

TEXAS REGISTER

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Variable life insurance regulations adopted by the State Board of Insurance; effective date—September 1 2950

Special session legislation signed by the governor 2965



Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

Adoption of new rules by the State Board of Insurance will allow a relatively new line of insurance to be sold in Texas. Variable life insurance, which provides a death benefit on a named insured, differs from other forms of life insurance in that the amount of death benefit depends on the investment performance of funds in certain separate accounts.

The Coordinating Board, Texas College and University System, is proposing the adoption of basic insurance coverage standards to be provided for employees of state colleges and universities. The minimum standards are being implemented as a result of provisions of the Texas State College and University Employees Uniform Benefits Act, passed by the 65th Legislature during the Regular Session, 1977.

Rules affecting the hunting of migratory game birds have been amended by the Texas Parks and Wildlife Department. The rules have been amended on an emergency basis because of recent changes in federal regulations by the U.S. Fish and Wildlife Service.

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

Artwork: Gary Thornton

TEXAS REGISTER



Office of the
Secretary of State

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

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Appointments

Court of Civil Appeals of the 11th Supreme Judicial District of Texas

Effective September 1, 1978, to be associate justice until the next general election and until his successor shall be duly elected and qualified:

Charles Robert Dickenson
3902 Monticello Circle
Abilene, Texas 79605

Mr. Dickenson is replacing Bryan Bradbury of Eastland, Eastland County, who resigned.

Texas State University System

To the Board of Regents for a six-year term to expire January 10, 1981:

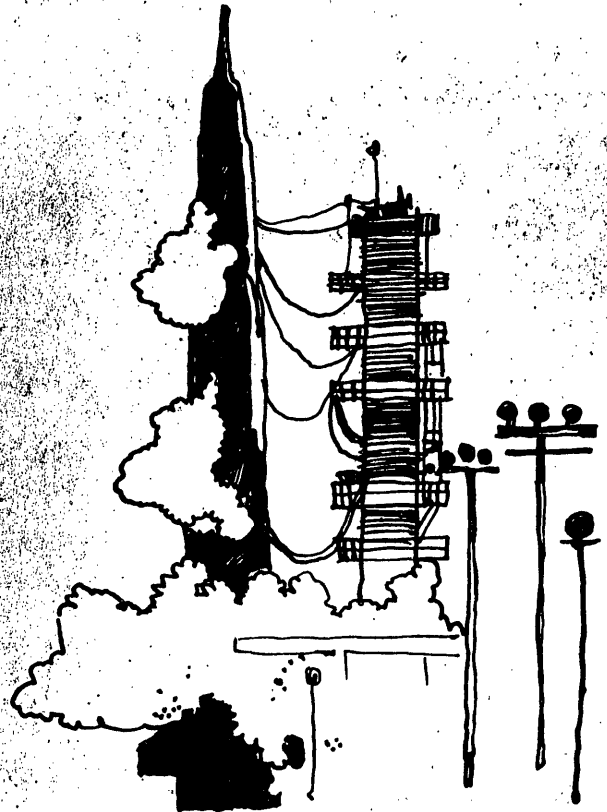
Kathryn Hornby
314 Pecan
Uvalde, Texas 78801

Mrs. Hornby is replacing Harry Hornby, Jr., of Uvalde, Uvalde County, who is deceased.

Issued in Austin, Texas, on August 14, 1978.

Doc. No. 785429 Dolph Briscoe
Governor of Texas

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



Requests for Opinions

Summary of Request for Opinion RQ-1955

Request from Joseph N. Murphy, Jr., executive director, Employees Retirement System of Texas, Austin.

Summary of Request: May a judge who is retiring under the terms of Section 2(d) of Article 6228b, Vernon's Texas Civil Statutes, be eligible for the 10 percent additional retirement benefit authorized by Section 2(a) of that act?

Doc. No. 785374

Summary of Request for Opinion RQ-1956

Request from Oscar H. Mauzy, chairman, Senate Education Committee, Austin.

Summary of Request:

(1) If the employees of the school district are called before the Hearing Committee of the Professional Practices Commission, on behalf of the educator complained against, or on behalf of the educator complaining, is the school district required to deduct paid leave for each employee?

(2) Is a school district allowed to pay attorney fees for an employee who has had a complaint filed against him by another employee involving a violation of the Code of Ethics heard before the Professional Practices Commission?

(3) If the school district has a policy of paying for legal counsel for an administrator while acting in the course of his employment, does this justify payment to the attorney when a complaint is lodged by a teacher-employee of the school district before the Hearing Committee of the Professional Practices Commission?

(4) Since the school district is not a party before the Hearing Committee of the Professional Practices Commission, is the school district allowed to release personnel files of either party, to either attorney for the parties unilaterally, without such request being put before the Professional Practices Commission?

Doc. No. 785375

Opinions

Summary of Opinion H-1226

Request from Joseph N. Murphy, Jr., executive director, Employees Retirement System of Texas, Austin, concerning contributions to judicial retirement by persons who formerly were domestic relations court judges and juvenile court judges.

Summary of Opinion: Section 1.08(b) of the Family District Court Act, Article 1926a, Vernon's Texas Civil Statutes, requires that a family district court judge who elects to transfer his retirement credits from the County and District Retirement System to the Judicial Retirement System should pay to the state treasury six percent of the state's portion of a district judge's salary for the full period of his tenure on the court of domestic relations or the juvenile court.

Doc. No. 785376

Summary of Opinion H-1227

Request from John J. Kavanagh, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, Austin, concerning whether the Texas Department of Mental Health and Mental Retardation may furnish housing facilities, meals, and laundry service to employees who are interns in disciplines that are not medically related.

Summary of Opinion: The Texas Department of Mental Health and Mental Retardation may furnish housing, meals, and laundry service to employees who are interns in non-medically related disciplines.

Doc. No. 785377

Summary of Opinion H-1228

Request from Neal Pfeiffer, criminal district attorney, Bastrop, concerning whether it is a violation of Article 15.71 of the Election Code to offer to hire a vehicle or person to operate a vehicle for the purpose of conveying voters to a polling place.

Summary of Opinion: The legislature has not established an offense of attempt to violate Article 15.71 of the Election Code, concerning transporting voters to polls.

Issued in Austin, Texas, on August 14, 1978.

Doc. No. 785416

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

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

EMERGENCY RULES

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

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

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

Texas Parks and Wildlife Department

Wildlife

Migratory Game Birds Proclamation, 1978-79 127.70.02

The Texas Parks and Wildlife Commission adopts on an emergency basis Rules 127.70.02.008-.012, which constitute the Migratory Game Birds Proclamation, 1978-79.

The commission is responsible for establishing seasons, bag limits, means, and methods for harvesting migratory game birds. Regulations for hunting migratory game birds may be set by the states only within a framework established by the U.S. Fish and Wildlife Service. The federal framework is not issued to states until shortly before the season is established in order to base regulations on the most current biological data. Therefore, the commission finds that an imminent peril to the public welfare and compliance with the federal framework requires implementation of these rules on an emergency basis in order to prevent undue waste of a renewable resource and adopts the Migratory Game Bird Proclamation, 1978-79 (Rules 127.70.02.008-.012) as amended and authorizes the executive director to implement these rules on an emergency basis and to file these adopted rules with the Office of the Secretary of State for publication in the *Texas Register*, as required by Article 6252-13a, Vernon's Annotated Texas Statutes.

These rules are promulgated under the authority of Chapter 64, Subchapter C, Texas Parks and Wildlife Code.

.008. Definitions.

(a) The following are migratory game birds: wild ducks of all species, wild geese, and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and sandhill cranes (Section 64.021(1), Texas Parks and Wildlife Code).

(b) The term "take" includes the terms pursue, hunt, shoot, capture, collect, or kill, or the attempt to pursue, hunt, shoot, capture, collect, or kill.

(c) Open seasons as herein regulated are those periods of time during which migratory game birds may be lawfully taken. When given in dates, all dates are inclusive during the permitted shooting hours.

(d) The daily bag limit, or bag limit, is the maximum number of the indicated species which may be legally killed, taken, or possessed during the permitted shooting hours in one calendar day.

(e) The possession limit is the maximum number of the indicated species permitted to be possessed by one person when lawfully taken in the United States.

(f) The sinkbox is any type of low-floating device having a depression which affords the hunter a means of concealing himself below the surface of water.

(g) Baiting means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed so as to constitute for such birds a lure, attraction, or enticement to, on, or over areas when hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat, or other grain, salt, or other feed.

.009. Means and Methods.

(a) The following means and methods are lawful, subject to control of Section (b) of this rule below, in the taking of migratory game birds:

(1) dogs, artificial decoys, manual or mouth-operated birdcalls, longbow and arrows, shotgun not larger (in barrel diameter) than 10-gauge and incapable of holding more than three shells, which includes one in the firing chamber, fired from the shoulder, and by means of falconry;

(2) positions in the open or from a blind or other place of concealment except a sinkbox and except by use of livestock as a means of concealment, on land, or water;

(3) taking from floating craft (other than a sinkbox) which is beached, at anchor, or tied within or alongside a fixed hunting blind, except that rails (not coots or gallinules) may be taken from craft unaffected at the time of taking by any source of propulsion other than paddle, oars, or pole;

(4) taking on or over unbaited areas; and

(5) taking by the use of power boats, sailboats, or other craft when used solely as a means of picking up dead or injured birds.

(b) The following means and methods are unlawful in the taking of migratory birds:

(1) trap, snare, net, crossbow, rifle, pistol, swivel gun, or machine gun;

(2) shotgun larger in diameter than 10-gauge, or a shotgun not permanently plugged to three-shell or less capacity, including both magazine and chamber;

(3) from, or by means, aid, or use of sinkbox, motor-driven conveyance, motor vehicle, or aircraft of any kind;

(4) from or by means of a sailboat or floating device having a motor attached unless such device is beached, resting at anchor, or fastened within or immediately alongside a fixed hunting blind, or is used solely as a means of picking up dead or injured birds;

(5) by the use of livestock as a means of concealment;
 (6) by the use of recorded or electrically amplified birdcalls or sounds;

(7) by the use of live birds as decoys;

(8) by the means or aid of motor-driven land, water, or air conveyance or sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of waterfowl or coots; and

(9) by baiting, or taking on or over baited areas; however, nothing in this section shall prohibit:

(A) the taking of migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(B) the taking of migratory game birds, except waterfowl, on or over lands where shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed has been distributed or scattered as the result of *bona fide* agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes; provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

(c) Nothing in these rules applies to persons taking birds pursuant to lawful collection or depredation permits when operating within the terms of such permits.

(d) Tagging requirements.

(1) No person shall possess more than one daily bag limit of freshly killed migratory game birds while in the field or while returning from the field to one's hunting camp, automobile, or other motor-driven land conveyance, aircraft, temporary commercial lodging facility, or home.

(2) No person shall give, put, or leave any migratory game birds at any place or in the custody of another person or receive, possess, or give to another any freshly killed migratory game bird as a gift, except at the permanent residence of the donor or donee, unless the birds are tagged by the hunter with the following information:

(A) the hunter's signature;

(B) the hunter's address;

(C) the total number of species of birds involved;

(D) the dates such birds were killed.

