and approved for payment under Title XVIII, Medicare, and Title XIX, Medicaid.

(b) The out-of-home care services are:

- (1) day activity services;
- (2) home delivered and congregate meals;
- (3) alternative living plans including special services provided by foster family homes;
- (4) health-assessment services.

#### .002. Definition of Home Delivered Meals and Congregate Meals.

(a) These services may be two separate services or the two services may be combined to allow flexibility in providing for the nutritional needs of the elderly.

(b) Home delivered meals—includes the preparation and delivery of no more than two hot meals daily to the recipient's place of residence.

(c) Congregate meals—includes the preparation and serving of no more than two hot meals daily in a central dining area.

Doc. No. 781047

### 326.58.55.003-.016

The Texas Department of Human Resources has adopted the repeal of Rules 326.58.55.003-.016, regarding priorities and

eligibility for state-funded purchase of services and regarding department relationship with clients through such contracted services. The proposed repeals were published in the November 18, 1977, issue of the *Texas Register* (2 TexReg 4437). The repeal of these rules is due to new eligibility conditions, to an alteration in casework procedures, and to the reorganization of in-home and out-of-home services to clients of the Aged, Blind, and Disabled Adults Program.

The department is not adopting the repeal of Rules 326.58.51.004, .007-.014, and .016, regarding Protective Services for Adults as proposed in the November 18, 1977, issue of the *Texas Register* in order to allow time for further consideration of comments received regarding these changes. No comments were received in connection with the repeal of the remaining rules.

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources has repealed Rules 326.58.55.003-.016.

Doc. No. 781048

### 326.58.55.017-.029

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources adopts the amendments and additions to the following rules.

#### .017. Day Activity Services Description.

(a) Day activity services consist of personal care during the day for adults in a protective setting approved by DHR. On a pilot project basis only, services may include:

- (1) social and personal adjustment training,
- (2) vocational skill training,
- (3) extended sheltered employment.

(b) Services may include support services such as transportation; information and referral, without regard to income, and integral but subordinate medical, remedial, and board services.

#### .018. Development of Service Plan for Day Activity Services.

(a) Day activity services are obtained through purchase of service contracts. An agency which contracts to provide day activity services must be a public or private non-profit agency which meets DHR's Minimum Standards for Agencies Contracting to Provide Day Activity Services for Aged, Blind, or Disabled Adults and which agrees to comply with DHR's eligibility and priority criteria. For good cause, specific items in the Minimum Standards for Agencies Contracting to Provide Day Activity Services for Aged, Blind, or Disabled Adults may be waived with the approval of the social services program director. The contract provider agency may provide day activity services solely, or it may be a multipurpose agency, such as a family service bureau, a home health agency, or a community action agency.

(b) The rates paid by DHR for day activity services provided by an agency or organization having a contract with DHR are determined on a cost reimbursement basis.

.019. Implementation. Once a day activity services plan of care is developed, the worker refers the client to a contracting agency for the initiation of services.

## .020. Health Assessment Services.

(a) The DHR worker or contract provider agency staff arranges for health assessment services. These services are purchased from home health agencies or other appropriate health service agencies for the purpose of providing health assessments to eligible aged, blind, and disabled adult clients.

(b) A home health agency is a public or private, non-profit agency with Title XVIII and Title XIX approval, engaged in providing in-home care to clients requiring medical supplies and equipment, skilled nursing, home health aide, and other therapeutic services.

(c) All clients determined eligible for service and who require health or medical care may be referred to a home health agency in order to obtain a proper health assessment. The worker registers the client on a Client Registration form and determines eligibility status by means of the Application and Eligibility Certification for Social Services form before referring the client to the agency for a purchased health assessment. When appropriate, the worker conducts a social needs assessment in addition to the health assessment.

## .021. Alternative Living Plans.

(a) Alternative living plans (ALP) are special services provided by foster family homes which are rendered to aged, blind, and disabled adults in order to promote economic self-sufficiency and to provide for community-based care.

(b) Special social services are provided through individual provider agreements to persons in certified foster family homes. They are special services in addition to basic foster care. Such services include:

(1) identification of special services needed because of a physical or mental condition or an emotional or behavioral problem;

(2) provision of the needed services;

(3) assisting individuals to maintain contact with their families and communities; and

(4) supportive services such as transportation, information and referral, and integral but subordinate medical and remedial services.

(c) Such special services may also include preparation of special diets, preventive health measures, remedial speech or reading exercises, assisting in physical exercises, socialization services, reality orientation, or other special services which may be required. The foster family provider must be qualified to provide the special services through experience or training, or must accept and participate in training or consultation to acquire the necessary skills.

## .022. Assessment of Client Needs.

(a) Special services provided by foster family homes are used for persons who, because of physical, mental, or emotional limitations, are unable to continue independent functioning in the community, and who need and desire the support and security of family living. Special services provided by foster family homes are also appropriate for persons whose medical or emotional needs are such that care in a nursing facility or institutional care is no longer needed although they are unable to resume independent living and have no relatives who are able to provide a home.

(b) Foster family homes are not appropriate for persons whose physical or mental condition requires care in a medical or psychiatric facility or is such that they are a danger to themselves or others.

## .023. Certification of Client's Need.

(a) Certification of the client's need for special services provided by foster family homes is accomplished by the supervisor of the DHR placement worker who has made the recommendation for these services on behalf of the client. After the supervisor studies the case folder including the Client Needs Assessment form and is satisfied with the worker's recommendation for the client to receive these services and the foster family's ability to provide them, the supervisor certifies the need by signing the Service Authorization—Provider Agreement form.

## .024. Processing Foster Family Home Requests.

(a) When a request for foster family home placement is received, the supervisor gives it to a social services worker who helps the client and relatives evaluate the need for foster family home placement. When possible, the client's relatives should take part in the planning and placement.

(b) DHR's first objective is to help the client remain in his or her home. If the client's physical, mental, or emotional limitations are such that remaining in his or her home is not feasible, even with available supportive services, the social services worker makes an appointment with the foster family home placement worker.

(c) With the client's consent, the social services worker shares all client information with the placement worker. This may include: medical, psychiatric, and psycho-social evaluation. For purposes of continuity, the social services worker also introduces the client to the placement worker, and the client's social services case folder is transferred to the placement worker. The worker should consider a variety of appropriate placement facilities, such as nursing homes and other institutions.

## .025. Recruitment of Homes, Living Sites.

(a) An active, on-going recruitment program is the core of any strong foster family home program. Since potential residents will have diverse backgrounds and come from a variety of socio-economic levels, a home-finding campaign must reach many groups in order to find foster homes in different segments of the community.

(b) All possible recruitment methods should be used to create community awareness of the need for foster family homes for the aged. Community awareness of the adult foster family home program aids in recruitment of prospective foster homes and presents foster care as a potential alternative for an aged or disabled person when his or her present living arrangements are no longer suitable or do not meet his or her needs.

## .026. Development of Service Plan.

(a) When an individual expresses interest in becoming a foster care provider, the worker schedules an office interview, when feasible, with the prospective applicant. If the applicant is married, both husband and wife should be present for this interview. It is important that both partners agree with and support the desire to provide adult foster care.

(b) The following points should be covered in the initial interview with the applicant:

(1) The applicant's reasons for applying.

(2) Life experiences and special training which would be helpful in caring for the elderly or handicapped.

(3) A discussion of the responsibilities in foster family services regarding food, furnishings, and personal services to enable the applicant to understand what is in-

volved in terms of physical, financial, and emotional expenditures.

(4) Information about the family structure, the family's financial situation, and employment.

(5) Information about the space available for adult foster care and the location of the family's residence.

(6) DHR's role and responsibility for continuing supervision.

(7) A discussion of the Minimum Standards for the Purchase of Special Services in Foster Family Homes for Aged, Blind, or Disabled Adults.

*.027. Study of Foster Family.*

(a) The home study worker schedules an appointment for a home visit with the entire family. The worker explores the following areas with the family: education level of family members, work history, financial situation, marital life, family relationships, health history, attitudes toward health practices and use of medical resources, religious preferences, meaning of church and religion, use of leisure time, and other social activities.

(b) The worker makes as many interviews, individual and family, and home visits as necessary to explore the family's potential to provide special services for adults. During these contacts and through the family's expressed desires, the worker develops a clear picture of the types of residents who would be most comfortable as members of the family and acceptable to the family.

(c) No home shall be approved that does not meet the Minimum Standards for the Purchase of Special Services in Foster Family Homes for Aged, Blind, or Disabled Adults. Using the standards as a base, the worker should explain to the applicant(s) where the home is deficient and give specific suggestions for meeting the standards, if possible. Deficiencies are recorded on the Worker Study of Foster Family Home form. If, in the worker's judgment, a deficiency is not correctable but would not be detrimental to the health, safety, or welfare of the client, the worker requests the supervisor to waive the requirement in question. If the supervisor concurs with the worker that there is sufficient justification for waiver, he or she approves certification of the home.

*.028. Payment Procedures.*

(a) The client authorizes the provision of special services provided by the foster family home. The DHR worker and supervisor approve services for payment by use of the Service Authorization-Provider Agreement form. The worker discusses the agreement thoroughly with both client and provider to facilitate their understanding of services to be provided and the method of payment. The worker then assists the client in completing the agreement. The Service Authorization Provider Agreement form serves as a basis for payment for services.

(b) Continuing DHR approval for payment special services provided by foster family homes is indicated by monthly approval of payment claim forms. The worker provides the payment claim form, Purchase Voucher for Individual Providers, and attachments, to the foster family home provider each month for signature. The form is completed by the local social services office and forwarded to the provider for signature. In addition to the monthly payment to the provider made by DHR, the client contributes a monthly payment to the provider for his or her monthly room and board costs. This payment will be negotiated between the client and the provider with the assistance and counsel of the worker. The

worker ensures that the client retains a sufficient amount of money each month for other expenses.

*.029. Certification.*

(a) When a home is certified as a foster family home for adults, the certification covers that residence only. If the family moves to another home, there must be a new certification for this home, including a fire inspection.

(b) The worker completes a new Worker Study of Foster Family Home form which applies to the new residence. The home should be denied if the standards can no longer be met or if the family's circumstances have changed to the extent that they and the worker agree they should discontinue caring for residents at that time. The worker should handle a denial in the same way as an initial home study.

(c) If the worker is satisfied that the family can continue to provide foster family services, a new Worker Study of Foster Family Home form is sent to the supervisor with the foster family home folder for final approval. After supervisory approval, a Foster Family Home Certificate is issued for the foster family's present residence.

Doc. No. 781049

**Support Documents 326.58.99.001-.002,  
.004-.005**

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources adopts the amendments and additions to the following rules.

*.001. Financial Limitations for Homemaker and Chore Services.*

(a) The rates paid by the department for homemaker and chore services provided by an agency or organization having a contract with the department are determined on an individual basis. Rates may vary from agency to agency because each rate must be determined in relation to the agency's individual operating budget. The department will pay the following rates to agencies contracting with the department when state-appropriated funds are used for matching purposes:

- (1) Chore services—up to \$6 per hour, including administrative costs, not to exceed four hours per day per client.
- (2) Homemaker services—up to \$7.75 per hour, including administrative costs, not to exceed four hours per day per client.
- (3) Family care agency—up to \$3.50 per hour, including administrative costs, not to exceed four hours per day per client.

*.002. Financial Limitations for Family Care Services.* The maximum amount the department pays for family care services is based on the rate of \$1.05 per unit (1/2 hour) of service.

*.004. Foster Family Home Rates.* The department will pay \$4 per day to the foster family home provider for services rendered up to a maximum of \$124 for a 31-day calendar month.

*.005. Financial Limitations for Day Activity Services.* The rates paid by the department for day activity services provided by an agency or organization having a contract with DHR are determined on a cost reimbursement basis.

Doc. No. 781050

## 326.58.99.003

The Texas Department of Human Resources has adopted the repeal of Rule 326.58.99.003, regarding the application of client's income to cost of family care services. The proposed repeal was published in the November 18, 1977, issue of the *Texas Register* (2 TexReg 4438). The repeal of this rule is due to new eligibility conditions, to an alteration in casework procedures, and to the reorganization of in-home and out-of-home services to clients of the Aged, Blind, and Disabled Adults Program.

The department is not adopting the repeal of Rules 326.58.51.004-.005, .007-.014, and .016, regarding Protective Services for Adults as proposed in the November 18, 1977, issue of the *Texas Register* in order to allow time for further consideration of comments received regarding these changes. No comments were received in connection with the repeal of the remaining rules.

Pursuant to the authority of Texas Revised Civil Statutes, Article 695c, and with the approval of its board, the Texas Department of Human Resources has repealed Rule 326.58.99.003.

Issued in Austin, Texas on February 6, 1978.

