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Legislative Report
In response to the newly passed Senate Bill 382 by the 65th Legislature, the Comptroller of Public Accounts has adopted emergency rules relating to the collection of sales and use taxes by religious, educational, charitable or eleemosynary organizations exempt under the new law. The amendments, appearing in the Emergency Rules section, prevent the necessity of making refunds of taxes improperly collected from exempt organizations holding sales.

The Texas Department of Agriculture proposes to change the status of several counties as they are included in the Imported Fire Ant Quarantine. Some counties will be defined as totally infested, and others will be changed to reflect partially infested areas.

The Texas Department of Health Resources, responding to the legislative mandate of the 65th Legislature, has proposed extensive rules regarding nursing and convalescent centers. The rules appear in the Proposed Rules section, while a report of the legislature's actions regarding nursing homes in the recently completed special session is included in the final regular appearance of the Texas Register Legislative Report before the convening of the 66th Session in 1979.

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

Artwork: Gary Thornton

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Requests for Opinions

Summary of Request for Opinion

RQ-1681

Request for opinion sent to the Attorney General's Opinion Committee by Jackie W. St. Clair, Texas Department of Labor and Standards, Austin.

Summary of Request: Does an employee in Texas whose employment is governed by a union contract containing typical language for a one-year irrevocable dues check-off agreement with the contracting employer have a right to terminate that agreement because of the prohibition under Texas law against compulsory unionism in Article 5207a, Vernon's Texas Civil Statutes, so as to be entitled to receive a payment of wages which would exclude the amounts that otherwise would have been withheld as union dues during the remaining term of the one-year agreement so as to support a wage complaint under the Texas Semi-Monthly Pay Day Law, or would this type of one-year irrevocable dues check-off agreement preclude the employee under such circumstances from claiming that additional amount as wages in connection with a complaint filed with our office under the Texas Semi-Monthly Pay Day Law? In this regard, please consider the provision for dues check-off contained in Article 5150e, Vernon's Texas Civil Statutes.

Doc No 773633

Summary of Request for Opinion

RQ-1682

Request for opinion sent to the Attorney General's Opinion Committee by A. M. Aiken, Jr., state senator, Austin.

Summary of Request: May a person who is currently serving in the legislature resign his seat and accept appointment as president of West Texas State University?

Doc No 773634

Summary of Request for Opinion

RQ-1683

Request for opinion sent to the Attorney General's Opinion Committee by Charles R. Holcomb, County Attorney, Cherokee County, Rusk.

Summary of Request: Is the property of a foundation which owns a clinic and leases it to an association of physicians exempt from ad valorem taxation?

Issued in Austin, Texas, on July 20, 1977.

Doc No 773635 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: July 21, 1977 11:49 a.m.

For further information please call (512) 475-5445

Opinions

Summary of Opinion H-1025

Request from Chris A. Mealy, County Attorney, Llano County Courthouse, Llano, concerning the validity of option to lease school land from county.

Summary of Opinion: Texas courts would probably hold that the commissioners court of a county may lease the county's school lands upon terms similar to those made by citizens generally, including a reasonable option to extend the lease period.

Issued in Austin, Texas, on July 20, 1977.

Doc No 773636 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: July 21, 1977 11:49 a.m.

For further information please call (512) 475-5445
An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules are effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the Register, for the emergency adoption of rules.

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

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

Comptroller of Public Accounts

Tax Administration

Limited Sales, Excise, and Use Tax Rules and Regulations 026.02.20

The 65th Legislature has enacted Senate Bill 382, which became effective May 24, 1977. The new law permits religious, educational, charitable, or eleemosynary organizations which qualify for exempt status to hold one tax-free sale or auction annually. In order to properly advise exempt organizations of the proper procedure to follow in holding a tax-free one-time sale, the Comptroller of Public Accounts is proposing an emergency amendment to Rule 026.02.20.042. This emergency rule prevents the necessity of making refunds of taxes improperly collected from exempt organizations holding sales.

This amendment has been promulgated under the authority of Article 20.11(A), Texas Taxation-General Annotated.

.042. Organizations Exempt from Sales/Use Tax.  
(e) Sales by exempt organizations.  
(1) An exempt organization is responsible for the collection and remittance of tax on all sales of taxable items made by the organization (except by comptroller’s Rule 026.02.20.013, meals and beverages for human consumption) unless otherwise exempt.  
(2) A religious, educational, charitable, or eleemosynary organization that qualifies for an exemption under this act is not required to collect the tax at a sale or auction which is held only once a year by the organization, providing such sale or auction is of one-day duration only.  
(A) The organization may employ an auctioneer to conduct the auction and pay the auctioneer a reasonable fee, not to exceed 20 percent of the gross sales.  
(B) If two or more organizations jointly hold a tax-free sale or auction, neither may hold another tax-free sale or auction during the calendar year.

Issued in Austin, Texas, on July 12, 1977.

Doc. No. 773644 Bob Bullock  
Comptroller of Public Accounts

Effective Date: July 21, 1977  
Expiration Date: November 18, 1977  
For further information, please call (512) 475-3825.
An agency may adopt a proposed rule no earlier than 30 days after publication in the Register, except where a federal statute or regulation requires implementation of a rule on shorter notice.

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

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

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

Texas Department of Agriculture

Agricultural and Environmental Sciences Division-- Quarantines

Imported Fire Ant Quarantines 176.22.10

The Texas Department of Agriculture is proposing to adopt amendments to Imported Fire Ant Quarantine 176.22.10.101.

Proposed amendments to .101 will change the status of certain counties to totally infested and change defined infested areas of certain counties to reflect partially infested portions.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning David Ivie, (512) 475-4457, or by writing to the Agricultural and Environmental Sciences Division, Texas Department of Agriculture, P.O. Box 12847, Capitol Station, Austin, Texas 78711.

Amendments to Rule 176.22.10.101 are proposed under the authority of Article 135a-1, Texas Civil Statutes.

.101. Quarantined Areas. Under the authority of the imported fire ant quarantine of the State of Texas, the following counties are designated as quarantined.

(a) Civil divisions and parts thereof indicated below.


(2) Parts of counties as follows: Anderson County-- That portion of the county bounded by a line beginning at the point where U.S. Highway 287 intersects U.S. Highway 84, thence easterly along said highway to the Anderson-Cherokee County line, thence southeasterly along said county line to its junction with the Anderson-Houston County line, thence westerly along said county line to its intersection with U.S. Highway 287, thence northwesterly along said highway to the point of beginning, including all of the city of Palestine and all of the town of Elkhart.

|Atascosa County-- That portion of the county bounded by a line beginning where Atascosa County line intersects the Medina County line, thence southeasterly along the Atascosa County line to its junction with Texas Highway 97, thence southwesterly along said highway to its intersection with Texas Highway 16, thence north along said highway to its junction with Texas Highway 173, thence northwesterly along said highway to its intersection with the west boundary line of Atascosa County, thence north along said boundary line to the point of beginning, excluding the cities of Pleasanton and Jourdanton.|

Bandera County-- That portion of the county bounded by a line beginning at a point where Texas Highway 16 intersects the Bandera-Kerr County line, thence southeasterly along said county line to its junction with the Bandera-Kendall County line, thence southeasterly along said county line to its junction with the Bandera-Bexar County line, thence southeasterly along said county line to its junction with the Bandera-Medina County line, thence southwesterly, westerly, northwesterly, and westerly along said county line to its intersection with Farm to Market Road 689, thence northerly along said road to its intersection with Texas Highway 16, thence northwesterly along said highway to the point of beginning, including the entire towns of Bandera and Medina.

Bee County-- That portion of the county bounded by a line beginning at a point where U.S. Highway 59 intersects the Bee-Live Oak County line, thence easterly along said highway to its intersection with
Farm to Market Road 351, thence southeasterly along said road to its junction with State Highway 202, thence easterly along said highway to its intersection with the Bee-Refugio County line, thence southwesterly along said county line to its junction with the Bee-San Patricio County line, thence southwesterly and northwesterly along said county line to its junction with the Bee-Live Oak County line, thence northeasterly and northwesterly along said county line to the point of beginning, but excluding the city of Beeville.

Bell County -- That portion of the county lying east of a line beginning at a point where state highway 317 intersects the Bell-McLennan County line, thence southwesterly along said highway to its junction with Interstate 35, thence southwesterly along Interstate 35 to the Bell-Williamson County line, including the city of Belton.

Blanco County -- That portion of the county lying south of a line beginning at a point where the Blanco-Gillespie County line is intersected by U.S. Highway 290, thence easterly along said highway to its merger with U.S. Highway 281, thence southerly along U.S. Highway 281 to its junction with Farm to Market Road 165, thence northeasterly along said farm to market road to the Blanco-Hayes County line, but excluding the City of Johnson City.

Bowie County -- That portion of the county bounded by a line beginning at a point where Farm to Market Road 2148 intersects Interstate Highway 30, thence easterly along said highway to its intersection with U.S. Highway 59, thence northerly along said highway to its junction with Farm to Market Road 2148, thence northerly along said road to its point of beginning.

Burleson County -- That portion of the county lying south and east of Texas Highway 21, excluding the city of Caldwell.

Calhoun County -- That portion of the county bounded by a line beginning at a point where U.S. Highway 87 intersects the Calhoun-Victoria County line, thence easterly along said county line to its junction with the Calhoun-Jackson County line, thence easterly, southerly, and easterly along said county line to its junction with the Calhoun-Matagorda County line, thence westerly along said county line to its intersection with the Gulf Intercoastal Waterway, thence southwesterly along said waterway to its junction with the south shore of Matagorda Bay, thence northwesterly along said shoreline to a point opposite the end of Farm to Market Road 2717, thence southerly along an imaginary line to said farm to market road, thence southerly and southwesterly along said road to its junction with Texas Highway 316, thence northwesterly along said highway to its junction with Farm to Market Road 2541, thence westerly and northwesterly along said road to its junction with Texas Highway 35, thence easterly along said highway to its intersection with Farm to Market Road 2433, thence northwesterly along said road to its junction with U.S. Highway 87, thence northwesterly along said highway to the point of beginning.

Camp County -- That area within a circle having a radius of three miles with the center at the intersection of Loop 238 and State Highway 11.

Cass County -- That portion of the county lying east and south of a line beginning at a point where U.S. Highway 59 intersects the Cass-Marion County line, thence northerly and northwesterly along said highway to its intersection with State Highway 77, thence southeasterly along said highway to its intersection with the Louisiana-Texas-Arkansas State line, but excluding the cities of Linden and Atlanta.

Cherokee County -- That portion of the county lying south of U.S. Highway 84, including the City of Rusk.

DeWitt County -- That portion of the county bounded by a line beginning where U.S. Highway 87 intersects the Dewitt-Gonzales County line, thence northeasterly along said county line to its junction with the Dewitt-Lavaca County line, thence southwesterly along said county line to its junction with the Dewitt-Goliad County line, thence northwesterly along said county line to its intersection with U.S. Highway 133, thence northerly along said highway to its junction with U.S. Highway 87, thence northwesterly along said highway to point of beginning, but excluding the Town of Westhoff.

That portion of the county bounded by a line beginning where Farm to Market Road 443 intersects the Dewitt-Gonzales County line, thence northeasterly along said county line to its junction with the Dewitt-Lavaca county line, thence southwesterly along said county line to its intersection with Farm to Market Road 1427, thence southwesterly along said road to its intersection with U.S. Highway 133, thence northerly along said highway to its junction with Farm to Market Road 443, thence northerly along said road to the point of beginning, excluding the City of Cuero and the Town of Hochheim.

Ellis County -- That portion of the county lying north of U.S. Highway 287 including the Cities of Midlothian and Ennis, but excluding the City of Waxahachie.

That portion of the county lying within the corporate limits of the cities of Ennis and Ferris.

Falls County -- That area within a circle having a radius of three miles with the center at the junction of State Highway 7 and U.S. Highway 77.
Freestone County—That area within a circle having a radius of three miles with the center at the intersection of Farm to Market Road 80 and Main Street in the City of Teague.

Frio County—That portion of the county beginning at a point where Farm to Market Road 462 intersects the Frio-Medina County line, thence east along said county line to its junction with the Frio-Atascosa County line, thence south along said county line to its junction with the Frio-Lasalle County line, thence west along the said county line to its intersection with Farm to Market Road 1582, thence northwesterly along said road to its junction with U.S. Highway 81, thence northeast along said highway to its intersection with Farm to Market Road 140, thence northwesterly along said road to its intersection with Interstate Highway 35, thence northerly along said highway to its intersection with Farm to Market Road 462, thence northwesterly along said road to the point of beginning, including the entire City of Pear-sall and the Town of Moore.

[That portion of the county bounded by a line beginning at a point where Farm to Market Road 462 intersects the Frio-Medina County line, thence east along said county line to its junction with the Frio-Atascosa County line, thence south along said county line to its intersection with Farm to Market Road 140, thence west along said road to its intersection with Interstate Highway 35, thence northeasterly along said highway to its intersection with Farm to Market Road 462, thence northwesterly along said road to the point of beginning, including the entire towns of Pear-sall and Moore.]

Goliad County—That portion of the county bounded by a line beginning where State Highway 239 intersects the Goliad-Karnes County line, thence northwesterly along said county line to its junction with the Goliad-DeWitt County line, thence northeasterly and southeasterly along said county line to its junction with the Goliad-Victoria County line, thence southeasterly and southerly along said county line to its junction with the Goliad-Refugio County line, thence southwesterly along said county line to its intersection with U.S. Highway 183, thence northwesterly along said highway to its intersection with U.S. Highway 59, thence westerly along said highway to its junction with State Highway 239, thence northwesterly along said highway to point of beginning.

[Gonzales County—That portion of the county bounded by a line beginning at a point where Texas Highway 304 intersects the Gonzales-Caldwell County line, thence northeasterly along said county line to its junction with the Gonzales-Fayette County line, thence southeasterly and southwesterly along said county line to its junction with the Gonzales-Lavaca County line, thence south-

westerly along said county line to its intersection with U.S. Highway 90A, thence northwesterly along said highway to its junction with Texas Highway 304, thence northerly along said highway to the point of beginning.]

Grayson County—That portion of the county lying south of a line beginning at a point where State Highway 56 intersects the Cooke-Grayson County line, thence east along said highway to its junction with U.S. Highway 82, thence east along said highway to its intersection with the Grayson-Fannin County line, but excluding the City of Sherman and the Towns of Whitesboro, Southmayde, and Bells.

[That portion of the county bounded by a line beginning at the point of intersection of Texas Highway 289 and Farm to Market Road 121, thence easterly along the latter road to its junction with Texas Highway 160, thence south along said highway to its intersection with the Grayson-Collin County line, thence west along said county line to its intersection with Texas Highway 289, thence northeasterly along said highway to the point of beginning, including all of the town of Van Alstyne, but excluding all of the town of Gunter.]

Hays County—That area within a semi-circle having a radius of four miles with the focal point at the intersection of Farm to Market Road 32 and the Hays-Comal County line.

Jim Wells County—That area within a circle having a radius of five miles with the center at the intersection of State Highway 359, and U.S. Highway 281.

Kerr County—That portion of the county bounded by a line beginning at the meeting point of Kerr-Edwards-Kimble County line, thence east along Kerr-Kimble County line to its junction with the Kerr-Gillespie County line, thence south and east along said county line to its junction with the Kerr-Kendall County line, thence south along the said county line to its junction with Kerr-Bandera County line, thence northwest and west along said county line to its intersection with State Highway 16, thence northwesterly along said highway to its intersection with State Highway 27, thence northwesterly along said highway to its intersection with State Highway 41, thence southwest along said highway to its intersection with the Kerr-Real County line, thence north and west along said county line to its junction with the Kerr-Edwards County line, thence north along said county line to point of beginning, including the Towns of Mountain Home, Ingram, and the entire City of Kerrville. [That portion of the county bounded by a line beginning at a point where Farm to Market Road 783 intersects the Kerr-Gillespie County line, thence east along said county line to its junction with the Kerr-Kendall County line, thence south along said county line to its junction with the Kerr-Bandera Coun-

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ty line, thence northwesterly along said county line to its intersection with Texas Highway 16, thence north-easterly along said highway to its intersection with Texas Highway 27, thence northwesterly along said highway to its junction with Farm to Market Road 783, thence northerly along said road to the point of beginning and including all of the City of Kerrville.

[Leon County -- That portion of the county lying south of Texas Highway 7, but excluding the towns of Marquez and Centerville.

[Limestone County -- That portion of the county included in a block four miles wide with Texas Highway 14 as its center line and running in a northeasterly direction from the Limestone Falls County line to the Limestone-Freestone County line and including the Towns of Kossa, Thornton, Groesbeck, and the City of Mexia.]

Marion County -- That portion of the county lying east of U.S. Highway 59, including the City of Jefferson.

[That portion of the county bounded by a line beginning at a point where Texas Highway 49 intersects Texas Highway 43, thence easterly along Texas Highway 49 to its junction with the Texas-Louisiana State line, thence south along said state line to its junction with the Marion-Harrison County line, thence westerly along said county line to its intersection with Texas Highway 43, thence northerly along said highway to the point of beginning.]

Medina County -- That portion of the county bounded by a line beginning at a point where Texas Farm to Market Road 689 intersects the Medina-Bandera County line, thence easterly, southerly, and north-easterly along said county line to its junction with the Medina-Bexar County line, thence south along said county line to its junction with the Medina-Frio County line, thence west along said county line to its intersection with Texas Farm to Market Road 462, thence northwest and north along said road to its intersection with U.S. Highway 90, thence east along said highway to its junction with Texas Farm to Market Road 689, thence northerly along said highway to the point of beginning, excluding the Towns of Yancey and Hondo.

[That portion of the county bounded by a line beginning at a point where Texas Farm to Market Road 689 intersects the Medina-Bandera County line, thence easterly, southerly, and north-easterly along said county line to its junction with the Medina-Bexar County line, thence south along said county line to its junction with the Medina-Frio County line, thence west along said county line to its intersection with Texas Farm to Market Road 462, thence northwest and north along said road to its intersection with U.S. Highway 90, thence east along said highway to its junction with Texas Farm to Market Road 689, thence northerly along said highway to the point of beginning, excluding the Towns of Yancey and Hondo.]

Navarro County -- That area within a circle having a radius of three miles with the center point at the intersection of Texas Highway 31 and Farm to Market Road 1129.

[That area within a circle having a radius of three miles with the focal point at the intersection of Texas Highway 31 and Farm to Market Road 1129.]

Refugio County -- That portion of the county bounded by a line beginning at a point where State Highway 239 intersects the Goliad-Refugio County line, thence northeast along said county line to its junction with the Refugio-Victoria County line, thence east and southeast along said county line to its junction with the Refugio-Calhoun County line, and continuing along said county line to its junction with the Refugio-Aransas County line, thence westerly along said county line to its intersection with State Highway 35, thence northerly along said highway to its intersection with Farm to Market Road 774, thence westerly along said road to its junction with U.S. Highway 77, thence northerly along said highway to its junction with U.S. Highway 183, thence northwesterly along said highway to its intersection with Goliad-Refugio County line, thence north-easterly along said county line to the point of beginning but excluding the City of Refugio.

[Robertson County -- That portion of the county bounded by a line beginning at a point where the Brazos River intersects Farm to Market Road 979, thence easterly along said road to its intersection with Farm to Market Road 46, thence southeasterly along said road to its junction with the Robertson-Brazos County line, thence southwesterly along said county line to its junction with the Brazos River, thence northerly along said river to the point of beginning, but excluding the towns of Calvert and Franklin.]

Tarrant County -- That portion of the county lying east of a line beginning at a point where Farm to Market Road 718 intersects the Tarrant-Wise County line, thence southeasterly along said road to its junction with State Highway 496, thence southerly along said highway to its intersection with Interstate Highway 35-W., thence southerly along said highway to its intersection with the Tarrant-Johnson County line, including that portion of the City of Fort Worth lying east of the above described line.

[That portion of the county bounded by a line beginning at a point where Texas Highway 114 intersects the Tarrant-Denton County line, thence easterly along said county line to its junction with the Tarrant-Dallas County line, thence south along said county line to its junction with the Tarrant-Ellis County line, thence west along said county line and the Tarrant-Johnson County line to its intersection with U.S. Highway 287, thence north-]
westerly along said highway to its junction with Interstate Highway 20, thence westerly along said highway to its junction with Loop 820, thence northerly along said loop to its junction with Texas Highway 121, thence northeasterly along said highway to its intersection with Texas Highway 114, thence northerly along said highway to the point of beginning.

Upshur County—That portion of the county lying south of a line beginning at a point where State Highway 154 intersects the Wood-Upshur County line, thence easterly along said highway to its intersection to Farm to Market Road 726, thence northeasterly along said road to its intersection with the Upshur-Harrison County line, including the City of Gilmer. [That portion of the county lying south of a line beginning at a point where the Upshur-Wood County line intersects Farm to Market Road 2911, thence easterly along said road to its junction with Texas Highway 155, thence northeasterly along said highway to its junction with Farm to Market Road 1404, thence southerly and easterly along said road to its junction with Farm to Market Road 2685, thence northerly along said road for a distance of 2.75 miles to its junction with an unnamed county road, thence east, southeast, and east along said road to its junction with Farm to Market Road 726, thence northeasterly along said road to its junction with Texas Highway 154, thence northeasterly, easterly and southeasterly to its intersection with the Upshur-Harrison County line, and including all of the Town of Big Sandy.]

Wilson County—That portion of the county bounded by a line beginning at a point where Farm to Market Road 536 intersects the meeting point of the Atascosa-Bexar-Wilson County lines, thence northeast along the Bexar-Wilson County line to its junction with the Bexar-Guadalupe County line, thence south and southeast along said county line to its intersection with State Highway 123, thence south along said highway to its intersection with the Wilson-Karnes County line, thence southwest along said county line to its junction with the Wilson-Atascosa County line, thence northwest along said county line to the point of beginning, but excluding the City of Stockdale. [That portion of the county bounded by a line beginning at a point where Farm to Market Road 536 intersects the meeting point of the Atascosa-Bexar-Wilson County lines, thence northeasterly along the Bexar-Wilson County line to its junction with Cibolo Creek, thence southerly along said creek to its intersection with Farm to Market Road 775, thence westerly along said road to its junction with U.S. Highway 87, thence southeasterly along said highway to its junction with Texas Highway 97, thence southwesterly along said highway to its junction with Farm to Market Road 536, thence westerly along said road to the point of beginning, excluding the City of Floresville and the Towns of LaVernia and Sutherland Springs.]

Wood County—That portion of the county lying south of the city limits of Alba, State Highway 182, and State Highway 154, but excluding the cities of Alba and Quitman. [That portion of the county lying east of U.S. Highway 69 and south of Texas Highway 49, but excluding all of the city of Mineola.]