(3) Tagging is required if the birds are being transported by another person for the hunter, or if the birds have been left for cleaning, storage (including temporary storage), shipment, or taxidermy services.

.010. Open Seasons.

(a) No person shall take migratory game birds except during the open season as provided herein, or at any time except during the hours as provided herein. All dates are inclusive.

(b) The season is closed on migratory game birds on public roads and highways, or rights-of-way of public roads and highways, and on state and federal wildlife preserves and sanctuaries unless an open season is otherwise provided.

(1) Rails: September 1 through November 9, 1978, from one-half hour before sunrise to sunset.

(2) Mourning doves.

(A) North Zone: Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties, and counties north and west thereof: September 1 through October 21, 1978, and January 6-14, 1979, from one-half hour before sunrise to sunset. In counties having days with concurrent white-wing and mourning dove hunting, the legal shooting time for those days is noon to sunset.

(B) South Zone: All counties south and east of the North Zone counties enumerated above: September 23 through November 5, 1978, and January 6-21, 1979, one-half hour before sunrise to sunset. In counties having an open season on white-winged doves, the fall season for mourning doves ends November 1, 1978. In counties having days with concurrent white-wing and mourning dove hunting, the legal shooting time for those days is noon to sunset.

(3) White-winged doves: Brewster, Cameron, Culberson, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata Counties: September 2-3 and September 9-10, 1978, from noon to sunset.

(4) Gallinules: September 1 through November 9, 1978, from one-half hour before sunrise to sunset.

(5) Teal duck: all species (blue-winged, green-winged, and cinnamon): September 16-24, 1978, from sunrise to sunset.

.011. Bag and Possession Limits.

(a) No person may take or have in possession more than the bag and possession limits of each species of migratory game birds as provided herein.

(b) The bag and possession limits are as follows:

(1) Rails.

(A) Large rails (king and clapper rails) bag and possession limits—15 in the aggregate per day; possession limit—30 in the aggregate.

(B) Small rails (sora and Virginia rails) bag and possession limits—25 in the aggregate per day; possession limit—25 in the aggregate.

(2) Mourning doves: bag limit—10; possession limit—20.

(3) White-winged doves: bag limit—10; possession limit—20.

(4) Gallinules: bag limit—15; possession limit—30.

(5) Teal duck: all species: bag limit—four per day in the aggregate; possession limit—eight in the aggregate.

(c) No person may possess migratory game birds on the opening day of the season in excess of the applicable daily bag limit.

(d) No person may possess freshly killed migratory game birds during the closed season.

(e) No person shall kill or wound a migratory game bird without making a reasonable effort to retrieve it.

(f) Every migratory game bird wounded by hunting and retrieved by the hunter shall be immediately killed and become a part of the bag limit.

(g) Identification requirements.

(1) One fully feathered wing must remain attached to all migratory birds while being transported by any means from Mexico into Texas.

(2) One fully feathered wing must remain attached on dressed migratory game birds while being transported between the place where taken and one's abode or a commercial preservation facility.

(3) Subsection (2) above does not apply to doves except in the South Zone at all times and during the concurrent white-winged and mourning dove seasons in counties so affected, one fully feathered wing must remain attached to all doves while being transported from the place where taken until they have arrived at the personal abode of the possessor, or a commercial preservation facility.

(h) Employees of the Texas Parks and Wildlife Department may remove parts from specimens harvested on management areas for scientific investigation when needed.

.012. Penalties. The penalty provided by law for violation of this proclamation is a fine of not less than \$25, nor more than \$100 (Section 64.026, Texas Parks and Wildlife Code).

Issued in Austin, Texas, on August 16, 1978.

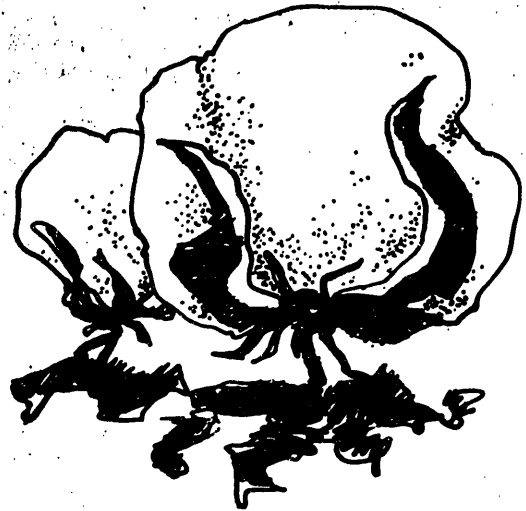
Doc. No. 785432

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Effective Date: September 1, 1978

Expiration Date: December 30, 1978

For further information, please call (512) 475-4875.



PROPOSED RULES

2935

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

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

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

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



Coordinating Board, Texas College and University System

Administrative Council

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

The Administrative Council of the Coordinating Board, Texas College and University System, is proposing to adopt Rule 251.20.02.003, prescribing the basic coverage standards that will be required under the provisions of the Texas State College and University Employees Uniform Benefits Act, Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977.

This rule sets the minimum coverage standards, and in no way is intended to limit institutional programs to these standards. The Administrative Council will urge all institutions, in addition to these basic coverage standards, to provide, on an optional basis, additional life insurance, long-term disability, and superior hospital and medical coverage.

The proposed rule has no fiscal implication to the state or to units of local government other than the implications of Senate Bill 95 itself, which makes about 80,000 college and university employees and retirees eligible for participation in the state-supported insurance programs (source: Administrative Council).

Public comment on proposed Rule 251.20.02.003 is invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the Administrative Council at (512) 475-3250 or by writing to the Administrative Council at P.O. Box 12788, Austin, Texas 78711.

This rule is proposed under the authority of Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977.

.003. Basic Coverage Standards. Each institution shall provide in its program of group insurance a basic plan for active employees and retired employees that includes at least the following minimum coverage standards:

(1) Hospital care expense. The plan shall cover the reasonable charges for the following hospital services:

(A) room allowance of semi-private rate for 365 days per year;

(B) all other care in the nature of usual hospital services necessary and consistent with the condition of the patient.

(2) Other medical expense. The plan shall cover the reasonable charges for the following items of services or supplies furnished by or at the direction or prescription of a physician:

(A) services of physicians (not including a doctor of psychiatry), except that (1) the charges of a doctor of dentistry shall be considered other medical expense only if such service is related to treatment of accidental injury to natural teeth occurring within 24 months of the accident, and (2) the charges of a doctor of podiatry shall be considered other medical expense only if such service is an operative or cutting procedure, the setting of a fracture or dislocation, or a diagnostic x ray or laboratory procedure;

(B) recognized services of a Christian Science practitioner, when in lieu of physician services;

(C) services of a certified registered nurse-anesthetist;

(D) services of a private-duty registered nurse or licensed vocational nurse not related to the patient by blood or marriage;

(E) allergy testing;

(F) diagnostic x ray and laboratory procedures;

(G) drugs and medicines purchased for use outside of a hospital which require a written prescription for purchase;

(H) rental of durable medical equipment required for therapeutic use unless purchase of such equipment is required by the carrier;

(I) professional ground ambulance service used to and from the nearest hospital appropriately equipped and staffed for treatment of the participant's condition when ren-

dered in connection with outpatient care following illness or accidental injury occurring immediately prior to the hospital visit or in connection with bed-patient care;

(J) oxygen and its administration;

(K) blood transfusions, including cost of blood, blood plasma, and blood plasma expanders;

(L) prosthetic appliances required for the alleviation or correction of conditions arising out of accidental injury or illness commencing after the participant's effective date of coverage;

(M) orthopedic braces (except shoes) and crutches;

(N) inoculations against communicable diseases;

(O) prosthetic appliances prescribed by a physician as a result of a mastectomy;

(P) surgical implants prescribed by a physician as a result of a mastectomy performed while the patient was covered by the plan;

(Q) physical therapy when prescribed by a physician and performed by a qualified physical therapist;

(R) complications of pregnancy, namely: toxemia, pernicious vomiting, extra uterine pregnancy, and caesarean section.

(3) Accidental bodily injury. For retirees age 65 and over, accidental bodily injury benefits shall be provided for hospital care expense and/or other medical expense within 90 days after such accidental bodily injury for eligible expenses not otherwise paid under the plan. Maximum benefits per accident shall be at least \$300.

(4) Psychiatric care. For retirees age 65 and over, psychiatric care benefits shall be provided. Hospital care expense for treatment of mental illness may be limited to 90 days per benefit year. Services of a psychologist, recommended by a physician, or services of a doctor of psychiatry may be limited to the first 90 days of hospital confinement in a benefit year or, if the retiree is not hospital-confined, to a maximum of 50 visits per benefit year with a maximum of \$30 per visit.

(5) Life insurance for active employees. Each participating active employee shall be enrolled for basic group term life insurance with accidental death and dismemberment and loss of sight (AD&D) benefits. Amounts of group term life and AD&D shall be at least as follows:

(A) Active employees under age 65:

(i) life insurance—\$5,000

(ii) AD&D—\$5,000

(B) Active employees age 65 and over:

(i) life insurance—\$2,500

(ii) AD&D—\$2,500

(6) Life insurance for retired employees. Retired employees shall be allowed, at their option, to retain \$2,500 of the group term life insurance in effect under their plan at the time of retirement. AD&D does not have to be provided.

(7) Deductible. A yearly deductible may be included in accordance with the following standards:

(A) For active employees and retired employees under age 65, the yearly deductible shall be no more than \$250 before benefits become available.

(B) For retired employees age 65 and over, the yearly deductible shall be no more than \$60 before benefits become available and such deductible shall not apply to hospital care expense.

(8) Benefit percentage. The benefit percentage provided by the plan shall be in accordance with the following standards:

(A) For active employees and retired employees under age 65, the plan shall pay at least 80 percent of the covered charges for hospital care expense or other medical expense, and after the deductible has been satisfied and the hospital care expense and other medical expense for a benefit year has reached no more than \$5,000, then the benefit percentage shall increase to 100 percent for all additional hospital care expense and other medical expense incurred in the remainder of that benefit year.

(B) For retired employees age 65 and over, the plan shall pay 100 percent of the covered charges for hospital care expense and at least 80 percent of the covered charges for other medical expense. After the deductible has been satisfied on the other medical expense and the other medical expense for a benefit year has reached no more than \$2,500, then the benefit percentage shall increase to 100 percent for all additional other medical expense incurred in the remainder of that benefit year.

(9) Lifetime maximum. The plan shall provide that the total amount of benefits available to any one participant for hospital care expense and other medical expense shall be at least \$250,000.

Issued in Austin, Texas, on August 15, 1978.