Doc. No. 781051 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Effective Date: February 27, 1978

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

## Legal Services

### Hearing Procedure 326.79.14

The Department of Human Resources adopts the amendments to its rule concerning confidential material by the deletion of reference to the Veteran's Administration as an example of an outside source of medical information. The amendments to Rule 326.79.14.003 were published in the December 6, 1977, issue of the *Texas Register*. The department will continue to honor all requests that information supplied by another agency not be released to the applicant or others. The amendment to Section (f) of the rule replaces the name Nursing Home Services Division with Long-Term Care Division.

No comments were received on the proposed amendments, and they are adopted without changes to the proposed text.

The following amendments are adopted under the authority of Article 695c, Texas Civil Statutes, with the approval of the Texas Board of Human Resources.

#### .003. Confidential Material.

(d) When another agency releases medical information to DHR and requests that this information be held in confidence, this request will be honored. This information cannot be released to the applicant, recipient, or his or her representative (except as allowed below). Therefore, if there is no additional information in the record upon which a decision can be made, the department will be required to authorize additional medical examinations at state expense, which may be used in the conduct of the appeal. The department may utilize,

at all administrative levels, medical information which is supplied in confidence by other agencies, such as the Division of Disability Determination, Texas Rehabilitation Commission. This includes hearings at which the disclosure to claimants and their representatives is permissible, if the department maintains controls so that the patient's well-being and treatment is protected. Special treatment of medical information from other agencies marked "confidential" will be respected if one of the following situations is present:

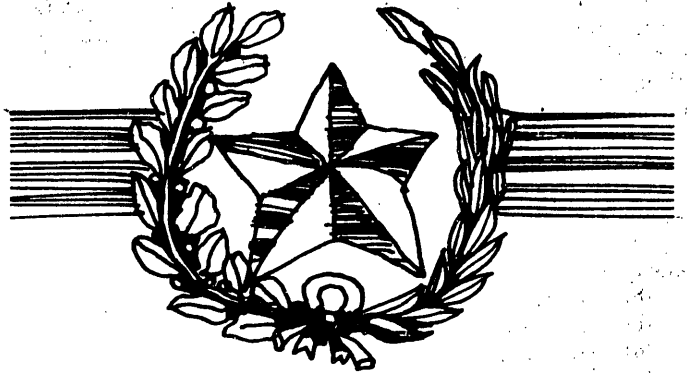
(f) If a private physician requests that the medical report not be shared with the appellant, Medical Services Division or Long-Term Care Division will notify the hearing officer. The hearing officer will then contact the appellant's representative and obtain an agreement to protect the confidentiality of the report and not to share it with the appellant. The medical report will then be shared with the appellant's representative. In the event such an agreement to protect the confidentiality cannot be obtained, the appellant does not have a representative, or the physician requests that even the representative not be allowed to review the report, a new medical examination must be procured at state expense.

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 780848 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Effective Date: February 24, 1978

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



## Texas Commission on Law Enforcement Officer Standards and Education

### Administrative Division

#### Substantive Rule 210.01.02

The Texas Commission on Law Enforcement Officer Standards and Education adopted amendments to Rule 210.01.02.004, with one change from the text proposed in the November 18, 1977, issue of the *Texas Register* (2 TexReg

4444). In accordance with a commission staff recommendation, permanent peace officer qualification certificates shall also be issued to those applicants who are exempted from meeting the Minimum Standards for Appointment and the law enforcement training requirements by the provisions of Section 6(a), Article 4413(29aa), Texas Civil Statutes.

This rule is proposed under the authority of Article 4413(29aa), Texas Civil Statutes.

.004. *Certification of Officers.* The commission shall issue two types of officer certificates:

(A) Proficiency certificates, which shall include the basic, intermediate, and advanced proficiency certificates, evidencing the attainment of knowledge, skills, and abilities through education, training, and experience which will enable the officer to more adequately perform the law enforcement duties. Requirements for the basic, intermediate, and advanced proficiency certificates are prescribed in Specification 1 of this rule.

(B) Qualification certificates, which shall include the peace officer and reserve officer qualification certificates, evidencing that the officer meets the qualifications to be employed as a peace officer or reserve officer. Qualification certificates shall be of two types:

- (1) temporary peace officer qualification certificates, and
- (2) permanent peace officer qualification certificates or permanent reserve officer qualification certificates.

Requirements for the qualification certificates are prescribed in Specification 2 of this rule.

#### Specification 1: Proficiency Certificates.

##### (I) General Provisions.

(a) In accordance with the provisions and standards hereinafter set forth, the Texas Commission on Law Enforcement Officer Standards and Education shall, acting by and through the executive director of said commission, award the following proficiency certificates:

(1) A basic proficiency certificate, hereinafter called basic certificate.

(2) An intermediate proficiency certificate, hereinafter called intermediate certificate.

(3) An advanced proficiency certificate, hereinafter called advanced certificate.

- (b) No change
- (c) No change
- (d) No change
- (e) No change
- (f) No change
- (g) No change

(h) Application for a proficiency certificate is made by the officer signing the commission's Form F-6, "Report of Training," and submitting the same or having the same submitted to the commission with a request that such application be placed upon the expedited docket for processing by the commission at such time as the officer has completed all the requirements for the issuance of such certificate.

(i) Whenever an individual has submitted documents supporting a claim of training, education, or experience which would entitle the individual to a proficiency certificate and the commission, acting by and through its executive director, determines that such a claim does not meet the standards established by the commission for the issuance of such certificate, the individual shall be notified by mail of the

decision, together with a brief explanation of the reasons therefor. The written notice will further advise the individual of his right to apply for a public hearing on the matter in accordance with the commission's rules of practice and procedure for contested proceedings.

(j) The commission may annul a proficiency certificate issued to a peace officer under Specification 1 of this rule if:

(1) the commission issued the certificate in error when the recipient had not met the requirements for the issuance of the certificate; or

(2) the commission issued the certificate as a result of incorrect information furnished the commission indicating that the recipient was entitled to the certificate when in truth and in fact the recipient was not entitled to the certificate. The commission's action for annulment of the certificate shall proceed in accordance with the commission's rules of practice and procedure, unless the recipient, by an instrument in writing, acknowledges that he has been advised of his rights to formal administrative proceedings before the commission, including notice of hearing, hearing, proposal for decision, and final decision, and that he waives all such formal proceedings and relinquishes such certificate and returns the same to the commission for cancellation without further proceedings of any kind whatsoever.

- (II) No change
- (III) No change
- (IV) No change

#### Specification 2: Qualification Certificates.

##### (I) Certification Required.

(a) No person designated as a "peace officer" by Article 2.12, Code of Criminal Procedure, or by Section 51.212, Texas Education Code, shall be appointed by a department unless such person has first been certified by the commission as qualified to be a peace officer as evidenced by the issuance to such person of either a temporary peace officer qualification certificate or a permanent peace officer qualification certificate.

(b) No person appointed as a "reserve law enforcement officer" shall carry a weapon or otherwise act as a peace officer unless such person has first been certified by the commission as qualified to so act as evidenced by the issuance to such person of a permanent reserve officer qualification certificate.

(II) General provisions. In accordance with the provisions and standards hereinafter set forth, the Texas Commission on Law Enforcement Officer Standards and Education shall, acting by and through the executive director of said commission, award the following qualification certificates:

(a) Temporary peace officer qualification certificates which shall be issued to individuals who meet the minimum standards for appointment established by the commission by Rule 210.01.02.001, but who have not satisfactorily completed a basic course for peace officers specified by commission Rule 210.01.02.003.

(1) A temporary peace officer qualification certificate shall be issued for a period not to exceed six months and shall expire six months from the date of the officer's original appointment as a peace officer unless sooner terminated either by (1) termination of the officer's employment with the department to whom he was certified by the commission, (2) revocation or annulment of the certificate by the commission as provided in these rules, or (3) issuance of a permanent peace officer qualification certificate.

(2) An officer may be employed by more than one department under temporary peace officer qualification certificates; however, the cumulative total period of employment of such peace officer under temporary peace officer qualification certificates shall not exceed six months.

(3) A temporary peace officer qualification certificate shall not be extended beyond the cumulative total period of employment of six months from the date of the officer's original appointment as a peace officer, except that after the lapse of one year from the date of forfeiture of his position as a peace officer for failure to satisfactorily complete the basic course in law enforcement within the six-month period from the date of his original appointment, a law enforcement agency may petition the commission for reinstatement of such temporary qualification certificate; such reinstatement, including the term and conditions of such reinstatement, shall rest within the sole discretion of the commission.

(b) Permanent peace officer qualification certificates or permanent reserve officer qualification certificates which shall be issued to applicants who meet the minimum standards for appointment established by the commission by Rule 210.01.02.001, and who, depending upon the qualification certificate applied for, have either satisfactorily completed a basic course for peace officers or the basic course for reserve officers specified by commission Rule 210.01.02.003; and to those applicants who are exempted from meeting the Minimum Standards for Appointment and the law enforcement training requirements by the provisions of Section 6(a), Article 4413(29aa), Texas Civil Statutes.

(1) A permanent peace officer qualification certificate or permanent reserve officer qualification certificate shall be issued for an indefinite term and shall expire upon termination of the officer's employment with the department to whom he was certified by the commission unless sooner terminated by revocation or annulment of the certificate by the commission as provided in these rules.

(2) The commission may annul a temporary or permanent qualification certificate issued to an individual under Specification 2 of this rule if: (A) the commission issued the certificate in error when the recipient had not met the requirements for the issuance of the certificate; or (B) the commission issued the certificate as a result of incorrect information furnished the commission indicating that the recipient was entitled to the certificate when in truth and in fact the recipient was not entitled to the certificate.

(3) The commission may revoke a temporary or permanent qualification certificate issued to an officer under Specification 2 of this rule if the commission determines that the recipient has violated a rule, regulation, requirement, specification, or other standards established by the commission. The commission shall revoke a temporary or permanent qualification certificate issued to a peace officer under Specification 2 of this rule if the recipient is convicted in any state or federal court of a felony.

(4) The commission's action for annulment or revocation of any qualification certificate issued under Specification 2 of this rule shall proceed in accordance with the commission's rules of practice and procedure, unless the recipient by instrument in writing acknowledges that he has been advised of his rights to formal administrative proceedings before the commission, including notice of hearing, hearing, proposal for decision, and final decision, and that he waives all such formal proceedings and relinquishes such cer-

tificate and returns the same to the commission for cancellation without further proceedings of any kind whatsoever.

(5) Whenever an individual has submitted documents supporting a claim for issuance of a qualification certificate and the commission, acting by and through its executive director, determines that such claim does not meet the standards established by the commission for the issuance of such certificate, the individual shall be notified by mail of the decision, together with a brief explanation of the reasons therefor. The written notice will further advise the individual of his right to apply for a public hearing of the matter in accordance with the commission's rules of practice and procedure for contested proceedings. A copy of the commission's letter to the applicant shall be sent to the department desiring to employ or utilize the applicant as a peace officer or reserve officer.

### (III) Law Enforcement Department responsibilities.

(1) Commission Form F-1, which is the application for the issuance of any qualification certificate, must be completed, signed by the administrator or his designate, and forwarded to the commission by any law enforcement department desiring to appoint a person as a peace officer or desiring to authorize a reserve officer to carry a weapon or otherwise act as a peace officer. The applicant for certification must sign and attest to the statement on the reverse side of the Form F-1.

(2) No law enforcement department may appoint a peace officer or authorize a reserve officer to carry a weapon or otherwise act as a peace officer prior to receipt from the commission of either a temporary peace officer qualification certificate, a permanent peace officer qualification certificate, or a permanent reserve officer qualification certificate.

(3) Each law enforcement department shall keep at its headquarters in a file available for inspection by the commission, either a temporary peace officer qualification certificate, a permanent peace officer qualification certificate, or a permanent reserve officer qualification certificate, issued by the commission for each officer employed by that law enforcement department. No peace officer may be retained in the employment of a law enforcement department and no department may authorize a reserve to carry a weapon or otherwise act as a peace officer if such department does not have a valid qualification certificate for such officer.

(4) Any law enforcement department which submits a Commission Form F-1 on an applicant for certification as a peace officer or reserve officer and as a result receives from the commission a qualification certificate for such applicant, and then fails to appoint such applicant as a peace officer or reserve officer, shall immediately and not more than 10 days after receipt of such qualification certificate, complete and forward to the commission Form F-5, "Notice of Termination," together with the qualification certificate held by the department for that individual.

(5) Whenever a peace officer or reserve officer terminates from a law enforcement department for any reason, either on his own initiative or that of the law enforcement department, or in the event his qualification certificate expires, is revoked, or annulled by the commission, the law enforcement department shall immediately and not more than 10 days from the date of such termination, expiration, revocation, or annulment, complete and forward to the commission Form F-5, "Notice of Termination," together with the qualification certificate held by the department for that peace officer or reserve officer.