(b) Any other areas in the State of Texas now known or hereafter found infested such other areas to become immediately subject to this quarantine when the property owner is so notified through a newspaper release or through direct written notice to those concerned.

Issued in Austin, Texas, on July 20, 1977.

Doc. No. 773640 Reagan V. Brown Commissioner Texas Department of Agriculture

Proposed Date of Adoption: August 28, 1977
For further information, please call (512) 475-4457

Comptroller of Public Accounts
Tax Administration
Limited Sales, Excise, and Use Tax Rules and Regulations 026.02.20

The Comptroller of Public Accounts is proposing to amend Rule 026.02.20.042, relating to organizations exempted from sales and use tax. The proposed amendment permits religious, educational, charitable or eleemosynary organizations which qualify for exempt status to hold one tax-free sale or auction annually.
In addition, organizations holding a federal exemption under Section 501(c)(3) of the Internal Revenue Code may obtain exempt status by submitting specified information to the comptroller. Both changes in the present rule are proposed pursuant to recently enacted legislation enacted as Senate Bill 382, effective May 24, 1977, and House Bill 2080, effective August 29, 1977, by the 65th Legislature.

Public comment on the amendment to Rule 026.02.20.042 is invited. Persons should submit their comments in writing to: Jim Phillips, Drawer SS, Capitol Station, Austin, Texas 78711.

The following amendments are proposed under the authority of Article 20.111(A), Texas Taxation-General Annotated.

.042. Organizations Exempted from Sales/Use Tax ((20.04(H)(5),(6), and (7), 20.04/DD).
(2) Definition of exempt organization.
(2) In addition to the standards set out in subparagraph (1) above, an organization must meet certain other standards depending on the type of exemption desired.
(F) Internal Revenue Code 501(c)(3) Organizations (Article 20.04(H)(7)). An organization qualifies for exemption from federal income tax under Internal Revenue Code 501(c)(3):
(i) provided that no item purchased shall be used for the personal benefit of any private stockholder or individual, and;
(ii) provided the items purchased must be related to the purpose of said organization or corporation;
(iii) an organization whose federal 501(c)(3) exemption is revoked shall simultaneously lose the Texas sales tax exemption, and the organization shall immediately advise its suppliers of the loss of exempt status; failure to provide the supplier such notification is a violation of the Limited Sales, Excise, and Use Tax Act.

(e) Sales by exempt organizations.
(1) An exempt organization is responsible for the collection and remittance of tax on all sales of taxable items made by the organization (except by comptroller’s Rule 026.02.20.013, meals and beverages for human consumption) unless otherwise exempt.
(2) A religious, educational, charitable, or eleemosynary organization that qualifies for an exemption under this act is not required to collect the tax at a sale or auction which is held only once a year by the organization, providing such sale or auction is of one day duration only.
(A) The organization may employ an auctioneer to conduct the auction and pay the auctioneer a reasonable fee, not to exceed 20 percent of the gross sales.

(B) If two or more organizations jointly hold a tax-free sale or auction, neither may hold another tax-free sale or auction during the calendar year.

Issued in Austin, Texas, on July 12, 1977.
Doc. No. 773645 Bob Bullock
Comptroller of Public Accounts

Proposed Date of Adoption: August 28, 1977
For further information, please call (512) 475-3825.

Texas State Board of Pharmacy
Fraud, Deceit, and Misrepresentation in the Practice of Pharmacy 393.11.00

The Texas State Board of Pharmacy is proposing Rule 393.11.00.001, concerning the interpretation of the terms: fraud, deceit, and misrepresentation in the practice of pharmacy in Subsection b, Section 12 of Article 4542a, Vernon’s Civil Statutes (Texas Pharmacy Law). The purpose of these rules and regulations is to arrange and codify existing board positions and interpretations into a more readable and understandable form. None of these proposed rules or regulations is intended to expand or broaden interpretations of the board previously made.

Public comment on Rule 393.11.00.001 is invited. Persons should submit their comments in writing to Fred S. Brinkley, Jr., Executive Director/Secretary, Texas State Board of Pharmacy, Southwest Tower, Suite 1121, Austin, Texas 78701.

The following is the rule proposed under the authority of Section 12(b), Article 4542a, Revised Civil Statutes.

.001. Fraud, Deceit, and Misrepresentation. Fraud, deceit, and misrepresentation in the practice of pharmacy shall include, but not be limited to, the following:
(a) Dispensing. The dispensing or causing to be dispensed of a drug that is adulterated or misbranded, or increasing the quantity or a prescription without the authorization of the prescribing physician.
(b) Delivery. The delivery or offer of delivery of any dangerous drug or controlled substance unless: such dangerous drug or controlled substance is delivered or offered to be delivered by a pharmacist, upon an original prescription or upon the receipt of appropriate refill instructions from a practitioner licensed to practice in the State of Texas or his properly designated agent.
(c) Refilling. The refilling of any prescription for a dangerous drug or controlled substance, unless and as designated by the practitioner or his properly designated agent, or through authorization by the practitioner at the time of refilling.

(d) Prescription records. The delivery of a dangerous drug or controlled substance upon prescription unless the pharmacist who filled such prescription files and retains it as required in Section 6 of the Texas Dangerous Drug Law and Section 3.06 of the Texas Controlled Substances Act.

(e) Inspection. The refusal to allow entry for inspection or make available and to accord full opportunity to check any record or file as required by Section 5 and Section 6 of the Texas Dangerous Drug Law and Section 4.08 of the Texas Controlled Substances Act.

(f) Records. The failure or refusal to make, keep, or furnish records as required by Section 5 and Section 6 of the Texas Dangerous Drug Law and Section 4.08 of the Texas Controlled Substances Act.

(g) Commercial and fraud offenses:

1. To distribute as a registrant to another registrant a controlled substance listed in Schedule I or II, except pursuant to an order form as required by Section 3.07 of the Texas Controlled Substances Act;

2. To use in the course of the manufacture or distribution of a controlled substance a controlled substance registration number which is fictitious, revoked, suspended, or issued to another person;

3. To acquire or obtain possession or attempt to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

4. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under the Texas Controlled Substances Act or Federal Controlled Substances Act or any record required to be kept by the Texas Controlled Substances Act or Federal Controlled Substances Act;

5. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any controlled substance or container or labeling thereof so as to render the controlled substance a counterfeit substance.

(h) Violations of Welfare Department rules under the Vendor Drug Program. To have been adjudged guilty of violations of rules and regulations of the Texas Welfare Department in an administrative hearing, in the furnishing of prescription medication to eligible welfare recipients as it relates to the dispensing, delivery, or refilling of such prescriptions.

Destruction of Dangerous Drugs and Controlled Substances 393.12.00

The Texas State Board of Pharmacy is proposing Rule 393.12.00.001, concerning the destruction of dangerous drugs and controlled substances. This rule concerns the provision for destruction of legend pharmaceuticals by the consultant pharmacist in a health care facility.

Public comment on Rule 393.12.00.001 is invited. Persons should submit their comments in writing to Fred S. Brinkley, Jr., Executive Director/Secretary, Southwest Tower, Suite 1121, 211 East 7th Street, Austin, Texas 78701.

The following is the rule proposed under the authority of Article 4542a, Revised Civil Statutes.

.001 Drug Destruction. The consultant pharmacist, if in good standing with the board, is authorized to destroy dangerous drugs and controlled substances in health care facilities or institutions in which a formal agreement exists between the facility or institution and the consultant pharmacist, and the actual destruction of these drugs is conducted in the presence of a duly commissioned law enforcement officer or an officer or authorized agent of the Board of Pharmacy or a Texas State Board of Pharmacy authorized agent of the Department of Health Resources or the Department of Public Welfare and the consultant pharmacist.

Issued in Austin, Texas, on July 22, 1977.

Doc. No. 773662  Fred S. Brinkley, Jr.
Executive Director/Secretary
Texas State Board of Pharmacy

Proposed Date of Adoption: August 28, 1977
For further information, please call (512) 478-9827
State Department of Public Welfare

Commodity Program

Child Care Food Program 326.18.09

The Department of Public Welfare proposes the following rules about the Child Care Food Program (CCFP). This program, which is mandated by law, is presently administered by the United States Department of Agriculture. USDA has transferred the responsibility for the administration of the CCFP to the state, and the Office of the Governor has designated the Department of Public Welfare as the state agency responsible for the administration of this 100 percent federally funded program.

The Child Care Food Program provides assistance to initiate, maintain, and expand nonprofit food service programs for children in nonresidential child-care institutions. The program is open to any public or private nonprofit institution providing child care where children are not maintained in permanent residence. This includes day care centers, settlement houses, recreation centers, Head Start centers, and institutions providing day care for handicapped children. Under the program, attending children receive nutritious breakfasts, lunches, suppers, and snacks. Participating child-care centers serving meals which meet program requirements are eligible for cash reimbursement and donated foods. Reimbursement and commodity donations are tied to the volume of meals and the relative need of children served.

Centers may also obtain funds for equipment to initiate, improve, or expand food service program. These funds may be used for the purchase or rental of equipment, for storing, preparing, transporting, and serving of food. Any institution receiving funds for equipment must also participate in the food assistance part of the program.

The following rules contain policy about assignment of rates of reimbursement, claims for reimbursement of institutions for meals served to children, criteria for non-food assistance, and audits. At this time the department is also proposing to adopt by reference additional rules in the federal regulations for the Child Care Food Program.

Written comments are invited and may be sent to Susan Johnson, Administration, Systems and Procedures Bureau, 410, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this Register.

These rules are proposed under the authority of Article 695c, Texas Civil Statutes.

.001. Assignment of Rates of Reimbursement.
(a) The department shall for reimbursement purposes, establish claiming percentages for each participating institution based on the national average payment for meals established by USDA.
(b) Each institution shall submit, not less frequently than annually, information necessary to determine the claiming percentages for that institution. The following information shall be submitted:
(1) the number of enrolled children from families meeting the state’s family-size income standards for free school meals;
(2) the number of enrolled children from families meeting the state’s family-size income standards for reduced price meals; and
(3) the number of enrolled children from families with incomes exceeding the state’s family-size income standards or reduced price meals;
(c) The department shall assign rates of reimbursement for each institution for each meal type (breakfast, lunch, supplements, supper). Assigned rates of reimbursement may vary among the institutions.

.002. Claim for Reimbursement. DPW will base reimbursement to institutions on claiming percentages by determining a blended per-meal rate of reimbursement by multiplying the assigned rate for each category (free, reduced price, paid) by the claiming percentage for that category and multiplying the product by the total number of meals served by type.

.003. Non-Food Assistance. Criteria for designation of especially needy centers will be as follows:
(a) All children participating in the center must be eligible for free lunches.
(b) The sponsor must demonstrate inability to finance the matching portion of the non-food assistance grant.

.004. Audits.
(a) Sponsors are required to employ a C.P.A. firm to conduct an audit of the fiscal management of the program.
(b) Audit findings necessitating corrective action(s) will be handled in 30 days unless unusual circumstances warrant extension.

Doc. No. 773638

Support Documents 326.18.99
The Department of Public Welfare proposes the following rule about the Child Care Food Program (CCFP). This program, which is mandated by law, is presently administered by the United States Department of Agriculture (USDA). The USDA has transferred the responsibility for the administration of the CCFP to the state, and the Office of the Governor has designated the Department of Public Welfare as the state agency responsible for the administration of this 100 percent federally funded program.

The Child Care Food Program provides assistance to initiate, maintain, and expand nonprofit food service programs for children in nonresidential child-caring institutions. The program is open to any public or private nonprofit institution providing child care where children are not maintained in permanent residence. This includes day care centers, settlement houses, recreation centers, Head Start centers, and institutions providing day care for handicapped children. Under the program, attending children receive nutritious breakfasts, lunches, suppers, and snacks. Participating child care centers serving meals which meet program requirements are eligible for cash reimbursement and donated foods. Reimbursement and commodity donations are tied to the volume of meals and the relative need of children served.

Centers may also obtain funds for equipment to initiate, improve, or expand food service programs. These funds may be used for the purchase or rental of equipment, for storing, preparing, transporting, and serving of food. Any institution receiving funds for equipment must also participate in the food assistance part of the program.

The following rule adopts by reference the rules in the federal regulations about the Child Care Food Program. Included in the regulations are general provisions for institutions, requirements for meals, effective date for reimbursement payments, free and reduced priced meals, additional requirements for sponsoring organizations, eligibility requirements for nonfood assistance, nonfood assistance reimbursement procedure, procurement standards, property management requirements, food service management companies, and grant closeout procedures.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau, 410, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this Register.

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


Issued in Austin, Texas, on July 21, 1977.

Doc. No. 773639 Raymond W. Vowell Commissioner State Department of Public Welfare

Proposed Date of Adoption: August 28, 1977
For further information, please call (512) 475-4601.

Railroad Commission of Texas
Transportation Division
Leasing and Interchange of Equipment 051.03.10
The Railroad Commission of Texas is proposing to adopt Regulation 051.03.10.004, which would require the operators of leased motor vehicles to furnish the lessee motor carrier a written, detailed description of all services provided by the operator and vehicle relating to extra labor, loading, unloading, and transporting.

Public comment on proposed Regulation 051.03.10.004 is invited. Comments may be submitted in writing to James H. Cowden, Director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until August 24, 1977.

This regulation is proposed under the authority of Section 4(a) of Article 911b, Texas Civil Statutes.

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.004. Leased Motor Vehicle Records. Where motor carriers lease motor vehicles, it will be the motor carrier’s responsibility to require that the operator of each vehicle furnish the motor carrier a written, detailed description of all services provided by the operator and vehicle relating to extra labor, loading, unloading, and transporting, such as accessorial services, detention of equipment, driver assistance on loading other vehicles, whether or not the services are governed by a tariff. This information is required in addition to the information required on a freight bill, bill of lading, or waybill. Motor carriers will maintain the above required information in their files for the time period provided in Regulation 051.03.04.003.

Issued in Austin, Texas, on July 22, 1977.

Doc No. 773666 James H. Cowden, Director
Transportation Division
Railroad Commission of Texas

Proposed Date of Adoption August 29, 1977
For further information, please call (512) 475-3207

State Securities Board
Guidelines for Confidentiality of Information 065.16.00

The State Securities Board proposes to adopt Rules 065.16.00.100-.400, identifying the state, federal, and quasi-governmental agencies with whom the commissioner is authorized to share information obtained pursuant to Section 28 of the Securities Act, as amended, effective August 29, 1977. This list is exclusive. Agencies of the State of Texas are not included, as such agencies are allowed to receive such information pursuant to the Open Records Act and the Securities Act.

Public comment on this proposed rule is invited. Written comments may be mailed to Lee Polson, State Securities Board, P.O. Box 13167, Capitol Station, Austin, Texas 78711.

This rule is proposed under Sections 28 and 28-1, Article 581, Vernon’s Annotated Texas Statutes, as amended, effective August 29, 1977, and Article 6252-13a, Vernon’s Annotated Texas Statutes.

.100. General Provisions. Pursuant to the authority given to the board under Section 28 of the Securities Act, as amended by House Bill 1158, Acts of the 65th Legislature, effective August 29, 1977, the State Securities Board, recognizing the need for cooperative law enforcement among agencies responsible for prevention, detection, and prosecution of white collar crime, for the regulation and policing of persons who offer and sell securities, and for the regulation of offerings of securities, authorizes the Securities Commissioner to supply information obtained during the course of investigations conducted pursuant to Section 28 of the Securities Act to the federal, state, and quasi-governmental agencies enumerated in these guidelines. Disclosure of such information to one or more of these agencies will be made only for the purpose of furthering an investigation by such agency to detect or prevent violations of law or to further administrative, civil, or criminal action resulting from such investigations. Disclosure of such information will occur in two ways. An agency may request information relating to a specific subject or the commissioner may advise an agency of information indicating a possible violation of law within said agency’s jurisdiction.

.200. Federal Agencies. The following agencies of the United States are authorized to receive information from the Securities Commissioner under the conditions set forth in Rule .100 of these guidelines:

(a) Commodity Futures Trading Commission,
(b) Comptroller of Currency,
(c) Department of Defense,
(d) Federal Bureau of Investigation,
(e) Federal Deposit Insurance Corporation,
(f) Federal Reserve Board,
(g) Federal Savings and Loan Insurance Corporation,
(h) Justice Department,
(i) Postal Inspection Service,
(j) Securities and Exchange Commission.

.300. Other Governmental Agencies. The following governmental agencies are authorized to receive information from the Securities Commissioner under the conditions set forth in Rule .100 of these guidelines:

(a) The securities regulatory agency of each of the other 49 states and the District of Columbia and their respective state and local law enforcement agen-
cies involved in the detection, investigation, and prosecution of violations of law.

(b) The securities regulatory agency of each of the 10 provinces of Canada and the Yukon Territory and the Royal Canadian Mounted Police.

.400. Quasi-Governmental Agencies. The following quasi-governmental agencies are hereby authorized to receive information from the Securities Commissioner under the conditions set forth in Rule .100 of these guidelines:

(a) American Stock Exchange,
(b) Chicago Board Options Exchange,
(c) Midwest Stock Exchange,
(d) Municipal Securities Rulemaking Board,
(e) National Association of Securities Dealers, Inc.,
(f) New York Stock Exchange,
(g) Pacific Stock Exchange,
(h) Securities Investor Protection Corporation.

Doc No 773677

State Securities Board

Forms 065.90.00

The State Securities Board proposes to adopt by reference amendments to Rules 065.90.00.020, .040, .050, .060, and .070, concerning forms for application for registration of securities and for license as securities dealers or salesmen. These changes are necessary to reflect amendments to the fees to be charged for such applications which were adopted in House Bill 1158, Acts of the 65th Legislature, effective August 29, 1977.

The application fees to be charged under Section 35 of the Securities Act as amended by House Bill 1158 are as follows:

1. Securities dealer (any classification) -- $35 for original or renewal
2. Investment advisor -- $35 for original or renewal
3. Salesman -- $15 for original or renewal
4. Amendment to dealer or salesman registration certificate -- $5
5. Filing application to register securities -- $10 for original, renewal, or amendment
6. For examination of application to register securities -- one-tenth of one percent of the aggregate amount of securities to be sold in this state, based upon the price at which said securities will be offered to the public.

Copies of the forms proposed to be amended by reference are available for inspection during normal business hours at the State Securities Board, 709 Lyndon Baines Johnson Building, 111 East 17th Street, Austin, Texas. Public comment on the proposed amendments is invited and may be mailed to Lee Polson, P.O. Box 13167, Capitol Station, Austin, Texas 78711. These amendments are proposed to become effective on August 28, 1977.

These amendments to be adopted by reference are proposed by the authority of Sections 35 and 28-1, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.


.040. Application for License as an Individual Securities Dealer or Investment Adviser. The State Securities Board adopts by reference the Application for License as an Individual Securities Dealer or Investment Adviser, as amended on August 28, 1977.

.050. Application for License of a Corporation or Partnership as a Securities Dealer or Investment Adviser. The State Securities Board adopts by reference the Application for License of a Corporation or Partnership as a Securities Dealer or Investment Adviser, as amended on August 28, 1977.


.070. Application for License as an Individual Securities Dealer in Oil and Gas Interests Only. The State Securities Board adopts by reference the Application for License as an Individual Securities Dealer in Oil and Gas Interests Only, as amended on August 28, 1977.

Issued in Austin, Texas, on July 21, 1977.

Doc No. 773626

Frank Arnold
Deputy Securities Commissioner
State Securities Board

Proposed Date of Adoption: August 28, 1977

For further information, please call (512) 475-4561.

065.90.00.080

The State Securities Board proposes to amend by reference Rule 065.90.00.080, Application for Transfer of Securities Salesman. The amendment is necessary to reflect a recent amendment to Section 35 of the Securities Act to charge a $5 fee for all such transfers. See House Bill 1158, Acts of the 65th Legislature, effective August 29, 1977.
Copies of the proposed amendment by reference are available for inspection during normal business hours at the State Securities Board, 709 Lyndon Baines Johnson Building, 111 East 17th Street, Austin, Texas. Public comment on the proposed amendment is invited and may be mailed to Lee Polson, P.O. Box 13167, Capitol Station, Austin, Texas 78711. The amendment is proposed to be adopted on August 28, 1977.

This amendment by reference is proposed by the authority of Sections 35 and 28-1, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.080. Application for Transfer of Securities Salesman's Registration. The State Securities Board adopts by reference "the application for transfer of securities salesman's license," as amended on August 28, 1977. The State Securities Board amends, by reference, the form entitled "Application for Transfer of Securities Salesman's registration" by changing the format of the questions and by making the questions dealing with a person's integrity or honesty more inclusive.

Issued in Austin, Texas, on July 22, 1977.

Doc No. 773678 Richard D. Latham
Securities Commissioner
State Securities Board

Proposed Date of Adoption: August 28, 1977

For further information, please call (512) 475-4561.

State Board of Examiners in Social Psychotherapy

Board Practice and Procedures

407.01.00

The Texas State Board of Examiners in Social Psychotherapy is proposing to amend Rules 407.01.00 .001-.006 on Board Practice and Procedures. The purpose of these changes is to bring the rules in line with the requirements of the Administrative Procedure and Texas Register Act and will clarify the administrative format of the board.

Public comment on the proposed amendments is invited and should be submitted in writing no later than August 31, 1977, to Daniel L. Boone, Executive Secretary, Texas State Board of Examiners in Social Psychotherapy, Room T-503, 1100 West 49th Street, Austin, Texas 78756.

A public hearing on the proposed amendments will be held at 10 a.m. August 20, 1977, in Conference Room 1, Albert Pick Motor Hotel, 3301 Southwest Freeway, Houston. All interested persons may appear and present oral or written testimony.

The amendments to these rules are being proposed under authority of Article 4512f, Texas Revised Civil Statutes.

.001. Organization of the Board.
(c) Executive secretary. The executive secretary shall carry out the administrative work of the board as spelled out in the Social Psychotherapist Regulation Act and such other duties as may be assigned by the chairman of the board.

.002. Committees of the Board.
(b) In addition, the board may [will] appoint standing and special ad hoc committees of the board to expedite the work of the board.

.003. Meetings of the Board.
(a) Agendas. The chairman of the Board of Examiners in Social Psychotherapy shall prepare and submit to each member of the board prior to each meeting a [preliminary] copy of the agenda, outlining items that he believes should be considered by the board, those required by law, and others as members have requested. Materials supplementing the agenda may be included. [Official agendas are distributed the day of the board meeting.] The official agenda will be published in the Texas Register, as required by law.
(c) Minutes.
(1) "Official minutes" are those which the executive [recording] secretary prepares, the board approves at a regular or special meeting, and are affixed with the original signature of the chairman of the board. Drafts of the minutes shall be forwarded to each member for review and comments or corrections prior to approval by the board.