Doc. No. 785431

James McWhorter
Executive Secretary, Administrative
Council
Coordinating Board, Texas College and
University System

Proposed Date of Adoption: September 22, 1978

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

Railroad Commission of Texas Oil and Gas Division Miscellaneous 051.02.99

The Railroad Commission of Texas is proposing the amendment of Rule 051.02.99.001, Special Order Number 20-68-382, which pertains to the determination of gas market demand and procedures for the allocation of gas well allowables and for the ratable take between gas wells and gas fields in the State of Texas. The adopted rule was published in the *Texas Register* on January 27, 1978 (3 TexReg 324). The proposed amendments include the following revisions:

(1) revision of Section (e)(4);

(2) revision of Section (e)(5) by substitution of a new paragraph;

(3) revision of decretal Section (f), to provide for the inclusion of an exclusion of small capacity wells.

It is the opinion of the division's staff that this proposed amendment has no fiscal implications for the state or for units of local government.

Public comment on the proposed amendment is invited and may be submitted in writing to J. Brooks Peden, senior legal examiner, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

This amendment is proposed under the authority of Title 3, Oil and Gas, Natural Resources Code.

.001. Determination of Gas Market Demand and Procedures for the Allocation of Gas Well Allowables and for Ratable Take Between Gas Wells and Gas Fields in the State of Texas.

(a)-(d) (No change.)

(e) The initial nominator of gas shall ratably apportion its nominations on Form T-3 and shall ratably apportion its actual take from all gas wells connected to its system so that takes from various gas-producing properties shall be made without discrimination in favor of one producer or person as against another in the same field and without unjust or unreasonable discrimination as between fields. The following instructions shall apply to initial nominators in preparing nominations (Form T-3) and in taking gas from various sources of supply, and to commission staff in calculating allowables:

(4) Each new gas well operated under Statewide Rules 28 and 29 (Rules 051.02.02.028 and .029) shall be assigned an allowable not to exceed the deliverability test volume as reported on Form G-10 or 25 percent of the calculated openflow potential, whichever is the smaller volume. *No statewide gas well with a daily natural open flow (deliverability) of 200 mcf per day or more shall be assigned an allowable rate less than 200 mcf per day, except on special commission order, and all gas wells with a daily natural open flow (deliverability) of less than 200 mcf per day shall not be assigned an allowable rate less than its capacity to produce.*

(5) *Actual takes from a limited capacity well in a prorated field shall not be reduced to less than its capacity to produce unless all wells in the same field with capacity to produce exceeding that of the limited capacity well have had their actual takes ratably reduced to the level of such limited capacity well. Section 86.091, Texas Natural Resources Code shall control the minimum takes from gas wells. [No gas well capable of producing in excess of 200 mcf per day shall be assigned an allowable rate less than 200 mcf per day, except on special commission order, and any wells with producing capacity of less than 200 mcf per day shall not be assigned an allowable rate less than its capacity to produce.]*

(f) Prior to January 1, 1979, the commission shall take appropriate action to require that all gas wells in the State of Texas be operated pursuant to special field rules (including an allowable production allocation formula) promulgated by the commission after proper notice and hearing. *Gas fields where all the gas wells therein have a daily natural open flow capacity (deliverability) equal to or less than 200 mcf per day shall be exempt from this requirement.*

(g)-(j) (No change.)

Issued in Austin, Texas, on August 14, 1978.

Doc. No. 785385

Bob R. Harris
Oil and Gas Division
Railroad Commission of Texas

Proposed Date of Adoption: September 22, 1978

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

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

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

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

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

The Texas Department of Health has adopted the proposed amendments to Rules .002, .006, .007, and .011 of the subject standards published in the May 16, 1978, issue of the *Texas Register* (3 TexReg 1730), and covering (1) establishment of requirements for orientation, training, and in-service education of all nursing home employees who have any contact with the residents, and (2) establishment of requirements for a medical examination of each nursing home resident per year. Several changes have been made as a result of written public comments received by the department and comments made at public hearings, as follows:

(1) Several comments indicated that the requirements set forth in Rule .006 are not consistent with the training and education needs of facilities for the mentally retarded which are licensed under Article 4442c, Vernon's Texas Civil Statutes. The department agrees with these comments and has clarified the rules accordingly.

(2) Many comments indicated that the teaching material as set forth in Rule .006 by reference does not represent curricula but is a teaching subject matter or outline. The department agrees with the comments in this regard and has changed the title of the teaching material.

(3) Many comments indicated that the requirements in Rule .006 do not allow for degreed persons in any field to act as training coordinators. The department accepts these comments and has allowed for degreed persons to act as training coordinators.

(4) Many comments indicated that the teaching outline lacks sufficient material on the psychological and social needs of the nursing home client population and staff. The department accepts this comment and has included appropriate teaching material in the teaching outline and has added wording in Rule .006 in this regard.

(5) There were comments to the effect that the teaching material and requirements of Rule .006 do not sufficiently

differentiate between custodial and nursing levels. The department determines that the teaching material is generally appropriate for custodial care facilities since many custodial care facilities provide some nursing care, and any deviation would be considered on an individual basis.

(6) Many comments stated that in reference to Rule .006, professional registry employees and agency employees should be excluded from the required training. The department accepts these comments and the rules have been changed accordingly.

(7) Several comments on Rule .006 and the training material indicated that handymen, lawn care staff, and laundry staff should be excluded from the training. The department does not fully accept these comments. The rules have been modified to reflect partial agreement with these comments.

(8) Many comments on Rule .006 stated that the length of time allowed to train individual employees is insufficient in view of job demands. The department accepts these comments and has made appropriate changes.

(9) Comments on Rule .006 indicated that community colleges, junior colleges, and other educational institutions should be allowed to develop and present the training for nursing home employees. The department notes that these institutions have not heretofore been excluded nor have they been specified as exclusive agents to deliver the training, and the proposed rules satisfy this requirement.

(10) Comments on Rule .006 indicated that facilities should be required to share employee training records, and conversely, that training records should be shared only on request of an employee. The department believes it is important that records be shared but that sharing must be done only with approval or request of the employee, and rule wording has been provided in this regard.

(11) With reference to Rule .006, a few comments indicated that the department should validate the training material and develop tests of skill and knowledge. The department accepts these comments and is negotiating a contract with an educational institution with appropriate resources to effect this suggestion.

(12) Comments on Rule .006 indicated that the department should be required to offer assistance to the nursing homes on request. The department agrees to provide this assistance within the capability of its resources, as stated in the proposed rules.

(13) Several comments on Rule .006 indicated that where training is provided by an educational institution, certain detailed records may be kept by the training institution rather than by the facility. The department accepts several comments in this regard and has changed the wording accordingly.

(14) Several comments on Rule .006 indicated that the licensing agency be bound by certain time frames in approving a teaching outline which is different from that of the licensing agency. The department is not in position to specify approval times and therefore has not included such wording in the final rules.

(15) Comments on Rule .006 and the training material stated that social service personnel should be included in the training. The department accepts this comment and has included those persons in the training requirements.

(16) Comment on Rule .006 indicated that job interruption should allow a suspension of minimum training time.

The department accepts this comment and has provided wording accordingly.

(17) Comment on Rule .006 indicated that emphasis should be made that facility employees serving in teaching and as the training coordinator must do so without a lessening of their normal duties. The department accepts this comment and has added wording accordingly.

(18) Regarding Rule .007 on annual medical examinations, several comments recommended no changes, and several comments indicated that the initial hospital history and physical examination report should serve as the initial examination, and that such report should not require an original signature. The initial medical examination is part of all medical examinations required of residents. The department accepts in part the several comments on this subject and has added wording to allow an appropriate hospital discharge summary or hospital history and physical examination report to serve as a required initial medical examination. However, the department believes that such report must be acknowledged in writing by the treating or attending physician and has therefore provided wording accordingly.

(19) Many comments were received expressing concern that no funds are provided or available to specifically defray the expenses facilities must bear in order to establish and maintain an orientation, training, and continuing in-service education program in accordance with the requirements of Rule .006. Similarly many comments were received expressing concern that no funds are provided or available to specifically defray the expenses of the medical examination. In both instances, the department believes the intent of the statute on which these rules are based requires the department to implement these rules without delay, even though no such funds are provided or available.

Several other changes of a minor nature also have been made in the proposed rules for purposes of clarification and coordination. There will be two effective dates for these amendments: (1) Rules .002, .006, and .011 will become effective October 2, 1978, and (2) Rule .007 will become effective September 8, 1978.

These rules are being adopted pursuant to Vernon's Texas Civil Statutes, Article 4442c.

.002. Definitions for the Purpose of these Standards.

(a)-(d) (No change.)

(e) Nursing personnel means all persons responsible for giving direct personal and nursing services to patients. Such personnel includes registered nurses, licensed vocational nurses, therapists, nurses aides, attendants, and orderlies.

(f) Nonnursing personnel means all persons who are not responsible for direct personal services to patients. The following categories would include such personnel: administrative, dietary, medical records, activity, housekeeping and laundry, and maintenance.

(g)-(r) (No change.)

.006. Personnel.

(a)-(c) (No change.)

(d) Staffing.

(1) (No change.)

(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 fulltime 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)-(B) (No change.)

(C) The director of Nursing Services assures that orientation, training, and continuing in-service education for all nursing personnel are provided consonant with the requirements of staff development in Section (e) of this rule.

(D)-(E) (No change.)

(3)-(8) (No change.)

(e) Staff development.

(1) Each facility shall implement and maintain programs of orientation, training, and continuing in-service education of all employees who have any contact with the residents. The programs shall meet the requirements described below. However, these specified programs of orientation, training, and continuing in-service education do not apply to licensed facilities or sections thereof participating in the ICF V and VI categories under Title XIX of the Social Security Act.

(2) General description of orientation, training, and continuing in-service education programs. The following orientation, training, and continuing in-service education programs shall be provided by the facility for its employees as further defined:

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the same as required for new employees, or shall receive part or all orientation or training as necessary to have such required competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from skills check lists supplied in sample form by the licensing agency. Skills check lists will be used to accomplish the following:

(i) to serve as an inventory for determining if more training is needed for present employees, and if so, in what areas;

(ii) to determine the level of training success for each employee;

(iii) to point out employees who fail to adequately complete training and who must receive all or part of the orientation or training again as necessary to gain required competency and knowledge.

The orientation section of the skills check list will be the same for all employees. Each job-specific area will be covered by an appropriate skills check list. The check list will be administered by the facility training coordinator or by the appropriate and competent person named to carry out or assist in carrying out the training program. The administrator of the check list must be closely familiar with the actual training each individual taking the skills check list has undergone.

(B) New employees shall receive orientation and job-specific training of content and scope as specified herein and as approved by the licensing agency. This training must be verified by administration of the skills check list upon completion of training.

(C) Both new and present employees must receive continuing in-service education of content and scope as specified herein and as approved by the licensing agency.

(3) Employees involved.

(A) Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II through IX of the basic training outline of the licensing agency for these training programs, but will be included in training required for all employees found in Section I, Orientation. Examples of employee categories requiring orientation and training specific to their respective job are: administrative (other than administrator); nursing; dietary; therapy; house-keeping and laundry; maintenance; activity; medical records; social service.

(B) Contract employees and registry personnel are excluded from this training. (Note: If yardmen and handy-men are contract employees, they are excluded from the training.)