(6) A copy of the written reports or other documentary evidence necessary to show that each applicant for a peace officer or reserve officer qualification certificate satisfactorily meets minimum standards for appointment A.3.; A.6.; A.7.; A.8.; and A.10., as set out in Commission Rule 210.01.02.001, shall be attached to each commission Form F-1 forwarded to the commission. All other evidence that each peace officer meets the requirements for the issuance of the qualification certificate applied for shall be kept by the employing department at its headquarters in a file or files available for inspection by the executive director of the commission or his designate.

Issued in Austin, Texas, on February 3, 1977.

Doc. No. 781039      Fred Toler  
Executive Director  
Texas Commission on Law Enforcement  
Officer Standards and Education

Effective Date: February 28, 1978

For further information, please call (512) 439-1171

## Texas Department of Water Resources

The Texas Water Development Board adopts new permanent rules. Pursuant to Senate Bill 1139 of the 65th Legislature, effective September 1, 1977, the Texas Water Development Board is directed to make any rules necessary to carry out the powers and duties under the Water Code and other statutes to establish and approve all general policy of the Texas Department of Water Resources. On September 1, 1977, the board adopted these rules as emergency rules. The rules were proposed for permanent adoption in the December 20, 1977, issue of the *Texas Register* (2 TexReg 4884-4896).

Because of the length of these rules, only the chapter and subchapter titles and numbers and a brief description will be published. Copies may be obtained from the Texas Department of Water Resources Library, Room 511, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-4211. The charge for the complete set of Texas Water Development Board rules is \$14, plus one dollar mailing charge; the charge for the complete set of Texas Water Commission rules is three dollars, plus 50 cents mailing charge. These charges include an update subscription through 1978. The department will accept checks in payment.

These rules are adopted under the authority of the Texas Water Code, Sections 5.131 and 5.132.

### Introductory Provisions

#### General Provisions 156.01.01.001-.014

In addition to routine matters, this subchapter includes (1) provision for the board delegation of authority to an attorney of the department to hear and to make a written report to the board on any matter before the board, (2) a description of department policy concerning public access to records of the department and procedure for obtaining copies thereof, and (3) designation of the executive director to perform all non-judicial functions of the department relating to the federal government arising from appointment or designation of the

Texas Water Rights Commission, the Texas Water Quality Board, or the Texas Water Development Board by the governor prior to September 1, 1977. The adopted rules have been expanded to incorporate more meaningfully the main purpose of the rules: that is they are for the implementation of the powers and duties assigned to the department by the code and statutes, and for the establishment of the general policies of the department.

### Environmental Impacts Statements

#### 156.01.05.001-.006

This subchapter concerns the general subject and use of environmental impact statements, and in addition to environmental considerations, includes social and economic impacts. Provision is made that such statements may be required and used as evidence in hearings before the board or the commission. The subchapter also requires such statements to be filed if the federal government prepares or requires one to be prepared.

### Guidelines on the Preparation of Environmental, Social, and Economic Impact Statements 156.01.10.001-.003

This subchapter states the steps to be followed in the assessment process and the matters which should be included in a statement.

### Rulemaking Public Hearings of the Board and Commission 156.01.15.001-.011

This subchapter concerns rulemaking public hearings of the board and commission. The Administrative Procedure Act provides that under certain circumstances public hearings may be called to consider proposed rules, and the public may petition for the adoption of a rule as the agency may adopt emergency rules. The subchapter includes rules on the procedure and practice to be applied to public hearings to be held on rules.

#### Definitions 156.01.20.001-.235

This subchapter concerns definitions of a general nature that are used throughout the entire rules. The definitions include terms applicable to water development, quality, and rights matters. Definitions which are unique to specific chapters are included with that specific chapter rather than with the general definitions. In response to suggestions received, definitions of "claim" and "secondary use" have been included. "Artesian well" has been amended to conform to the statutory definition contained in Water Code, Section 11.201. In order to include additional definitions in the future, the subchapter has been renumbered in increments of five. This will enable the department to maintain an alphabetical list of its definitions.

### Appropriation of Water

#### Classes of Water Rights Permits

##### 156.02.05.001-.008

In addition to routine matters, this subchapter includes descriptions of the various classes of water rights permits:

regular, seasonal, temporary, term, contractual, Section 11.143, storage, and emergency.

## Types of Water Rights Permits

156.02.10.001-.004

This subchapter includes descriptions of the various types of water rights permits: direct diversion and diversion from a reservoir, on-channel and off-channel storage.

## General Requirements of Permit Applications

156.02.15.001-.017

In addition to procedural requirements, this subchapter includes a list of general informational requirements for water permit applications: source of supply; amount and purpose of use; rate and method of diversion; location of diversion point, reservoir, and dam; return water and surplus water; proposed installation of reservoir on land of another; multiple ownership of existing reservoir; source of supply in another's reservoir; storage in another's reservoir; transwatershed transfers; provision of storage facilities; limited terms for permits in the Brazos River Basin. These rules have been amended to reflect that following the reorganization, water permit application forms are furnished by the executive director, rather than by the commission. The rules have been further amended to require a water permit applicant to give his telephone number, in addition to name and address, on the application and to require an individual or partnership operating under an assumed name to attach to an application an assumed name certificate from the clerk of the county in which the principal place of business is located.

## Maps, Plats, and Drawings Accompanying

### Applications for Regular

Water Permit 156.02.20.001-.003

This subchapter includes a list of physical requirements for application plans submitted by the applicant's registered professional engineer or public surveyor and a list of content requirements for accompanying maps.

## Additional Requirements for Irrigations

156.02.25.001-.003

This subchapter includes a list of additional requirements for irrigation permits involving descriptions of the lands proposed to be irrigated. The rules have been amended to require the applicant for a Water Code Section 11.121 permit to submit a certified copy of photocopy of the deed describing the tract proposed to be irrigated, including the recording information from the county deed records. This is to enable the department to locate more precisely the acreage to be irrigated to which an irrigation permit is appurtenant.

## Additional Requirements for Dams and

Reservoirs 156.02.30.001-.002

This subchapter includes a list of additional requirements for proposed dams and reservoirs involving the submission and contents of plans, maps, and plats prepared by registered professional engineers.

## Diversion from Un-sponsored or Storage Limited Projects 156.02.35.001-.003

This subchapter describes the different procedures for obtaining a permit to divert state water for beneficial purposes from either a reservoir constructed by the federal government for which no local sponsor has been designated and permit issued or a reservoir permitted for storage solely for the purpose of optimum development of the projects.

## Temporary Water Permits

156.02.40.001-.003

This subchapter includes a description of procedures concerning temporary water permits not exceeding three years duration: additional application requirements; staff review and provisional disposition by individual commissioners; complaint procedures and provisional cancellation; hearing before the commission; and time extensions.

## Application for Water Permit under Section

11.143, 156.02.45.001-.003

This subchapter includes a description of the procedural and informational requirements for obtaining an emergency permit for a period of not more than 30 days to alleviate conditions which threaten the public health, safety, and welfare, and which override the necessity to comply with established statutory procedures. The amended rules concern the requirements for a Water Code Section 11.143 permit which authorizes a person owning an exempt reservoir of less than 200 acre-foot capacity used only for domestic and livestock purposes to divert and use water for other purposes. The rules have been amended to require an applicant for a Section 11.143 permit to give his telephone number, in addition to name and address, on the application and to require an applicant to submit a certified copy of photocopy of the deed describing the tract proposed to be irrigated, including the recording information from the county deed records, consistent with Rules 156.02.15.001-.017 and 156.02.25.001-.003, pertaining to Section 11.121 permits. The rules have been further amended to allow a device other than a low-flow outlet, such as a pump, to be installed in a Section 11.143 dam to pass flows to satisfy the rights of downstream domestic and livestock users and senior and superior rights of other authorized users.

## Contractual Water Permit

156.02.50.001-.003

This subchapter includes a description of the abbreviated procedural and informational requirements for obtaining a permit to use state water impounded in a domestic and livestock reservoir of less than 200 acre-foot capacity constructed on a nonnavigable stream for other than domestic and livestock purpose.

## Emergency Water Permit 156.02.55.001-.002

This subchapter includes a description of the procedural and informational requirements by which a purchaser of raw water must make application for a permit based upon a contractual arrangement with a supplier possessed of a valid water right.

### **Water Permit Fees 156.02.60.001-.010**

This subchapter describes the fees which must be collected by the executive director before any action is taken by the commission on the matter relating thereto: filing, recording and use fees and postage. This subchapter also prescribes procedures for installment payment of fees exceeding \$1000 and for return of unexpended or excess fees if an application is denied or granted in part.

### **Issuance and Conditions of a Water Permit 156.02.70.001-.005**

This subchapter provides the following: (1) that all permits are issued subject to prior and superior water rights; (2) that the commission shall incorporate in every permit any condition, restriction, limitation, or other provision necessary for the enforcement and administration of the water laws and board rules; (3) that permittee's acceptance of the permit is an acknowledgement and agreement to abide by the permit's terms, conditions, limitations, and restrictions; (4) that all return and surplus water must be returned to the source of supply and not reused or sold for reuse unless authorized in the permit; and (5) that suppliers of state water for irrigation purposes must charge purchasers on a volumetric basis.

### **Additional Provisions**

#### **Filing of Instruments 156.03.01.001-.002**

This subchapter states the criteria for filing water permit applications. These rules were amended to authorize employees of the department to make only minor nonsubstantive changes in water permit applications upon express written or verbal approval of an applicant, but to permit employees to make major substantive changes in an application only if the applicant submits a written, notarized amendment to the application. The rules were further amended to provide that no major or minor changes can be made after an application has been set for hearing.

#### **Reports 156.03.05.001-.004**

This subchapter describes the reports which must be filed by various classes of water right holders and water districts and requires permittees to file statements with the executive director showing that construction or installation of diversion and distribution facilities has commenced and been completed within the time limit specified in the permit.

#### **Change of Address and Ownership 156.03.10.001-.003**

This subchapter requires a water right holder to notify the executive director of address and ownership changes and to file a written instrument evidencing a water right ownership transfer with the county clerk and the executive director.

#### **Conveying Stored Water 156.03.20.001-.005**

This subchapter requires that anyone proposing to use the bed and banks of any stream for the purpose of conveying stored water from a place of permitted storage to a place of permitted use must file with the executive director a certified copy of the purchase contract and a written statement of the intended transit of water. The subchapter also enumerates

the duties of the water conveyer and of others along the stream and authorizes the commission to alter or amend any contract for the transportation of water if necessary to protect vested rights or prevent the undue loss of water.

### **Particular Proceedings**

#### **Amending Water Rights on Motion of Executive Director 156.04.01.001-.003**

This subchapter concerns the amendment of certain types of water rights by the commission on the motion of the executive director. The special circumstances under which the executive director may seek to have a water right amended are detailed in the rule and include such instances as to correct inadvertent errors, cure ambiguities, provide a means for enforcing terms and conditions of a water right or enforcing applicable law and similar matters. The rules also provide for the procedure to be followed and the types of notice which must be issued.

#### **Amending Water Rights 156.04.05.001-.002**

This subchapter concerns the amendment of certain types of water rights without notice other than to the holder of the water right. Only amendments which do not contemplate an additional use of state water or an increased rate or period of diversion, and no potential for harming any other existing water right may be considered under this subchapter. Examples of some of the circumstances are stated in .001. The subchapter also includes a provision as to the procedure for applying for such an amendment.

#### **Amendments to Water Rights Requiring Mailed and Published Notice 156.04.10.001-.002**

Generally, amendments falling under this subchapter may involve an increased appropriation of water, rate of diversion, or in some way may affect another water right. Provision is also included for the procedure to be followed when applying for such an amendment.

#### **Cancellation of Water Rights 156.04.15.001-.004**

This subchapter concerns the cancellation of water rights and the enforcement of terms of water rights. The subchapter also empowers the executive director to enforce water right terms through voluntary compliance, in an action before the commission, or by referring the matter to the attorney general. The subchapter sets forth the procedure the executive director and the commission are to follow, including the notice to be issued.

#### **Transwatershed Diversion 156.04.20.001**

This subchapter concerns the movement of water from one river basin to another. It sets forth the procedure to be followed including (1) what type of application to file, (2) the type of notice to be issued and to whom, and (3) the type of hearing to be held.

## Time Extensions 156.04.25.001-.003

This subchapter concerns the extension of time to commence or complete work on a project authorized by a water permit. Requirements of an application are detailed, together with the type of notice and amount of fees due.

## Complaints 156.04.30.001

This subchapter concerns the procedure to be followed when there is an alleged violation of state law relating to water or the rules. The procedures set forth are applicable to both the executive director and a member of the public. Generally, the subchapter provides that the complaint must be served on the alleged violator and a hearing may be held.

## Condemnation 156.04.35.001

This subchapter concerns the power of condemnation of existing works which may become a public menace or a danger to life and property. The subchapter utilizes the complaint procedure as the means of presenting such a matter.

## Federal Projects 156.04.40.001

This subchapter concerns federal projects relating to water in Texas.