.004. Press and Public Relations.
(a) Prior to each meeting, copies of the [preliminary] agenda shall be sent to United Press International and Associated Press; the Governor's Office; the Office of the Secretary of State; and the chairman of the Texas Board of Health [Resources].

.005. Actions Requiring Board Approval.
(c) Budget request. The Board of Examiners in Social Psychotherapy [consolidate] budget request will be approved by the board prior to submission to the Texas Department of Health [Resources].

.006. Policies of the Board.
(c)(1) Each member of the board shall be furnished a copy of a proposed new policy or a proposed amendment with [in] the [preliminary and] official agenda[s] for the meeting at which it is to be considered.

Doc No. 773617

Volume 2, Number 59, July 29, 1977
Licensing Social Psychotherapists
407.02.00

The Texas State Board of Examiners in Social Psychotherapy is proposing to amend Rules 407.02.00.001-.008 on licensing social psychotherapists. The purpose of these changes is to increase the academic requirements for licensure to provide a sounder academic background for competent practice of psychotherapy based on the board’s experience in evaluating applications submitted to date. To provide an avenue to licensure for persons who were granted graduate degrees prior to September 1, 1976, which did not meet board requirements, and to provide clarification for board rules on post-graduate experience requirements as well as other matters.

Public comment on the proposed amendments is invited and should be submitted in writing no later than August 31, 1977, to: Daniel I. Boone, Executive Secretary, Texas State Board of Examiners in Social Psychotherapy, Room T-503, 1100 West 49th Street, Austin, Texas 78756.

A public hearing on the proposed amendments will be held at 10 a.m. August 20, 1977, in Conference Room 1, Albert Pick Motor Hotel, 3301 Southwest Freeway, Houston. All interested persons may appear and present verbal or written testimony.

The amendments to these rules are being proposed under authority of Article 4512f, Texas Revised Civil Statutes.

.001. General.
(b) All formal and advisory board opinions shall be summarized and be available to the public during working hours [published in the Texas Register].

.002. Fees.
(a) The following is the schedule of fees charged by the Texas State Board of Examiners in Social Psychotherapy:
Application fee-$75
Examination fee--$85
Licensure fee--$85
Annual renewal of licensure fee--$50
License replacement fee [Replacement of lost license fee]--$15
Health service provider roster fee for non-licensed persons or agencies--$10
Remailing fee--$10
(b) These fees are set by the board with the approval of the Texas Board of Health [Resources] and will be reviewed periodically.

.003. Application and Examination for Licensure.
(d) An applicant whose file contains any negative references [reference letters] of substance may be asked to come before the board for an interview prior to admission to the written examination.

(k) An applicant who fails the qualifying examination for licensure as a social psychotherapist will be permitted to take it again by paying another examination fee. If the second examination is failed, the applicant must wait a full calendar year before the examination may be taken again. This year interval applies to all succeeding applications for the examination. (The board may adjust this requirement a few days to provide flexibility in the board’s scheduling of examination). In the event of subsequent examinations taken in other states, the one year waiting period applies.

.004. Licensure and Renewal of Licensure
(d) The fee for replacement of a lost or destroyed license is $15. Evidence of loss or destruction (notarized statement accepted) or return of the mutilated old license is required before a replacement license will be issued.

.005. Academic and Post Graduate Supervision Requirements and Equivalency.
(a) "Skill and competence" referred to in Section 13.1(1) of the Social Psychotherapist Regulation Act shall mean, but not be limited to, these specific qualities gained from a curriculum for a graduate degree designed to develop skill and competence in the use of psychotherapeutic methods which includes no fewer than (1,000) [1,950] hours of practicum, field instruction, or internship in the use of these treatment methods and which meets the requirements of the board.
(b) A graduate degree submitted as the academic basis for licensure equivalent to the master’s degree from a school accredited by the Council on Social Work Education must be from a graduate school which meets accreditation requirements of the board. The board shall offer recognized guidelines in determining whether or not an institution is accredited (e.g., the current Report of Credit Given by Education Institutions of the American Association of Collegiate Registrars and Admissions Officers and the list of graduate schools accredited by the Council on Social Work Education). The same definition of “accredited institution” used at the sub-doctoral level shall also apply at the doctoral level.
(c) The academic requirements stated ["Equivalent" referred to in Section 13.1(1) of the Social Psychotherapist Regulation Act shall mean:
(1) A graduate degree consisting of no fewer than 60 graduate hours which shall include a board-approved [clinical field work] practicum consisting of no fewer than (1,000) [1,950] clock hours.
(2) These 60 [57] hours shall include course work as follows:
12 hours-- treatment methodologies (individual, family, group treatment)
3 hours-- psychopathology
3 hours-- normal growth and development
6 hours-- group and family dynamics
3 hours-- research methods and/or design (in behavioral sciences)
3 hours-- professional issues and standards
3 hours-- history of psychotherapy

The remaining course work shall be in areas supporting the development of skill and competence in psychotherapy. The board will rule on any graduate professional degree [of a minimum of 57 hours] as to whether its content is equivalent as it relates to these criteria. The above list indicates the content and extent of the subject matter to be studied. The board may require applicants to substantiate through catalog descriptions or other means that their course work contained this material.

(d) (1) It is full-time experience consisting of at least 20 hours a week of employment.

(3) The supervisor is a person licensed by the board or qualified to be licensed by having submitted an acceptable application and having passed the licensure examination (one approved by the board). A supervisee may assure that his or her supervisor meets the requirements of the board by submitting a contract for supervision to which the board will reply. An applicant who completed all or part of his or her post-graduate supervision outside of the geographic boundaries of Texas where a licensed social psychotherapist was not available by reason of the statutory residency requirement for licensure may determine whether his or her supervised experience meets the requirements of the board by submitting documentation of the supervisor’s qualifications to perform this supervision, on which the board will rule.

(e) Persons who were graduated prior to September 1, 1976, with a relevant degree of fewer than the required number of semester hours may take the additional number and type of courses needed to meet the academic requirements to qualify to take the licensure examination.

(1) Persons wishing to use this method of meeting academic requirements must have the prior approval of the board by submitting a detailed letter of request and a proposed curriculum to which the board will reply.

(2) The board reserves the right on a case-by-case basis to require such additional course work and/or practicum which might reasonably be expected to develop skill and competence in psychotherapy. This requirement may result in a total of graduate hours and/or practicum which exceeds the minimum requirement.

(3) Persons meeting the academic requirements under this method may be required to take additional post-graduate supervision depending on the date of graduation. The board reserves the right to consider this question on a case-by-case basis employing any reasonable means of assessing this part of the licensure requirements.

.006 Announcement of Services. A social psychotherapist shall follow the guidelines set out in the ethical standards of social psychotherapists.

(a) The social psychotherapist shall adhere to professional rather than commercial standards in making known availability for professional services.

(b) The social psychotherapist shall not directly solicit clients for individual diagnosis or therapy.

(c) The social psychotherapist must not encourage (not, within his or her power, even allow) a client to have exaggerated ideas as to the efficacy of services rendered by the social psychotherapist. Claims made to clients about the efficacy of his or her services must not go beyond those which the social psychotherapist would be willing to subject to professional scrutiny through publishing the results and his or her claims in a professional journal.

(d) All listings in the Yellow Pages under the title “Social Psychotherapist” shall be by individual name only. These individual listings are limited to name, licensure, degree, address, and telephone number. Such listings may contain the general category of practice descriptive of what the social psychotherapist does, i.e., individual, group, and/or family practice. Psychotherapeutic techniques and procedures are inappropriate for announcements or listings in the Yellow Pages.

(e) All forms of extra-legal certification shall also be excluded from the Yellow Pages, but not necessarily from announcement.

(f) Announcements of individual private practice are limited to a simple statement of the social psychotherapist’s name, highest relevant degree, licensure status, diploma status, address, telephone number, office hours, and a brief explanation of the types of services rendered. Announcements in newspapers of the opening or the relocation of a practice may run no longer than 30 days.

(g) A social psychotherapist announcing non-clinical professional services may use brochures that are descriptive of services rendered, but not evaluative.

(h) The use in a brochure of “testimonials from satisfied users” is not acceptable. The offer of a free trial of services is likewise unacceptable if it operates to misrepresent in any way the nature of the efficacy of the services rendered by the social psychotherapist.

.007 Social Psychotherapists in Practice.

(e) An individual practice by a social psychotherapist may be incorporated under the Profes-
Ethical Standards of Social Psychotherapists 407.03.00

The Texas State Board of Examiners in Social Psychotherapy is proposing to amend Rules 407.03.00.001-016 on the Ethical Standards of Social Psychotherapists. "Psychotherapy" is added to "Social Psychotherapy" as the Yellow Page listings under which licensed persons must conform to the board rules regarding such listings. This change is made to make board rules apply to relevant listings actually being used by social psychotherapists.

Public comment on the proposed amendments is invited and should be submitted in writing no later than August 31, 1977, to: Daniel L. Boone, Executive Secretary, Texas State Board of Examiners in Social Psychotherapy, Room T-503, 1100 West 49th Street, Austin, Texas 78756.

A public hearing on the proposed amendments will be held at 10 a.m. August 20, 1977, in Conference Room 1, Albert Pick Motor Hotel, 3301 Southwest Freeway, Houston. All interested persons may appear and present verbal or written testimony.

The amendments to these rules are being proposed under authority of Article 4512f, Texas Revised Civil Statutes.
An agency may adopt a proposed rule no earlier than 30 days after publication in the Register, except where a federal statute or regulation requires implementation of a rule on shorter notice.

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

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

The warden or assistant warden can deny any person permission to visit regardless of whether or not he is on the inmate’s visiting list, whenever the visitor fails to comply with the visiting rules or when there are reasons to believe that the visit may not be in the best interest of the security and welfare of the inmates, personnel, facilities, or programs of the Texas Department of Corrections.

Issued in Huntsville, Texas, on July 15, 1977.

Doc. No. 773656-773657
Erwin G. Ernst
Assistant Director for General Counsel
Texas Department of Corrections

Effective Date: July 21, 1977, 4:07 p.m.
For further information, please call (512) 295-6371

Texas Department of Corrections
Rules and Regulations and Grievance Procedures Governing Inmate Conduct
Standards and Behavior Codes 202.01.30

The Texas Department of Corrections has adopted amendments to Rule 202.01.30.008 under the authority of Article 6166-J, Texas Civil Statutes.

.008. Visiting
    (b) Periods of visitation. Inmates may have a visit from approved visitors for any two hour period on the following days and during the following times:
    (1) Saturday 7 a.m. - 7 p.m.;
    (2) Sunday 7 a.m. - 7 p.m. (includes noon hour).
    (c) Limits on persons per visit. Inmates are allowed two visits per month of not more than two hours each. Generally, only two adults are allowed per visit. Children of the inmate or visitor may visit an inmate without being counted, at the discretion of the unit warden. Usually only those persons on the inmate’s correspondence and visiting list may visit. The warden or assistant warden can make investigations if they consider it necessary before allowing other visitors.

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

The Texas Department of Health Resources has adopted the proposed amendments to Rules 301.54.02.003, .005, .006, and .011, with several changes as a result of written comments submitted to
the department and testimony received at a public hearing on the proposed amendments. The major comments were:

(1) that in conforming the specified construction types of Section .005(c)(3) to the Life Safety Code the reference to the Planning and Construction Manual be deleted. Since such deletion of the Planning and Construction Manual should be accompanied by a deletion of the manual in other subsections and paragraphs of Rule .005, the proposed amendment pertaining to construction types is being deleted and will be considered at a later date when an entire revision of Rule .005 is considered by the department;

(2) that in preparation plans of correction of kitchens the wording in Section .005(k), "...the consultant shall consider new construction standards. ..", could lead to the placement of higher requirements than are needed for correction. The department considers this to be a valid objection and has changed the wording to reflect that the consultant consider new construction standards that relate to the deficiency;

(3) pertaining to Section .005(k), that use of a registered sanitarian having knowledge in food service operations, and equipment design and placement, be allowed to design kitchens and related areas and determine plans of correction. This proposal is not acceptable because kitchen designs are usually made by registered architects or registered dietitians;

(4) that two consultants be used in the design and determination of plans of correction for kitchens and related areas, these consultants being (1) either a certified food services consultant or a licensed architect having knowledge in design of food service operations, and (2) a registered dietitian. This request was rejected because of an expected scarcity of available consultants for the preparation of kitchen designs and plans of correction. On the other hand a request that no particular type consultant be specified was also rejected as allowing no assurance of control;

(5) that Section .005(k) calls for a consultant in the design and determination of plans of correction for kitchens and related areas to be a certified food services consultant, a registered dietitian, or a licensed architect having knowledge in design of food services operations. However, since the department has not determined the existence of a certification program for food services consultants, the use of a certified food services consultant should be deleted from these amendments. The department considers this objection pertinent and has deleted the proposed provision.

Several other minor changes were made to the proposed rules for purposes of clarification such as rewording or the addition or deletion of specific words.

These rules are adopted pursuant to Article 4442c, Texas Civil Statutes.

.003. General Requirements.

(a) Maternity patients, alcoholics, addicts, and persons having or suspected of having a mental and/or physical disease endangering other residents shall not be admitted to or retained in a nursing home unless adequate and separate rooms are provided to completely segregate such patients from the other residents or patients being kept in such nursing home.

(b) Patients under the age of 16 years shall be accommodated in bedrooms separate from adult patients.

(c) Each license shall specify the maximum allowable number of patients or residents to be cared for at any one time. No greater number of patients or residents shall be kept than is authorized by the license.

(d) The license shall be conspicuously posted in the area where patients are admitted.

(e) Copies of these regulations should be available to the personnel of the institution. They should be instructed in the requirements of the law and the regulations pertaining to their respective duties.

(f) The term "hospital" may not be used as part of the name of a nursing home unless it has been classified and duly licensed as a hospital by the appropriate state agency.

.005. Physical Plant.

(a) Types of construction programs and application of these standards.

(1) New buildings, new building additions, and conversions of existing unlicensed buildings shall be constructed and completed in accordance with these entire standards, except where parts of these standards specifically refer to existing licensed buildings or remodeling programs. Existing unlicensed buildings as above mentioned are those which are not licensed as a nursing home or a custodial care home or are those which have carried a license but have become vacant or those on which the licensee has willfully allowed the license to expire.

(2) Building additions shall require that the entire facility generally meet the existing standards at the time for new construction, as required by the licensing agency.

(3) An existing building licensed as a nursing home or custodial care home and for which the licensee proposes that the buildings be licensed or relicensed as a nursing home shall be made to comply with the following requirements, and a reasonable time schedule shall be allowed for completing the construction.

(A) Structural safety shall be made essentially equal to that for new buildings; construction thereof shall be as approved by the licensing agency, as interpreted from the referenced Planning and Construction Manual.

(B) Fire resistance, flame spread, and related fire characteristics shall be provided in substantial
compliance with those requirements for new buildings. Equal methods of obtaining the necessary fire resistance, flame spread, and related fire characteristics shall be as allowed in the referenced Life Safety Code and the referenced Planning and Construction Manual.

(C) Exit provisions shall be substantially as required for new buildings. Alternate methods may be used for attaining equal compliance as allowed in the referenced Life Safety Code and the referenced Planning and Construction Manual.

(D) All other requirements for new buildings shall be provided as approved by the licensing agency as interpreted from the referenced Planning and Construction Manual.

(4) Remodeling programs shall generally be considered as new construction, and when the remodeling is other than very minor or other than that normally included in building maintenance, the entire facility shall generally meet the existing standards at that time for new construction, as required by the licensing agency.

(5) A licensed building changing ownership or licenseship shall require that the existing building generally meet the existing standards at that time for new construction, as required by the licensing agency as interpreted from the referenced Planning and Construction Manual.

(b) Codes, guides, and manuals.

(1) The following codes, guides, and manuals shall generally govern the design and all construction:


(B) The National Electrical Code, 1962 edition, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.


(E) National Plumbing Code, as published by the American Standards Association, 70 East 45th Street, New York, New York 10017.


(H) A Planning and Construction Manual, utilized by the Nursing and Convalescent Homes Divisions of the Texas Department of Health Resources, which manual modifies some of the requirements of some of the above codes and guides.

(2) The facility shall conform to all state laws and local codes and ordinances. When such laws, codes, and ordinances are more stringent than these standards or than any of the above referenced codes, guides, and manual, the more stringent requirement shall govern. Should state laws and local codes and ordinances be in conflict with the requirements of these standards or with any of the above referenced codes, guides, and manual, the licensing agency shall be so informed so that these conflicts may be legally resolved.

(c) Safety of patients.

(1) The facility shall be located so as to promote at all times the health, treatment, comfort, safety, and well-being of persons accommodated or to be accommodated for care. When the facility is located beyond five minutes’ service time from a fire fighting unit, suitable other means of providing protection may be required.

(2) Structural safety of the building and general building requirements shall be equal to the minimum general requirements for loads and allowable stresses and general building requirements as stated in the referenced National Building Code and as modified in the referenced Planning and Construction Manual. Wind loads as generally determined by the State Board of Insurance shall be applicable where they exceed the wind loads indicated in the National Building Code.

(3) Fire resistance, flame spread, and related fire characteristics shall be in accordance with the requirements of the referenced Life Safety Code and the referenced Planning and Construction Manual. For general guidance without reference to the Life Safety Code and the Planning and Construction Manual the following construction types are required:

(A) One-story construction shall have the basic structure of not less than one-hour fire resistive combustible construction.

(B) Two-story construction shall have the basic structure of not less than one-hour fire resistive non-combustible construction or one-hour fire resistive combustible construction having an approved sprinkler system.

(C) Three-story and higher construction shall have the basic structure of not less than two-hour fire resistive non-combustible construction.

(D) An approved sprinkler system shall be considered as equal to one-hour fire resistive combustible or non-combustible construction.

(4) Exit provisions, including corridors, stairways, and other exits, handrails, doors, locks, patient control, and other applicable items shall be in accordance with the requirements of the referenced Life Safety Code and the referenced Planning and Construction Manual.
(5) Special safety features or requirements include the following:

(A) Sprinkler systems, fire or smoke detection systems, and fire extinguishers shall be as required under the referenced Life Safety Code and as modified in the referenced Planning and Construction Manual. Multiple story buildings shall have not less than an approved fire alarm system throughout. Sprinklers shall be installed in all areas considered to have special fire hazards including, but not limited to, boiler rooms, heater rooms, trash rooms, and non-fire-resistant areas or buildings.

(B) All floors shall be level and smooth, and any irregularities which influence safety shall be corrected. Except for exit or main stairways, differences in floor elevations on the interior shall be provided with ramps.

(C) All stair treads shall be of non-slippery material.

(D) All floors, walls, and ceilings not specifically described elsewhere shall be smooth, easily cleanable or repaintable, and relatively non-absorbing.

(E) No high heat, steam or hot water heating boilers, or high heat heater units should be located in basements or floors under patient-use areas or under exitways.

(6) Unless the facility has an automatic sprinkler system throughout or is of non-combustible construction, blind or physically handicapped persons shall not be housed above the street floor level.

(7) Reports of periodic inspections of the facility by the fire control authority having jurisdiction in the area shall be on file in the facility. Any gas fuel installations and systems in the building shall be tested as required by law; in the case of natural or manufactured gas, the system shall be checked by an approved pressure test at the start of each heating season, and a record of such check shall be on file in the facility.

(8) The building shall be maintained in good repair and kept free of hazards such as those created by any damaged or defective parts of the building.

(9) No occupancies or activities undesirable to the health and safety of patients shall be located in the building or buildings of the facility.

(10) There shall be at least one telephone in the facility available to patient use and for use in making calls to summon help in case of emergency. The telephone number of the fire department shall be posted conspicuously in the vicinity of the telephone.

(11) Non-mentally alert patients who smoke should have or be provided with outside clothing that is flame proof or that will not support combustion or is self extinguishing. Non-mentally alert patients who smoke without the protection mentioned above shall be supervised by a non-resident or a mentally alert patient during any smoking period.

(d) Favorable environment for patients.

(1) Illumination, either natural or artificial, shall be provided to supply the needs of the patients without eye strain or glare. Non-glare lighting fixtures and window glare-reduction devices shall be provided. General building surfaces shall be non-glare. Wall, floor, and ceiling surfaces shall generally provide reflectance factors that are compatible with good lighting practice. Generally, current recommendations of the Illuminating Engineering Society shall be followed to achieve proper illumination characteristics and light levels throughout the building.

(2) In case of failure of electricity, not less than an electric lantern or flashlight in serviceable condition shall be available for use on each floor or in each section of the facility. Emergency lighting for exitways, exit lights, and nurses’ stations is recommended.

(3) The heating system shall be capable of maintaining not less than 72 degrees Fahrenheit at the patient level in all patient use areas. Air flow shall be directed or adjusted so that a patient is not in direct drafts harmful to the health of the patient. Open gas or fuel unvented or moveable heating units shall not be used, and open electric heaters shall be guarded, fixed, and placed to assure the safety of the patient.

(4) Cooling shall be provided as necessary for patient health and welfare. Air flow shall be directed or adjusted so that a patient is not in direct drafts harmful to the health of the patient.

(5) An adequate supply of hot water shall be provided. The hot water system connected to all patient use fixtures shall deliver warm water not hotter than 110 degrees Fahrenheit at the fixture. Hot water for other sanitary usages shall be provided at the temperatures required for the appliance or fixture served or for the operation involved.

(6) The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas which do not have outside windows and which are used by patients or personnel shall be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage.

(7) All bathrooms, toilet rooms, and other odor-producing rooms or areas used for soiled or insanitary operations shall have forced exhaust to the exterior to assure sanitation and the patient’s well-being.

(8) All outside service doors and windows shall be appropriately screened.

(9) The waste water drainage and sewerage system shall assure that sanitation is maintained for patients. Waste water or sewage shall not be discharged on the surface of the ground. Rainwater or other water shall be rapidly carried away from the building and shall not be allowed to pool on the site. In no case shall traps be allowed to lose their seal. Ap-
Appliances shall have air gaps as required for connections to the sewerage system. Venting shall assure a rapid flow of waste water in the sewerage system. Generally the National Plumbing Code as interpreted in the Planning and Construction Manual shall apply.

10. The interior cold water supply system and piping shall be so placed or so insulated as to prevent condensation drip in habitable areas and in storage areas.

11. The water supply shall be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure, and shall be obtained from a water supply system, the location, construction, and operation of which are approved by the Texas Department of Health Resources.

12. Sewage shall be discharged into a state-approved municipal sewerage system where such a system is available; otherwise, the sewage shall be collected, treated, and disposed of in a manner which is approved by the Texas Department of Health Resources and the Texas Water Quality Board.