(C) Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administrators-in-training under the auspices of that board are not included. Consultants and subcontract personnel who are not employees of the facility are not included. Agency pools and/or temporary help placement agencies will be responsible for meeting the appropriate job-specific training requirements for the personnel they offer for placement. Orientation programs for such individuals may be conducted at the discretion of each individual facility.

(4) Facility training coordinator. The administrator of the nursing home or custodial care home shall designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing in-service education. Final determination of the status of all employees, new and present, with respect to training programs, training needs, and competencies will be that of the training coordinator. The training coordinator shall engage the services of appropriate and competent persons to carry out or assist in carrying out the programs. A training coordinator may serve more than one facility as long as the training program requirements are met. As the training coordinator will be responsible for the training of all employee categories, that person shall be a professionally or vocationally licensed person in health care or shall hold a degree from an accredited college or university. Ideally, the training coordinator will have had training or experience in adult education and in the general areas of health care.

(5) Methods acceptable.

(A) It is the intent of the licensing agency to accept various methods by which a facility may accomplish its training and in-service education programs as long as the employees receive the training and education necessary to achieve the competencies and proficiencies outlined in the skills check list within the required total time frames. Programs may be conducted in the facility, in a school or college, or elsewhere. Instructors may be consultants, qualified facility employees including the training coordinator, persons from outside the facility, or representatives of schools or other organizations, as engaged or approved by the training coordinator. Facility employees with other duties may be used in training programs, as long as their other required duties are not adversely affected; however, to assure that the nursing and health care of residents is not lessened, the facility director of nurses is not to serve as the training coor-

dinator. Any generally recognized training technique may be used, including, when appropriate, demonstration and learning-by-doing while actually on the job. In teaching technical and nursing care of the elderly and other residents of the facilities, consideration shall be given in all such subjects to the psychological and social needs of the residents.

(B) If the facility chooses to purchase training from a college or school or other institution to meet these requirements, the course must be approved. For a college, school, or other institution to acquire approval, it must submit a letter of intent or training outline it will use to the licensing agency for approval. If the college, school, or other institution uses the material suggested by the licensing agency, it may submit a letter of intent to the licensing agency. In either case, it is the facility's responsibility to determine that the college, school, or other institution has a current approval from the licensing agency. The licensing agency will maintain a current list of approved training institutions. Health care facilities shall have open access to that list.

(6) Examinations. The training coordinator is to assure himself or herself that the employee being trained is in fact receiving the knowledge and attaining the skills in accordance with the intent of the program. The licensing agency will provide samples of the required standardized skills check lists. The training coordinator may develop examinations or other tests of skills or knowledge; but such tests may not be used in lieu of the required standardized skills check list.

(7) Records. Each facility shall keep appropriate records on each employee who must be involved in training and education programs. The records shall show the status and progress of each employee with reference to his or her required training and shall denote completion and show the date of completion of the appropriate training. Copies of all records and skills check lists will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and skills check lists need only be maintained by the training institution. Skills check lists and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educational institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his or her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request, the facility shall provide that employee with a copy of his or her skills check list and/or other documentation showing his or her status with respect to required training; such records shall be shared with another facility on request of the employee. All records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the training coordinator by the administrator or the governing body and a resume or curriculum vitae of the coordinator.

(8) Programs teaching outline.

(A) New employee training.

(i) New employee orientation and job-specific training shall meet the requirements specified in "Basic Teaching Outline for Employee Orientation and Training in

Nursing Homes and Custodial Care Homes, Texas Department of Health." The training for an employee shall include information not less than that specified for the category or subcategory applicable to the employee in the basic teaching outlines included as a part of these rules and regulations.

(ii) Each facility shall submit a letter of intent which shall include an outline of the subject matter (if different from the one suggested by the licensing agency), the date of implementation of the training, the name and curriculum vitae of the designated training coordinator. The substituted teaching outline is subject to approval by the licensing agency. A copy of the licensing agency's basic teaching outline and suggested plan for implementing the training program will be furnished to each facility; additional copies may be reproduced by the facility. The minimum intensity of training for each category is shown in the licensing agency's basic teaching outline, and it is expected that each individual subject in each category will receive its appropriate share of intensity. Appropriate learning-by-doing, when supervised by the training coordinator or the person teaching the subject involved, may count toward job-specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing in-service education. Continuing in-service education subjects shall meet the minimum or basic requirements of the licensing agency or be as otherwise approved by the licensing agency.

(9) Schedule of training and continuing in-service education.

(A) New employee training. Full orientation shall be provided within the first seven calendar days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed with the following 90 calendar days.

(B) Continuing in-service education.

(i) Each new and present employee shall secure or receive the numbers of hours of continuing in-service education per year as appropriate to his or her specific job, but not less than the following: nurse aides—three hours per quarter; food service supervisors, cooks and helpers, dietary aides—two hours per quarter; dishwashers—one hour per quarter; housekeepers, janitors, laundry workers—one hour per quarter; activity staff—one hour per quarter; medical records staff—one hour per quarter; social services staff—one hour per quarter.

(ii) The facility shall keep records of the total number of hours of in-service education for all employees in the home as well as records of attendance of each individual employee.

(C) Present employees. Present employees shall be assured of meeting the requirements for new employees within 90 days after the facility has implemented its training and education programs in accordance with these rules. Documentation that present employees meet requirements for new employees shall be on the same skills check list and other report forms used for new employees.

(10) Employees already trained or partly trained when employed.

(A) Any new employee who has already met all the training requirements or has had similar training need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence

in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator.

(B) Job interruption for any reason, including leave of absence, will cause a suspension of the minimum training time. The training time restarts immediately upon the renewal of active employment.

(11) Employees changing positions within the facility. An employee changing position within a facility will be considered as a new employee with respect to the new position, and will be subject to being provided with any additional training that would be required for the category or subcategory of the new position within the total minimum training time for that job category or subcategory.

(12) Monitoring and assistance by the licensing agency. Each facility shall maintain not less than a 30-day advance schedule of training classes. This shall not apply for classes being taught by a college, school, or other institution where the advance scheduling becomes the responsibility of that institution. The licensing agency may monitor any training or education session. The licensing agency will offer assistance in organizing and maintaining training programs, or in orienting training coordinators, to the extent licensing agency staff and funds permit.

(13) Implementation date. Each facility shall have in operation these programs of training and education within 180 days of effective date of rules establishing these programs' requirements.

.007. Admission Policy.

(a) Each nursing care home shall require as a condition of admission that all patients have a physical examination by a physician licensed to practice medicine in Texas within 14 days prior to admission and that the home be furnished a written report of such examination, which report shall include diagnosis, orders, and any other information that may be needed for the care of the patients; however, if the referring physician is not the physician chosen to be the treating physician, it will be necessary for the patient to be seen by the treating or attending physician within 48 hours after admission, and a written report by the physician of such evaluation shall be attached to the patient's record. A hospital discharge summary or a hospital history and physical examination record which contains all the required information may be utilized provided the treating or attending physician acknowledges in writing this (these) document(s).

(b) Each patient shall be examined at least annually by his or her family physician or physician designee, and a report shall be placed in the chart indicating the physician has done so and giving the physician's diagnosis. It is recommended by the licensing agency that every patient should be seen by the patient's attending physician at least quarterly or more often as necessary, and a written report of this visit should be attached to the patient's record in the home.

(c) (No change.)

.011. Dietary.

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

(c) Food service employees shall be trained to perform assigned duties and participate in selected in-service education programs consonant with the requirements of staff development in Rule .006.

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

Doc. No. 785367

Minimum Licensing Standards for Custodial Care Homes 301.54.03

The Texas Department of Health has adopted the proposed amendments to Rules .002, .006, .007, and .011 of the subject standards published in the *Texas Register* on May 16, 1978 (3 Tex Reg 1733), and covering (1) establishment of requirements for orientation, training, and in-service education of all custodial care home employees who have any contact with the residents, and (2) establishment of requirements for a medical examination of each custodial care home resident per year.

Several changes have been made as a result of written public comments received by the department and comments made at public hearings. The changes made in these amendments and the comments pertaining thereto are the same as those listed for the amendments to the Minimum Licensing Standards for Nursing Homes, 301.54.02, which precede.

Several other changes of a minor nature also have been made in the proposed rules for purposes of clarification and coordination.

There will be two effective dates for these amendments: (1) Rules .002, .006, and .011 will become effective October 2, 1978, and (2) Rule .007 will become effective September 8, 1978.

These amendments are being adopted pursuant to Vernon's Texas Civil Statutes, Article 4442c.

.002. Definitions for the Purpose of these Standards.

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

(c) Attendant personnel are all persons who are responsible for direct personal services to residents. Nonattendant personnel means all persons who are not responsible for direct personal services to residents. The following categories would include such personnel: administrative, dietary, medical records, activity, housekeeping and laundry, and maintenance.

(d)-(n) (No change.)

.006. Personnel.

(a)-(d) (No change.)

(e) Staff development.

(1) Each facility shall implement and maintain programs of orientation, training, and continuing in-service education of all employees who have any contact with the residents. The program shall meet the requirements described below. However, these specified programs of orientation, training, and continuing in-service education do not apply to licensed facilities or sections thereof participating in ICF V and VI categories under Title XIX of the Social Security Act.

(2) General description of orientation, training, and continuing in-service education programs. The following orientation, training, and continuing in-service education programs shall be provided by the facility for its employees as further defined:

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the same as required for new employees, or shall receive part or all orientation or training as necessary to have such required

competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from skills check lists supplied in sample form by the licensing agency. Skills check lists will be used to accomplish the following:

(i) to serve as an inventory for determining if more training is needed for present employees and, if so, in what areas.

(ii) to determine the level of training success for each employee;

(iii) to point out employees who fail to adequately complete training and who must receive all or part of the orientation or training again as necessary to gain required competency and knowledge.

The orientation section of the skills check list will be the same for all employees. Each job-specific area will be covered by an appropriate skills check list. The check list will be administered by the facility training coordinator or by the appropriate and competent person named to carry out or assist in carrying out the training program. The administrator of the check list must be closely familiar with the actual training each individual taking the skills check list has undergone.

(B) New employees shall receive orientation and job-specific training of content and scope as specified herein and as approved by the licensing agency. This training must be verified by administration of the skills check list upon completion of training.

(C) Both new and present employees must receive continuing in-service education of content and scope as specified herein and as approved by the licensing agency.

(3) Employees involved. Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II through IX of the basic training outline of the licensing agency for these training programs, but will be included in training required for all employees found in Section I, Orientation. Examples of employee categories requiring orientation and training specific to their respective job are: administrative (other than administrator), nursing, dietary, therapy, housekeeping and laundry, maintenance, activity, medical records, social service. Contract employees and registry personnel are excluded from this training. (Note: if yardmen and handymen are contract employees, they are excluded from the training.)

Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administrators-in-training under the auspices of that board are not included. Consultants and subcontract personnel who are not employees of the facility are not included. Agency pools and/or temporary help placement agencies will be responsible for meeting the appropriate job-specific training requirements for the personnel they offer for placement. Orientation programs for such individuals may be conducted at the discretion of each individual facility.