## Designation of Local Sponsors on Federal Projects 156.04.45.001

This subchapter concerns the designation of local sponsors on certain projects. When a project is proposed for planning and development by the federal government or the department, any political subdivision may request to be designated the sponsor of the project. The subchapter describes the procedure to be followed, including the notice which must be given.

## Requirements for Dams and Reservoirs

### General Provisions 156.05.01.001-.003

This subchapter articulates the department's policy concerning dam safety and emphasizes the importance of protecting the public from the consequences of dam failure by requiring the highest degree of professional engineering performance in the design and construction of a dam. The rule dealing with dam safety objectives was amended to state unequivocally that no person may construct or maintain a dam which is unsafe.

### Authority of the Department 156.05.05.001-.002

This subchapter includes a statement of the department's authority to supervise the design, construction, enlargement, alteration, repair, maintenance, operation, and removal of all dams and reservoirs, as well as a description of the civil and injunctive remedies for failure to comply with a board rule or commission order concerning the construction, repair, or removal of dams and reservoirs. The rules have been amended to authorize the executive director to refer directly to the attorney general a cause of action for injunctive relief against a dam owner who fails to comply with any board rule or commission order requiring his dam to be constructed,

reconstructed, repaired, or removed. The rules have also been amended to delete the clause which suggests that the executive director has the statutory authority to seek civil penalties under Section 12.052 of the Water Code for a dam safety violation without first obtaining an order from the commission following notice and hearing. The amended rules give the executive director the option of pursuing injunctive relief against a dam safety violator without an order from the commission or pursuing injunctive relief and civil penalties upon order of the commission.

### Commission Approval of Proposed Construction 156.05.10.001-.005

This subchapter details the requirements for construction plans, specifications, and engineering reports, which must be approved by the commission prior to the construction, enlargement, repair, alteration, or removal of any dam.

### Inspection and Construction Requirements 156.05.20.001-.010

This subchapter details the dam builder's or owner's responsibilities during construction, enlargement, repair, alteration, or removal of a dam. It also authorizes periodic inspections by the executive director, specifies procedures for dealing with noncompliance with approved plans and specifications, and requires written permission from the executive director prior to deliberate impoundment of water in a partially or newly completed structure.

### Maintenance, Operation, and Removal 156.05.30.001-.005

This subchapter vests in the department the right to supervise maintenance and operation of dams and reservoirs insofar as necessary to safeguard life and property from injury by reason of failure. It authorizes the executive director to make periodic field inspections of all dams and reservoirs, and to seek orders from the commission requiring the removal or alteration of unsafe and/or unpermitted dams and reservoirs. The subchapter also requires the dam owner to request and secure written approval of the executive director prior to commencing the voluntary removal or breaching of a dam. The rules have been amended to delete the language which exempts dams and reservoirs owned by the federal government from the supervision of and inspection by the department to promote dam safety because the exemption is inconsistent with Rule 156.05.05.001, which subjects all dams and reservoirs in the state to the jurisdiction of the department.

## Water Districts

### General Provision 156.06.01.001-.004

This subchapter includes (1) a definition of "governing board;" (2) a requirement to have a district's accounts audited annually; and (3) the form of an affidavit to be filed annually.

### Creation of Water Districts 156.06.10.001-.002

This subchapter includes (1) a description of documents needed and procedure to be followed in the creation of a mu-

municipal utility district, and (2) a section on conversion of districts to municipal utility districts.

### **Underground Water Conservation Districts 156.06.20.001-.003**

This subchapter includes (1) the procedure for designating underground reservoirs, (2) the alteration of boundaries of underground reservoirs, and (3) a discussion of the boundaries of underground water conservation districts.

### **Appointment of Directors 156.06.25.001**

This subchapter includes a description of the procedures for the appointment of temporary directors as well as the form to be used in requesting the appointment of temporary directors.

### **Issuance of Bonds 156.06.30.001-.009**

This subchapter includes (1) a statement to the effect that the executive director has the responsibility for reviewing and the commission for approving engineering projects, (2) a list of documents required to be filed for a bond issue and the form of some of these documents, (3) application requirements for bond issues, (4) a section allowing a petition for lack of prosecution, (5) requirements for construction within a district prior to approval of a bond issue, (6) provision for the developer paying 30 percent of district construction cost, and (7) provision for the developer being reimbursed for interest accrued on approved construction pay estimates.

### **District Action if the Commission Approves the Engineering Project and Issuance of Bonds 156.06.35.001-.008**

This subchapter includes provision for (1) documents to be filed by the district in the event of approval of a bond issue, (2) certain reports to be submitted to the department's Houston office, (3) the preparation of contract documents entered into in connection with water district construction projects, (4) the governing board of a district having responsibility for control of contracts for construction work, (5) inspection of a district construction project by the executive director at any time, (6) correction of deficiencies noticed in construction of district facilities, and (7) detailed report upon completion of the district project.

### **Other Action Requiring Commission Consideration for Approval 156.06.40.001-.005**

This subchapter includes provision for (1) approval of substantial alternations to plans and specifications, (2) district use of surplus bond or related funds, and (3) change in commission-approved bond interest rates or maturity schedules.

### **Reports 156.06.50.001-.003**

This subchapter includes provisions for (1) documents and reports required to be filed by districts, and (2) additional reports and information required of certain districts.

### **District Name Signs 156.06.55.001**

This subchapter includes provision for the posting notice of the existence of a district.

### **Sanitary Sewer Systems 156.06.60.001**

This subchapter includes provision for the adoption of rules and regulations for districts providing or proposing to provide sanitary sewer service.

## **Financial Programs**

### **Introductory Provisions 156.09.01.001-.002**

This subchapter includes a statement of the scope of the rules and definition of terms. The definition of "100 Year Flood" was deleted as it was defined earlier in Rule 156.01.10.025.

### **General Provisions 156.09.05.001-.006**

This subchapter includes a detailing of mailing and submission requirements; number of copies required of all general application or petition documents; required engineering data; methods of incorporation by reference in an application; statement of meetings and hearings by the board; fees required; and provisions for the suspension of rules.

### **Policy Declarations 156.09.10.001-.003**

This subchapter details the administrative policies of the board; environmental policies of the board; and the policy statement whereby Water Quality Enhancement Funds will not be made available for the benefit of the development of new areas.

### **Initiating Action under the Loan Assistance, Water Facilities Acquisition, and Water Quality Enhancement Programs 156.09.15.001-.003**

This subchapter includes an introduction of the three programs administered by the board, and method of designation and functions of the local sponsor in federal projects.

### **Application to the Board 156.09.20.001-.006**

This subchapter includes a description of the procedures used to initiate board participation in a project; required general application information; required environmental data; required fiscal data; required engineering feasibility data; and required legal data. The requirement that the executive director issue a certificate of final project approval prior to the release of the 10 percent retainage certifying that all work to be done under the contract has been completed in accordance with "sound engineering principles and construction practices" has been changed to read "sound engineering principles and practices."

### **Formal Action by the Board 156.09.25.001-.002**

This subchapter includes a description of procedures for consideration of the application by the board, including considerations used by the board in passing on applications; and a detailing of the actions that are available to the board on any given application.

## **Prerequisites to Release State Funds 156.09.30.001-.004**

This subchapter includes a detailed description of engineering design data prerequisites necessary prior to the release of state funds; a description of land and right-of-way acquisition procedures prerequisites; a detailing of the prerequisite of the applicant to obtain appropriate commission permits and resolutions; and a description of the legal and fiscal documents prerequisites required prior to release of state funds.

## **Loan Assistance Program and Water Quality Enhancement, Final Procedures and Requirements 156.09.35.001-.002**

This subchapter includes a detailing of the instruments needed for closing and provisions for the escrow of any of foregoing instruments which cannot be filed prior to delivery of the bonds and payment therefor.

## **Construction Phase for Loan Assistance Project and Water Quality Enhancement Project 156.09.40.001-.004**

This subchapter includes additional assurance for the stability and security of Development Fund Loans; methods and responsibility for awarding construction contracts; provisions for inspection during construction; and method of alteration for approved plans and specifications.

## **Water Facilities Acquisition Program Negotiation of Contracts 156.09.45.001-.003**

This subchapter provides guidelines for a required draft of a master agreement; authority for the executive director to proceed to negotiate and the board approve entry into any other contract(s) necessary to implement the master agreement; and the requirement that all contracts between the board and a federal agency for the acquisition and development of storage facilities and all contracts by the board for the development and operation of recreational facilities be approved by the attorney general.

## **Water Facilities Acquisition Program Construction Phase 156.09.50.001-.006**

This subchapter provides for the designation of one participating political subdivision to act as manager for the project; responsibility for assuring that proper procedures are observed in advertising for bids and selecting the bidder to construct the project; responsibility and method of providing inspection during construction; method of altering approved plans and specifications; method of disbursement of state funds; and provisions to reopen proceedings where project cost may exceed estimates in the Water Facilities Acquisition Program. The requirement that the executive director issue a certificate of final project approval prior to the release of the 10 percent retainage certifying that all work to be done under the contract has been completed in accordance with "sound engineering principles and construction practices" has been changed to read "sound engineering principles and practices."

## **Procedure for State Acquisition Initiated by the Board 156.09.55.001**

This subchapter includes provisions for the board to initiate proceedings for state acquisition.

## **Transfer of State-Acquired Facilities and Sale of Water 156.09.60.001-.002**

This subchapter provides authority for the board to sell, transfer, or lease any acquired facilities, and to sell the use of any unappropriated public waters of the state stored in the storage facility acquired by the board; and provisions whereby any person acting within his authority may apply to the board to purchase, acquire, or lease facilities, or to purchase the right to use the water in storage, with a preferential right to be recorded to political subdivisions, and as among political subdivisions participating in the project in question.

## **Application to Acquire State Interests or to Purchase Water 156.09.65.001-.006**

This subchapter includes the requirements of an application by a prospective storage client or water client; notice required upon receipt of an application by a prospective water client or storage client; board consideration of an application by a water client or storage client; requiring findings of the board to be made prior to selling, transferring, or leasing any acquired facilities, or selling the right to use water therefrom; requirement that a transfer agreement be adopted by the board describing the terms and conditions necessary for the sale, transfer, or lease of a storage facility; and a directive to the executive director to negotiate a transfer agreement with the water client or storage client to effectuate the sale, transfer, or lease of board-owned interest, or the sale of the right to use the water therefrom, and provisions providing guidelines for the negotiation of such an agreement, and the requirement that the attorney general approve, as to legality, all contracts or agreements for the sale, lease, or transfer of acquired storage facilities and for the sale of water impounded in acquired storage facilities.

## **Post-Construction Responsibilities Compliance Procedure 156.09.70.001-.002**

This subchapter includes a detailing of general responsibilities after completion of the project, including operation and maintenance requirements and continuing financial requirements; and provisions detailing the policy of the board toward continuing cooperative responsibility between the executive director and the local participating political subdivisions.

## **Levee Improvement Districts and Approval of Plans for Reclamation Projects**

### **Definitions 156.10.01.001**

In addition to routine matters, this subchapter includes definition of terms to be used in Chapter X. The definition of

"engineer" has been changed to reflect the new title of the chief engineer as the director of data and technical review of the department.

### **Administrative Policy of the Board** 156.10.05.001-.002

In addition to routine matters, this subchapter includes provision for promulgation of legislative policy by Department of Water Resources, and criteria to be used in approving plans for levee improvement projects.

### **General Provisions Relating to All Applicants** 156.10.10.001-.003

This subchapter includes provision for construction of projects without approval of plans and specifications, cooperation with other agencies, and advice to applicants.

### **Provisions Relating to Districts** 156.10.15.001-.011

This subchapter includes provision for investigation of proposed districts by the executive director; report on proposed district shall not be construed as approval of the project; the commission will approve all plans before construction of project; the plan of reclamation of the district shall be supervised by the executive director; the district's engineer shall prepare a survey report of the district including maps and profiles, with a copy of the report to be filed with the executive director; approval of the report by the board not being considered approval within the meaning of Sections 16.238, 57.093, and 57.102 of the Texas Water Code; procedure for project approval applications; representatives of the executive director entering any land in connection with a project; inspection and report by the executive director during construction; the filing of information with the board prior to approval of bonds by the attorney general. A change has occurred in .001, where the words "strict accordance" have been replaced with the word "compliance." This change was made to afford department inspectors some degree of latitude in determining whether or not actual work accomplished on a project has been done in accordance with the plans approved by the commission. The word "strict" was used in Chapter 57 of the Water Code which was originally enacted in 1913. Since that time, construction practices have improved to the point that in many cases several methods of construction will be adequate for achieving the same objective, and hence the staff feels that some latitude should be given to the department engineer in determining whether or not the method used is sufficient to comply with the plans approved by the commission.