13. In operations where there is a chance of cross contamination, there shall be provided a separation of the clean and soiled operations, so as to lessen the chance of cross contamination by nurses, employees, and patients. Such separation shall be in relation to traffic, air currents, air exhaust, splashing of water or water vapor, and other conditions.

(e) Nursing service unit.

1. Sufficient space and number of units shall be allocated to provide effective and proper service to patients. There shall be a nurses’ work area with desk, chair, and provision for the necessary records.

Unless mechanical devices are provided or unless otherwise approved, the nurses’ station shall be located to provide direct view of bedroom corridors, and it is preferable that recreational areas also be included.

2. There shall be sufficient lockable enclosed medicine storage spaces, medicine preparation area with sink, and refrigerator storage. Refer to Rule .010.

3. Sufficient clean and soiled utility areas, each with a sink having hot and cold water, shall be provided. The soiled utility area shall also have a device providing flushing action. There shall be a separation of clean and soiled areas to assure that there is no cross contamination. The soiled area shall have forced exhaust ventilation to the outside air.

4. There shall be sufficient janitorial enclosed areas having a service sink, and forced exhaust ventilation to the outside air.

5. There shall be sufficient enclosed clean linen storage. Refer to Rule .012.

6. There shall be sufficient enclosed soiled linen area having forced exhaust ventilation to the outside air, unless the soiled linens are stored in containers on the outside of the building. Storage of soiled linen shall be protected against patient access. Refer to Rule .012.

7. There shall be provided rest room and hand washing facilities for nurses and attendants, and these facilities may be combined with public restroom facilities. Individual towel provisions or paper towel containers shall be installed.

8. An examining room equipped with a lavatory having other than hand controls is recommended.

(f) Elevators.

1. Passenger elevators shall be installed in the facility for patient use areas which are on floors above or below the main floor or the street floor.

2. Elevator cars shall be large enough to accommodate a wheeled stretcher in the horizontal position.

3. All safety codes, including the referenced Life Safety Code, shall be observed in the design and construction of elevators.

(g) Patients’ bedrooms.

1. Patients’ bedrooms shall be arranged and equipped for adequate personal care and for comfort and privacy.

2. Bedrooms shall have 100 square feet of usable floor space for a one-bedroom.

3. Bedrooms shall have 72 square feet of usable floor space per bed for multiple-bed rooms.

4. Only four beds shall be in any one bedroom unless prior approval is granted by the licensing agency.

5. In the bedrooms and for each patient there shall be provided space for a bed, suitable chair, table, or dresser, and clothes storage. Clothes storage shall be in a closet or a wardrobe. Equipment for the above spaces shall be provided unless ordered omitted or modified by the patient’s physician.

6. The widths and lengths of bedrooms shall assure easy patient circulation especially in relation to emergency evacuation and in relation to usual wheelchair movement. Normally, a room shall be not less than 10 feet in the smallest dimension.

7. Bedrooms shall have exterior exposure with windows having not less than one-tenth of the usable floor area of the bedroom. Unless otherwise approved, at least one window in each bedroom shall have a sill not more than 36 inches from the floor and shall have beginning at the sill height an operable section at least 36 inches in clear width by 24 inches in clear height which can be used for emergency evacuation or for release of smoke and heat as well as for supply of fresh air.

8. An individual bed shall be furnished each patient and beds shall have moisture-proof covered mattresses not less than 36 inches wide. Beds shall be placed no closer than 36 inches apart.
(9) Bedrooms shall be not over 36 inches below outside grade. Where building walls above the floor line are in contact with the earth, proper waterproofing shall be provided.
(10) Each bed shall have access to a nurse call device. Electric nurse call system is recommended.
(11) Each bed shall have a reading light, firmly fastened to wall or bed or otherwise suitably fastened.
(12) Fire retardant cubicles or folding screens shall be available for those patients requiring privacy.
(13) Draperies or curtains shall be fire retardant unless non-combustible blinds are used.
(14) All patient rooms shall open upon an exit or service corridor or living area.
(15) An isolation room with separate toilet and bathing facilities is recommended.

(h) Patients' toilet and bathing facilities.
(1) It is desirable to provide as a minimum interconnecting water closet (commode) compartments between bedrooms and a lavatory in each bedroom or else to provide interconnecting water closet (commode) and lavatory compartments.
(2) Bedrooms not provided with the above mentioned water closet and lavatory facilities or not provided with complete baths shall be served by general water closets for each sex (if the facility houses both sexes), and general bathing rooms. The ratio of fixtures to patients shall be one water closet and one lavatory for each four patients and one tub or one shower for each 20 patients. General water closet and bathing areas shall be suitably compartmentalized.
(3) Lavatories shall be raised for the use of wheel chair patients as required.
(4) Water closets shall have surrounding space for wheelchair patients as required.
(5) Grab bars of sufficient strength to support 200 pounds dead weight shall be provided at or available to water closets, tubs, and showers, and shall be arranged to supply the most safety for the patients.
(6) Provision shall be made for separate towel racks or paper towel containers and separate soap and toothbrush holders, or else procedures shall be established to assure against cross contamination.
(7) Tubs and showers shall have slip-proof bottoms or devices or furnishings available to provide this requirement.
(8) Floors, walls, and ceilings shall have non-absorbent surfaces, be smooth and easily cleanable, and floors shall be relatively slip-proof.
(9) All bath or restrooms with water closets, tubs, or showers shall have forced exhaust to the outside air even though a window may be in the room or compartment.
(10) Doors to bath or rest rooms shall be wide enough for easy and safe passage for ambulatory and wheelchair patients unless otherwise approved.
(11) Doors to bathrooms and water closet compartments shall open outward or be capable of easily being opened outward so that a patient who may have fallen against a closed door may be attended without being moved. Where interconnecting doors are located such that there is little probability of a fallen patient blocking both doors, the doors may open inward.
(12) Folding or sliding doors shall not be used for patient bathrooms or compartments unless it can be established that no safety hazard exists with the type of installation proposed or in use.

(i) Recreation and day room.
(1) Recreation and day room areas, together with dining space as described elsewhere, shall be provided at not less than 10 square feet for each patient. Refer to subsection (k) of this section for new dining room areas. Multiple use of areas is permissible. It is desirable to provide more than one room, moveable screens, or other devices to provide areas for mutually acceptable grouping and to isolate sound.
(2) Floor, wall, and ceiling surfaces shall be easily cleanable or repaintable and be relatively non-absorbing.

(j) Laundry.
(1) Laundry for general linen and clothing, if in the building or on the site, shall be arranged so as to separate soiled and clean operations as they relate to traffic, handling, and air currents. Suitable exhaust or ventilation shall be provided to prevent air flow from soiled to clean areas.
(2) Floors, walls, and ceilings shall be non-absorbing and easily cleanable.
(3) Soiled linen shall be stored or transported in sealed or covered containers.
(4) Patient use laundries shall be supervised by attendants to assure that proper sanitary procedures are in effect.
(5) In planning and constructing the facility reference shall be made to Section .012(c) of these standards for any additional requirement influencing the physical plant.

(k) Kitchen and dining room.
(1) General requirements.
(A) The facility shall have a kitchen or dietary area as required to meet food service needs, and it shall be arranged for the refrigeration, storage, preparation, and serving of food as well as for dish and utensil cleaning and refuse storage and removal.
(B) Dietary area and operation shall comply with all state and local health or food handling ordinances, codes, or regulations.
(C) Food preparation space shall be arranged for the separation of functions and for proper separation of soiled and clean operations. The space shall permit efficient service to patients.
(D) Central food preparation spaces shall not be used for non-dietary functions.
(E) In planning and constructing the facility, reference shall be made to Rule .011 of these standards for any additional requirement influencing the physical plant.

(F) The registered dietitian, wherein referenced in subsection (k) of these standards, means that professional employed on a temporary or permanent consulting basis who has knowledge in food service design and management.

(2) Application of requirements.

(A) Kitchens, food storage areas, and serving kitchens.

(i) Every new kitchen, food storage area, and serving kitchen shall meet all the requirements listed herein.

(ii) When an existing facility engages in a building addition that increases bed capacity over the existing licensed capacity, at the licensing agency's instruction the kitchen and food storage area (and the serving kitchen if there is one) shall be reevaluated in terms of efficiency of food service operations by a registered dietitian or a licensed architect having knowledge in design of food service operations. The reevaluation and any resulting recommendations will be incorporated into the building expansion plans filed with the Texas Department of Health Resources.

(iii) Existing facilities having continuing food quality deficiencies which are directly attributable to inadequacies in the size of the kitchen, food storage area, or serving kitchen, or inadequacies in furnishings, equipment, or their arrangement will require a special plan of correction. This plan of correction will be prepared by a registered dietitian or a licensed architect having knowledge in design of food services operations.

(iv) Where a plan of correction is required, the consultant shall consider as the guidelines for the plan those new construction standards related to the correction of the deficiency.

(B) Dining rooms.

(i) Every new dining room or dining space shall meet the requirements listed herein.

(ii) When an existing facility engages in a building addition or equivalent that increases bed capacity over the existing licensed capacity, at the licensing agency's instructions, the dining room shall be reevaluated in terms of efficiency and space. This may require input from a committee whose composition may be the facility's staff and consultants. The reevaluation and any resulting recommendations will be incorporated into the building expansion plan filed with the Texas Department of Health Resources.

(iii) Existing facilities having continuing deficiencies in the service of patient meals directly attributable to inadequacy in the size of the dining room or dining areas will submit a special plan of correction specifying how meal planning and service will be changed to correct the deficiency. This plan will be prepared by a registered dietitian.

(3) Requirements.

(A) Kitchens.

(i) Nursing home kitchens will be evaluated on the basis of their performance in the sanitary and efficient preparation and serving of meals to nursing home patients. Consideration shall be given to planning for the type of meals served, the overall building design, the food service equipment, arrangement, and the work-flow involved in the preparation and delivery of food. Plans for construction of new facilities shall contain a detailed kitchen layout prepared by a registered dietitian or a licensed architect having knowledge in design of food services operations.

(ii) Kitchens shall be designed so that room temperature, at peak load, shall not exceed an average temperature of 85 degrees Fahrenheit measured over the room at the five-foot level.

(iii) Provide operational equipment as planned and scheduled by the facilities' consultants for preparing and serving meals and for refrigerating and freezing of perishable foods, as well as equipment in, and/or adjacent to, the kitchen or dining area for producing ice.

(iv) Provide facilities for washing and sanitizing dishes and cooking utensils. Such facilities will be provided for the number of meals served and the method of serving (permanent or disposable dishware, etc.). As a minimum, the kitchen shall contain a compartmented sink large enough to immerse pots and pans. In all facilities, a mechanical dishwasher is required for sanitizing dishes. Separation of soiled and clean dish areas shall be maintained.

(v) Provide a supply of hot and cold water. Hot water for sanitizing purposes shall be 180 degrees Fahrenheit or the manufacturer's suggested temperature for chemical sanitizers, as specified for the system in use. For mechanical dishwashers the temperature measurement is at the manifold.

(vi) A kitchen shall be provided with at least one hand-washing lavatory in the food preparation area. The dishroom area shall have ready access to a hand-washing lavatory or hand-sanitizing device. Hand-washing lavatories shall be provided with hot and cold running water, soap, and individual towels, preferably paper towels; common use towels shall not be used.

(vii) In new construction, staff restroom facilities with lavatory shall be accessible to kitchen staff without traversing patient use areas. The restroom door shall not open directly into the kitchen.

(viii) In new construction, janitorial facilities shall be provided exclusively for the kitchen and shall be located in and entered through the kitchen.

(ix) Non-absorbent smooth finishes or surfaces shall be used on kitchen floors, walls, and ceilings.
Such surfaces shall be capable of being sanitized to maintain a healthful environment.

(x) All operable window openings shall be screened. Doors opening to the outside of the building shall have self-closing devices.

(B) Food storage areas.

(i) In new construction, food storage areas will be planned on the basis of the number and type of patient meals to be served. The size and layout of dry foods storage will be designed by a registered dietitian or a licensed architect having knowledge in design of food service operations.

(ii) Food storage areas shall provide for storage of a seven-day minimum supply of non-perishable foods at all times.

(iii) Shelves and pallets shall be moveable metal or sealed lumber, and walls must be finished with a non-absorbent finish to provide a cleanable surface.

(iv) Dry foods storage shall have a venting system (either electric or gravity powered) to provide for positive air circulation.

(v) The maximum room temperature for food storage shall not exceed 85 degrees Fahrenheit at all times. The measurement shall be taken at the five-foot level.

(vi) No foods shall be stored on the floor; dunnage carts of pallets may be used to elevate foods not stored on shelving.

(vii) Sealed containers shall be provided for storing dry foods after the package seal has been broken.

(viii) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily stores.

(C) Serving kitchens.

(i) Where service areas, other than the kitchen, are used to dispense foods, these shall be designated as food service areas and shall have equipment for maintaining required food temperatures while serving.

(ii) Separate food services areas shall have hand-washing facilities as a part of the food service area.

(iii) Finishes of all surfaces except ceiling shall be the same as those required for dietary kitchens or comparable areas.

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(6) Habitual drunkenness, addiction to narcotics, disorderly conduct, or the violation of any law involving moral turpitude on the part of the owner, administrator, or employees engaged in the operations and functions of a home providing nursing care may constitute grounds for withholding or revoking state license to operate.

(7) Consuming alcoholic beverages on the premises or while on duty in a licensed home providing nursing care by the owner, administrator, or employees may constitute grounds for revoking the state license issued for the operation of said home.

(b) Governing body.

(1) There shall be a governing body which assumes full legal responsibility for the overall conduct of the facility. If the facility does not have an organized governing body, the person(s) legally responsible for the conduct of the facility shall carry out or have carried out the functions herein pertaining to the governing body.

(2) The ownership of the facility shall be fully disclosed to the state licensing agency. In case of corporate ownership, the corporation shall:

(A) secure, employ, or arrange for an administrator qualified under the rules of the Texas Board of Licensure for Nursing Home Administrators;

(B) provide a copy of the articles of incorporation, bylaws, and charter to do business in Texas to the licensing agency;

(C) provide to the licensing agency the name and address of the individual or agent authorized to receive service in Texas;

(D) provide to the licensing agency a list of all individuals exercising management or control of the corporation.

(3) The governing body shall be responsible for compliance with the applicable laws and licensing standards of the licensing agency.

(c) Full-time administrator.

(1) Unless the owner is the full-time administrator, the governing body shall appoint a full-time administrator duly licensed by the Texas Board of Licensure for Nursing Home Administrators. The governing body shall delegate in writing to the administrator full authority for the internal operation of the facility in accordance with established policy. The state license for operation of the facility must be issued in the name of the full-time licensed administrator.

(2) The administrator shall maintain in current status his or her license with the Texas Board of Licensure for Nursing Home Administrators and shall have no physical or mental disabilities or personality disturbances which interfere with carrying out his or her responsibilities.

(3) The administrator's responsibilities for procurement and direction of competent personnel shall be clearly defined.

(4) An individual competent and authorized to act in the absence of the administrator shall be designated.

(5) The administrator may be a member of the governing body.

(d) Staffing.

(1) The institution provides 24-hour nursing services, seven days per week, adequate in quality and amount to meet the needs of the patients who are admitted to and remain in the institution.

(2) The nursing service is directed by a registered professional nurse or a licensed vocational nurse who is a graduate of a state-approved school of vocational nursing, who is employed full-time in the facility and is responsible for the total nursing service. The director of nurses may be relieved on her days off by a licensed vocational nurse who obtained her license by waiver.

(A) The director of nursing services shall work during the day, including the morning shift, and shall devote a minimum of 40 hours each week to the nursing service of the facility. The director of nurses may be the charge nurse on the 7-to-3 shift. If the director of nursing has administrative responsibility for the facility, she must have a nurse assistant so that there is the equivalent of a full-time director of nursing service.

(B) The director of nursing services participates in the development and implementation of patient care policies.

(C) The director of nursing services plans and implements orientation programs for new personnel and continued in-service training for all nursing personnel.

(D) The director of nursing services assures that a nursing care plan is established for each patient and that the plan is reviewed and modified as necessary.

(E) The director of nurses may assign a ward clerk, on each shift, to be responsible for charting. This must be under the direction of the charge nurse or the individual in charge of the 11 p.m. to 7 a.m. shift, and each chart must be approved and signed by the responsible individual on each shift.

(3) The charge nurse on the 3 p.m. to 11 p.m. shift shall be at least a licensed vocational nurse who obtained her license by waiver. The charge nurse may be relieved on her days off by a licensed vocational nurse who obtained her license by waiver.

(4) A licensed nurse is not required for the 11 p.m. to 7 a.m. shift; however, the person in charge of this shift shall be an individual who is mature, of good moral character, and shall have had previous experience in the nursing field, preferably in caring for the infirm and aged.
(5) The licensed nurse ratio for each 24-hour period shall be a minimum of one such nurse to 30 patients or residents. Special consideration shall be given on the deployment and utilization of nursing staff in situations involving multiple nursing stations and type of building housing the facility.

(6) Additional required personnel. It shall be the duty of the licensee/administrator to see that in addition to the aforementioned ratios for licensed personnel, the nursing staff including nurses' aides and orderlies will be sufficient in number on duty, up and dressed, at all times to meet the total needs of patients. The number of nursing personnel shall be sufficient to provide 24-hour nursing service and shall be increased whenever necessary to assure that each patient receives treatments, medication, and diet as prescribed; receives proper care to prevent decubitus and is kept comfortable, clean, and well-groomed; is protected from accident and injury by adoption of indicated safety measures; and is treated with kindness and respect. Nursing time devoted to other than patient care shall not be included in computing the nursing requirements. It should be recognized that the primary duties of nurses' aides and orderlies consist of direct patient care and services, as distinguished from housekeeping, laundry, and dietary functions.

(7) Personnel not acceptable on nursing staff would include mentally retarded persons (I.Q. 70 or below), deaf mutes, persons on furlough from state hospitals, persons unable to read and write English, persons for whom available verification shows prior discharges for alcoholism, drug addiction, substandard conduct while on duty or mistreatment of persons in their charge. This would also include persons who are not physically able to perform the duties required in good nursing practice.

(8) There shall be sufficient non-attendant personnel on duty in the home to maintain order, safety, and cleanliness of the home and premises, to prepare and serve meals, to keep an adequate supply of clean linens, to assist and supervise the residents in the use of the recreational facilities, and to meet the other operational needs of the home. All such persons shall be physically and mentally able to perform the duties assigned.

.011. Dietary
(a) A person shall be designated by the administrator as responsible for the total food service of the facility. If this person is not a professional dietitian, regularly scheduled consultation from a professional dietitian shall be obtained to help assure that the dietary service meets requirements. Nutritionists employed by state and local health departments may be called on for consultation provided such consultative service is approved by the state and local department official.

(b) There shall be a sufficient number of food service employees to meet the dietary needs of the patients.

(c) Food service employees shall be trained to perform assigned duties and participate in selected in-service education programs.

(d) Food service.

(1) At least three meals or their equivalent shall be served daily, at regular times, with not more than a 14-hour span between substantial evening meals and breakfast. Between meals and bedtime snacks of nourishing quality should be offered. If the "four or five meal a day" plan is in effect, meals and snacks must provide adequate nutritional value.

(2) Menus shall be planned one week in advance, and food sufficient to meet the nutritional needs of patients shall be prepared as planned for each meal. Current week's menu shall be in one or more accessible places in the dietary department for use by employees responsible for purchasing, preparing, and serving foods.

(3) Menus shall provide a sufficient variety of foods served in adequate amounts at each meal. Menus shall be different for days of each week and shall be adjusted for seasonal changes. Substitutions shall be noted on menus for the date and meal when substitutions were made.

(4) Records of menus as served shall be filed and maintained for at least 30 days.

(5) Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises.

(6) Food preference of patients shall be considered when not in conflict with physicians' orders. Food must be ground or chopped to meet individual needs. If a patient refuses foods served, substitutions of comparable nutritional content shall be offered.

(7) Effective equipment shall be available and procedures established to maintain food at proper temperature prior to and during serving.

(8) A dining room shall be provided adequate in size to take care of all patients who are able to take their meals in a group situation. If it is necessary for a patient to have meal service in his room, sturdy trays or individual tables of proper height shall be provided.

(9) Therapeutic diets shall be prepared and served as prescribed by a patient's attending physician.

(A) A current diet manual recommended by the licensing agency shall be readily available for food service personnel.

(B) Persons responsible for the therapeutic diets shall have sufficient knowledge of good food variations to make appropriate substitutions when necessary.
(e) Maintenance of sanitary conditions.
(1) Sanitary conditions shall be maintained in the storage, preparation, and distribution of food.
(2) Effective procedures for cleaning all equipment and work areas shall be followed consistently.
(3) Dishwashing procedures and techniques shall be well developed, understood, and carried out in compliance with the state law and local health codes.
(4) Waste which is not disposed of by mechanical means shall be kept in leak-proof non-absorbent containers with close-fitting covers and shall be disposed of in a manner that will prevent transmission of disease, a nuisance, a breeding place for flies, or a feeding place for rodents. Containers shall be cleaned inside and out each time emptied.
(5) Dry or staple food items shall be stored off the floor in a ventilated room not exposed to contamination by sewage, sewer gases, waste water backflow, contamination by condensation, leakage, drainage, excessive humidity, rodents, or vermin.
(6) Handwashing facilities including hot and cold water, soap and individual towels, preferably paper towels, shall be provided in the food preparation area.

Minumum Licensing Standards for Custodial Care Homes 301.54.03

The Texas Department of Health Resources has adopted the proposed amendments to Rules 301.54.03.003, 005, 006, and 011, with several changes as a result of written comments submitted to the department and testimony received at a public hearing on the proposed amendments. The major comments were:

1) that in conforming the specified construction types of Section 005(k)(3) to the Life Safety Code, the reference to the Planning and Construction Manual be deleted. Since such deletion of the Planning and Construction Manual should be accompanied by a deletion of the manual in other subsections and paragraphs of Rule 005, the proposed amendment pertaining to construction types is being deleted and will be considered at a later date when an entire revision of Rule 005 is considered by the department;
2) that in preparing plans of correction of kitchens the wording in Section 005(k), "...the consultant shall consider new construction standards..." could lead to the placement of higher requirements than are needed for correction. The department considers this to be a valid objection and has changed the wording to reflect that the consultant consider new construction standards that relate to the deficiency;
3) pertaining to Section 005(k), that use of a registered sanitarian having knowledge in food service operations, and equipment design and placement, be allowed to design kitchens and related areas and determine plans of correction. This proposal is not acceptable because kitchen designs are usually made by registered architects or registered dietitians;
4) that two consultants be used in the design and determination of plans of correction for kitchens and related areas, these consultants being (1) either a certified food services consultant or a licensed architect having knowledge in design of food service operations, and (2) a registered dietitian. This request was rejected because of an expected scarcity of available consultants for the preparation of kitchen designs and plans of correction. On the other hand a request that no particular type consultant be specified was also rejected as affording no assurance of control;
5) that Section 005(k) calls for a consultant in the design and determination of plans of correction for kitchens and related areas to be a certified food services consultant, a registered dietitian, or a licensed architect having knowledge in design of food services operations. However, since the department has not determined the existence of a certification program for food services consultants, the use of a certified food services consultant should be deleted from these amendments. The department considers this objection pertinent and has deleted the proposed provision.