(4) Facility training coordinator. The administrator of the nursing home or custodial care home shall designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing in-service education. Final determination of the status of all employees, new and pre-

sent, with respect to training programs, training needs, and competencies will be that of the training coordinator. The training coordinator shall engage the services of appropriate and competent persons to carry out or assist in carrying out the programs. A training coordinator may serve more than one facility as long as the training program requirements are met. As the training coordinator will be responsible for the training of all employee categories, that person shall be a professionally or vocationally licensed person in health care or shall hold a degree from an accredited college or university. Ideally, the training coordinator will have had training or experience in adult education and in the general areas of health care.

(5) Methods acceptable.

(A) It is the intent of the licensing agency to accept various methods by which a facility may accomplish its training and in-service education programs as long as the employees receive the training and education necessary to achieve the competencies and proficiencies outlined in the skills check list within the required total time frames. Programs may be conducted in the facility, in a school or college, or elsewhere. Instructors may be consultants, qualified facility employees including the training coordinator, persons from outside the facility or representatives of schools or other organizations, as engaged or approved by the training coordinator. Facility employees with other duties may be used in training programs, as long as their other required duties are not adversely affected; however, to assure that the nursing and health care of residents is not lessened, the facility director of nurses is not to serve as the training coordinator. Any generally recognized training technique may be used, including, when appropriate, demonstration and learning-by-doing while actually on the job. In teaching technical and nursing care of the elderly and other residents of the facilities, consideration shall be given in all such subjects to the psychological and social needs of the residents.

(B) If the facility chooses to purchase training from a college or school or other institution to meet these requirements, the course must be approved. For a college, school, or other institution to acquire approval, it must submit a letter of intent or training outline it will use to the licensing agency for approval. If the college, school, or other institution uses the material suggested by the licensing agency, it may submit a letter of intent to the licensing agency. In either case, it is the facility's responsibility to determine that the college, school, or other institution has a current approval from the licensing agency. The licensing agency will maintain a current list of approved training institutions. Health care facilities shall have open access to that list.

(6) Examinations. The training coordinator is to assure himself or herself that the employee being trained is in fact receiving the knowledge and attaining the skills in accordance with the intent of the program. The licensing agency will provide samples of the required standardized skills check lists. The training coordinator may develop examinations or other tests of skills or knowledge; but such tests may not be used in lieu of the required standardized skills check list.

(7) Records. Each facility shall keep appropriate records on each employee who must be involved in training and education programs. The records shall show the status and progress of each employee with reference to his or her required training and shall denote completion and show the date of completion of the appropriate training. Copies of all

records and skills check lists will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and skills check lists need only be maintained by the training institution. Skills check lists and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educational institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his or her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request the facility shall provide that employee with a copy of his or her skills check list and/or other documentation showing his or her status with respect to required training; such records shall be shared with another facility on request of the employee. All records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the training coordinator by the administrator or the governing body and a resume or curriculum vitae of the coordinator.

(8) Programs teaching outline.

(A) New employee training.

(i) New employee orientation and job-specific training shall meet the requirements specified in "Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes, Texas Department of Health." The training for an employee shall include information not less than that specified for the category or subcategory applicable to the employee in the basic teaching outlines included as a part of these rules and regulations.

(ii) Each facility shall submit a letter of intent which shall include an outline of the subject matter (if different from the one suggested by the licensing agency), the date of implementation of the training, the name and curriculum vitae of the designated training coordinator. The substituted teaching outline is subject to approval by the licensing agency. A copy of the licensing agency's basic teaching outline and suggested plan for implementing the training program will be furnished to each facility; additional copies may be reproduced by the facility. The minimum intensity of training for each category is shown in the licensing agency's basic teaching outline, and it is expected that each individual subject in each category will receive its appropriate share of intensity. Appropriate learning-by-doing, when supervised by the training coordinator or the person teaching the subject involved, may count toward job-specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing in-service education. Continuing in-service education subjects shall meet the minimum or basic requirements of the licensing agency or be as otherwise approved by the licensing agency.

(9) Schedule of training and continuing in-service education.

(A) New employee training. Full orientation shall be provided within the first seven calendar days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed within the following 90 calendar days.

(B) Continuing in-service education.

(i) Each new and present employee shall secure or receive the numbers of hours of continuing in-service education per year as appropriate to his or her specific job, but not less than the following: nurse aides—three hours per quarter; food service supervisors, cooks and helpers, dietary aides—two hours per quarter; dishwashers—one hour per quarter; housekeepers, janitors, laundry workers—one hour per quarter; activity staff—one hour per quarter; medical records staff—one hour per quarter; social services staff—one hour per quarter.

(ii) The facility shall keep records of the total number of hours of in-service education for all employees in the home as well as records of attendance of each individual employee.

(C) Present employees. Present employees shall be assured of meeting the requirements for new employees within 90 days after the facility has implemented its training and education programs in accordance with these rules. Documentation that present employees meet requirements for new employees shall be on the same skills check list and other report forms used for new employees.

(10) Employees already trained or partly trained when employed.

(A) Any new employee who has already met all the training requirements or has had similar training need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator.

(B) Job interruption for any reason, including leave of absence, will cause a suspension of the minimum training time. The training time restarts immediately upon the renewal of active employment.

(11) Employees changing positions within the facility. An employee changing position within a facility will be considered as a new employee with respect to the new position, and will be subject to being provided with any additional training that would be required for the category or subcategory of the new position within the total minimum training time for that job category or subcategory.

(12) Monitoring and assistance by the licensing agency. Each facility shall maintain not less than a 30-day advance schedule of training classes. This shall not apply for classes being taught by a college, school, or other institution, where the advance scheduling becomes the responsibility of that institution. The licensing agency may monitor any training or education session. The licensing agency will offer assistance in organizing and maintaining training programs, or in orienting training coordinators, to the extent licensing agency staff and funds permit.

(13) Implementation date. Each facility shall have in operation these programs of training and education within 180 days of effective date of rules establishing these programs' requirements.

.007. Admission Policy.

(a) Each custodial care home shall require as a condition of admission that all residents have a physical examination by a physician licensed to practice medicine in Texas immediately prior to admission and that the home be furnished

a written report of such examination, which report shall include diagnosis, orders, and any other information that may be needed for the care of the residents; provided, however, that residents admitted outside the county in which the custodial care home is located shall have 48 hours from the time of admission in which to obtain such a report from a local physician who is licensed to practice medicine in Texas. A hospital discharge summary or a hospital history and physical examination record which contains all the required information may be utilized provided the treating or attending physician acknowledges in writing this (these) document(s).

(b) Each resident shall be examined at least annually by his or her family physician or physician designee, and a report shall be placed in the chart indicating the physician has done so and giving the physician's diagnosis. It is recommended by the licensing agency that every resident should have a physical examination by the resident's attending physician more often as necessary, and a written report of this examination shall be attached to the resident's record in the home.

(c) (No change.)

.011. Dietary.

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

(c) Food service employees shall be trained to perform assigned duties and participate in selected in-service education programs, consonant with the requirements of staff development in Rule .006.

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

Issued in Austin, Texas, on August 10, 1978.

Doc. No. 785368 Raymond T. Moore, M.D.
Deputy Commissioner
Texas Department of Health

Effective Date: October 2, 1978 (Rules .002, .006, .011)

September 8, 1978 (Rule .007)

For further information, please call (512) 458-7706.

Procedures on Long-Term Care Facilities 301.54.05

The Texas Department of Health has adopted the proposed addition of Rule .009 to the subject procedures covering inspection of public records. No public comments were received by the department, either directly or at public hearing, and no changes have been made to the proposed rule. The effective date of the rule will be September 8, 1978.

This rule is adopted pursuant to Vernon's Texas Civil Statutes, Article 4442c.

.009. Procedures for Inspection of Public Records.

(a) Procedures for inspection of public records will be in accordance with the Texas Open Records Act, Article 6252-17a, Vernon's Annotated Civil Statutes, and as further described herein.

(b) The department's Bureau of Long-Term Care will be responsible for the maintenance and release of records on licensing, certification, quality of patient/resident care in long-term care facilities, and other related records.

(c) All applications to inspect or copy the subject records should be made to the Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas. Requestors should, if possible, give the bureau reasonable prior notice of the time that the requestor would like to inspect or copy the records.

(d) Requestors shall give proper identification and shall specify the records to be inspected or copied.

(e) Original records may be inspected or copied, but in no instance will original records be removed from department offices.

(f) All information deemed confidential by law, either constitutional, statutory, judicial, or regulatory, shall not be disclosed to the public.

(1) Information pertaining to reports of and investigation papers of abuse and neglect under Section 16, Article 4442c, Vernon's Texas Civil Statutes, is confidential except for information on the central registry provided in Section 16 and except as is otherwise provided in Rule .008 of these rules.

(2) The following information is confidential and will be de-identified on record copies that are made for public view or copying:

(A) sources of complaints;

(B) names and related personal information regarding patients and residents in long-term care facilities;

(C) names of applicable health care practitioners.

(3) An original record will not be altered or de-identified to meet the provisions of subsection (2) above. Only a properly de-identified copy will be made available for public view or release to a requestor.

(4) Itineraries of survey personnel are confidential because of the requirements of unannounced inspections.

(g) Charging for copies of records.

(1) If the requestor simply wants to inspect records, the requestor will specify the records to be inspected and the bureau will make no charge for this service; except where the bureau chief determines that a charge is appropriate based on the nature of the request.

(2) If the requestor wants to request copies of a record, the requestor will specify in writing the records to be copied on an appropriate bureau form, and the bureau will complete the form by specifying the cost of the records which the requestor shall pay in advance. Checks and other instruments of payment will be made payable to the Texas Department of Health.

(3) Any expenses for standard-size copies incurred in the reproduction, preparation, or retrieval of records shall be borne by the requestor on a cost basis in accord with costs established by the State Board of Control for office machine copies. The charges are as follows: maximum charge for the first copy of a letter- or legal-size page is 55 cents. Subsequent copies of the same document or of succeeding pages is 15 cents per page. If the actual cost of reproducing such documents is less than the maximum charge established by the Board of Control, the bureau may charge the lesser amount. When the documents are mailed, the department may charge for the postage at the same time it charges for the reproduction. All applicable sales taxes will be added to the cost of copying records. When a request involves more than one long-term care facility, each facility will be considered as a separate request.

(h) The bureau will make a reasonable effort to furnish records promptly and will extend to the requestor all reasona-

ble comfort and facility for the full exercise of the rights granted by the Open Records Act.

Issued in Austin, Texas, on August 10, 1978.

Doc. No. 785369

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

Effective Date: September 8, 1978

For further information, please call (512) 458-7706.

Employee Orientation and Training in Nursing Homes and Custodial Care Homes 301.54.09

The Texas Department of Health has adopted proposed Rule .001, adopting by reference the department's pamphlet entitled *Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes*, as proposed in the *Texas Register* on May 16, 1978 (3 TexReg 1736). The title of the pamphlet has been changed from *Basic Curricula for Employee Orientation and Training in Nursing Homes and Custodial Care Homes*.