### **Applications for Approval of Projects** **Requiring Commission Approval** 156.10.20.001-.013

This subchapter includes provision for application for approval of reclamation project, the purpose of preliminary plans, the use of existing information in development of acceptable preliminary plans, adequate additional information required to be submitted, submission of flood data, other requirements of preliminary plans, the executive director requesting additional information pertinent to the proposed

project, the plans to bear the seal of the engineer, referral of the application to the commission, publication of notice of application for approval of project plans, disposition of the application, time within which construction must commence, and time within which construction must be completed. Language has been changed to reflect the fact that the executive director may approve a project plan based on a flood frequency of less than 100 years where agricultural land is involved and no third-party interest would be affected by the project. This new language more clearly sets forth board policy which has been applied in the past. The previous language was rather confusing.

### **Unauthorized Projects and Projects Not** **Constructed According to Commission** **Approval 156.10.25.001-.002**

This subchapter includes provision for refusing to accept an application for approval of an unauthorized construction of a project, and inspection of a construction and provision for bringing a project into compliance with conditions approved by the commission. A change has been made in .001 where the 30-day time period for requiring compliance has been changed to not exceed 90 days. Experience has shown that in some cases a 90-day period is required in order to effect justice in the situation. By using the words "not to exceed 90 days" a shorter time period may be required if necessary.

### **Submission of Final Plans** 156.10.30.001-.004

This subchapter concerns provision for submission of final plans for approval, normal requirements for final channel excavation plans, normal requirements for final levees or dikes, and final notice to proceed with construction.

### **Texas Weather Modification Act** **Definitions 156.11.01.001**

This subchapter offers definitions of the rules concerning weather modification promulgated by the Texas Water Development Board.

### **Issuance of Licenses and Permits** 156.11.05.001-.010

This subchapter sets out the department policy and rules concerning the issuance of licenses and permits. The text proposed would have exempted the Department of Water Resources from the licensing and permitting requirements of the act and the rules. This has been changed so that the department is not exempted. As is presently required by the emergency rules, the department will be required to obtain a license and permit from the Texas Water Commission prior to engaging in weather modification and control activities. The proposed text would have allowed a licensee to obtain a permit authorizing a weather modification operation for four years if the operation was to be conducted during just a few months of each of the four years. The adoption requires an operation to be seasonally uninterrupted to be permitted for more than one year, as is presently required in the emergency rules. In other words, a weather modification operation conducted for only a few months could not be permitted for more than one year unless a weather modification operation

of some kind continued to be conducted for the remaining months in each and every year for which the permit is issued.

## **Records Required 156.11.10.001-.002**

This subchapter includes rules requiring that certain records be kept concerning weather modification activities.

## **Amendment, Revocation, and Suspension of Licenses and Permits 156.11.15.001-.004**

This subchapter includes rules concerning revocation and suspension of licenses and permits.

## **Hail Suppression Election Provisions 156.11.20.001**

This proposal has been withdrawn from consideration.

## **Texas Water Well Drillers Act**

### **General Provisions 156.12.01.001-.002**

The rules promulgated under this subchapter describe the purpose of the rules, and define terms to be used for the entire chapter.

### **Certification of Registration Procedures 156.12.05.001-.010**

These rules describe requirements to obtain certification as a registered water well driller including exceptions to requirements for certification, administration of examination, qualifying for registration, and obtaining of the certificate of registration both initially and by renewal.

### **Well Logs and Completion 156.12.10.001-.007**

This subchapter prescribes requirements for reporting by registered water well drillers of all well logs for water wells drilled within the state and completions of wells producing undesirable water.

### **Well Plugging 156.12.15.001-.006**

This subchapter prescribes rules for plugging of wells encountering undesirable water, and specific requirements concerning such wells to prevent pollution.

### **Miscellaneous Provisions 156.12.20.001-.003**

This subchapter includes miscellaneous rules applicable to alternate procedures for well plugging or completion and procedures for field inspections by the executive director of such wells.

## **Grants Administration**

### **Federal Construction Grant Program 156.15.05.001-.004**

In addition to a general statement about the Federal Construction Grant Program under the Federal Water Pollution Control Act, this subchapter includes provisions for deter-

mining eligibility of grant applications; the procedures involved in the processing of applications; priority rating criteria as well as the process for deriving priority scores; and provisions for the review of applications by the Environmental Protection Agency.

### **Planning Grants, Loans, and Contracts 156.15.10.001-.009**

This subchapter includes definitions specifically related to planning grants, loans, and contracts; provisions for determining eligibility and making application for a planning grant, loan, or contract; a statement of department policy with regard to implementing and administering the planning grant, loan, and contract program authorized in the Texas Water Code; provisions for processing applications and matters to be specified upon board approval; provisions to be contained in the planning agreement with the board, or for any revisions and renegotiation of the agreement.

## **Waste Disposal Approvals**

### **Review and Approval of Plans and Specifications for Disposal Systems 156.16.01.001-.006**

This subchapter includes provisions for the review and approval of plans and specifications for all treatment facilities, disposal systems, or sewer systems for the collection, transportation, treatment, and disposal of defined waste.

### **Approved Ratings for Waste Disposal Systems 156.16.05.001-.003**

This subchapter includes a provision for the executive director, subject to the approval of the board, to develop a rating system for waste disposal facilities and to establish procedures for the evaluation of all waste disposal facilities.

### **Certification Notice for NPDES Permits 156.16.10.001-.003**

This subchapter includes provisions and procedures for public notice for all applications for certification for NPDES Permits.

## **Design Criteria for Sewage Systems**

### **General Provisions 156.17.01.001-.009**

This subchapter provides that the executive director shall be the reviewing authority with regard to plans and specifications for construction projects funded by the Water Quality Enhancement Fund and for projects funded by the Environmental Protection Agency Construction Grants Program, that the reviewing authority shall be responsible for approving such plans and specifications, that specified requirements must be met before the plans and specifications can be approved, and that specified requirements must be met during and subsequent to actual construction in accordance with such plans and specifications.



## Effluent Standards

### Domestic Wastewater Treatment

#### Plants 156.18.05.001-.004

This subchapter specifies a policy relating to effluent standards for domestic wastewater treatment plants.

## General Regulations Incorporated Into Permits

### Monitoring and Reporting System

#### 156.19.05.001-.010

This subchapter specifies requirements pursuant to Section 26.042 for monitoring and reporting by holders of waste discharge permits concerning the status of their compliance with permit terms and conditions.

### Discharge of Untreated or Partially Treated Wastewater 156.19.10.001-.010

This subchapter specifies procedures and requirements for making application to discharge untreated or partially treated wastewater into or adjacent to waters in the state and authorizes any discharge which receives approval by the executive director after application is made in accordance with such requirements.

### Hazardous Metals 156.19.15.001-.009

This subchapter incorporates limitations concerning certain hazardous metals into all waste discharge permits which do not otherwise specify such limitations.

## Edwards Aquifer

### Bexar County 156.20.01.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Bexar County, including regulations for the control of private sewage disposal systems; organized waste disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to the requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments received, the rule has been reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

### Comal County 156.20.05.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Comal County, including regulations for the control of private sewage disposal systems; organized waste disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to the requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments

received, the rule has been reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

### Hays County 156.20.10.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Hays County, including regulations for the control of private sewage disposal systems; organized waste disposal of private sewage disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to the requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments received, the rule has been reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

### Kendall County 156.20.15.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Kendall County, including regulations for the control of private sewage disposal systems; organized waste disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments received, the rule was reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

### Kinney County 156.20.20.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Kinney County, including regulations for the control of private sewage disposal systems; organized waste disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments received, the rule was reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

### Medina County 156.20.25.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Medina County, including regulations for the control of private sewage disposal systems; organized waste disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments

received, the rule was reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

## Uvalde County 156.20.30.001-.019

This subchapter regulates water quality related activities in and around the recharge zone to the Edwards Aquifer in Uvalde County, including regulations for the control of private sewage disposal systems; organized waste disposal systems; confined animal feeding operations; and industrial sanitary landfills. These rules also designate local governmental entities to perform administrative functions specified by this subchapter. The change in these rules relates to requirements for the plugging of unplugged, permanently discontinued or abandoned wells. As a result of comments received, the rule was reworded to specifically grant the executive director the authority to approve suitable plugging measures for those wells under the jurisdiction of the department.

## Area Water Quality Management

### Clear Lake 156.21.05.001-.003

This subchapter describes department policy concerning waste discharges within the Clear Lake Watershed.

## Industrial Solid Waste

### Industrial Solid Waste Management

#### 156.22.01.001-.024

This subchapter includes (1) permitting requirements for activities regarding commercial industrial solid waste disposal; (2) application procedures applicable to such permitting; (3) a manifest and reporting system applicable to certain categories of industrial solid waste; and (4) general rules applicable to industrial waste handling, collection, or disposal. Significant changes include: (1) a requirement that all hazardous industrial waste storage, processing, or disposal be permitted; (2) the deletion of the emergency order provision; (3) a requirement that all Class I wastes be subject to the shipping control ticket system; (4) a requirement that all generators other than generators of Class I waste who store, process, or dispose off-site, submit an annual report of their storage, processing, or disposal activities on January 21 of each year; (5) provisions authorizing the suspension of permits; (6) provisions authorizing the revocation of permits if the permit is no longer needed; and (7) provisions specifying the manner of giving public notice prior to hearing.

## Boat Regulations

### Boat Sewage Disposal 156.23.05.001-.020

This subchapter relates to the collection and disposal of sewage from boats, as defined, by (1) prohibiting certain discharges; (2) requiring marine sanitation devices on certain boats; (3) providing specifications for approved marine sanitation devices; (4) providing authority to certify certain boats, for evidence of such certification and fees for such certification; (5) providing authorized means of discharging from boats; (6) providing authority to certify pump-out

facilities and specifications for said facilities; (7) providing for fees for certifying pump-out facilities and evidence of such certification; (8) providing for discharge of sewage from a pump-out facility; providing certain exclusions; (9) providing for renewal certification and fees for the same; (10) authorizing expenditure of funds; (11) authorizing certain persons to undertake enforcement and file complaints; (12) providing for permission to make enforcement inspections; (13) providing for cancellation of certification; and (14) providing penalties for violation. The expiration dates for boat decals were changed from December 31, 1976, and December 31, 1977, to January 1, 1977, and January 1, 1978, respectively. The expiration dates needed to be changed to avoid confusion on the part of boat owners. Prior to this change, the expiration date for any decal was January 1. This caused the decal for that year, such as, "the 79 decals" meaning the decal expired January 1, 1979, but boat owners interpreted this to mean the decal was valid through the entire year of 1979. Another change provides a renewal fee for certification on all pump-out facilities.

## Control of Certain Discharges by Rules

### Commercial Swine Production Operation

#### 156.24.05.001-.011

This subchapter regulates waste handling and disposal practices for commercial swine production operations pursuant to Section 26.040. The proposed text of this rule required certificates of registration for all commercial swine production operations to which this subchapter applies. As amended, Rule .003 applies only to commercial swine production operations with 500 or more animal units. This change was designed to alleviate the paperwork burden for small swine production operations.

### Meat Processing 156.24.10.001-.007

This subchapter regulates the disposal of the waste from meat processing operations pursuant to Section 26.040.

### Sand and Gravel Washing

#### 156.24.15.001-.006

This subchapter regulates waste handling and treatment practices associated with sand and gravel operations pursuant to Section 26.040.

## Waste Discharge Permits

### General Provisions 156.25.01.001-.006

This subchapter sets forth general policy concerning the department's regulation of waste disposal activities.

### Procedure for Obtaining Waste Discharge

#### Permits 156.25.05.001-.016

This subchapter sets forth department policy concerning applications for and issuance of waste discharge permits.

## Revocation, Suspension, and Amendment of Waste Discharge Permits

### 156.25.10.001-.006

This subchapter sets forth department policy concerning revocation, suspension, and amendment of waste discharge permits.

## Corrections and Transfers of Waste Discharge Permits 156.25.15.001-.002

This subchapter sets forth department policy concerning corrections and transfers of waste discharge permits.

## Renewals 156.25.20.001-.004

This subchapter sets forth department policy concerning renewals of waste discharge permits.

## Emergency Orders 156.25.25.001-.005

This subchapter sets forth department policy concerning issuance of temporary orders pursuant to Section 26.0191.

## Enforcement 156.25.30.001-.003

This subchapter authorizes the institution of administrative and judicial proceedings to enforce and require compliance with applicable provisions of the Texas Water Code and with the rules, orders, and permits of the department.

## Oil and Hazardous Substances

### General Provisions 156.26.01.001

This subchapter adopts Emergency Rule 156.26.01.001, which defines hazardous substances for the purpose of the Texas Oil and Hazardous Substances Spill Prevention and Control Act.

## Operation of Rio Grande

### Introductory Provisions 156.30.01.001

This subchapter provides that in the case of any conflict with regularly applicable rules, regulations, or orders promulgated or issued by the board, Chapters 30, 31, and 32 govern the operation of the Rio Grande in Texas.

### Definitions 156.30.05.001-.017

This subchapter contains definitions of terms relevant to operation of the Rio Grande Basin, including the Lower, Middle, and Upper portions.