Several other minor changes were made to the proposed rules for purposes of clarification such as rewording or the addition or deletion of specific words.

These rules are adopted pursuant to Article 4442c, Texas Civil Statutes.
003. General Requirements.
(a) Only ambulatory or semi-ambulatory self-help residents may be admitted to a custodial care home. Individuals requiring continuing medical and skilled nursing services shall not be admitted or retained in a custodial care home.
(b) Maternity patients, alcoholics, addicts, sick children, and persons having or suspected of having a disease endangering other residents shall not be admitted to or retained in a home providing custodial care.
(c) Mentally disturbed residents who may be dangerous to themselves or other residents shall not be admitted to or retained in a custodial care home unless adequate and separate rooms or sections of the building are provided to completely segregate such persons from other residents being kept in the custodial care home.
(d) Residents under the age of 16 years shall be accommodated in bedrooms separate from adult residents.
(e) Each license shall specify the maximum allowable number of residents to be cared for at any one time. No greater number of residents shall be kept than is authorized by the license.
(f) The license shall be posted conspicuously in the area where patients are admitted.
(g) Copies of these standards shall be made available to all personnel of the institution. They shall be instructed on the requirements of the law and the regulation of their respective duties.
(h) The term “hospital” and/or “nursing home” may not be used as part of the name of a custodial care home.

005. Physical Plant
(a) Types of construction programs and application of these standards.
(1) New buildings, new building additions, and conversions of existing unlicensed buildings shall be constructed and completed in accordance with these entire standards, except where parts of these standards specifically refer to existing licensed buildings or remodeling programs. Existing unlicensed buildings as above mentioned are those which are not licensed as a nursing home or a custodial care home or are those which have carried a license but have become vacant or those on which the licensee has willfully allowed the license to expire.
(2) Building additions shall require that the entire facility generally meet the existing standards at that time for new construction, as required by the licensing agency.
(3) An existing building licensed as a nursing home or custodial care home and for which the licensee proposes that the building be licensed or relicensed as a custodial care home shall be made to comply with the following requirements, and a reasonable time schedule shall be allowed for completing the construction.
(A) Structural safety shall be made essentially equal to that for new buildings; construction therefor shall be as approved by the licensing agency, as interpreted from the referenced Planning and Construction Manual.
(B) Fire resistance, flame spread, and related fire characteristics shall be provided in substantial compliance with those requirements for new buildings. Equal methods of obtaining the necessary fire resistance, flame spread, and related fire characteristics shall be as allowed in the referenced Life Safety Code and the referenced Planning and Construction Manual.
(C) Exit provisions shall be substantially as required for new buildings. Alternate methods may be used for attaining equal compliance as allowed in the referenced Life Safety Code and the referenced Planning and Construction Manual.
(D) All other requirements for new buildings shall be provided as approved by the licensing agency as interpreted from the referenced Planning and Construction Manual.
(E) Remodeling programs shall generally be considered as new construction, and when the remodeling is other than very minor or other than that normally included in building maintenance, the entire facility shall generally meet the existing standards at that time for new construction, as required by the licensing agency.
(F) A licensed building changing ownership or licenseeship shall require that the existing building generally meet the existing standards at that time for new construction, as required by the licensing agency, as interpreted from the referenced Planning and Construction Manual.
(b) Codes, guides, and manuals.
(1) The following codes, guides, and manuals shall generally govern the design and all construction:
(B) The National Electrical Code, 1962 edition, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.
(D) American Standards Safety Code for Elevators, Dumbwaiters, and Escalators, as published by the National Fire Protection Association, 70 East 45th Street, New York, New York 10017.
(E) National Plumbing Code, as published by the American Standards Association, 70 East 45th Street, New York, New York 10017.
Refrigerating, and Air Conditioning Engineers, 345 East 47th Street, New York, New York 10017.


(H) A Planning and Construction Manual, 1967, as published by the Nursing and Convalescent Homes Division of the Texas Department of Health Resources, which manual modifies some of the requirements of some of the above codes and guides.

(2) The facility shall conform to all state laws and local codes and ordinances. When such laws, codes, and ordinances are more stringent than these standards or than any of the above referenced codes, guides, and manuals, the more stringent requirement shall govern. Should state laws and local codes and ordinances be in conflict with the requirements of these standards or with any of the above referenced codes, guides, and manuals, the licensing agency shall be so informed so that these conflicts may be legally resolved.

(c) Safety of residents.

(1) The facility shall be located so as to promote at all times the health, treatment, comfort, safety, and well-being of persons accommodated or to be accommodated for care. When the facility is located beyond five minutes' service time from a fire fighting unit, suitable other means of providing protection may be required.

(2) Structural safety of the building and general building requirements shall be equal to the minimum general requirements for loads and allowable stresses and general building requirements as stated in the referenced National Building Code and as modified in the referenced Planning and Construction Manual. Wind load as generally determined by the State Board of Insurance shall be applicable where they exceed the wind loads indicated in the National Building Code.

(3) Fire resistance, flame spread, and related fire characteristics shall be in accordance with the requirements of the referenced Life Safety Code and the referenced Planning and Construction Manual. For general guidance without reference to the Life Safety Code and the Planning and Construction Manual the following construction types are required:

(A) One-story construction shall have the basic structure of not less than one-hour fire resistive combustible construction.

(B) Two-story construction shall have the basic structure of not less than one-hour fire resistive non-combustible construction or one-hour fire resistive combustible construction having an approved sprinkler system.

(C) Three-story and higher construction shall have the basic structure of not less than two-hour fire resistive non-combustible construction.

(D) An approved sprinkler system shall be considered as equal to one-hour fire resistive combustible or non-combustible construction.

(4) Exit provisions, including corridors, stairways, and other exitways, handrails, doors, locks, resident control, and other applicable items shall be in accordance with the requirements of the referenced Life Safety Code and the referenced Planning and Construction Manual.

(5) Special safety features or requirements include the following:

(A) Sprinkler systems, fire or smoke detection systems, and fire extinguishers shall be as required under the referenced Life Safety Code and as modified in the referenced Planning and Construction Manual.

(B) All floors shall be level and smooth, and any irregularities which influence safety shall be corrected. Except for exit or main stairways, differences in floor elevations on the interior shall be provided with ramps.

(C) All stair treads shall be of non-slippery material.

(D) All floors, walls, and ceilings not specifically described elsewhere shall be smooth, easily cleanable or paintable, and relatively non-absorbing.

(E) No high heat, steam or hot water heating boilers, or high heat heater units should be located in basements or floors under resident-use areas or under exitways.

(6) Unless the facility has an automatic sprinkler system throughout or is of non-combustible construction, blind or physically handicapped persons shall not be housed above the street floor level.

(7) Reports of periodic inspections of the facility by the fire control authority having jurisdiction in the area shall be on file in the facility. Any gas fuel installations and systems in the building shall be tested as required by law; in the case of natural or manufactured gas, the system shall be checked by an approved pressure test at the start of each heating season, and a record of such check shall be on file in the facility.

(8) The building shall be maintained in good repair and kept free of hazards such as those created by any damaged or defective parts of the building.

(9) No occupancies or activities undesirable to the health and safety of residents shall be located in the building or buildings of the facility.

(10) There shall be at least one telephone in the facility available to resident use and for use in making calls to summon help in case of emergency. The telephone number of the fire department shall be posted conspicuously in the vicinity of the telephone.

(11) Non-mentally alert residents who smoke should have or be provided with outside clothing that is flame proof or that will not support combustion or is self extinguishing. Non-mentally alert residents who smoke without the protection mentioned above shall be supervised by a non-resident or a mentally alert resident during any smoking period.

(d) Favorable environment for residents.

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(1) Illumination, either natural or artificial, shall be provided to supply the needs of the residents without eye strain or glare. Non-glare lighting fixtures and window glare-reduction devices shall be provided. General building surfaces shall be non-glare. Wall, floor, and ceiling surfaces shall generally provide reflectance factors that are compatible with good lighting practice. Generally, current recommendations of the Illuminating Engineering Society shall be followed to achieve proper illumination characteristics and light levels throughout the building.

(2) In case of failure of electricity, not less than an electric lantern or flashlight in serviceable condition shall be available for use on each floor or in each section of the facility.

(3) The heating system shall be capable of maintaining not less than 72 degrees Fahrenheit at the resident level in all resident-use areas. Air flow shall be directed or adjusted so that a resident is not in direct drafts harmful to the health of the resident. Open gas or fuel unvented or moveable heating units shall not be used, and open electric heaters shall be guarded, fixed, and placed to assure the safety of the resident.

(4) Cooling shall be provided as necessary for resident health and welfare. Air flow shall be directed or adjusted so that a resident is not in direct drafts harmful to the health of the resident.

(5) An adequate supply of hot water shall be provided. The hot water system connected to all resident-use fixtures shall deliver warm water not hotter than 110 degrees Fahrenheit at the fixture. Hot water for other sanitary usages shall be provided at the temperatures required for the appliance or fixture served or for the operation involved.

(6) The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas which do not have outside windows and which are used by residents or personnel shall be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage.

(7) All bathrooms, toilet rooms, and other odor-producing rooms or areas used for stored or insanitary operations shall have forced exhaust to the exterior to assure sanitation and the resident's well-being.

(8) All outside service doors and windows shall be appropriately screened.

(9) The waste water drainage and sewerage system shall assure that sanitation is maintained for residents. Waste water or sewage shall not be discharged on the surface of the ground. Rainwater or other water shall be rapidly carried away from the building and shall not be allowed to pool on the site. In no case shall traps be allowed to lose their seal. Appliances shall have air gaps as required for connections to the sewerage system. Venting shall assure a rapid flow of waste water in the sewerage system. Generally the National Plumbing Code as interpreted in the Planning and Construction Manual shall apply.

(10) The interior cold water supply system and piping shall be so placed or so insulated as to prevent condensation drip in habitable areas and in storage areas.

(11) The water supply shall be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure, and shall be obtained from a water supply system, the location, construction, and operation of which are approved by the Texas Department of Health Resources.

(12) Sewage shall be discharged into a state-approved municipal sewerage system where such a system is available; otherwise, the sewage shall be collected, treated, and disposed of in a manner which is approved by the Texas Department of Health Resources and the Texas Water Quality Board.

(13) In operations where there is a chance of cross contamination, there shall be provided a separation of the clean and soiled operations, so as to lessen the chance of cross contamination by nurses, employees, and patients. Such separation shall be in relation to traffic, air currents, air exhaust, splashing of water or water vapor, and other conditions.

(e) Elevators.

(1) Passenger elevators shall be installed in the facility for resident bedrooms and resident-use areas which are on the third floor or higher, the street floor being considered the first floor.

(2) All safety codes shall be observed in the design and construction of elevators.

(f) Attendant service unit.

(1) Sufficient space and number of units shall be allocated to provide effective and proper service to residents. There shall be an attendant's work area with desk, chair, and provision for the necessary records, preferably with a view of rooms and recreational areas.

(2) There shall be sufficient lockable enclosed medicine storage spaces, including refrigerator storage if necessary. The clean utility area described below may be used for medicine preparation, if necessary.

(3) Sufficient clean and soiled utility areas, each with a sink having hot and cold water, shall be provided. There shall be a separation of clean and soiled areas to assure that there is no cross contamination. The soiled area shall have forced exhaust ventilation to the outside air.

(4) There shall be sufficient janitorial enclosed areas having a service sink and forced exhaust ventilation to the outside air.

(5) There shall be sufficient enclosed clean linen storage.

(6) There shall be sufficient enclosed soiled linen area having forced exhaust ventilation to the out.
side air, unless the soiled linens are stored in containers on the outside of the building. Storage of soiled linen shall be protected against resident access.

7. There shall be provided restroom and hand washing facilities for attendants, and these facilities may be combined with public restroom facilities. Individual towel provisions or paper towel containers shall be installed.

8. Residents' Bedrooms.
   1. Residents' bedrooms shall be arranged and equipped for adequate personal care and for comfort and privacy.
   2. Bedrooms shall have 100 square feet of usable floor space for a one-bed room. Existing licensed facilities shall have not less than 80 square feet.
   3. Bedrooms shall have 72 square feet of usable floor space per bed for multiple-bed rooms. Existing licensed facilities shall have not less than 60 square feet.
   4. Only four beds shall be in any one bedroom unless prior approval is granted by the licensing agency.
   5. In the bedrooms and for each resident there shall be provided space for a bed, suitable chair, table, or dresser, and clothes storage. Clothes storage shall be in a closet or a wardrobe. Equipment for the above spaces shall be provided unless ordered omitted or modified by the resident's physician.
   6. The widths and lengths of bedrooms shall assure easy resident circulation, especially in relation to emergency evacuation and in relation to usual wheelchair movement. Normally, a room shall be not less than 10 feet in the smallest dimension.
   7. Bedrooms shall have exterior exposure with windows having not less than one-tenth of the usable floor area of the bedroom. Unless otherwise approved, at least one window in each bedroom shall have a sill not more than 36 inches from the floor and shall have beginning at the sill height an operable section which can be used for emergency evacuation or for release of smoke and heat as well as for supply of fresh air.
   8. An individual bed shall be furnished each resident and beds shall have moisture-proof covered mattresses not less than 36 inches wide. Beds shall be placed no closer than 36 inches apart.
   9. Bedrooms shall be not over 36 inches below outside grade. Where building walls above the floor line are in contact with the earth, proper water-proofing shall be provided.
   10. Each bed shall have access to an attendant call device.
   11. Each bed shall have a reading light, firmly fastened to wall or bed or otherwise suitably fastened.
   12. Fire retardant cubicles or folding screens shall be available for those residents requiring privacy.
   13. Flame-proof draperies or curtains shall be installed unless flame-proof blinds are used.

14. Normally, all resident rooms shall open upon an exit or service corridor or living area. If this condition cannot be provided, suitable procedures shall be established to assure proper attendant services, food service, and resident access to recreation areas, all as necessary for the safety, health, and well-being of the resident.

10. Residents' toilet and bathing facilities.
   1. It is desirable to provide as a minimum an interconnecting water closet (toilet) compartments between bedrooms and a lavatory in each bedroom or else to provide interconnecting water closet (toilet) and lavatory compartments.
   2. Bedrooms not provided with the above-mentioned water closet and lavatory facilities or not provided with complete baths shall be served by general bathrooms for each sex if the facility houses both sexes, and the ratio of fixtures to residents shall be one water closet and one lavatory for each eight residents and one tub or one shower for each 20 residents.
   3. Lavatories shall be raised for the use of wheelchair residents as required.
   4. Water closets shall have surrounding space for wheelchair residents as required.
   5. Grab bars of sufficient strength to support 200 pounds dead weight shall be provided at or available to water closets, tubs, and showers, and shall be arranged to supply the most safety for the residents.
   6. Provision shall be made for separate towel racks or paper towel containers and separate soap and toothbrush holders, or else procedures shall be established to assure against cross contamination.
   7. Tubs and showers shall have slip-proof bottoms or devices or furnishings available to provide this requirement.
   8. Floors, walls, and ceilings shall have non-absorbent surfaces, be smooth and easily cleanable, and floors shall be relatively slip-proof.
   9. All bath or restrooms with water closets, tubs, or showers shall have forced exhaust to the outside air even though a window may be in the room or compartment.
   10. Doors to bath or restrooms shall be wide enough for easy and safe passage for ambulatory and wheelchair residents.

11. Doors to bathrooms and water closet compartments shall open outward or be capable of easily being opened outward so that a resident who may have fallen against a closed door may be attended without being moved. Where interconnecting doors are located such that there is little probability of a fallen resident blocking both doors, the doors may open inward.
   12. Folding or sliding doors shall not be used for resident bathrooms or compartments unless it can be established that no safety hazard exists with the type of installation proposed or in use.
(i) Recreation and day room.

(1) Recreation and day room areas, together with dining space as described elsewhere, shall be provided at not less than 10 square feet for each resident. Refer to subsection (k) of this section for new dining room areas. Multiple use of areas is permissible. It is desirable to provide more than one room, movable screens, or other devices to provide areas for mutually acceptable grouping and to isolate sound.

(2) Floor, wall, and ceiling surfaces shall be easily cleanable or repaintable and be relatively non-absorbing.

(j) Laundry.

(1) Laundry for general linen and clothing, if in the building or on the site, shall be arranged so as to separate soiled and clean operations as they relate to traffic, handling, and air currents. Suitable exhaust or ventilation shall be provided to prevent air flow from soiled to clean areas.

(2) Floors, walls, and ceilings shall be non-absorbing and easily cleanable.

(3) Soiled linen shall be stored or transported in sealed or covered containers.

(4) Resident use laundries shall be supervised by attendants to assure that proper sanitary procedures are in effect.

(5) In planning and constructing the facility, reference shall be made to Section .012(c) of these standards for any additional requirement influencing the physical plant.

(k) Kitchen and dining room.

(1) General requirements.

(A) The facility shall have a kitchen or dietary area as required to meet food service needs, and it shall be arranged for the refrigeration, storage, preparation, and serving of food as well as for dish and utensil cleaning and refuse storage and removal.

(B) Dietary area and operation shall comply with all state and local health or food handling ordinances, codes, or regulations.

(C) Food preparation space shall be arranged for the separation of functions and for proper separation of soiled and clean operations. The space shall permit efficient service to residents.

(D) Central food preparation spaces shall not be used for non-diary functions.

(E) In planning and constructing the facility, reference shall be made to Rule .011 of these standards for any additional requirement influencing the physical plant.

(F) The registered dietitian, wherein referenced in subsection (k) of these standards, means that professional employed on a temporary or permanent consulting basis who has knowledge in food service design and management.

(2) Application of requirements.

(A) Kitchens, food storage areas, and serving kitchens.

(i) Every new kitchen, food storage area, and serving kitchen shall meet all the requirements listed herein.

(ii) When an existing facility engages in a building addition that increases bed capacity over the existing licensed capacity, at the licensing agency's instruction the kitchen and food storage area (and the serving kitchen if there is one) shall be reevaluated in terms of efficiency of food service operations by a registered dietitian or a licensed architect having knowledge in design of food service operations. The reevaluation and any resulting recommendations will be incorporated into the building expansion plans filed with the Texas Department of Health Resources.

(iii) Existing facilities having continuing food quality deficiencies which are directly attributable to inadequacies in the size of the kitchen, food storage area, or serving kitchen, or inadequacies in furnishings, equipment, or their arrangement will require a special plan of correction. This plan of correction will be prepared by a registered dietitian or a licensed architect having knowledge in design of food services operations.

(iv) Where a plan of correction is required, the consultant shall consider as the guidelines for the plan those new construction standards related to the correction of the deficiency.

(B) Dining rooms.

(i) Every new dining room or dining space shall meet the requirements listed herein.

(ii) When an existing facility engages in a building addition or equivalent that increases bed capacity over the existing licensed capacity, at the licensing agency's instruction the dining room shall be reevaluated in terms of efficiency and space. This may require input from a committee whose composition may be the facility's staff and consultants. The reevaluation and any resulting recommendations will be incorporated into the building expansion plan filed with the Texas Department of Health Resources.

(iii) Existing facilities having continuing deficiencies in the service of resident meals directly attributable to inadequacy in the size of the dining room or dining areas will submit a special plan of correction specifying how meal planning and service will be changed to correct the deficiency. This plan will be prepared by a registered dietitian.

(3) Requirements.

(A) Kitchens.

(i) Custodial care home kitchens will be evaluated on the basis of their performance in the sanitary and efficient preparation and serving of meals to patients. Consideration shall be given to planning for the type of meals served, the overall building design, the food service equipment, arrangement, and the
work-flow involved in the preparation and delivery of food. Plans for construction of new facilities shall contain a detailed kitchen layout prepared by a registered dietitian or a licensed architect having knowledge in design of food services operations.

(iii) Kitchens shall be designed so that room temperatures, at peak load, shall not exceed an average temperature of 85 degrees Fahrenheit measured over the room at the five-foot level.

(iv) Provide operational equipment as planned and scheduled by the facilities' consultants for preparing and serving meals and for refrigerating and freezing of perishable foods, as well as equipment in and/or adjacent to the kitchen or dining area for producing ice.

(v) Provide facilities for washing and sanitizing dishes and cooking utensils. Such facilities will be provided for the number of meals served and the method of serving (permanent or disposable dishware, etc.). As a minimum, the kitchen shall contain a compartmented sink large enough to immerse pots and pans. In all facilities, a mechanical dishwasher is required for sanitizing dishes. Separation of soiled and clean dish areas shall be maintained.

(vi) Provide a supply of hot and cold water. Hot water for sanitizing purposes shall be 180 degrees Fahrenheit or the manufacturer's suggested temperature for chemical sanitizers, as specified for the system in use. For mechanical dishwashers, the temperature measurement is at the manifold.

(vii) A kitchen shall be provided with at least one hand-washing lavatory in the food preparation area. The dishroom area shall have ready access to a hand-washing lavatory or hand-sanitizing device. Hand washing lavatories shall be provided with hot and cold running water, soap, and individual towels, preferably paper towels; common use towels shall not be used.

(viii) In new construction, staff restroom facilities with lavatory shall be accessible to kitchen staff without traversing resident use areas. The restroom door shall not open directly into the kitchen.

(ix) In new construction, janitorial facilities shall be provided exclusively for the kitchen and shall be located in and entered through the kitchen.

(x) Non-absorbent smooth finishes or surfaces shall be used on kitchen floors, walls, and ceilings. Such surfaces shall be capable of being sanitized to maintain a healthful environment.

(xi) All operable window openings shall be screened. Doors opening to the outside of the building shall have self-closing devices.

(xii) Food storage areas.

(i) In new construction, food storage areas will be planned on the basis of the number and type of resident meals to be served. The size and layout of dry foods storage will be designed by a registered dietitian or a licensed architect having knowledge in design of food services operations.

(ii) Food storage areas shall provide for storage of a seven-day minimum supply of non-perishable foods at all times.

(iii) Shelves and pallets shall be moveable metal or sealed lumber, and walls must be finished with a non-absorbent finish to provide a cleanable surface.