The major provisions of the teaching outline are:

(1) Orientation of facility's personnel regarding: facility's purpose and organization; personnel policies and procedures; types of residents; patient/resident rights; laws and rules governing facility; death and dying; reporting incidents and accidents; safety; communication between facility personnel and residents; resources available to a facility.

(2) Specific training for various categories of facility employees in the performance of their duties: nurse aides and other direct care personnel; dietary personnel; janitors; housekeepers; laundry personnel; maintenance personnel; medical records personnel; and activity and social services personnel.

Several changes have been made to the training outline as a result of written comments received by the department and comments made at public hearings, as follows:

(1) Many comments indicated that the teaching material as set forth by reference in this rule and in Rules 301.54.02.006 and 301.54.03.006 does not represent curricula but is a teaching subject matter or outline. The department agrees with the comments in this regard and has changed the title of the teaching material as noted above.

(2) Several comments indicated that the arrangement of the teaching material should be changed from three sections to two sections for simplicity and avoidance of duplication. The department accepts the comments in this regard and has rearranged the subject outline accordingly.

(3) Many comments stated that the teaching material places emphasis on time to teach given subjects rather than objectives. The department accepts these comments and has made appropriate changes.

(4) Many comments indicated that the teaching outline lacks sufficient material on the psychological and social needs of the nursing home client population and staff. The department accepts this comment and has included appropriate teaching material in the teaching outline.

(5) There were comments to the effect that the teaching material does not sufficiently differentiate between custodial

and nursing levels. The department determines that the teaching material is generally appropriate for custodial care facilities since many custodial care facilities provide some nursing care; and any deviation would be considered on an individual basis.

(6) Several comments indicated that handymen, lawn care staff, and laundry staff should be excluded from the training. The department does not fully accept this comment. The rules have been modified to reflect partial agreement with these comments.

(7) A comment received indicated that the teaching matter does not include reference to working with visually impaired. The department accepts the comment in this regard and has included pertinent material accordingly.

(8) Comments received indicated that the total hours representing the intensity of categories of training should be modified. The department has considered the recommendations in this regard and has adjusted the hours to conform to some of the suggestions.

(9) Comments stated that social service personnel should be included in the training. The department accepts this comment and has included those persons in the training requirements.

Several other changes of a minor nature have been made in the proposed rules for purposes of clarification and coordination. The rule will become effective October 2, 1978.

This rule is being adopted pursuant to Vernon's Texas Civil Statutes, Article 4442c.

.001. *Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes.* The Texas Department of Health adopts by reference the department's pamphlet entitled *Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes*. Copies of this pamphlet are available on request and also may be inspected in the office of the department's Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on August 10, 1978.

Doc. No. 785370 Raymond T. Moore, M.D.
Deputy Commissioner
Texas Department of Health

Effective Date: October 2, 1978

For further information, please call (512) 458-7706.



Texas Department of Human Resources

AFDC

Deprivation of Parental Support

326.10.28.008

The Department of Human Resources adopts the following amendments to its rules concerning the child support requirements for the Aid to Families with Dependent Children (AFDC) Program. These amendments were published in the June 9, 1978, issue of the *Texas Register* (3 TexReg 1978). Currently, as a condition of eligibility, AFDC applicants/recipients must comply with all child support requirements. The following amendments are adopted as a result of a change in federal regulations which now require the department to provide all AFDC applicants/recipients with the right to claim good cause for refusing to cooperate with the requirements of the Child Support Program. This policy is not meant to be a blanket waiver of the child support requirements but is a means of protecting those families that run the risk of being physically or emotionally harmed because of the requirements of the Child Support Program. The following rules specify the procedures to be used by the department in determining whether or not good cause exists.

Several comments were received concerning these amendments. Some comments expressed concern that the language used in the proposed policies was more restrictive than the language used in the federal regulations. The department revised Rule 326.10.28.037(b), (c), and (e) to reflect more closely the terminology used in the federal regulations. Another comment suggested that an AFDC worker should make the final determination as to the existence of non-cooperation. The policy was changed in Rule 326.10.28.008 to incorporate this suggestion which had already been considered by the department. Other comments were received suggesting clarifications in policy that also were incorporated. Therefore, these rules are adopted with changes to the proposed text.

These amendments have been approved by the Texas Board of Human Resources and are adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.008. Cooperation of the Client.

(a) As a condition of eligibility, AFDC applicants/recipients must comply with all child support requirements. By completing the parent profile questionnaire, the client has demonstrated a sincere effort to cooperate in the identification and location of the absent parent and in obtaining support for the children.

(b) A grant is not delayed pending the location of an absent parent. As soon as the client has been determined otherwise eligible and an assignment of support rights to the department has been signed, a grant will be initiated.

(c) If the caretaker maintains that the name or address of the absent parent is unknown, this does not constitute non-cooperation. The department does not impose penalties for noncooperation unless evidence is available to indicate that the applicant/recipient did know the name or address of the absent parent, or in some other way failed to cooperate. In

either case, referral is still made to the child support unit if the case is certified.

(d) Federal regulations require that an applicant for or recipient of AFDC be given the opportunity to claim good cause for refusing to cooperate in the enforcement of any or all child support requirements (with the exception of the assignment of support rights to the state). If the applicant refuses to comply with these requirements but claims that she has good cause for not cooperating, she will be given the opportunity to present evidence or substantiating information to prove her claim. A notice of the client's claim of good cause will be sent to the local child support unit as soon as the claim is made. The worker will then proceed with the procedures outlined in Rule 326.10.28.039. The grant will not be delayed pending a good cause determination.

(e) The provision giving clients the right to claim good cause for not cooperating is not meant to be a blanket waiver of the child support requirements but is a means of protecting those families that run the risk of being physically or emotionally harmed because of the requirements of the child support administration.

(f) The assignment of support rights cannot be waived under this provision for claiming good cause. The applicant/recipient must always assign support rights to the department whether or not good cause is claimed. If the caretaker refuses to sign the assignment of support rights, the caretaker's needs cannot be included in the budget.

(g) When the caretaker signs the assignment of support rights but later refuses to cooperate with the child support representative or in any of the requirements for which the child support unit is responsible, the child support representative notifies the local AFDC worker of that fact by written report of noncooperation. The notification should state the circumstances by which failure to cooperate occurred and if the client is claiming to have good cause for not cooperating. Upon receipt of the notification from the child support representative, the AFDC worker will do the following:

(1) If the client is not claiming good cause, the worker will:

(A) send a notification letter to the client notifying him or her of the lowering/denial of the AFDC grant because of the removal of the caretaker's needs;

(B) send the Child Support Information and Responsibilities form to the client along with the notification letter to remind the client of his or her right to claim good cause;

(C) send a form to social services requesting a protective payee if the case remains active; or

(D) deny the grant or remove the needs of the caretaker if the client does not appeal.

(2) If the client claims to have good cause for not cooperating, the worker will follow the procedures outlined in Rule 326.10.28.039.

(h) The decision of noncooperation on the part of the client is always determined by the AFDC worker. This decision is based on the information received from the child support unit. The determination by the AFDC worker is final. If the worker has knowledge of special circumstances which may have prevented the client from cooperating with the child support unit, the worker will contact the client and discuss the situation. If the client is now willing to cooperate, the worker will notify the child support unit of the client's willingness to comply with their request. The child support officer will contact the client again to discuss the areas in

which the client's cooperation is required. No further action is required on the part of the AFDC worker unless the child support unit notifies the worker a second time that the client did not cooperate. If such notification is received, the worker will evaluate the circumstances and remove the client's needs if appropriate. A client whose needs have been removed due to noncooperation with the child support requirements must be reinstated as soon as he or she indicates a willingness to cooperate.

(i) A caretaker cannot be charged with noncooperation if after signing the assignment form he or she states that any payments received will not be remitted to the department. However, if the caretaker actually receives the child support payments and fails to remit them to the department, the worker will send the client a notification letter indicating the removal of the caretaker's needs from the grant and the requirement for a protective payee. The worker will pursue restitution of any grant overpayments. Recoupment would not be applicable since it would be withheld from the children's grant. However, if the person is certified as a caretaker within 24 months of the original overpayment, recoupment would be authorized.

Doc. No. 785411

326.10.28.037-.039

These rules are approved by the Texas Board of Human Resources and are adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.037. Good Cause for Refusing to Cooperate.

(a) The department must provide the client with a notice of his or her right to claim good cause before being required to comply with any of the child support requirements. This notice informs the client of the following:

(1) the applicant/recipient's right to claim good cause;

(2) as a condition of eligibility, the applicant/recipient must cooperate with the child support requirements unless the department determines that the applicant/recipient has good cause for not cooperating;

(3) the applicant/recipient must provide evidence of a good cause circumstance or must furnish sufficient information so that the department can investigate the circumstances.

(b) Evidence used in determining good cause consists of the following:

(1) birth certificates, medical, or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2) court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the alleged father or absent parent might inflict physical or emotional harm on the child or the caretaker relative;

(4) medical records or written statements from mental health professionals which indicate that the caretaker relative of the child for whom support is sought has a history of or is presently in poor mental or emotional health;

(5) a written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption.

(c) The department will assist, upon the client's request, in obtaining evidence that the client is not reasonably able to obtain without assistance. (Uncorroborated statements by the applicant/recipient do not constitute evidence or verification of good cause.) The IV-A agency may make a determination of good cause on the basis of corroborating information obtained from the agency's investigation. This information may include interviews with or statements from the caretaker's friends or neighbors. Without agency investigation, the client must provide the specific evidence listed in Section (b) above.

(d) The department will determine from the evidence, investigation, or a combination thereof, whether or not the client's cooperation would be in the best interest of the child for whom support is sought.

(e) Circumstances under which the cooperation of the client may be against the best interest of the child are as follows:

(1) There is evidence that the applicant/recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative.

(2) Emotional harm may come to the child for whom support is sought.

(3) Emotional harm may come to the caretaker relative of such a nature or degree that it reduces her capacity to care for the child adequately.

(4) The child for whom support is sought was conceived as a result of incest or forcible rape.

(5) Legal procedures for the adoption of the child are pending before a court.

(6) The applicant/recipient is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him or her for adoption. These discussions must not have gone on for more than three months.

(f) The child support enforcement unit has the right to review any of the findings and basis for a good cause determination and participate in any fair hearings concerning the issue of good cause.

(g) AFDC staff will determine whether or not the child support enforcement unit may attempt to establish paternity and collect support without the cooperation of the client in cases in which good cause has been determined. If AFDC staff determines that child support enforcement activities may proceed, they must be without risk to the child or caretaker relative and without the client's participation.

(h) A signature line is provided on a Child Support Information and Responsibilities form for the client to indicate her desire to claim good cause. A Child Support Information and Responsibilities form may be returned in place of the Parent Profile Questionnaire when the client is claiming good cause at the time of application or periodic review. However, a good cause claim may be made verbally or in writing at any time.

038. Special Considerations Related to Emotional Harm.

(a) To make a determination of good cause based on the possibility of emotional harm to the child or caretaker rela-

tive, the worker must take into consideration the following factors:

(1) the present emotional state of the child or caretaker relative;

(2) the emotional history of the child or caretaker relative;

(3) the intensity and probable duration of the emotional upset;

(4) the degree of cooperation that is required of the child or caretaker relative;

(5) the extent of involvement of the child in the paternity establishment or support enforcement to be undertaken;

(6) the age and comprehension of the child.