## Watermaster—Regulatory Functions 156.30.10.001-.002

This subchapter describes the responsibilities of the watermaster, which include inventory, record keeping and monthly reporting of water use. It also indicates the responsibilities of diverters, such as installing metering and pump-locking devices and submitting reports of diversions.

## Allocation of Waters 156.30.15.001-.002

This subchapter provides that for the purpose of allocating water from Falcon and Amistad Reservoirs, the two are com-

bined into a single unit from which allocations will be made, based upon water rights in the Lower Rio Grande recognized by the court and upon water rights in the Upper Rio Grande recognized in the Preliminary Determination of water rights and the claims under contest in good standing to the extent water was asserted in the Section 11.307 claims. It also contains details as to the amounts of reserve water for domestic and municipal use and for losses of water, emergency requirements, and adjustment. In addition, it provides information about the allotments for the uses of water in the Lower and Middle Rio Grande and the allotment calculations for engineering and accounting purposes.

## Enforcement of Rules 156.30.20.001

This subchapter describes the actions by diverters which are violations and provides that after referral by the watermaster, the executive director may direct that the offender's facility be padlocked or may request the attorney general to institute legal proceedings.

## Lower Rio Grande

### Introductory Provisions 156.31.01.001-.005

This subchapter contains information specifically applicable to the Lower Rio Grande, which includes the responsibility of each allottee as to designation of an agent, requirements for requests for written certification of authorization to divert and details as to certification duration and posting.

## Financing Watermaster Operation 156.31.05.001

This subchapter describes the procedures for the assessment of administrative costs to holders of water rights and payment to the department for subsequent deposit in a special fund to finance the Lower Rio Grande Watermaster Operation. It also describes the effect of payment delinquency and procedures for reinstatement.

## Amendments to and Sales of Water Rights 156.31.10.001-.007

This subchapter contains a description of board policy concerning recognition of sales of and authorization of amendments to water rights in the Lower Rio Grande, of executive director, commission and Watermaster requirements as to such sales and amendments and also conversion factors for changes in purpose of use. The main change in these rules relates to amendments of water rights. Presently amendments to water rights in the Lower Valley may be accomplished with no notice whatsoever (except to the secretary of state), while water rights in the Middle Rio Grande must give notice to all water right holders in the basin by first-class mail. Both of these rules differ from the general rules in Chapter IV, which require an evaluation of the type of change desired before determining the extent of notice which should be required. Basically what has been done is to shift the approach to follow the provisions found in Chapter IV. Consequently an evaluation will have to be made to determine if an effect will be had on any other water right when deciding on the extent notice should be issued. In the Lower Valley, two particular instances are described; one when notice need not be issued (changes in diversion rates) and, two, when notice

shall be given (conversion of the purpose of use to a higher priority use). The type of notice issued will conform to Chapter IV.

## Middle Rio Grande

### Introductory Provisions 156.32.01.001-.004

This subchapter is specifically applicable to interim operation of the Middle Rio Grande and includes the responsibility of each allottee as to designation of an agent, requirements for request for written certification of authorization to divert, and details as to certification duration and posting.

### Amendments to and Sales of Water Rights 156.32.10.001-.004

This subchapter contains a description of board policy concerning recognition of sales of and authorization of amendments to water rights in the Middle Rio Grande and of executive director and commission requirements as to such sales and amendments. Currently, applications for amendments to water rights in the Middle Rio Grande require notice to be given to all water right holders in the basin by first-class mail. This rule differs from the general rules in Chapter IV which require an evaluation of the type of change desired before determining the extent of notice which should be required. The change adopted by the board directs that the rules in Chapter IV are to be used to evaluate the amendment application in order to determine if an effect will be had on any other water right which will require notice to be given. In the Middle Rio Grande one specific instance described that does require notice is conversion of the purpose of use to a higher priority use. The type of notice issued will conform to Chapter IV.

## Regionalization

### Northbelt 156.70.01.001-.004

This subchapter (1) defines an area in Harris County known as the Northbelt Service Area; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the Gulf Coast Waste Disposal Authority as the entity in whose name all applications for permits to discharge domestic waste within the defined area shall be made; and (4) specifies the duties of the Gulf Coast Waste Disposal Authority pursuant to such designation.

### Shoreacres 156.70.05.001-.006

This proposal has been withdrawn from consideration.

### South Mayde Creek 156.70.10.001

This subchapter defines an area in the South Mayde Creek Watershed, Harris County, and describes the policy of the department pursuant to Section 26.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the defined area.

### Rosillo Creek 156.70.15.001-.002

This subchapter (1) defines an area in Bexar County in the watersheds of Rosillo, Leon, Olmos, and Salado Creeks; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; and (3) designates the City of San Antonio as the governmental agency to implement the regional and areawide system in the defined area.

### East Fork Trinity River 156.70.20.001-.005

This subchapter (1) defines a portion of the watershed area of the East Fork of the Trinity River in Dallas, Kaufman, Rockwall, and Collin Counties; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the North Texas Municipal Water District as the governmental entity to design, construct, and be the operating agency for a regional system in the defined area; and (4) specifies the duties of the North Texas Municipal Water District pursuant to such designation.

### Lower Rio Grande Valley 156.70.25.001-.005

This subchapter (1) defines an area within Hidalgo and Cameron Counties; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the Rio Grande Valley Pollution Control Authority as the governmental entity to design, construct, and operate a regional sewerage system in the defined area; and (4) specifies the duties of the Rio Grande Valley Pollution Control Authority pursuant to such designation.

### Harris County Fresh Water Supply District No. 63 156.70.30.001-.004

This subchapter (1) defines an area in Harris County including and adjacent to Harris County Fresh Water Supply District No. 63 and Rosewood Municipal Utility District; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the Gulf Coast Waste Disposal Authority as the entity responsible for the planning, construction, and operation of an integrated regional wastewater treatment system for the defined area; and (4) specifies the duties of the Gulf Coast Waste Disposal Authority pursuant to such designation.

### Cibolo Creek 156.70.35.001-.006

This subchapter (1) defines a portion of the Cibolo Creek Watershed; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the Cibolo Creek Municipal Authority as the governmental entity to develop a regional sewerage system in the defined area; and (4) specifies the duties of the Cibolo Creek Municipal Authority pursuant to such designation.

**Blackhawk 156.70.40.001-.007**

This subchapter (1) defines an area in the vicinity of the City of Friendswood, known as the Blackhawk Service Area; (2) describes the policy of the department pursuant to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the City of Friendswood and the Gulf Coast Waste Disposal Authority, jointly, as the entities responsible for the planning, construction, and operation of an integrated regional wastewater treatment system for the defined area; and (4) specifies the duties of the City of Friendswood and the Gulf Coast Waste Disposal Authority, jointly, pursuant to such designation.

**Vidor Metropolitan Area 156.70.45.001-.004**

This subchapter (1) defines an area in northwest Orange County; (2) describes the policy of the department pursuant

to Section 21.081 concerning regional or areawide waste collection, treatment, and disposal facilities for the area; (3) designates the Orange County Water Control and Improvement District No. 1 as the governmental entity to design, construct, and be the operating agency for a regional sewerage system in the defined area; and (4) specifies the duties of the Orange County Water Control and Improvement District No. 1 pursuant to such designation.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 780871-781002

Bruce Bigelow  
General Counsel  
Texas Department of Water Resources

Effective Date: February 24, 1978

For further information, please call (512) 475-7836.

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 Animal Health Commission

**Friday, February 17, 1978, 9 a.m.** The Texas Animal Health Commission will meet in Room 503-G, Sam Houston Building, Austin. As summarized, the commission will consider the Brucellosis Calfhood Vaccination and Scabies Program and hear an update on the present fever tick situation. An executive session will also be held for the purpose of discussing the appointment, employment, evaluation, reassignment, and duties of employees as permitted by Article 6252-17, Section 2(g), Vernon's Civil Statutes; and for private consultation between TAHC and its attorney in which the TAHC seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with this act as permitted by Article 6252-17, Section 2(e), Vernon's Civil Statutes.

Additional information may be obtained from Dr. H. Q. Sibley, 1020 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-4111.

Filed: February 7, 1978, 2:51 p.m.  
Doc. No. 781062

## Texas Coastal and Marine Council

**Thursday and Friday, February 16 and 17, 1978, 1:30 p.m. and 9 a.m.** The Subcommittee on Wildlife, House Environmental Affairs Committee, and the Subcommittee on Mariculture, House Agriculture and Livestock Committee, of the Texas Coastal and Marine Council, will meet in city council chambers, Port Arthur, on Thursday, and at the Ramada Inn Hobby, 7777 Airport Boulevard, Houston, on Friday. The hearing will consider all aspects of seafood marketing, mariculture, economic conditions of the total seafood industry, and any topics of concern brought to the attention of the committees by public participants.

Additional information may be obtained from Robert Mikeska, P.O. Box 2910, Austin, Texas 78701, telephone (512) 475-2573, or Howard T. Lee, P.O. Box 13407, Austin, Texas 78711, telephone (512) 475-5849.

Filed: February 9, 1978, 10:05 a.m.  
Doc. No. 781121

## Texas Commission for the Deaf

**Saturday, February 18, 1978, 10 a.m.** The Board of the Texas Commission for the Deaf will meet in the Fiesta Room, Howard Johnson's Motor Lodge, Austin. The agenda includes testimony from the deaf community regarding policy changes being considered by the board; and reconsideration and possible vote on policy changes and advisory committee changes.

Additional information may be obtained from Joan Boerger Fowler, Administrator, P.O. Box 12904, Austin, Texas 78711, telephone (512) 475-2492.

Filed: February 9, 1978, 9:36 a.m.  
Doc. No. 781116

## East Texas State University

**Thursday, February 9, 1978, 4:30 p.m.** The Board of Regents of East Texas State University will meet in the Board of Regents' Conference Room, East Texas State University, Commerce, for a general discussion of proposed land purchases for the university and a brief on the construction of an instructional printing facility on the campus.

Additional information may be obtained from Charles Morrow, East Texas State University, Commerce, Texas 75428, telephone (214) 886-3636.

Filed: February 6, 1978, 2:07 p.m.  
Doc. No. 781010

## Joint Advisory Committee on Educational Services to the Deaf

**Thursday, February 16, 1978, 3 p.m.** The Joint Advisory Committee on Educational Services to the Deaf and subcommittees will meet in the Lieutenant Governor's Committee Room, State Capitol, for an organizational meeting.

Additional information may be obtained from Cis Myers, Room G-38, State Capitol, Austin, Texas 78711, telephone (512) 475-3106.

Filed: February 6, 1978, 5 p.m.  
Doc. No. 781023

## Office of the Governor

**Tuesday, February 21, 1978, 2 p.m.** The State Advisory Committee of the Governor's Committee on Aging will meet in the 4th floor conference room, 411 West 13th Street,

Austin, to make recommendations concerning services and programs for the senior citizens of the state.

Additional information may be obtained from Vernon McDaniel, 411 West 13th, Austin, Texas 78701, telephone (512) 475-2717.

Filed: February 9, 1978, 9:08 a.m.  
Doc. No. 781113

**Wednesday, February 22, 1978, 10 a.m.** The Board of the Governor's Committee on Aging will meet in the 4th floor conference room, 411 West 13th Street, Austin, to review Title III and Title VII grants under the Older Americans Act for funding and/or refunding.

Additional information may be obtained from Vernon McDaniel, 411 West 13th, Austin, Texas 78701, telephone (512) 475-2717.

Filed: February 9, 1978, 9:08 a.m.  
Doc. No. 781114

## Texas Department of Health

**Saturday, February 18, 1978, 9 a.m.** The Laboratory Advisory Committee of the Texas Department of Health will meet at 1100 West 49th Street, Austin, to discuss workload; to update the bureau activities; to discuss long-range plans and criteria necessary for water quality test; and to review bureau's priority list for next biennium, as summarized in the agenda.

Additional from Charles E. Sweet, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7318.

Filed: February 9, 1978, 9:36 a.m.  
Doc. No. 781115

## Texas Health Facilities Commission

**Thursday, February 9, 1978, 10 a.m.** The Texas Health Facilities Commission made an emergency addition to the agenda of a meeting held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. Due to the existence of an emergency and urgent public necessity, the commission considered the application for exemption certificate of Galveston County Memorial Hospital, AH77-1219-019, to replace the cardiac monitoring system in its ICU.

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 8, 1978, 1:17 p.m.  
Doc. No. 781083

**Thursday, February 16, 1978, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to consider the supplement to its agenda consisting of applications for certificate of need from Memorial Hospital of Garland, AH77-1114-003 and AH77-1017-001, Tiqua General Hospital, El Paso, AH77-0915-001; two applications for administrative order for time

extensions from McAllen General Hospital, AH75-0728-020E (011378) and Brackenridge Hospital, Austin, AH75-0815-009E (010678); and application for declaratory ruling from Texas Tech School of Medicine, Lubbock, A077-0610-010.