(iv) Dry foods storage shall have a venting system (either electric or gravity powered) to provide for positive air circulation.

(v) The maximum room temperature for food storage shall not exceed 85 degrees Fahrenheit at all times. The measurement shall be taken at the five-foot level.

(vi) No foods shall be stored on the floor; dunnage carts or pallets may be used to elevate foods not stored on shelving.

(vii) Sealed containers shall be provided for storing dry foods after the package seal has been broken.

(viii) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily stores.

(ix) Serving kitchens.

(x) Where service areas, other than the kitchen, are used to dispense foods, these shall be designated as food service areas and shall have equipment for maintaining required food temperatures while serving.

(xi) Separate food services areas shall have hand-washing facilities as a part of the food service area.

(xii) Finishes of all surfaces except ceiling shall be the same as those required for dietary kitchens or comparable areas.

(xii) Dining rooms.

(i) Recognizing that custodial care homes accommodate residents who must be served their meals in bed or prefer their meals in the confines of their rooms, new structures shall provide for a minimum dining room seating of 12 square feet for three-fourths of the licensed capacity of the building.

(ii) In existing buildings, separate living or resident activity areas may be designated as dining areas used hygienic practices and sanitary procedures are followed, such areas may use activity tables for mealtime, as well as accommodate the feeding of residents in tray-equipped mobile chairs.

(iii) Dining room may be used for other resident or staff activities when not in use for resident dining or being cleaned as long as such activities do not interfere with resident feeding.

006. Personnel.

(a) Eligibility for licensure.

(i) An applicant for state license to operate a custodial care home shall be a person in good standing.
with and licensed by the Texas Board of Licensure for Nursing Home Administrators. The state license to operate the facility will be issued in the name of the qualified administrator.

(2) Each applicant for state license to operate a custodial care home shall make application upon a form made available by the licensing agency. The application shall be completed in all detail. The applicant shall be of good moral character, be financially responsible, and have physical and mental capability to conduct the operations of the facility pursuant to standards, rules, and regulations adopted by the Texas Board of Health Resources. The application for license shall include written approval of the local health officer and the local fire authority having jurisdiction based on the facility and operation meeting local applicable health and fire ordinances; such approval shall be on forms or in manner as determined by the licensing agency.

(3) At the discretion of the licensing agency, any administrator, employee, or owner who may work in a home providing custodial care may be required at any time to submit an examination of himself or herself by a physician licensed by the Texas State Board of Medical Examiners and secure in evidence thereof a statement signed by such physician to the effect that such examination had been made and that to the best of his or her knowledge, the person examined was found on that date to be free of any transmissible condition or any disease and any physical or mental debility which would preclude the person examined from discharging duties proficiently in the home providing custodial care. Such examination shall be actual and thorough and conducted within the framework of practical scientific procedures for determination of the existence of communicable disease or the existence of gross physical or mental debility.

(4) The submission of false information by any applicant for an original or renewed state license shall constitute grounds for the denial or revocation of state license to operate.

(5) The use of subterfuge or other evasive means such as filing for license through a second party when an individual is disqualified for licensing shall constitute grounds for the refusal or revocation of a state license to operate a home providing custodial care.

(6) Habitual drunkenness, addiction to narcotics, disorderly conduct, or the violation of any law involving moral turpitude on the part of the owner, administrator, or employees engaged in the operations and functions of a home providing custodial care shall constitute grounds for withholding or revoking state license to operate.

(7) Consuming alcoholic beverages on the premises or while on duty in a licensed home providing custodial care by the owner, administrator, or employees shall constitute grounds for revoking the state license issued for the operation of said home.

(b) Governing body.

(1) There shall be a governing body which assumes full legal responsibility for the overall conduct of the facility. If the facility does not have an organized governing body, the person(s) legally responsible for the conduct of the facility shall carry out or have carried out the functions herein pertaining to the governing body.

(2) The ownership of the facility shall be fully disclosed to the state licensing agency. In case of corporate ownership, the corporation shall:

(A) secure, employ, or arrange for an administrator qualified under the rules of the Texas Board of Licensure for Nursing Home Administrators;

(B) provide a copy of the articles of incorporation, bylaws, and charter to do business in Texas to the licensing agency;

(C) provide to the licensing agency the name and address of the individual or agent authorized to receive service in Texas;

(D) provide to the licensing agency a list of all individuals exercising management or control of the corporation.

(3) The governing body shall be responsible for compliance with the applicable laws and licensing standards of the licensing agency.

(c) Full-time administrator.

(1) Unless the owner is the full-time administrator, the governing body shall appoint a full-time administrator duly licensed by the Texas Board of Licensure for Nursing Home Administrators. The governing body shall delegate in writing to the administrator full authority for the internal operation of the facility in accordance with established policy. The state license for operation of the facility must be issued in the name of the full-time licensed administrator.

(2) The administrator shall maintain in current status his or her license with the Texas Board of Licensure for Nursing Home Administrators and shall have no physical or mental disabilities or personality disturbances which interfere with carrying out his or her responsibilities.

(3) The administrator's responsibilities for procurement and direction of competent personnel shall be clearly defined.

(4) An individual competent and authorized to act in the absence of the administrator shall be designated.

(5) The administrator may be a member of the governing body.

(d) Staffing.

(1) The ratio of attendants for each 24-hour period shall be a minimum of one attendant to 20 residents who require continuing custodial care based on three eight-hour shifts. These attendants must be up, dressed, awake, and on duty. Attendant service personnel shall be increased in the aforementioned staff ratio.
noted on menus for the date and meal when substitutions were made.

4. Records of menus as served shall be filed and maintained for 30 days.

5. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises.

6. Food preference of residents shall be considered when not in conflict with physicians' orders. Food must be ground or chopped to meet individual needs. If a resident refuses foods served, substitutions of comparable nutritional content shall be offered.

7. Effective equipment shall be available and procedures established to maintain food at proper temperature prior to and during serving.

8. A dining room shall be provided adequate in size to take care of all patients who are able to take their meals in a group situation. If it is necessary for a resident to have meal service in his room, sturdy tray stands or individual tables of proper height shall be provided.

9. Therapeutic diets shall be prepared and served as prescribed by a resident’s attending physician.

A. A current diet manual recommended by the licensing agency shall be readily available for food service personnel.

B. Persons responsible for the therapeutic diets shall have sufficient knowledge of good food variations to make appropriate substitutions when necessary.

10. Maintenance of sanitary conditions

1. Sanitary conditions shall be maintained in the storage, preparation, and distribution of food.

2. Effective procedures for cleaning all equipment and work areas shall be followed consistently.

3. Dishwashing procedures and techniques shall be well developed, understood, and carried out in compliance with the state law and local health codes.

4. Waste which is not disposed of by mechanical means shall be kept in leak-proof non-absorbent containers with close-fitting covers and shall be disposed of daily in a manner that will prevent transmission of disease, nuisance, breeding place for flies, or feeding place for rodents. Containers shall be cleaned inside and out each time emptied.

5. Dry or staple food items shall be stored off the floor in a ventilated room not exposed to contamination by sewage, sewer gases, waste water backflow, contamination by condensation, leakage, drainage, excessive humidity, rodents, or vermin.

6. Handwashing facilities including hot and cold water, soap, and individual towels, preferably paper towels, shall be provided in the kitchen areas.

O11 Dietary

a. A person shall be designated by the administrator as responsible for the total food service of the facility. If this person is not a professional dietitian, regularly scheduled consultation from a professional dietitian shall be obtained to help assure that the dietary service meets requirements. Nutritionists employed by state and local health departments may be called on for consultation provided such consultative service is approved by the state and local department official.

b. There shall be a sufficient number of food service employees to meet the dietary needs of the residents.

c. Food service employees shall be trained to perform assigned duties and participate in selected in-service education programs.

d. Food service

1. At least three meals or their equivalent shall be served daily, at regular times, with not more than a 14-hour span between substantial evening meals and breakfast. Between meals and bedtime snacks of nourishing quality should be offered. If the “four or five meal a day” plan is in effect, meals and snacks must provide adequate nutritional value.

2. Menus shall be planned one week in advance, and food sufficient to meet the nutritional needs of residents shall be prepared as planned for each meal. Current week’s menus shall be in one or more accessible places in the dietary department for use by employees responsible for purchasing, preparing, and serving foods.

3. Menus shall provide a sufficient variety of foods served in adequate amounts at each meal. Menus shall be different for days of each week and shall be adjusted for seasonal changes. Substitutions shall be
Procedures on Long-Term Care Facilities 301.54.05

The Texas Department of Health Resources has adopted the proposed new rule on interpretive memoranda, 301.54.05.001, and on inspection and survey procedures, 301.54.05.002-0.04, with several changes made as a result of written comments submitted to the department and testimony received at a public hearing. The major comments or requests were:

1) that the wording of Proposed Rule .001 may mislead the public into thinking that the Texas Department of Health Resources is responsible for operating the State Title XIX Medicaid program of the Social Security Act. This rule has been reworded to satisfy this objection.
2) that Rule .001 be adjusted to call for interpretations of the Life Safety Code to be made in accordance with the interpretation of the National Fire Protection Association. The request was not accepted because interpretations are required to be made only in accordance with those of the Department of Health, Education, and Welfare for Titles XVIII and XIX Medicaid programs and those of the State Department of Public Welfare and Texas Department of Health Resources. However, National Fire Protection Association interpretations would be considered by the official agencies in the process of their determinations. Giving the voluntary association official status would not be in keeping with the state and federal administrative procedures.
3) that the department remove from the rule reliance on the judgment and expertise of the division's professional personnel. The department has rejected this request because the division director must make some decisions based on the judgment and expertise of the division's professional personnel when he feels this is justified.
4) that copies of narratives written by inspection and survey personnel be provided to the facility. This request has been accepted because copies of narratives and other papers further describing deficiencies should be of assistance to a facility in further identifying and correcting deficiencies.
5) that all rules, standards, and interpretive memoranda be provided to a facility prior to inspection and survey. Proposed Rule .004(a) covers this request in its present form.

These rules are adopted pursuant to Article 4442, Texas Civil Statutes.

.001 Interpretive Memoranda. The department, through the Nursing and Convalescent Homes Division, will issue in a consistent and formal manner and publish when appropriate in the Texas Register interpretive memoranda for the purpose of explaining, clarifying, determining sense and meaning, or determining application of various elements of rules and standards involved in the department's licensing functions relating to regulation of facilities providing long term health care. Consistent with the department's agreements with the Department of Health, Education, and Welfare and the State Department of Public Welfare, interpretive memoranda may also apply to the department's Medicare/Medicaid certification functions relating to regulation of long term health care facilities. As applicable, the department will coordinate memoranda development with the rules of other state and federal agencies.

.002 Inspection and Survey Personnel.
(a) The department performs licensing inspections and other functions to carry out the requirements of Article 4442c: the department also performs inspections, surveys, and certification actions with reference to long term care facilities participating in Title XVIII Medicare and Title XIX Medicaid programs as skilled nursing facilities or intermediate care facilities.
(b) To accomplish all of these functions, the department is staffed with health facility surveyors, registered nurses, nutritionists, pharmacists, medical record specialists, and architects/engineers, together with necessary and appropriate administrative personnel, certification officers, licensing officers, special investigators, reviewers, administrative technicians, and secretarial and clerical staff.

.003 Inspections and Surveys.
(a) Inspection and survey personnel will perform inspections and surveys, follow-up visits, and contact visits from time to time as deemed appropriate by the inspection and survey personnel or as required for carrying out licensing and Titles XVIII/XIX certification responsibilities.
(b) An inspector or surveyor of particular expertise will normally perform inspections in the segments of operation speaking to his expertise; however, this does not preclude an inspector or surveyor of one expertise from assisting an inspector or surveyor of another expertise. Inspectors or surveyors who have completed federal official training as either general or special health facility surveyors may be used from time to time to perform certain inspections falling within other segments of operation than that of an inspector's or surveyor's expertise.
(c) An inspection may be conducted by an individual inspector or surveyor or by a team, depending on the purpose of the inspection or survey, size of facility, levels of care and service provided by facility, and other xrs. The team composition may vary from two members to several members.
(d) For good reason, night or weekend inspections may be conducted to cover specific segments of opera-
tion and will be completed with the least possible inter-
ference to staff and residents.

.004 Determination and Actions.
(a) The director of the Nursing and Convalescent Homes Division of the department will determine if a facility meets the rules, standards, and interpretive memoranda for licensing and for participation in Titles XVIII and XIX as may be applicable, including both physical plant and facility operation requirements. Inspection and survey personnel are authorized to make decisions based on rules, standards, and interpretive memoranda, using their training experience, and professional expertise in recommending the level of compliance of a facility, subject to the approval of the director of the division. Licensing violations or deficiencies will be listed on report forms prepared by the department for that purpose. Violations or deficiencies with respect to Titles XVIII or XIX certification will be listed on report forms which other agencies require to be used in the certification process. On completion of an inspection, survey, or full post-survey visit, a copy of the deficiency report form and narratives or similar papers further describing deficiencies relating to the inspection, survey, or visit prepared by inspection or survey team members will be left with the facility administrator or person in charge. When such procedure is not practical, the copies will be sent to the administrator. From time to time violations or deficiencies may be more appropriately described in a letter or correspondence addressed to the facility. A reasonable effort will be made to notify each facility of applicable new rules and standards at the time such rules and standards are filed with the Texas Register; these notifications are intended to provide notice of rules and standards in advance of inspections and surveys, unless otherwise required. Similarly, a reasonable effort will be made to notify each facility of applicable interpretive memoranda as soon as such memoranda are in final form and are released for use or are filed in the Texas Register, where interpretive memoranda are effective for use at the time of release or publication, unless otherwise required, an additional time of not less than 20 days will be given prior to application to the facility of the content of an interpretive memorandum in those cases where an additional obligation would be imposed on the facility. Rules or interpretive memoranda pertaining to the internal operations of the department are excepted.

(b) The division director will determine the extent to which violations or deficiencies jeopardize the licensure or, when appropriate, the certification status of a facility. The division director will determine or will approve a time within which a violation or deficiency must be corrected or will determine or approve the acceptability of a time and method proposed by a facility in a plan of correction. A facility may have violations or deficiencies and yet be considered to be in substantial compliance as long as violations or deficiencies can be reasonably expected to be corrected with acceptable methods and within an acceptable time. Where there are violations or deficiencies, actions taken by the division director will be determined based on his judgment and on the judgment and expertise of the division's professional personnel, or on the requirements of the contracts to perform certification functions. Actions will vary with the nature and extent of violations or deficiencies, and may range from noting violations and calling for timely correction to immediate action toward decertification or license suspension or revocation.

Issued in Austin, Texas, on July 15, 1977.

Doc No 773622           Raymond T. Moore, M.D.
Deputy Director           Texas Department of Health
Resources

Effective Date August 10 1977

For further information, please call (512) 458-7611

Milk and Dairy
Labeling of Milk and Milk Products
301.72.02

The Texas Department of Health Resources has adopted by reference the department's pamphlet entitled, "Texas Labeling Regulations for Milk and Milk Products. Third Edition, 1977." Copies of the pamphlet are on file in the department's Milk and Dairy Division, 1100 West 49th Street, Austin, Texas, and are available for public inspection during regular working hours.

Public comments were invited and received on the proposed rule and the following changes were made:

1. Page 8 of the pamphlet has a provision on misbranding of milk and milk products by information that is not conspicuous or prominent. Several comments pertaining to such information objected to the requirement that the modifying terms (words used to describe the optional forms in which fluid milk or milk products are marketed) be -one-half the boldness of the name of the food. The department agrees that the modifying terms should be more conspicuous and has changed the phrase, "one-half the boldness," to read, "in bold type."

2. Two comments questioned the location of the modifying terms on various mock-ups in the pamphlet, saying the information was confusing. In response, the department has placed a notation on the appropriate mock-ups stating that the modifying terms may precede or follow the name of the food.
Several other changes of a minor nature were made for the purpose of clarification, such as rewording or the addition or deletion of specific words.

This rule is being adopted under authority of Article 165-3, Texas Civil Statutes.


Issued in Austin, Texas, on July 20, 1977.

Doc. No. 773623 Raymond T. Moore, M.D.
Deputy Director
Texas Department of Health Resources

Effective Date: September 5, 1977
For further information, please call (512) 458-7341.

Texas State Board of Pharmacy

Qualifications to Practice Pharmacy 393.11.00

The Texas State Board of Pharmacy has withdrawn its proposed rule governing qualifications to practice pharmacy, as published in the April 19, 1977, issue of the Texas Register (Volume 2, Number 31).

Issued in Austin, Texas, on July 26, 1977.

Doc. No. 773609 Fred S. Brinkley, Jr.
Executive Director/Secretary
State Board of Pharmacy

Filed: July 20, 1977, 2:37 p.m.
For further information, please call (512) 478-9827.

Texas Private Employment Agency Regulatory Board

Procedures and Regulations 398.01.00.007

The Texas Private Employment Agency Regulatory Board adopts amendments to Rule 398.01.00.007 under the authority of Article 5221a-6, Texas Civil Statutes.

007. Licenses.

1. Temporary employment agencies or help service agencies are defined in Article 5221a-6, Texas Civil Statutes, as "any person conducting a business which consists of employing individuals directly for the purpose of furnishing part-time or temporary help to others." To meet this definition, there must exist an
employer/employee relationship including, among other things, compliance with all federal and state laws concerning minimum wage, overtime hours and pay, tax withholdings, unemployment taxes, workmen's compensation insurance, etc.; maintenance of adequate employee personnel records; direct payment of compensation to the employee; and the employer's exclusive right to discharge. There can be no fee charged to the employer for such employment.

Doc No 773646

398.01.00.011

The Texas Private Employment Agency Regulatory Board has amended Rule 398.01.00.011 under the authority of Article 5221a-6, Texas Civil Statutes.

.011. Fees to Applicants.

(f) If a licensed private employment agency collects from an employer remuneration which represents an applicant's salary and/or expenses, the agency shall remit to the applicant, within five working days, after proof of collection, the applicant's agreed upon salary and/or expenses.

Doc No 773647

398.01.00.015

The Texas Private Employment Agency Regulatory Board adopts Rule 398.01.00.015 under the authority of Article 5221a-6, Texas Civil Statutes.

.015. Instructions for Grading the Licensing Examination for Operators of Texas Private Employment Agencies.

(a) There are four separate tests: "C," "D," "E," and "F."

(b) Tests will be given on the first Tuesday of each month, except when the first Tuesday falls on a recognized state holiday, then the test will be given on the following day.

(c) Tests will be given at 9 a.m.

(d) Tests need not be given in any particular order; therefore, Test "D" does not have to follow Test "C." However, when the tests are printed the same number of each test is printed and approximately a two-year supply is printed at one time.

(e) Each test consists of 250 questions.

(f) The value of each test is: 100 percent (100 percent divided by 250 questions equals .4), therefore, each question has the same value, .4.

(g) To grade a test: Count the number of incorrect answers on any given test, and since each question is valued at .4, the number of incorrect answers is multiplied by .4, and this number is subtracted from 100 percent.

(h) A test can be graded at 100 percent only when there are 0 or 1 incorrect answers.

Doc No 773648

398.01.00.016

Under the authority of Article 5521a-6, Texas Civil Statutes, the Texas Private Employment Agency Regulatory Board has adopted Rule 398.01.00.016 to read as follows:

.016. Services. If photographs, voice recordings, composites, resumes, etc., are required to be furnished to a licensed private employment agency by an applicant, the applicant cannot be required to procure such items through the employment agency. Should the applicant be furnished with the names or names of suppliers of such services by the agency, the agency must disclose to the applicant whether they have an affiliation or a financial interest in such supplier and the nature and extent of such affiliation and/or financial interest.

Issued in Austin, Texas, on July 20, 1977.

Doc No 773649 Thomas H. Haynie
Chairman Texas Private Employment Agency Regulatory Board

Effective Date: August 11, 1977
For further information, please call (512) 475-7026.

Railroad Commission of Texas

Transportation Division

Household Goods Carriers 051.03.14

Under the authority of Section 4(a) of Article 911b, Texas Civil Statutes, the Railroad Commission of Texas has amended Regulation 051.03.14.002 by adding a new Section (j), which authorizes a contract carrier of telephone equipment and supplies to also act as an intrastate agent of a household goods carrier so long as the contract carrier has no agents operating under its authority.
.002 Local Representatives.

(j) Contract carriers of telephone equipment and supplies that are filed with the Railroad Commission as an intrastate agent of a household goods carrier will be exempt from complying with Regulation 051.03.14.002(a), but are prohibited from having intrastate agents operate under their own telephone equipment and supplies authority, or acting as an intrastate agent for more than one household goods carrier on commodities described in Regulation 051.03.14.001(b), paragraphs (1), (2), (3), (4), (5), and (6).

Issued in Austin, Texas, on July 22, 1977.

Doc. No. 773676 James H. Cowden, Director Transportation Division Railroad Commission of Texas

Effective Date: August 12, 1977
For further information, please call (512) 475-3207.

Texas Water Quality Board
Private Sewage Facility Regulations
Livingston Reservoir 130.12.01

The Texas Water Quality Board is amending Rules 130.12.01.002-.015, concerning the establishment of a restricted area and a water quality area around Lake Livingston; promulgating rules and regulations for the control of sewage within the area which is not disposed of in organized disposal systems; providing for licensing of private sewage facilities; and designating the Trinity River Authority of Texas as agent of the board to perform licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

By this action, the Texas Water Quality Board is amending Rules 130.12.01.002-.015 and adding three new rules (130.12.01.016-.018). The three new rules relate to the enforcement of these regulations through civil and criminal penalties; the addition of a savings clause; and the establishment of a fee schedule.

These rule amendments as well as any comments received were presented to the Texas Water Quality Board for final adoption at its regular meeting beginning at 9 a.m. on July 14, 1977, in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin, Texas.

Copies of these rule amendments may be examined in or obtained from the Texas Water Quality Board. Copies may also be examined in the Texas Register Division, Office of the Secretary of State.

The Trinity River Authority of Texas owns and operates the Livingston Dam and Reservoir in Walker, Trinity, San Jacinto, and Polk Counties. This reservoir has been constructed primarily as a water supply resource to serve the residents of the lower reaches of the Trinity River Basin and the Houston metropolitan area. An important secondary purpose for the reservoir is to provide an important water-based recreational facility for the state.

Among the potential sources of water pollution which must be controlled in order to maintain these standards of water quality is the disposal of sewage from individual dwellings, motels, marinas, businesses, and other such developments surrounding the reservoir. Sewage discharged into organized waste collection, treatment, and disposal systems is regulated through the permit system of the board. The regulation of sewage discharged into private sewage facilities is the special concern of this order because the area surrounding Lake Livingston is experiencing an increase in population density and because scientific investigation has disclosed that much of the soil found in the area surrounding the lake does not possess absorption characteristics suitable for the use of private sewage facilities.