(b) The worker must document in the case record that the above factors were taken into consideration in making a determination related to emotional harm.

039. Procedures for Good Cause Determination.

(a) A Child Support Information and Responsibilities form is sent to the client with the application form at the time of application and at each periodic review. If the client claims good cause during the periodic review or any time after a referral has been sent to the child support unit, the worker will notify the local child support unit of the client's claim of good cause immediately after the claim is made. The child support unit must stop all child support location or enforcement efforts pending a determination of good cause from the AFDC worker.

(b) When good cause for not cooperating with child support regulations is claimed, the worker will contact the client to request that evidence be provided to support the claim of good cause. If the client states that he or she needs assistance in obtaining this evidence, the worker will assist the client. If the evidence is unavailable or insufficient, the worker will conduct an investigation to determine whether or not the client's claim can be substantiated. A claim of good cause must be initiated by the client. It cannot be initiated by department staff.

(c) An AFDC application or redetermination will not be denied or delayed pending a determination of good cause. However, if the caretaker relative fails to provide the necessary evidence or sufficient information to conduct an investigation within the time allotted for an application/review, the caretaker's needs may not be included in the AFDC grant.

(d) The investigation conducted by the worker may include interviews with law enforcement officials, neighbors, social workers, and mental health workers. The absent parent will not be contacted unless the client feels that a contact with the absent parent is necessary to establish good cause. The client must evaluate whether or not a contact with the absent parent would trigger retaliatory action from the absent parent either for the client, the children for whom support is sought, or for the caseworker. If there is a possibility of such action, the absent parent will not be contacted.

(e) Before making the final determination of good cause, the AFDC worker will notify local child support staff by memorandum of the findings and recommendations for the case. The worker has the following options:

(1) to recommend that the client does not have good cause for not cooperating;

(2) to recommend that the client has good cause and child support location and enforcement efforts should not be started or continued;

(3) to recommend that the client has good cause, but child support location and enforcement efforts can be continued without the client's cooperation.

(f) The worker will recommend an action but will wait for child support recommendations before making the final determination. Child support staff must submit their recommendations and comments to the AFDC worker within five working days.

(g) In deciding whether or not child support activities should be pursued in a case that has been determined to have good cause, the determining factor is whether or not these activities can be pursued without the risk of physical or emotional harm to the child or caretaker relative. If the worker decides to take this option, the client must be notified of the proposed action in order to give the client the opportunity to withdraw the application for assistance, or have his or her needs removed from the grant.

(h) The AFDC worker will evaluate the recommendations of the child support unit and make the final determination of whether or not good cause exists. If the child support unit's recommendations are contrary to the worker's recommendations, the AFDC supervisor will make the final decision. The final determination and the basis for the determination will be reported immediately to the child support unit. The worker will document in the case record every aspect of the investigation, the determination, the basis for the determination, and the evidence provided.

(i) When the worker determines that an applicant does have good cause for not cooperating, the assignment of support rights form and the child support referral will be sent to the child support unit. The requirement to assign support rights to the state cannot be waived. If the client agrees to complete a Parent Profile Questionnaire, it will be sent to the child support unit only if it has been determined that child support activities will be pursued without the client's cooperation. If the client has not completed the Parent Profile Questionnaire and the determination to pursue child support activities has been made, the AFDC worker will send any information available on the absent parent from the case record.

(j) A reassessment of good cause must be made at each periodic review. This reassessment should be brief and is necessary only to ensure that the circumstances for which good cause was determined are still present.

(k) If the AFDC worker determines that the applicant/recipient does not have good cause for not cooperating and the client still refuses to cooperate with the child support requirements, the worker will give the client the right to appeal. If the client appeals the decision of the worker to remove the caretaker's needs, the worker will notify the local child support unit of the appeal. Child support unit staff will be given the opportunity to participate in the hearing if they so choose.

Doc. No. 785412

Process 326.10.71

The Department of Human Resources adopts the following amendments to its rules concerning the child support requirements for the Aid to Families with Dependent Children

(AFDC) Program. These amendments were published in the June 9, 1978, issue of the *Texas Register* (3 TexReg 1981). Currently, as a condition of eligibility, AFDC applicants/recipients must comply with all child support requirements. The following amendments are adopted as a result of a change in federal regulations which now require the department to provide all AFDC applicants/recipients with the right to claim good cause for refusing to cooperate with the requirements of the Child Support Program. This policy is not meant to be a blanket waiver of the child support requirements but is a means of protecting those families that run the risk of being physically or emotionally harmed because of the requirements of the Child Support Program. The following rules specify the procedures to be used by the department in determining whether or not good cause exists.

Several comments were received concerning these amendments. Some comments expressed concern that the language used in the proposed policies was more restrictive than the language used in the federal regulations. The department revised Rule 326.10.28.037, Sections (b), (c), and (e) to reflect more closely the terminology used in the federal regulations. Another comment suggested that an AFDC worker should make the final determination as to the existence of non-cooperation. The policy was changed in Rule 326.10.28.008 to incorporate this suggestion which had already been considered by the department. Other comments were received suggesting clarifications in policy that also were incorporated. Therefore, these rules are adopted with changes to the proposed text.

These amendments have been approved by the Texas Board of Human Resources and are adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.002. Use of Parent Profile Questionnaire Form.

(b) The Parent Profile Questionnaire form is an extension of the applicant's statement form and as such must be signed, dated, completed to the best of the client's ability, and returned before an application may be filed. An exception to this requirement is made when a client signs and returns the Child Support Information and Responsibilities form, instead of the Parent Profile Questionnaire, claiming to have good cause for not cooperating with the child support requirements.

.003. The Application Process.

(b) When an application form is requested by a person other than the applicant himself, further inquiry is indicated to ensure that the person is a *bona fide* agent acting in behalf and with the full knowledge and permission of the applicant. It is permissible for a responsible person to apply on behalf of a person who is incapacitated or incompetent.

(c) Application materials are available only at the local offices of the department and are not to be made available to the general public, nor otherwise distributed in an indiscriminate manner. They are to be reserved for distribution to *bona fide* prospective applicants.

(d) Each office will assign an intake informational receptionist to provide an in-depth explanation of the requirements to make an assignment of support rights to the state, and to cooperate in locating an absent parent, in establishing paternity, and in obtaining child support.

(e) Explanation of the requirements will be provided whether the application is made in person, by telephone, or

letter. If the applicant wishes to file an application for AFDC, an applicant's statement form, Parent Profile Questionnaire, and Child Support Information and Responsibilities form will be furnished. If several different parents are involved, a Parent Profile Questionnaire is required for each parent. The applicant will also be informed that non-AFDC parent locator/child support services are available for a fee. If he or she wishes to apply for non-AFDC child support services, a Parent Profile Questionnaire will be provided.

(f) The basic documents made available to prospective applicants include the appropriate informational pamphlet(s), an applicant's statement form, the appropriate number of Parent Profile Questionnaire attachments, the Child Support Information and Responsibilities form, a self-addressed, stamped envelope, and a form letter acknowledging the desire of the person to file an application, urging that an applicant's statement form and a Parent Profile Questionnaire be completed and returned as soon as possible in order to file application, and explaining to the person that he or she may have assistance in completing the form. Department of Human Resources staff can assist in completing the form if the individual is unable to do so and cannot obtain help from another person.

(g) The date of filing is not entered on the applicant's statement form until both the statement and either the questionnaire or child support forms indicating a claim of good cause are completed and returned. If either form is not returned or not completed, both forms are returned to the client for completion. If it is obvious to the worker that the client has made an effort to complete the form to the best of his or her ability, the application is filed and an appointment set up for the interview even though every section might not be complete. The incomplete items should be completed by the client during the interview. Even though the client may enter unknown in an item on the questionnaire, it will be acceptable. The date returned and the date of filing must be the same. The filing date is entered on the notice of application at the time it is submitted.

Doc. No. 785413

Receipt of Client-Completed Forms Procedure 326.10.72

The Department of Human Resources adopts the following amendments to its rules concerning the child support requirements for the Aid to Families with Dependent Children (AFDC) Program. These amendments were proposed in the June 9, 1978, issue of the *Texas Register* (3 TexReg 1982). Currently, as a condition of eligibility, AFDC applicants/recipients must comply with all child support requirements. The following amendments are adopted as a result of a change in federal regulations which now require the department to provide all AFDC applicants/recipients with the right to claim good cause for refusing to cooperate with the requirements of the Child Support Program. This policy is not meant to be a blanket waiver of the child support requirements but is a means of protecting those families that run the risk of being physically or emotionally harmed because of the requirements of the Child Support Program. The following rules specify the procedures to be used by the department in determining whether or not good cause exists.

Several comments were received concerning these amendments. Some comments expressed concern that the language used in the proposed policies was more restrictive than the language used in the federal regulations. The department revised Rule 326.10.28.037, Sections (b), (c), and (e), to reflect more closely the terminology used in the federal regulations. Another comment suggested that an AFDC worker should make the final determination as to the existence of noncooperation. The policy was changed in Rule 326.10.28.008 to incorporate this suggestion which had already been considered by the department. Other comments were received suggesting clarifications in policy that also were incorporated. Therefore, these rules are adopted with changes to the proposed text.

These amendments have been approved by the Texas Board of Human Resources and are adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.001. Procedure after Receipt of Client-Completed Forms.

(a) When an applicant returns the application form and the Parent Profile Questionnaire, they are reviewed for completeness. If information omitted from either form is significant, the forms will be returned to the client with a letter. When the Child Support Information and Responsibilities form is returned with the client's signature indicating that good cause is being claimed, the procedures in Rules 326.10.28.008 and 326.10.28.037-.039 are followed. If the Child Support Information and Responsibilities form indicating a claim of good cause is returned in place of the Parent Profile Questionnaire, the application will be accepted. The Parent Profile Questionnaire is still an important part of the application process and an application must not be accepted unless either the Parent Profile Questionnaire or the Child Support Information and Responsibilities form indicating a claim of good cause is returned with the applicant's statement form. Upon receipt of an acceptably completed applicant's statement form and either Parent Profile Questionnaire or the Child Support Information and Responsibilities form, the notice of application is filed. If only the Parent Profile Questionnaire is returned, it will be returned to the applicant with instructions to contact the local child support unit.

Issued in Austin, Texas, on August 15, 1978.

Doc. No. 785414 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: September 5, 1978

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

State Board of Insurance Policy Approval

Variable Life Insurance 059.10.01

The State Board of Insurance has adopted Rules 059.10.01.001-.011, Rules and Regulations for Variable Life Insurance. The rules are adopted as permanent rules and are fully effective although they may later be amended to be more closely coordinated with the board's rules on variable

annuities. These rules are adopted under authority of Texas Insurance Code Annotated, Article 3.73, Section 6, to read as follows:

.001. Definitions.