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 8, 1978, 1:17 p.m.  
Doc. No. 780692

**Thursday, February 23, 1978, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to consider a summarized agenda including eight applications for certificate of need; five applications for exemption certificates; and one application for declaratory ruling.

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 8, 1978, 1:17 p.m.  
Doc. No. 781084-A

## University of Houston

**Monday, February 20, 1978, 9 a.m.** The Investment Committee of the Board of Regents the University of Houston will meet in Room 219, Continuing Education Center, Houston, as summarized, in a routine monthly meeting to consider investments.

Additional information may be obtained from Philip G. Hoffman, University of Houston, Houston, Texas 77004, telephone (713) 748-6050.

Filed: February 8, 1978, 10:03 a.m.  
Doc. No. 781071

## State Board of Insurance

**Wednesday, February 15, 1978, 2 p.m.** The State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application by Chesapeake Mortgage Company, Dallas, for articles of incorporation, pursuant to Chapters 2 and 8 and Article 21.50, Texas Insurance Code.

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

Filed: February 6, 1978, 2:29 p.m.  
Doc. No. 781012

**Thursday, February 16, 1978, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to determine the eligibility of Haley Sowell, Greenville, to hold a Group I Life Insurance Agent's License, pursuant to Article 21.07-1, Section 12(A), Subsection 1, 4, 5, 6, and 10.

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

Filed: February 6, 1978, 2:29 p.m.  
Doc. No. 781013

**Tuesday, February 21, 1978, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider an application by ICH Corporation, Kansas City, Missouri, to acquire control of Great Commonwealth Life Insurance Company, Dallas, pursuant to Section 5, Article 21.49-1, Texas Insurance Code.

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

Filed: February 6, 1978, 2:29 p.m.  
Doc. No. 781014

**Wednesday, February 22, 1978, 9 a.m.** The State Board of Insurance will meet in hearing room in the Highway and Public Transportation Building, Austin, to conduct a hearing to consider revision of the fire, windstorm, and extended coverage rates and rules, forms, clauses, permits, warranties, and classes, rating plans, amendments to the general basis schedules, and all other matters pertaining to the writing of fire, allied lines, homeowners, and commercial multiperil insurance. Additionally, the board will review the fire and extended coverage premiums and losses by classification.

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

Filed: February 6, 1978, 2:29 p.m.  
Doc. No. 781016

**Wednesday, February 22, 1978, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider an application by SCOR RE Life Insurance Company, Dallas, for approval of articles of incorporation under Articles 3.02 and 3.04 of the Texas Insurance Code.

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

Filed: February 6, 1978, 2:29 p.m.  
Doc. No. 781015

## Texas Commission on Jail Standards

**Wednesday, February 8, 1978, 12:30 p.m.** The Subcommittee on Variance Requests of the Texas Commission on Jail Standards held an emergency meeting in Room 101, 1414 Colorado, Austin, to consider applications for variances for Austin, Bastrop, Bosque, Dallas, Gillespie, Gregg, Hutchinson, Kendall, Leon, Ochiltree, Shelby, Sherman, Tarrant, Upshur, Williamson, and Winkler Counties. The emergency meeting was necessary because a quorum was not present for the regularly scheduled meeting.

Additional information may be obtained Steve Suttle, Suite 500, 1414 Colorado, Austin, Texas 78701, telephone (512) 475-2716.

Filed: February 8, 1978, 10:21 a.m.  
Doc. No. 781073

## Texas Department of Mental Health and Mental Retardation

**Friday, February 17, 1978, 9 a.m.** The Texas State Mental Health Advisory Council of the Texas Department of Mental Health and Mental Retardation will meet in Room 328, 909 West 45th Street, Austin, to consider a status report on construction projects; a list of priorities for planning and budgeting for the next three years; Aftercare/Outreach plan of action and timetable; special assignments to individual members of the council for review and report; and the election of officers for 1978.

Additional information may be obtained from James A. King, P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761, extension 321.

Filed: February 8, 1978, 1:38 p.m.  
Doc. No. 781087

## Merit System Council

**Friday, February 17, 1978, 9 a.m. and 1 p.m.** The Merit System Council will meet in 507 Brown Building, Austin to hold appeals hearings.

Additional information may be obtained from Leo F. Brockmann, 507 Brown Building, Austin, Texas 78701, telephone (512) 477-9665.

Filed: February 8, 1978, 10:03 a.m.  
Doc. No. 781070

## Midwestern State University

**Friday, February 17, 1978, 2 p.m.** The Board of Regents Personnel and Curriculum Committee of Midwestern State University will meet in Room 114, Hardin Administration Building, Wichita Falls, to discuss outside employment procedure.

Additional information may be obtained from Thomas A. Bond, Midwestern State University, Wichita Falls, Texas 76308, telephone (817) 692-6611.

Filed: February 6, 1978, 2:07 p.m.  
Doc. No. 781009

## State Board of Morticians

**Wednesday, February 8, 1978, 9 a.m.** The State Board of Morticians makes an emergency addition to the agenda of a meeting at 1513 South Interstate 35, Austin, to include the following items: interviews for the position of special investigator; an appearance concerning license reciprocity; the purchase of a copier; an apprenticeship consideration; and the proposed code of ethics.



Additional information may be obtained from James W. McCammon, 1513 South Interstate 35, Austin, Texas 78741, telephone (512) 442-6721.

Filed: February 7, 1978, 12:50 p.m.  
Doc. No. 781037

## Texas Optometry Board

**Wednesday, February 15, 1978, 7 p.m.** The Texas Optometry Board will meet in the Airport Marina Hotel, Dallas/Fort Worth Airport. A summarized agenda includes a grading session to determine those candidates having successfully passed the board examination given on January 29-30; and discussion of old business, a report of the secretary-treasurer, legal counsels, and committees. All committees will meet following the grading session. Continuing Education and Special Examinations Committee will meet at 6:30 p.m.

Additional information may be obtained from Lois Ewald, Executive Secretary, Commerce Park, Suite H-101, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-2141.

Filed: February 7, 1978, 3:50 p.m.  
Doc. No. 781068

## Board of Pardons and Paroles

**Tuesday-Friday, February 21-24, 1978, 9 a.m.** The Board of Pardons and Paroles will meet in Room 711 of the Stephen F. Austin Building, Austin. The board, as stated in a summarized agenda, will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: February 7, 1978, 9:56 a.m.  
Doc. No. 781025

## Board of Plumbing Examiners

**Monday, February 27, 1978, 9:30 a.m.** The Board of Plumbing Examiners will meet in Room 204, John H. Reagan Building, Austin, to consider the financial report; license and examination data; a report of licenses issues and examination statistics; and hardship cases.

Additional information may be obtained from Lynn Brown, 204 Reagan Building, Austin, Texas 78701, telephone (512) 472-9221.

Filed: February 6, 1978, 2:07 p.m.  
Doc. No. 781008

## Texas Board of Private Investigators and Private Security Agencies

**Thursday, February 9, 1978, 10 a.m.** The Texas Board of Private Investigators and Private Security Agencies made an emergency addition to the agenda of a meeting at 7600 Chevy Chase Drive, Austin, to include a discussion and possible board action relating to Attorney General's Open Records Decision 183. This addition is made insofar as it has been determined that it is in the best interest of the public for the board to give its immediate attention to this matter which is currently the subject of litigation.

Additional information may be obtained from Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711, telephone (512) 475-3944.

Filed: February 8, 1978, 2:46 p.m.  
Doc. No. 781090

## Texas State Board of Registration for Professional Engineers

**Tuesday, February 21, 1978, 10 a.m.** The Texas State Board of Registration for Professional Engineers will meet in Room 200, John H. Reagan Building, 1400 Congress, Austin, to review final plans and specifications for the engineering registration building and any other business which may come before the board.

Additional information may be obtained from Donald C. Klein, P.E., Room 200, John H. Reagan Building, 1400 Congress, Austin, Texas 78701, telephone (512) 475-3141.

Filed: February 6, 1978, 3:12 p.m.  
Doc. No. 781018

## Public Utility Commission of Texas

**Thursday, February 16, 1978, 9:30 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to consider an application by KVET, doing business as Constant Communication, for a certificate of convenience and necessity to add radio-telephone service in Travis and surrounding counties (Dockets 1074 and 1075), 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: February 6, 1978, 2:07 p.m.  
Doc. No. 781011

## Railroad Commission of Texas

*Wednesday, February 8, 1978, 9 a.m.* The Gas Utilities Division of the Railroad Commission of Texas will hold an emergency meeting at the E. O. Thompson Building, 10th and Colorado Streets, Austin, to consider a statement of intent by Gas Utilities, Inc., to increase residential and commercial rates to be charged in the unincorporated areas of Pettus, Tuleta, and Tulsita (Docket 1104); to reconsider the final order of December 12, 1977; to consider motions for rehearing; and to consider the statement of intent for the bankruptcy of Gas Utilities, Inc. (Docket 1105).

Additional information may be obtained from Joy Wood, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-3207.

Filed: February 7, 1978, 9 a.m.  
Doc. No. 781024

## Sunset Advisory Commission

*Monday and Tuesday, February 20-21, 1978, 9 a.m.* The Sunset Advisory Commission will meet in Room 301 (Senate Finance Committee Room), State Capitol, to take public testimony on reports presented at the January 16th meeting and to present staff reports, as summarized.

Additional information may be obtained from Bill Wells, Room 704, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-6565.

Filed: February 8, 1978, 3:31 p.m.  
Doc. No. 781108

## Veterans Land Board

*Thursday, February 16, 1978, 2 p.m.* The Veterans Land Board will meet in Room 831, Stephen F. Austin Building, Austin, to consider the report of the executive secretary and requests for extensions and/or new application forms.

Additional information may be obtained from Richard Keahey, Room 738, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3766.

Filed: February 7, 1978, 1:24 p.m.  
Doc. No. 781038

## State Board of Vocational Education

*Saturday, February 18, 1978, 9:30 a.m.* The Joint Committee of the State Board of Vocational Education will meet in the board room, 150 East Riverside Drive, Austin, to review the proposed formula rates for vocational-technical programs in junior/community colleges for recommendation to the State Board of Education; to consider the status report on coordinated efforts of the Coordinating Board and Texas Education Agency on Tex SIS (Student Follow-up); to discuss coordination of teacher certification by Coordinating Board and Texas Education Agency, the recent emphasis regarding bilingual/bicultural teacher training; and to elect a chair and vice-chair.

Additional information may be obtained from W. A. Grusy, 201 East 201 East 11th, Austin, Texas 78701, telephone (512) 475-3589.

Filed: February 6, 1978, 4:04 p.m.  
Doc. No. 781021

## Texas Water Commission

*Monday, February 13, 1978, 10 a.m.* The Texas Water Commission makes an emergency addition to the agenda of a meeting in the Stephen F. Austin Building, Austin, to include consideration of petitions for the creation of Northwest Harris County Municipal Utility District 15 and West Harris County Municipal Utility District 6.

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

Filed: February 8, 1978, 3:24 p.m.  
Doc. No. 781091

## Texas Water Well Drillers Board

*Thursday, February 9, 1978, 3 p.m.* The Texas Water Well Drillers Board will hold an emergency meeting at Municipal Auditorium, South First and Riverside Drive, Austin, to discuss changes to water well drillers log form and proposed changes to board rules and regulations, as stated in a summarized agenda.

Additional information may be obtained from Fred Osborne, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-6176.

Filed: February 7, 1978, 3:04 p.m.  
Doc. No. 781063

## Regional Agencies

### Meetings Filed February 6, 1978

*The Ark-Tex Council of Governments, Texarkana* Areawide Planning Committee, Technical Subcommittee, met in Room 409, State First National Bank, Texarkana, on February 10, 1978, at 1:30 p.m. Further information may be obtained from Laura Jacobus, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

*The Ark-Tex Council of Governments, Texarkana* Areawide Planning Advisory Committee, will meet in the Community Room, third floor, State First National Bank, Texarkana, on February 14, 1978, at 7 p.m. Further information may be obtained from Laura Jacobus, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

*The Ark-Tex Council of Governments, Governmental* Application Review Committee, will meet in the Council Chambers, City Hall, Mt. Pleasant, on February 15, 1978, at 1 p.m. Further information may be obtained from Laura Jacobus, P.O. Box 5307, Texarkana, Texas 75501, telephone (512) 774-3481.

*The Coastal Bend Subarea Health Advisory Council, Nominating Committee*, will meet at the All Saints' Episcopal Church, 3026 South Staples, Corpus Christi, on February 15, 1978, at 1 p.m. Further information may be obtained from Douglas M. Wilkey, P.O. Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

*The Concho Valley Council of Governments, Executive Committee*, will meet in the City Commission Chambers, City Hall Plaza, San Angelo, on February 15, 1978, at 7 p.m. Further information may be obtained from James F. Ridge, 7 W. Twohig Building, Room 505, San Angelo, Texas 76903, telephone (915) 653-1214.