The board's first order regulating private sewage facilities in the Lake Livingston area was adopted on March 27, 1969, and amended on October 16, 1969, and January 29, 1971. In order to incorporate this regulatory activity into one document and to update or modernize its contents, this order has been passed. In no way is this order intended to affect the validity of any license granted or denied under the previous orders or any enforcement action taken under those orders.

These amendments will alter the language in Rules 130.12.01.002-.015 in order to bring these rules, which were last amended in 1971, up to date and modernize
the language and requirements. These amendments will add three rules (130.12.01.016.-018).

These amendments are promulgated under the authority of Section 21.083 of the Texas Water Code, Vernon’s Annotated Texas Statutes.

.002. Definitions.
   (a) “Authority” means the Trinity River Authority of Texas.
   (b) “Board” means the Texas Water Quality Board.
   (c) “Executive director” means the Executive Director of the Texas Water Quality Board.
   (d) “Holding tank” means an internally vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for periodic delivery to an approved sewage disposal system.
   (e) “House sewer” means the lines which carry sewage from plumbing fixtures to a septic tank, holding tank, or other private sewage facility.
   (f) “Lake Livingston” or “Livingston Reservoir” means the lake in Walker, Trinity, San Jacinto, and Polk Counties created by a dam located approximately six miles southwest of the City of Livingston on the Trinity River between Polk and San Jacinto Counties.
   (g) “Organized disposal system” means any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Quality Board.
   (h) “Private sewage facility” means all facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the board.
   (i) “Sewage” means waterborne human waste and waste from domestic and commercial activities, such as washing, bathing, and food preparation.
   (j) “Soil absorption field” is that part of a septic tank system consisting of drainage tiles and surrounding permeable soil used for the subsurface disposal of septic tank effluent.
   (k) “Subdivision” means (1) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or (2) any four or more adjoining lots or tracts, each of which is less than two acres in size.

.003. Restricted Area. The board hereby designated the Lake Livingston Restricted Area as the area adjacent to the normal shoreline of Lake Livingston lying within two parallel lines, one of which is the contour line of elevation 131 feet M.S.L. (mean sea level) and the other of which is a line parallel to the 131 feet M.S.L. line, located at a distance of 75 feet from the 131 feet M.S.L. line, measured horizontally away from the lake. The restricted area also includes all the area of the lake bed to include all islands.

.004. Water Quality Area. The board hereby designates the Lake Livingston water quality area as the area adjacent to the restricted area and lying within two parallel lines, one of which is a line parallel to the 131 feet M.S.L. line located at a distance of 75 feet from the 131 feet M.S.L. line, measured horizontally away from the lake, and the other of which is a line parallel to the 131 feet M.S.L. line, located at a distance of 2,000 feet from the 131 feet M.S.L. line, measured horizontally away from the lake.

.005. Regulations Controlling the Discharge of Sewage within the Restricted Area. No sewage discharges from private sewage facilities of any kind may be made within the restricted area. However, this does not prohibit the removal and disposal of wastes from boats and other watercraft in accordance with Texas Water Quality Board Order 74-0521-4. The authority may not license any private sewage facility in the restricted area which might allow interchange of sewage with lake water during times of flooding. Upon its finding that a holding tank system, properly constructed and carefully operated, presents only a remote threat to endanger water quality in the lake, the authority may license the system as it would such a system under Rule .006(b), below.

.006. Regulations Controlling the Discharge of Sewage within the Water Quality Area. All sewage disposal within the water quality area shall be in accordance with one of the following types of authorization:
   (a) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the board; or
   (b) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this order; or sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health Resources and licensed by the authority.

.007. Licensing Functions. The Trinity River Authority of Texas is designated by the board to perform all licensing functions of this order.
   (a) The authority shall have the following powers:
      (1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this order; and
      (2) to perform all the duties necessary and proper to fulfill the requirements of this order.
   (b) The authority shall make annual reports to the board on all actions taken concerning this order.
.008. Licensing Requirements for Private Sewage Facilities.

(a) Private sewage facilities installed within the boundaries of the water quality area must meet with the following requirements:

(1) A license must be obtained for the use of these facilities from the authority.

(2) The lot or tract which the private sewage facilities will serve must be at least 15,000 square feet in size as of the effective date of this order.

(b) All private sewage facilities in the water quality area should generally conform to the minimum standards as contained in the latest edition of A Guide to the Disposal of Household Sewage, published by the Texas Department of Health Resources, a copy of which is available from the authority.

(c) Septic tanks for nonresidential institutions (motels, tourist camps, tourist courts, hospitals, service stations, etc.) to be installed or constructed after the effective date of this order should generally conform to the standards contained in Notes on the Design of Septic Tank Systems for Nonresidential Institutions, which is an addendum to A Guide to the Disposal of Household Sewage.

(d) Terms for licenses of private sewage facilities.

(1) Any license issued under the authority of this order will be transferred to a succeeding owner and such license will continue in existence, provided the new owner applies to the authority and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The authority must approve and record all transfers in order for a succeeding owner to be compliant with this order.

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

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

(4) The authority will cause to be performed such inspections as may be necessary to issue a renewal license.

(5) Upon a finding by the authority that the use of a private sewage facility will not cause pollution or injury to the public health, is not in conflict with the terms and conditions of this order, and can be operated in general conformance with the latest edition of A Guide to the Disposal of Household Sewage, published by the Texas Department of Health Resources, the authority will after its final inspection and receipt of the appropriate fee issue a license or a renewal license.

(6) Upon a finding by the authority that the private sewage facility will not be licensed or not be issued a renewal license, the applicant shall be notified in writing of that finding and of the nature of the faults which prevent licensure.

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

(a) Any developer or other interested person desiring to create a subdivision which lies partially or wholly within the restricted or water quality areas using private sewage facilities must obtain approval from the authority of his plan for sewage disposal. He must fulfill the following requirements:

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

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

(3) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this order;
(B) that a license will be required for any private sewage facility constructed in the subdivision; and
(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

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

(b) The authority will perform or cause to be performed tests and inspections deemed necessary by it to determine whether the subdivision can be served with private sewage facilities, such tests to be at the expense of the developer.

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

.010. Existing Private Sewage Disposal Systems. All systems within the jurisdiction of Texas Water Quality Board Order 69-5, as amended, should by now be licensed. Licenses issued under the previous orders will remain in effect for the term stated thereon as if issued under this order.
.011. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems. In order to implement the stated policy of the legislature and the board that the development and use by interested and affected parties of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and to maintain and enhance the quality of the water in the state should be encouraged, the board makes the following requirements:

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

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

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

(a) any person desiring an exception shall file an application with the authority for its analyses of the specifics of the situation;

(b) the authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out what corrective measures, if any, could be undertaken to obtain licensure.

.013. Terms and Conditions for Appeal to the Executive Director and the Board. Any person aggrieved by an action or decision of the authority may appeal to the executive director and then to the board if the following terms and conditions are met:

(a) all of the appropriate steps required by the aggrieved person by the terms and conditions of this order have been met; and

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

.014. Effective Date. This order shall become effective upon the execution by the authority and the board of a cooperative agreement pursuant to Chapter 21 of the Texas Water Code providing for the performance by the authority of the water quality management, inspection, and enforcement functions required to be performed by the authority under this order. At such time, Order 69-5, as amended, shall be replaced by this order.

.015. License Fees. License fees, inspection fees, and renewal fees will be in accordance with a fee schedule established by the authority and approved by the Texas Water Quality Board. These fees shall be paid to and collected by the authority so long as the authority remains the designated agent for the Texas Water Quality Board for the purposes and functions specified in this order. The fee schedule is Rule .018 of this order.

The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by the authority at the request of the applicant in connection with presentation of an application and required data. Percolation tests and other examinations may be performed by engineering firms or soils testing laboratories approved by the authority.

.016. Enforcement of this Order. Unauthorized private sewage facilities, unlicensed private sewage facilities, and malfunctioning private sewage facilities, which later systems are a threat to water quality and public health, are subject to, among other enforcement actions, the following:

(a) Criminal Penalty (Section 21.5531, Texas Water Code).

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

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

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

(b) Civil penalty. A person who violates any provision of this order is subject to an injunction by court order and to a civil penalty of not less than $50 nor more than $1,000 for each act of violation and for each day of violation, to be recovered as provided in Chapter 21 of the Texas Water Code.

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

.018. Fee Schedule. The following represents the approved fee schedule for the private sewage facilities regulatory program around Lake Livingston:

Application, inspection and license fee: $15
Percolation test: $25
Renewal inspection and license fee: $5/two years

Volume 2, Number 59, July 29, 1977
Subdivision plan review -- $25
Subdivision percolation test -- $25/hour.

Issued in Austin, Texas, on July 18, 1977.

Doc. No. 773570    Paul Seals
                  Assistant General Counsel
                  Texas Water Quality Board

Effective Date: August 4, 1977
For further information, please call (512) 475-7851.
Legislative Report

The special session of the 65th Legislature ended Thursday, July 21, after nine days. After passing a public school finance bill, the legislature considered participation in the National Flood Insurance Program, bonds of state agencies abolished under the Sunset Act, nursing home regulation, and Texas involvement in a proposed deepwater port.

The legislature gave approval to counties and other political subdivisions to participate in the National Flood Insurance Program, a federally subsidized program for flood-prone areas. The bill was necessary because the attorney general recently ruled that counties which joined the program after June 30, 1970, did so without authorization of the legislature. The ruling affected 37 counties and two special districts. The bill now permits governmental agencies to join the program if they hold public hearings within 60 days of the effective date of the bill and reenact original ordinances.

The bonded indebtedness of any state agency abolished under the Sunset Act is now guaranteed for repayment with state funds under a bill passed by the legislature.

Nursing Home Regulation

Thursday, July 21, the legislature passed a bill regulating nursing homes which calls for criminal penalties against the abusers of nursing home residents. Intentional abuse could bring a third-degree felony change with two to ten years imprisonment and a maximum fine of $5,000. Threatening a resident would be a misdemeanor carrying a fine of up to $1,000 and up to 180 days in prison. Willfully neglecting to report abuse is also punishable by imprisonment and a fine; reports made in bad faith or with malice are subject to liability.

The bill places nursing homes under the jurisdiction of the Department of Health Resources instead of the State Department of Public Welfare. Annual unannounced inspections are required before license renewal, and each resident must have at least one medical examination each year.

The legislation requires annual meetings to allow residents an opportunity to voice complaints; administrators and employees may be excluded from these meetings. Records of complaints against the facility and employees are open to the public.

Deepwater Port

On the last day of the session, the legislature gave the governor the authority to study the feasibility of state involvement in a deepwater port proposed for construction about 26 miles offshore from Freeport. The legislature approved creation of the Texas Deepwater Port Authority, a nine-member panel, if the project does not gain the necessary private financial support. The authority could issue revenue bonds to finance the projected $750 million facility. The bonds would be retired through funds generated by operation of the project, not through use of state general revenues. Texas will have no financial responsibility or liability for the port.
The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the Register. Each notice published includes the date and time of filing. Notices are posted on the bulletin board outside the offices of the Secretary of State on the first floor in the East Wing of the State Capitol.

Texas Aeronautics Commission

Meeting

A meeting of the Texas Aeronautics Commission will be held on Wednesday, August 3, 1977, 11 a.m., in Room 102, Texas Law Center, 1414 Colorado, Austin.

The commission will consider: aviation facilities development; cancellations (Kay); additions or revisions (Temple, Caldwell, Cleveland, Wharton); pole line marker program; general counsel report; carrier regulation (cancellation of Certificate 18- Tricon International, suspension of Certificate 36-- Trans Regional Air, and final action in Chaparral Airlines Docket 77-2 for a Texas Air Carrier certificate of public convenience and necessity for a route between Abilene and Dallas Love Field); and the director's report.

Additional information may be obtained from Robert G. Cross, 1104 Lyndon Baines Johnson Building, Austin, Texas 78711, telephone (512) 475-6977.

Filed: July 21, 1977, 11:54 a.m.
Doc No 773630

Texas Department of Agriculture

Meeting

A meeting of the Agricultural Protective Act Section of the Texas Department of Agriculture will be held on Tuesday, August 9, 1977, 10:30 a.m., in Room 202, Texas Department of Agriculture, 4900 Fannin, Houston, to consider the verified statement of claim of Sweetheart Fruit and Melon Gardens, McAllen, in account with Joe Lopez, Houston.

Additional information may be obtained from Ed Whitesides, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-4304.

Filed: July 21, 1977, 11:54 a.m.
Doc No 773629

Board of Architectural Examiners

Meeting

A meeting of the Board of Architectural Examiners will be held at 1 p.m. Thursday and at 9 a.m. Friday and Saturday, August 4, 5, and 6, 1977, at 202 Richmond Building, 1411 West Avenue, Austin, to consider the following matters: an examination survey; a reciprocal application; a reinstatement; the June 1977, qualifying test; and certificates of registration.

Additional information may be obtained from Philip D. Creer, Room 202, 1411 West Avenue, Austin, Texas 78701, telephone (512) 475-2629.

Filed: July 14, 1977, 10:23 a.m.
Doc No 773470

State Banking Board

Meeting

A meeting of the State Banking Board will be held on Wednesday, August 3, 1977, 2 p.m., at 2601 North Lamar, Austin, to conduct a voting session on the following: a charter application of Ingram State Bank, Ingram; a conversion application for First National Bank of Deer Park to a state bank, First National Bank of Deer Park; a charter application of Houston Central Bank and Trust, Houston; a charter application of First Bank and Trust, Springtown; a conversion application for First National Bank of Edna, to a state bank, First Bank of Edna; a domicile change for Crosby State Bank, Crosby; review of charter applications approved, but not yet open; and discussion of proposed amendments to rules.

Additional information may be obtained from Dan Krohn, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Filed: July 22, 1977, 4:12 p.m
Doc No 773683
State Board of Barber Examiners

Meeting and Hearing
A meeting and hearing of the State Board of Barber Examiners will be held on Monday, August 1, 1977, in Conference Room 510, at the Sam Houston Building, 201 East 14th, Austin. Specific times and agendas follow.

8 a.m.
Meeting to discuss current business, and to hold interviews with all persons meeting with the board

1:30 p.m.
Hearing to determine whether the Artistic Barber College, its agents, or representatives thereof, is guilty of having violated the provisions of Section 91(a), Article 8407a of the Texas Barber Law.

Additional information may be obtained from O. W. McStay, 512 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-2289.

Filed: July 20, 1977. 9:58 a.m.
Doc No 773579

State Commission for the Blind

Emergency Meeting
An emergency meeting of the Optometric Advisory Board of the State Commission for the Blind was held on Wednesday, July 27, 1977, 10:30 a.m., at 400 Stokes Building, 314 West 11th Street, Austin, to consider a payment schedule for optometric services.

Additional information may be obtained from Sandra Wessa, P.O. Box 12866, Austin, Texas 78711, telephone (512) 475-3244.

Filed: July 22, 1977. 11:20 a.m.
Doc No 773683

Employees Retirement System of Texas

Meeting
A meeting of the Board of Trustees of the Employees Retirement System of Texas will be held on Monday, August 8, 1977, 9 a.m., at 1706 San Jacinto, Austin.

The agenda includes a report on retirements and deaths; certification of state matching and insurance contributions; distribution of interest; appointment of new members to Group Insurance Advisory Committee; a status report on the Group Insurance Program; discussion of laws passed by 65th Legislature; election of chairman and vice chairman; a report on building expansion; approval of budget for 1977-78; and consideration of other business and setting date for next meeting.

Additional information may be obtained from Joseph N. Murphy, Jr., P.O. Box 12337, Austin, Texas 78711, telephone (512) 476-6431.

Filed: July 25, 1977. 10:16 a.m.
Doc No 773686

Finance Commission of Texas

Meeting
A meeting of the Savings and Loan Section of the Finance Commission of Texas will be held on Monday, August 1, 1977, 10 a.m., at 1004 Lavaca Street, Austin, to propose rules relating to reorganization, merger, and consolidation and relating to reporting change of control, and such other rules as deemed necessary or advisable; to consider per diem rates for department personnel and other personnel; organizational matters; and to discuss such other matters as may come before the section.

Additional information may be obtained from L. Alvis Vandygriff, 1004 Lavaca Street, Austin, Texas 78701, telephone (512) 475-7991.

Filed: July 22, 1977. 1:53 p.m.
Doc No 773680

Commission on Fire Protection Personnel Standards and Education

Meeting
A meeting of the Fire Suppression Subcommittee of the Commission on Fire Protection Personnel Standards and Education will be held on Tuesday, August 2, 1977, 10 a.m., in Room 312, 410 Bagby, Houston, to initiate a
study for the formulation of proposed standards for the certification of marine firemen, in accordance with House Bill 322, 65th Legislature.

Additional information may be obtained from Garland W. Fulbright, Suite 122, 8330 Burnet, Austin, Texas 78758, telephone (512) 459-8701.

Filed: July 25, 1977. 10:31 a.m.
Doc No 773689

Office of the Governor

Emergency Meeting

An emergency meeting of the Highway Cost Index Committee was held on Friday, July 22, 1977, 11 a.m., in the Governor's Reception Room on the second floor of the State Capitol, to certify to the Comptroller the amount to be allocated from the clearance fund to the state highway fund for the 1978 fiscal year, and to discuss preliminary procedures to be used by the State Department of Highways and Public Transportation in calculating the highway cost index.

Additional information may be obtained from Dicky Travis, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-3214.

Filed: July 22, 1977. 8:27 a.m.
Doc No 773660

Texas Health Facilities Commission

Meeting

A meeting of the Texas Health Facilities Commission will be held on Thursday, August 4, 1977, 10 a.m., in Suite 450, One Highland Center, 314 Highland Mall Boulevard, Austin, to consider the following applications and requests:

Hospitality House, Inc., Alice-- certificate of need
McCamey County Hospital District for Upton County Convalescent Center, McCamey-- certificate of need
Holmes Community Hospital, Gonzales-- certificate of need
Mid-Jefferson County Hospital, Nederland-- certificate of need
Ector County for Medical Center Hospital, Odessa-- two certificates of need
Sweetbriar Nursing Home, Bellville-- certificate of need
Bellville Geriatrics Center, Bellville-- certificate of need

St. Joseph's Hospital, Paris-- reissuance of certificate of need
Doctor's Hospital, Houston-- reissuance of certificate of need
Texas Children's Hospital, Houston-- exemption certificates
Seton Medical Center, Inc., Austin-- two exemption certificates
Root Memorial Hospital, Colorado City-- two exemption certificates
San Antonio State Hospital, San Antonio-- two exemption certificates
Kaufman Hospital Authority, Kaufman-- reissuance of certificate of need
Harlingen State Chest Hospital, Harlingen-- exemption certificate
Nueces County MH/MR Community Center, Corpus Christi-- declaratory ruling
Torbett Hutchings, Smith Memorial Hospital, Marlin-- exemption certificate
Texas Prepaid Health Plan, Houston-- declaratory ruling
Goodall-Witcher Hospital Foundation, Inc., Clifton-- declaratory ruling/exemption certificate
Ridgeway Nursing and Convalescent Center, Wichita Falls-- exemption certificate
Family Services Association of San Antonio, San Antonio-- declaratory ruling

The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: July 20, 1977. 2:05 p.m.
Doc No. 773593

Texas Department of Health Resources

Meeting

A meeting of the Emergency Medical Services Advisory Council of the Texas Department of Health Resources will be held on Saturday, August 13, 1977, 10 a.m., at the “Top of the Methodist,” Methodist Hospital, 7700 Floyd Curl Drive, San Antonio. The council will hear the division director report; consider the status of EMS grants; consider patient treatment and transfer pro-

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tocols; and hear a report on the Statewide Perinatal Program. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Charles E. King, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7240.

Filed: July 20, 1977, 3:25 p.m
Doc No 773613

Meeting

A meeting of the EPSDT Dental Professional Advisory and Review Committee of the Texas Department of Health Resources will be held on Sunday, August 14, 1977, 9:30 a.m., in the board room, Texas Department of Health Resources, 1100 West 49th, Austin.

The general session will include consideration of the proposed budget for Fiscal Year 1978, including the new fee schedule; a report of funds by the Title XIX Administration; approval of periodicity; approval for new allowable services; consideration of withholding authorization and payment for I.V. Sedation; consideration of a six-month limitation on invoices; and consideration of new agreements. An executive session will be held on utilization review reports. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from David Gray, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7635.

Filed: July 20, 1977, 3:25 p.m
Doc No 773614

State Department of Highways and Public Transportation

Meeting/Hearing

The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will hold a meeting and hearing on Monday and Tuesday, August 1 and 2, 1977, at the State Highway Building, 11th and Brazos, Austin. Specific times, room numbers, and agendas follow.

Monday, August 1, 1977
9 a.m. (large hearing room) -- public hearings to consider various highway, bridge, and farm-to-market road requests concerning Harris, Brazos, and Orange Counties

Upon completion of the public hearings (Room 207) -- execution of contract awards and routine minutes; consideration of decisions on presentations from public hearing dockets; review of staff reports relative to planning and construction of programs and projects; and consideration of remaining old business, if any, from previous meetings

Tuesday, August 2, 1977
9 a.m. (Room 207) -- continuation on items remaining from Monday's meeting, as may be required

The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3552.

Filed: July 22, 1977, 2:52 p.m
Doc No 773681

Texas Historical Commission

Meeting

A meeting of the Texas Review Board of the Texas Historical Commission will be held on Tuesday, August 2, 1977, 10 a.m., at the Carrington-Covert House, 1511 Colorado, Austin. The board will review the following sites:

E. B. Black House, Hereford, Deaf Smith County
Anson Mills Building, El Paso
Memorial Library, Meridian, Bosque County
First National Bank Building, Glen Rose, Somervell County
L. T. Lester House, Canyon, Randall County
Galveston Orphan Homes, Galveston
Henning House, San Antonio, Bexar County
Wilson Block, Swiss Avenue, Dallas
Maverick Ranch District, Bexar County
Morales Schook, Jackson County
Old Northcutt House, Longview, Gregg County
Turner-Bridges House, Roganville, Jasper County
City of Bastrop Multi-Resource nomination, Bastrop County
Medical Arts Building, Dallas
Congress Avenue Bridge, Austin, Travis County
Houston Turn Verein Building, Harris County
M. A. Benton House, Forth Worth, Tarrant County
Beaumont Commerical District, Beaumont, Jefferson County
Jefferson Theatre, Beaumont, Jefferson County
Southwestern Telegraph and Telephone Building, Austin, Travis County
Schwartz and Raas and San Angelo National Bank
Buildings, San Angelo, Tom Green County
Hays County Courthouse, San Marcos
Mission Dolores, San Augustine County
Wright House, Granbury, Hood County
Newton County Courthouse, Newton
W. A. Strain House, Lancaster, Dallas County
Ellis House, Lancaster, Dallas County
Rawlins House, Lancaster, Dallas County
Randlett-Ratcliff House, Lancaster, Dallas County

Additional information may be obtained from Joe Williams, 1511 Colorado, Austin, Texas 78701, telephone (512) 475-3094.