*The Nortex Regional Planning Commission, Executive Committee*, will meet at 501 Scott Street, McBride Land and Cattle Company, Wichita Falls, on February 16, 1978, at noon. Further information may be obtained from Edwin B. Daniel, 2101 Kemp, Wichita Falls, Texas 76309, telephone (817) 322-5281.

*The Panhandle Regional Planning Commission, Alcohol/Drug Abuse Services Coordinating Board*, will meet in the Centennial Room, First National Bank, 7th and Taylor Streets, Amarillo, on February 14, 1978, at 1:30 p.m. Further information may be obtained from Claudia Stuart, 730 Amarillo Building, 3rd and Polk Streets, Amarillo, Texas 79101, telephone (806) 372-3381.

*The San Antonio River Authority, Board of Directors*, will meet in the conference room, 100 East Guenther Street, San Antonio, on February 15, 1978, at 2 p.m. Further information may be obtained from Fred N. Pfeiffer, P.O. Box 9283, Guilbeau Station, San Antonio, Texas 78204, telephone (512) 227-1373.

Doc. No. 781017

## Meetings Filed February 7, 1978

*The Austin-Travis County MH/MR Personnel Committee*, met at 1430 Collier, Austin, on February 10, 1978, at 4 p.m. Further information may be obtained from Larry Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

*The Brazos Valley MH/MR Center, Board of Trustees*, met in the board room, 202 East 27th, Bryan, on February 7, 1978, at 1 p.m. Further information may be obtained from Linda S. Davis, 202 East 27th, Bryan, Texas 77801, telephone (713) 779-2000.

*The Education Service Center Region IX, Board of Directors*, will meet at 1701 Hamilton, Wichita Falls, on February 16, 1978, at 9:30 a.m. Further information may be obtained from H. M. Fullerton, 3014 Old Seymour Road, Wichita Falls, Texas 76309, telephone (817) 322-6928.

*The Education Service Center Region X, Board of Directors*, will meet at 400 East Spring Valley, Richardson, on February 15, 1978, at 12:30 p.m. Further information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas 75080, telephone (214) 231-6301.

*The Texas Municipal Power Agency, Board of Directors*, met at 600 Arlington Downs Tower, Arlington, on February 8, 1978, at 3 p.m. Further information may be obtained from

Paul R. Cunningham, 600 Arlington Downs Tower, Arlington, Texas 76011, telephone (817) 461-4400.

Doc. No. 781032

## Meetings Filed February 8, 1978

*The Central Counties Center for MH/MR Services, Board of Trustees*, will meet at the Captain's Table, Lake Belton, on February 16, 1978, at 7 p.m. Further information may be obtained from Steven B. Schnee, P.O. Box 1025, Temple, Texas 76501, telephone (817) 778-4841.

*The Central Texas Council of Governments, Executive Committee*, will meet at 302 East Central, Belton, on February 16, 1978, at 10:30 a.m. Further information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, telephone (817) 939-1801.

*The Lubbock Regional MH/MR Center, Human Development Center*, met at 1210 Texas Avenue, Lubbock, on February 8, 1978, at 4:30 p.m. Further information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, telephone (806) 763-4213.

*The Sabine Valley Regional MH/MR Center, Board of Trustees*, will meet at 731-A South Green Street, Longview, on February 16, 1978, at 7:30 p.m. Further information may be obtained from Frances H. Willis, P.O. Box 1128, Longview, Texas, telephone (214) 758-8243.

Doc. No. 781072

## Meetings Filed February 9, 1978

*The Alamo Area Council of Governments, Executive Committee*, will meet at 532 Three Americas Building, San Antonio, on February 22, 1978, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The South Plains Association of Governments, Executive Committee and Board of Directors*, will meet in the conference room, 1611 Avenue M, Lubbock, on February 14, 1978, at 10 a.m. Further information may be obtained from the South Plains Association of Governments, 1611 Avenue M, Lubbock, Texas 79401, telephone (806) 762-8721.

*The Texas Municipal Power Agency, Board of Directors*, will meet at 600 Arlington Downs Tower, Arlington, on February 16, 1978, at 9 a.m. Further information may be obtained from Paul R. Cunningham, 600 Arlington Downs Tower, Arlington, Texas 76011, telephone (817) 461-4400.

Doc. No. 781120

## Department of Banking Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 6, 1978, the banking commissioner received an application to acquire control of First State Bank, Pflugerville, by John A. Pflugger, Pflugerville.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Issued in Austin, Texas, on February 6, 1978.

Doc. No. 781031      Robert E. Stewart  
Banking Commissioner

Filed: February 7, 1978, 10:27 a.m.

For further information, please call (512) 475-4451.



## Coastal Bend Council of Governments

### Human Resources Development Council

The Human Resources Council of the Coastal Bend Council of Governments is conducting public hearings on health, transportation, housing, social services, education, employment, and other needs for all ages.

The first meeting is scheduled for 7:30 p.m. Thursday, February 16, 1978, at the Kleberg County Courthouse in Kingsville. For transportation in Kingsville, telephone the Community Action Agency at (512) 592-6622, 592-4291, or 592-6469. For transportation in Ricardo, telephone 592-2021. The second hearing is scheduled for 7:30 p.m. Wednesday, February 22, 1978, at the Jim Wells County Courthouse, District Courtroom, in Alice. For transportation, telephone Com-

munity Action at 664-0129, or R.E.A.L. at 664-2134, 664-2135, 664-2136, or 664-2137.

Issued in Corpus Christi, Texas, on February 3, 1978.

Doc. No. 781080-      Charlene K. Forest  
781081              Coastal Bend Council of  
Governments

Filed: February 8, 1978, 10:47 a.m.

For further information, please call (512) 854-3081.

## Comptroller of Public Accounts

### Summary of Administrative Decision 8823

**Summary of Decision:** Equipment purchased tax-free by a lump sum contractor and used on both exempt and nonexempt projects is taxable under Texas Taxation—General Annotated, Article 20.04(Y), based on the amount depreciated during the period of time the equipment was used in a nonexempt manner.

For copies of recent opinions selected and summarized by the Legal Services Division, contact the Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with our confidentiality statutes.

Issued in Austin, Texas, on February 8, 1978.

Doc. No. 781088      Harriet D. Burke  
Hearings Section  
Comptroller of Public Accounts

Filed: February 8, 1978, 11:51 a.m.

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

## Coordinating Board, Texas College and University System

### Notice of Consultant Contract

The Coordinating Board, Texas College and University System, has entered into a private consultant contract with Ralph W. Steen to direct the restudy of public senior college and university formulas for funding of higher education in Texas. The terms of the contract are from February 1, 1978, to May 31, 1979, for a total compensation of \$46,667 plus travel expenses.

Subject to modifications which may be dictated by experience, Dr. Steen will present a report to the commissioner of higher education in early January, 1979. This will provide

ample time for consideration, discussion, and necessary adjustments before the study ends on May 31, 1979.

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781074      Kenneth H. Ashworth  
Commissioner of Higher Education

Filed: February 8, 1978, 10:42 a.m.

For further information, please call (512) 475-4361.

## Texas Department of Human Resources

### Health Care for the Elderly and the Handicapped

#### Public Hearing Notice

A public hearing on health care for the elderly and the handicapped will be held on Wednesday, February 22, 1978, from 1 p.m. until 5 p.m., in the Mission Room, San Antonio Convention Center, Alamo and Market Streets, San Antonio, Texas.

The purpose of this 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 four other hearings will be conducted across the state through July, 1978. Announcements will be made for these hearings as dates and sites are confirmed.

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

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781086      Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Filed: February 8, 1978, 11:43 a.m.

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

## Texas Judicial Council

### Continuing Legal Education of Municipal Court Judges

The Texas Judicial Council has announced the accreditation of five courses of instruction for the continuing legal education of municipal court judges under the provisions of Senate Bill 387 of the 65th Legislature. Courses which were accredited are:

**Texas Municipal Courts Association**—Winter seminar and workshop accredited for both eight- and 24-hour credit—to be held in Huntsville, March 8-11, 1978

**Texas Tech University**—24-hour course to be held in Abilene, February 22-24, 1978

**Texas Tech University**—24-hour course held in Junction, September 27-29, 1977 (retroactive accreditation)

**Vernon Regional Junior College**—24-hour course to be held in Vernon, June 8-29, 1978 (4 consecutive Thursdays)

**Frank Phillips College**—24-hour course to be held in Borger, April 1-May 7, 1978 (series of Saturday mornings)

Senate Bill 387, effective August 29, 1977, permits a non-lawyer municipal judge to complete a 24-hour course in the performance of his duties within one year of assuming office and at least eight hours per year thereafter and permits a lawyer municipal judge to complete eight hours the first year and eight hours per year thereafter. All courses, programs, and seminars must be approved by the Texas Judicial Council, which has general supervisory authority over the administration of the act.

The Accreditation Committee of the Texas Judicial Council met in Austin on January 25. Members of the committee are Supreme Court Justices Charles W. Barrow and T. C. Chadick and retired Justice W. St. John Garwood. The president of the council is Chief Justice Martin Dies, Jr., of the Ninth Court of Civil Appeals in Beaumont, and Representative Ben Z. Grant of Marshall is vice president.

Issued in Austin, Texas, on February 2, 1978.

Doc. No. 781020      C. Raymond Justice  
Texas Judicial Council

Filed: February 6, 1978, 3:53 p.m.

For further information, please call (512) 475-2421.

## Texas Department of Labor and Standards

### Notice to Mobile Home Manufacturers and Dealers

The Texas Department of Labor and Standards mailed copies of its rules to mobile home manufacturers and dealers. Some paragraph designations in the mailed copies are different than the paragraph designations in the rules as published in the November 22, 1977, issue of the *Texas Register* (2 TexReg 4520-2431). The following list explains these differences:

Paragraph Designation in Mailed Copy	Same Paragraph Designation in Register
.004(a)	.004
(1)-(7)	(a)-(g)
.007(d)(1)	.007(d)
(e)(1)	(e)
.008(2)(A)	.008(2)
.009(a)(1)	.009(a)
(A)-(B)	(1)-(2)

.011(a) .011  
 (1) .011  
 .014(g)(3)(A) .014(g)(3)  
 (h)(1)(A) (h)(1)  
 (2)(A) (2)

Issued in Austin, Texas, on February 7, 1978.

Doc. No. 781036 Blake Travis  
 Texas Department of Labor  
 and Standards

Filed: February 7, 1978, 11:31 a.m.

For further information, please call (512) 475-5712.

## Texas State Board of Public Accountancy

### Advertising

(Editor's note: The following rule is being printed in its entirety at the request of the Texas State Board of Public Accountancy. The notice of adoption of this rule which appeared in the February 3, 1978, issue included only the section affected by the amendment. The effective date published with that notice was in error; the rule will be effective on February 16, 1978.)

The amendment to Section (a) of Rule 401.03.00.009 deletes the obsolete reference to the rules of professional conduct of the Texas Society of Certified Public Accountants. This amendment does not change the form or the substance of the rule itself which was in force at the time of this amendment. No comments were received on the proposed rule, and the rule was adopted exactly as proposed.

Under the authority of Section 5 of Article 41-A, Vernon's Annotated Civil Statutes, the Texas State Board of Public Accountancy has amended Rule 401.03.00.009 to read as follows:

.009. *Advertising.* A public accountant shall not advertise.

(a) Publication in a newspaper, magazine, or similar medium of an announcement or what is technically known as a card is permitted in the following instances, provided such announcement or card does not exceed three inches in height nor more than two columns in width; and further, provided it does not appear in the public print for more than three issues:

- (1) opening of an office;
- (2) admission of or withdrawal of a partner;
- (3) mergers;
- (4) dissolution of partnerships;
- (5) change of address.

(b) Such announcements shall contain only the names of the individuals or firms concerned, the designation to which they are entitled, a statement to the effect that the practice of public accountancy is to be engaged in, address, and telephone number.

(c) A public accountant may authorize the listing in telephone directories of his name and/or name of firm, address, and telephone number, but in so doing must adhere to the following:

(1) Only two listing classifications are approved. They are "Accountants—Certified Public" and "Accountants—Public." A certified public accountant or a firm of certified public accountants may be listed only under "Accountants—Certified Public." A public accountant or a firm of public accountants may be listed only under "Accountants—Public."

(2) Listing under any classifications other than the two stated above constitutes a violation of this rule. Examples of such classifications are "Income Tax Service," "Tax Consultants," and "Bookkeeping Service."

(3) Plain printing must be used. Boldfaced type, block advertising, or any other methods designed to attract special attention are prohibited.

(4) No listing shall be inserted in a directory for a locality not embracing the office address of the permit holder.

Issued in Austin, Texas, on January 24, 1978.

Doc. No. 780643 Pauline Thomas  
 Administrative Director  
 Texas State Board of Public  
 Accountancy

Effective Date: February 16, 1978

For further information, please call (512) 476-6971.

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