Filed: July 21, 1977, 3:36 p.m
Doc No 773641

State Board of Insurance

Meeting

A meeting of the State Board of Insurance will be held on Monday, August 1, 1977, 10 a.m., in Room 408, 1110 San Jacinto, Austin, to consider the real estate agents errors and omissions filing and the insurance agents errors and omissions filing.

Additional information may be obtained from William J. Harding, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 20, 1977, 9:56 a.m
Doc No 773586

Hearing

A hearing by the Commissioner’s Hearing Section of the State Board of Insurance will be held on Tuesday, August 2, 1977, 9:45 a.m., in Room 343, 1110 San Jacinto Street, Austin, concerning Laughter-Burial Association, Abilene, to consider the reinsurance of Laughter Burial Association into American Family Life Insurance Company, Dallas, pursuant to Article 22.15 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701, telephone (512) 475-4230.

Filed: July 20, 1977, 9:56 a.m
Doc No 773596

Hearing

A hearing by the Commissioner’s Hearing Section of the State Board of Insurance will be held on Tuesday, August 2, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, concerning Laughter Burial Association, Abilene, to consider the reinsurance of Laughter Burial Association into American Family Life Insurance Company, Dallas, pursuant to Article 22.15 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701, telephone (512) 475-4230.

Filed: July 20, 1977, 2:05 p.m
Doc No 773597

Hearing

A hearing by the Commissioner’s Hearing Section of the State Board of Insurance will be held on Tuesday, August 2, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, concerning Laughter Burial Association, Abilene, to consider the reinsurance of Laughter Burial Association into American Family Life Insurance Company, Dallas, and Zarsky Burial Association, Refugio, pursuant to Article 22.15 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701, telephone (512) 475-4230.

Filed: July 20, 1977, 2:05 p.m
Doc No 773598

Hearing

A hearing by the Commissioner’s Hearing Section of the State Board of Insurance will be held on Wednesday, August 3, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, concerning Zarsky Burial Association, Refugio, to consider a reinsurance agreement between American Family Life Insurance Company and Laughter-North Insurance Company, pursuant to Article 22.15 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701, telephone (512) 475-4230.

Filed: July 20, 1977, 2:05 p.m
Doc No 773599
Natural Fibers and Food Protein Commission

Emergency Meeting

An emergency meeting of the Natural Fibers and Food Protein Commission was held on Monday, July 25, 1977, 10 a.m., at 17360 Coit Road, Dallas, to consider fiscal 1977-78 budgeting for NFFPC contracting agencies. The meeting was called on an emergency basis so that budgets could be prepared before the beginning of the fiscal year.

Additional information may be obtained from Carl Cox, 17360 Coit Road, Dallas, Texas 75252.

Filed: July 21, 1977 11:57 a.m
Doc No 773637

Board of Pardons and Paroles

Meeting

A meeting of the Board of Pardons and Paroles will be held on Wednesday, August 3, 1977, 9 a.m., at the Diagnostic Unit, Texas Department of Corrections, Huntsville. A parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: July 19, 1977 4:35 p.m
Doc No 773577

Texas State Board of Public Accountancy

Meeting

A meeting of the Texas State Board of Public Accountancy will be held on Monday and Tuesday, August 1 and 2, 1977, 9 a.m. daily, at 940 American Bank Tower, 221 West 6th Street, Austin.

The CPA members of the board will meet on Monday, and will consider matters relating to the issuance of the CPA certificate and the CPA examination. The full board will meet on Tuesday, and will consider all pending matters other than those relating to the CPA examination and those relating to the issuance of the CPA certificate.

Monday’s agenda includes: approval of applications for the CPA certificate by the board or by ratification; review of May, 1977, CPA examination papers and results; and review of examination sites and examination procedures.

Tuesday’s agenda includes: approval of applications by ratification; hearings; financial reports; consideration of salaries; setting fees for ensuing year; review of permit holders’ votes on the board’s proposed amendments to Rules 12 and 18 of the Rules of Professional Conduct, and declaration of results of such election; consideration of its prior interpretation of Rule 9 of the Rules of Professional Conduct, as it relates to “Use of CPA or PA Designation by Permit Holders in Industry;” consideration of a draft of the board’s interpretation of Rule 12 of the Rules of Professional Conduct that may become effective on September 15, 1977; and a re-
port on matters discussed by NASBA’s committee on reciprocity with foreign countries. The complete agendas are posted in the East Wing of the State Capitol.

Additional information may be obtained from Pauline Thomas, 940 American Bank Tower, Austin, Texas 78701, telephone (512) 476-6971.

Filed: July 21, 1977, 4:53 p.m
Doc No 773658

Department of Public Safety

Meeting

A meeting of the Public Safety Commission of the Department of Public Safety will be held on Wednesday, August 3, 1977, 10 a.m., at 5805 North Lamar, Austin. The agenda includes: approval of internal departmental manuals; approval of proposed rules governing transportation of hazardous materials; approval of proposed rules governing changes necessitated by the amended motor vehicle inspection law; personnel hearings on appeals from discharge; consideration of budget matters; the status of DPS building program; and consideration of other unfinished business.

Additional information may be obtained from Wilson E. Speir, P.O. Box 4087, Austin, Texas 78773, telephone (512) 452-0331.

Filed: July 25, 1977, 10:30 a.m
Doc No 773668

Public Utility Commission of Texas

Meeting

A meeting of the Public Utility Commission of Texas will be held on Friday, July 29, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider final orders on dockets 72, 74, 123, 304, 305, 306, 322, 326, 355, 405, 415, 416, 456, 469, 477, 505, 524, 528, 564, and 567; a motion for rehearing on Dockets 76 and 110; and oral arguments on Docket 501.

Additional information may be obtained from Roy J. Henderson, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 475-7921.

Filed: July 21, 1977, 4:17 p.m
Doc No 773655

Prehearing

A prehearing conference by the Public Utility Commission of Texas will be held on Friday, August 5, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, on Docket 568—complaint of Southwestern Bell Telephone Company v. MCI Telecommunications Corporation, CPI Microwave, Inc., Southern Pacific Communications Company, and Western Union Telegraph Company, to hear prehearing motions, if any; establish a schedule for discovery; and set a final hearing date.

Additional information may be obtained from Roy J. Henderson, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 475-7921.

Filed: July 20, 1977, 9:55 a.m
Doc No 773582

Railroad Commission of Texas

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Gas Utilities Division of the Railroad Commission of Texas held on Monday, July 25, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to include consideration of general policy decision matters.

Additional information may be obtained from Meiling Newman, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: July 22, 1977, 11:41 a.m
Doc No 773668

Emergency Additions to Agenda

Emergency additions were made to the agenda of a meeting of the Oil and Gas Division of the Railroad Commission of Texas held on Monday, July 25, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin.

The additions included consideration of an exception to a flare gas order (Phillips Petroleum Company); consideration of a Rule 37 case matter (Mustang Exploration Company, Inc.); and consideration of the issuance of the commission's "emergency interpretive rule."
Emergency Additions to Agenda

Emergency additions were made to the agenda of a meeting of the Transportation Division of the Railroad Commission of Texas held on Monday, July 25, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin.

The additions included consideration of various applicants seeking new authority for specialized motor carrier certificates and applications for specialized motor carrier certificates, and entering into a contract for the preparation and approval of the Texas Rail Plan, pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210 (90 Statute 31), and the U.S. Department of Transportation's regulations, as published in 49 C.F.R. Part 266, as adopted or amended.

Additional information may be obtained from Denna Braun or John Whisenhunt, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2088 or 475-4738.

Filed: July 22 1977 11:48 a.m  
Doc No 773669

Meeting

A meeting of the Gas Utilities Division of the Railroad Commission of Texas will be held on Monday, August 1, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to consider rulemaking matters and burner tip rate matters. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Meiling Newman, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: July 23, 1977 11:41 a.m  
Doc No 773671

Addition to Agenda

An addition is being made to the agenda of a meeting of the Oil and Gas Division of the Railroad Commission of Texas to be held on Monday, August 1, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to include consideration of Docket 3-67, 040, V. F. Frost, et al., pertaining to Field Rule 20, Fig Ridge (Seabreeze) Field, Chambers County.

Additional information may be obtained from Luci Castleberry, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: July 22 1977 11:40 a.m  
Doc No 773670

Emergency Addition to Agenda

An emergency addition is being made to the agenda of a meeting of the Oil and Gas Division of the Railroad Commission of Texas to be held on Monday, August 1, 1977, 9 a.m., in the 10th floor conference room, 10th and Colorado Streets, Austin, to consider the urgent matter of the issuance of its "emergency interpretive rule," which will supplement Railroad Commission statewide rules and special field rules pertaining to gas market demand determination gas well allowable allocation and ratable take of gas between gas fields in the State of Texas. This rule was previously designated Oil and Gas Docket Number 20-66,679, until a recent Court ruling invalidated such rule, requiring the issuance of a new Oil and Gas Docket Number 20-67-727, to distinguish it from prior actions issued by the commission involving this same matter.

Additional information may be obtained from Fred Young, P.O. Drawer 12967, Austin, Texas 78767, telephone (512) 475-6155.

Filed: July 25, 1977 11:40 a.m  
Doc No 773705

Meeting

A meeting of the Liquefied Petroleum Gas Division of the Railroad Commission of Texas will be held on Monday, August 1, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to consider adoption of proposed amendments to Liquefied Petroleum Gas Docket Number 1, and to discuss a proposed rule. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Sharon Gillespie, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-4253.

Filed: July 22, 1977 11:41 a.m  
Doc No 773673
Meeting
A meeting of the Transportation Division of the Railroad Commission of Texas will be held on Monday, August 1, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin.

The commission will consider contested applications to amend authority and for truck rate and uncontested applications regarding the following: amending authority, motor brokers license, consolidating authority, amending ICC authority registration, ICC authority registration, interstate exempt authority, rail rate, requested authority cancellation, reinstatement, selling authority, bus schedule change, truck rate, and voluntary suspension. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Denna Braun, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2088.

Filed: July 22, 1977, 11:49 a.m.
Doc No: 773672

Hearing
A hearing by the Gas Utilities Division of the Railroad Commission of Texas will be held on Tuesday, September 6, 1977, 9 a.m., in Room 812, E. O. Thompson Building, 10th and Colorado, Austin, on proposed Rule 051.04.03.028, B.T.U. Content Adjustment.

Interested persons or agencies should contact the Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2747, to obtain a copy of the notice of hearing which contains deadlines for prefiling testimony and motions to intervene.

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

Filed: July 20, 1977, 2:09 p.m.
Doc No: 773590

Texas Water Rights Commission

Emergency Addition to Agenda
An emergency addition was made to the agenda of a meeting of the Texas Water Rights Commission held on Monday, July 25, 1977, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of an application for a temporary permit by George T. Roots/Mike Shurbet.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13207, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 21, 1977, 3:19 p.m.
Doc No: 773642

Meeting/Hearing
The Texas Water Rights Commission will hold a meeting and hearing on Monday, August 1, 1977, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin.

The agenda for the commission meeting includes consideration of the following: an application by Montgomery County Municipal Utility District 9 for approval of $1,350,000 waterworks and sewer system combination tax and revenue bonds (seven and three-fourths percent, first issue); an application by Nueces County Water Control and Improvement District 4 for approval...
of $750,000 waterworks unlimited tax bonds (six and one-half percent, 10th issue); an application by Meadowlakes Municipal Utility District of Burnet County for approval of $1,295,000 waterworks and sewer systems combination tax and revenue bonds (nine and five tenths percent, second issue); petitions for creation of Harris County Municipal Utility District 153 and 73, and West Harris County Municipal Utility District 4; partial or total cancellation of Permit 2168, as amended, of Collingsworth County WCID 1, pursuant to Sections 5.030, 5.144, and 5.178, et seq., Texas Water Code; a temporary permit docket; an application by Texas Municipal Power Agency for approval of final plans and specifications for a project authorized under Application 3751.

The commission will conduct a hearing on the following items: Application 3727 by La Prada Development Company and the City of Garland for a Water Code Section 5.121 permit; an application by W. J. Coburn and Samuel S. Smith for an extension of time to complete construction under Permit 3289; an application by Tarrant County Water Control and Improvement District 1 for an extension of time to commence and complete construction under Permit 3216; proposed amendment to Rule 129.02.40.002, relating to the provisional issuance of a temporary permit; cancellation of Section 5.303 Claim 5624 of Carrie M. Kerss; cancellation of Section 5.303 Claim 5630 of Mnzelle Kerss; districts subject to having their names filed with the attorney general for failure to comply with the audit reporting and filing requirements of the Texas Water Code and as prescribed by the commission's 1976 rules; and dissolution of Collingsworth County Water Control and Improvement District 1 due to inactivity for the last five years and having no bonded indebtedness.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13207, Austin, Texas 78711, telephone (512) 475-4514.

Filed July 21 1977 3:57 p.m.
Doc No 773650

Quasi-State Agencies

Meetings Filed July 22, 1977

The Texas Wheat Producers Board will meet in the Executive Conference Room, Hilton Inn, Amarillo, on August 3, 1977, at 8 a.m. Further information may be obtained from Bill Nelson, Suite 600, Bank of the Southwest, Amarillo, Texas 79109, telephone (806) 352-2191.

The Texas Peanut Producers Board will meet at the Par County Club Restaurant, Proctor, on August 3, 1977, at 1:30 p.m. Further information may be obtained from Wayne Eaves, P.O. Box 398, Gorman, Texas 76454, telephone (817) 734-5853.

The Education Service Center Region VI, Board of Directors, will meet at the Holiday Inn, Huntsville, on August 4, 1977, at 5 p.m. Further information may be obtained from M. W. Schlotter, Box 2201, Sam Houston Station, Huntsville, Texas 77340.

The MH/MR Regional Center of East Texas, Building Committee of the Board of Trustees, met at 305 South Broadway, Tyler, on July 28, 1977, at 3 p.m. Further information may be obtained from Gary K. Smith, 305 South Broadway, Tyler, Texas 75702.

The Amarillo MH/MR Regional Center, Board of Trustees, met at 7201 Evans, Amarillo, on July 28, 1977, at 12:30 p.m. Further information may be obtained from Clark E. Woolridge, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

The Sabine River Authority of Texas, Board of Directors, will meet at the Houston Oaks Hotel, Houston, on August 2, 1977, at 9:30 a.m. Further information may be obtained from John W. Simmons, P.O. Box 579, Orange, Texas 77630.

The Deep East Texas Council of Governments, Board of Directors, will meet at the Arthur Temple Sr., Memorial Library, Pineland, on July 28, 1977, at 3 p.m. Further information may be obtained from Billy D. Langford, P.O. Box 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The Golden Crescent Subarea Advisory Council, Plan Development Committee met at Champ-Traylor Memorial Hospital, 810 North Ann Street, Port Lavaca, on July 27, 1977, at 7:30 p.m. Further information may be obtained from David H. Russell, Texas A&M University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.
Texas Health Facilities Commission

Notice of Applications

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory ruling, exemption certificate, and administrative order accepted July 12-18, 1977.

Doctors Hospital, Houston
AH77-0712-001
EC--- Acquire variable speed film changer and Angiomat 3000 basic injector unit

Doctors Hospital, Houston
AH77-0712-004
EC--- Acquire diagnostic ultrasound scanning system

El Paso Rehabilitation Center, El Paso
AO77-0712-007
DR--- Request authority to operate a clinic for genetic counseling under a declaratory ruling due to pre-act development

Golden Triangle Dialysis Center, Beaumont
AS77-0705-010
EC/DR--- Request authority for temporary use of four dialysis machines until permanent center becomes operational

American Nursing Homes, Inc., Dallas
AN75-0911-025E (071377)
EC--- Request 60-day extension of substantial progress deadline for 6.02 EC to construct a 150-skilled-bed nursing facility in Sugarland

Fairview Manor, Fairfield
AN75-0826-003E (071477)
EC--- Request extension of substantial progress deadline from July 15, 1977, to September 2, 1977, to construct a 52-bed skilled addition to existing facility

Wilson N. Jones Memorial Hospital, Sherman
AH75-0714-001E (070877)
EC--- Request six-month extension of substantial progress deadline in a 6.02 EC to construct a four-story 60-bed addition and renovate/expand auxiliary services

Bexar County MH/MR, San Antonio
AA77-0714-019
DR--- Purchase one modified bus to provide transportation for mentally retarded adults

San Antonio State Hospital, San Antonio
AA77-0714-023
EC--- Construct a softball field

Cross Country Care Centers of American, Inc., Brownwood
AN77-0715-004
EC--- Construct addition to facility for expansion of present laundry area

Land Manor, Inc. (Horizon House), Beaumont
AN77-0715-009
DR--- To operate a cooperative living facility for mentally restored individuals

Lubbock State School, Lubbock
AA77-0715-011
EC--- Construct a 50 foot square addition to the workshop building

San Antonio State Hospital, San Antonio
AA77-0715-013
EC--- Develop a park and picnic area for use by San Antonio State Hospital residents and state school for on-campus outings and group therapy session

Texas Tech University Health Sciences Center, Lubbock
AO77-0610-010
DR--- Request DR to purchase a computerized axial tomography scanner due to pre-act development

Plantation Nursing Home, Brownwood
AN77-0718-001
EC--- Renovation to correct life safety code deficiencies

Visiting Nurse Association of Houston, Inc., Houston
AS77-0718-012
DR--- Reduce size of three current Harris County offices and add three area offices to provide same services as before

Monahans Convalescent Centers, Inc., Monahans
AN77-0718-027
EC--- Replace portion of center damaged by a tornado

Delk Nursing Home, Number 4, Grand Prairie
AN75-0724-006E (072177)
EC--- Request extension of substantial progress deadline in EC AN75-0724-006 by a period of five months, from August 15, 1977, to January 15, 1978 (for construction of 140-bed facility, 70 skilled and 70 ICF III)

Issued in Austin, Texas, on July 14, 1977.

Doc No 773664 William D. Darling
General Counsel
Texas Health Facilities Commission

Filed: July 15, 1977, 4:50 p.m.
For further information, please call (512) 475-6940.
Correction of Error

Several errors were made in the publication of Rules 301.82.01.001-015 of the Texas Department of Health Resources. The rules, which are contained in the subcategory entitled Environmental and Consumer Health Protection Rules on Solid Waste Management, were published in three issues of the Texas Register. The publication dates were April 8, 12, and 29, 1977 (Volume 2, Numbers 28, 29, and 34). The corrections are listed below. Boldface italics indicate words which were deleted or contained typographical errors.

1. The volume and dates at the bottom of Pages 1269-1272 should read: “Volume 2, Number 28, April 8, 1977.”

2. Subsection (d)(3) of Rule .001, on page 1271, should read: “(3) Person means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity (Article 4477-7, Vernon’s Texas Civil Statutes).”

3. On page 1272, the subsection entitled “Department’s policy on land use” should read: “(e) Department’s policy on land use. The following policy was adopted by the Texas Board of Health Resources on December 13, 1975: The staff of the Texas Department of Health Resources is instructed to fully implement the statutory policy of safeguarding the health, welfare, and physical property of the people through the management of solid wastes. The impact of a solid waste facility upon a city, community, group of property owners, or individuals shall be considered in terms of land use, area-wide plans, community goals, and other factors associated with the public interest. Regulations shall be prepared incorporating statements which will guide applicants for solid waste permits toward the selection of sites remote from public concern and encourage innovative management procedures such as recycling, land improvement, and the generation of energy. Further, the attention of the applicants shall be directed to the absolute necessity for the land use compatibility of solid waste facilities with other land uses within the impact area of a proposed site.” The department supports the position that land use matters be managed by local government. In this connection, see subsection .005(b)(4), Property Rights, and paragraph (E)(1), Land Use, of subsection .005(c)(3).”

4. In subsection (f)(2) on page 1273, the statutory citation should read: “(Texas Clean Air Act, Article 4477-5, Vernon’s Texas Civil Statutes).”

5. The telephone number for further information concerning the rules should be (512) 487-7236.

6. The first sentence of subsection (b)(7) of Rule .005, on page 1329, should read: “(B) Applicants for Types II and III and for Types I and IV solid waste disposal sites serving less than 5,000 persons or same population equivalent are encouraged to seek professional engineering assistance in the collection of information and the design of solid waste facilities.”

7. Subsection (b)(7)(C) of Rule .005, on page 1329, should refer to “paragraph (A) above.”

8. Section (c)(1)(A)/(ii) of Rule .005, on page 1330, should read: “(ii) Area size of the site in acres.”

9. Section (c)(1)(F)/(ii) of Rule .005 on page 1333, should read: “(ii) Attachment 2- -topographic map. This map should be a United States Geological Survey 7 1/2 Minute Quadrangle Sheet or equivalent, encompassing the area of the site and showing the location of area streams (particularly those entering and leaving the site), and marked to show site boundaries, roadway access, direction of prevailing wind, and airfields within four miles of the site. If these airfields are off the map, indicate distance and direction.”

10. The last sentence of subsection (c)(3)(F)/(vi) of Rule .005, on page 1334, should read: “The map should show the location and quantities of surface drainage entering, exiting, or internal to the site, the area subject to flooding by a 50-year frequency flood and the area subject to flooding by a 100-year frequency flood.”

11. The first sentence of subsection (c)(3)(F)/(vi) of Rule .005, on page 1334, should read: “This is a site layout on a constructed map showing the outline of the fill sectors with appropriate notations thereon to communicate the types of wastes to be disposed of in individual sectors, the general sequence of filling operations, and any other graphic representation or marginal explanatory note necessary to communicate the proposed step-by-step construction of the site, including excavation, filling, and final cover.”

12. Subsection (c)(3)(F)/(x) was misnumbered as (ix).

13. Subsection (a)(3) of Rule .007, on page 1604, should read: “(3) Subparagraph (e)(8) of Section 4 (State Agencies; Authority and Powers; Permits).”

14. The last sentence of subsection (b)(1)(B) of Rule .007, on Page 1604, was deleted. That sentence should read: “If the work stoppage is anticipated to last long enough to create objectionable odors, fly-breeding, or harborage of vectors, steps shall be taken to remove the accumulated solid waste from the site to an approved back-up processing or disposal facility.”

15. Subsection (a)(3) of Rule .008 on page 1605 was misnumbered as Subsection (a)(2).