(a) "Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer: any person who regularly furnishes investment advice to such insurer with respect to its variable life insurance separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

(b) "Agent" means any person or corporation which is licensed by this state as a life insurance agent.

(c) "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

(d) "Benefit base" means the amount not less than the amount specified under Rule 059.10.01.005(b)(2) specified by the terms of the variable life insurance policy to which the difference between the net investment return and the assumed investment rate is applied in determining the variable benefits of the policy.

(e) "Commissioner" means the commissioner of insurance of this state.

(f) "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than 10 percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(g) "General account" means all assets of the insurer other than assets in separate accounts established pursuant to Article 3.73, Section 2, of the Texas Insurance Code, whether or not for variable life insurance.

(h) "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability income benefits, guaranteed insurability option, family income, or fixed benefit term riders.

(i) "May" is permissive.

(j) "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

(k) "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base after deduction of charges for taxes, investment expenses, and mortality and expense guarantees in accordance with the terms of the policy.

(l) "Person" means an individual, corporation, partnership, association, trust, or fund.

(m) "Separate account" means a separate account established for variable life insurance pursuant to Article 3.73, Section 2, of the Texas Insurance Code.

(n) "Shall" is mandatory.

(o) "Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of the minimum death benefit.

(p) "Variable life insurance policy" means any policy which provides for life insurance which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Article 3.73 of the Texas Insurance Code or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

(q) "Retaliatory provisions" mean the applicable provisions of the Texas Insurance Code.

(r) "Public hearing" means an official hearing by the commissioner of insurance or State Board of Insurance which is in accordance with the Administrative Procedure Act of Texas and the Rules of Practice and Procedure.

.002. Qualification of Insurers to Issue Variable Life Insurance. The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or which have authority to issue variable life insurance in this state.

(a) Licensing and approval to do business in this state. An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless:

(1) the insurer is licensed or organized to do a life insurance business in this state;

(2) either:

(A) the state of domicile of such insurer requires that permissible investments be substantially the same as provided in Rule 059.10.01.005(c) and that changes in the investment policy of the variable life insurance separate account be regulated in a manner substantially similar to that required under Rule 059.10.01.005 for such separate accounts operated by insurers domiciled in this state; or

(B) the insurer's investment policy, as described in the statement required to be filed under (b)(3) of this rule, conforms to Rule 059.10.01.005(c) and the commissioner is satisfied that the procedures for changing the investment policy of a variable life insurance separate account, as described in the statement required to be filed under (b)(3) of this rule, provide safeguards consistent with those provided under Rule 059.10.01.005(f); and

(3) the insurer has obtained the written approval of the commissioner for the issuance of variable life insurance

policies in this state. The commissioner shall grant approval only after he has considered, among other things, the following:

(A) the plan of operation for the issuance of variable life insurance policies is not unsound;

(B) the general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this state; and

(C) the present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this state. The commissioner shall consider, among other things:

(i) the history of operation and financial condition of the insurer;

(ii) the qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors of the company and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(iii) the applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies; and

(iv) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such company and the degree to which the requesting insurer, as well as the other company, meet these standards.

(D) a separate certificate of authority for variable life insurance has been authorized by a separate certificate of authority. Only licensed life insurance companies may be authorized to transact variable life insurance business in the State of Texas;

(E) no insurance company, insurer, or other person may write or sell variable life insurance, or make an offering of variable life insurance in this state, unless admitted to do business in this state, and unless authorized by separate Certificate of Authority to write variable life insurance in this state;

(F) no domestic insurer or company may sell or offer for sale any variable life insurance contracts unless authorized by a separate Certificate of Authority to write variable life insurance in this state. A Certificate of Authority or any other evidence of authority to do a life insurance business in this state is not sufficient and does not include and will not include authority to do a variable life business in the State of Texas;

(G) public hearing is required for all applicants, either domestic or foreign, who desire to write, offer, sell, or reinsure variable life insurance. The public hearing is to be held after all documentation, verification, and certification have been submitted and reviewed as required in these rules;

(H) retaliatory requirements of the Texas Insurance Code are applicable to all foreign insurers. The standard appropriate retaliatory information shall be submitted by the applicant relative to such requirements of its state of domicile;

(I) notwithstanding any other requirements, no insurer may provide variable life benefits in its contracts

unless it is an admitted insurer having and maintaining a combined unencumbered capital and surplus of at least \$200,000, provided that the insurer must have not less than \$100,000 capital and it must have not less than \$100,000 surplus.

(b) Filing for approval to do business in this state. Before any insurer shall deliver or issue for delivery any variable life insurance policy in this state, it must file with this department the following information for the consideration of the commissioner in making the determination required by (a)(3) of this rule:

(1) copies of and a general description of the variable life insurance policies it intends to issue;

(2) a general description of the methods of operation of the variable life insurance business of the insurer, including the names of those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(3) with respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the insurer intends to follow for the investment of the assets held in such separate account, and a statement of the procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objective and orientation intended for the separate account;

(4) a description of any investment advisory services contemplated as required by Rule 059.10.01.005(j);

(5) a copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies will be furnished by the applicant;

(6) biographical data with respect to officers, directors, and management personnel directly responsible for sales, offering, writing, and financial accounting as respects variable life insurance will file and keep current biographical data on the Texas form.

(c) Standards of suitability. Every insurer seeking approval to enter into the variable life insurance business in this state shall adopt by formal action of its board of directors and file with the commissioner a written statement specifying the standards of suitability to be used by the insurer and applicable to its officers, directors, employees, affiliates, and agents with respect to the suitability of variable life insurance for the applicant. Such standards of suitability shall be binding on the insurer and those to whom it refers, and shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation. Lapse rates for variable life insurance within the first two policy years which are significantly higher than both those encountered by the insurer or an affiliate thereof for corresponding fixed benefit life insurance policies and lapse rates of other insurers issuing variable life insurance policies shall be considered by the commissioner in determining whether the guidelines adopted by the insurer are reasonable and also whether the insurer and its agents are engaging, as a general business practice, in the sale of

variable life insurance to persons for whom it is unsuitable. For purposes of this section, conversions from variable life insurance to fixed benefit life insurance policies pursuant to this regulation shall not be considered lapses.

(d) Use of sales materials. An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate.

(1) All variable life insurance sales material, advertising material, and descriptive literature shall be filed and approved by the commissioner prior to any distribution. Revised versions of such materials containing changes from versions on file with the commissioner shall be filed and approved by the commissioner.

(2) For purposes of this regulation, variable life insurance sales material, advertising material, or descriptive literature shall include but is not limited to:

(A) printed and published material, audio-visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV and film scripts, billboards, and similar displays for variable life insurance;

(B) descriptive literature and sales aids of all kinds used to sell variable life insurance by or on behalf of any person authorized to sell variable life insurance for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(C) prepared sales talks, presentations, and material for use in the sale of variable life insurance by any person authorized to sell variable life insurance.

(e) Requirements applicable to contractual services.

(1) Any contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services which are material with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the commissioner with any information or reports in connection with such services which the commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with these regulations and any other applicable law or regulations.

(2) Such contract shall be fair and equitable to all parties and not endanger any policyholders of the insurer in this state.

(3) Such contract shall not relieve the insurer from any responsibilities or obligations imposed upon the operations of its variable life insurance business by this regulation or any other law or regulation.

(f) Reports to the commissioner. Any insurer authorized to transact the business of variable life insurance in this state shall submit to the commissioner in addition to any other materials which may be required by this regulation or any other applicable laws or regulations:

(1) an annual statement of the business of its variable life insurance separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners; and

(2) prior to the use in this state, any information furnished to applicants as provided for in Rule .059.10.01.006; and

(3) prior to the use in this state, the form of any of the reports to policyholders as provided for in Rule .059.10.01.008; and

(4) such additional information concerning its variable life insurance operations or its variable life insurance separate accounts as the commissioner shall deem necessary;

(5) any material submitted to the commissioner under this section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the commissioner shall require the distribution of an amended report.

(g) Authority of commissioner to disapprove. Any material required to be filed with the commissioner, or approved by him, shall be subject to disapproval if at any time it is found by him not to comply with the standards established by this rule.

.003. Insurance Policy Requirements. The commissioner shall not approve any variable life insurance form filed pursuant to these rules unless it conforms to the requirements of this rule.

(a) Filing of variable life insurance policies. All variable life insurance policies, and all riders, endorsements, applications, and other documents which are to be attached to and made a part of the policy and which relate to the variable nature of the policy, shall be filed with the commissioner and approved by him in writing prior to delivery or issuance for delivery in this state.

(1) The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with these rules, the same as those otherwise applicable to other life insurance policies.

(2) The commissioner may approve variable life insurance policies and related forms with provisions the commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by these rules.

(3) The requirements of .003(b)(1), .003(b)(4), .003(c)(5)(A), and .003(c)(16) of this rule shall not apply to variable life insurance policies and related forms issued in connection with pension, profit-sharing, and retirement plans if separate accounts for such policies are exempt pursuant to Section 3(c)(11) of the Investment Company Act of 1940.

(b) Mandatory policy benefit and design requirements. Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

(1) Coverage shall be provided for the lifetime of the insured with the mortality and expense risk borne by the insurer.

(2) Gross premiums for death benefits shall be a level amount for the duration of the premium payment period, but this subsection shall not be construed to prohibit temporary or permanent additional premiums for incidental insurance benefits or substandard risks. This subsection shall not be deemed to prohibit the use of fixed benefit preliminary term insurance for a period not to exceed 120 days from the date of the application for a variable life insurance policy. The premium rate for such preliminary term insurance shall be stated separately in the application or receipt.

(3) A minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid (subject to the provisions of (d)(2) of this rule).

(4) The amount payable upon the death of the insured so long as premiums are duly paid (subject to the provisions of (d)(2) of this rule) shall be not less than a minimum multiple of the gross premium payable in that year, exclusive of that portion allocable to any incidental insurance benefit, by a person who meets standard underwriting requirements, as shown in the following table:

Issue Ages	Multiples
0 - 5	80
6 - 10	71
11 - 15	63
16 - 20	55
21 - 25	47
26 - 30	40
31 - 35	33
36 - 40	27
41 - 45	21
46 - 50	15
51 - 55	13
56 - 60	11
61 - 65	9
66 - 70	8
71 and over	7

(5) The policy shall provide that the variable death benefit shall reflect the investment experience of the variable life insurance separate account established and maintained by the insurer and that the excess, positive or negative, of the net investment return over the assumed investment rate, as applied to the benefit base of each variable life insurance policy, shall be used to provide either:

(A) fully paid-up variable life insurance providing coverage for the same period as the basic insurance under the policy or fully paid-up term insurance amounts for a term of annual periods of not less than one year nor more than five years, positive or negative, as the case may be, or a combination thereof; or

(B) variable life insurance amounts, positive or negative, as the case may be, so that the reserve maintains the same percentage relationship to the variable death benefit as it would have on a corresponding fixed benefit policy.

(6) Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

(7) Changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

(8) The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits, as described either in the policy (or in a statement filed with the commissioner of the state in which the policy is delivered, or issued for delivery) shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other nonforfeiture benefits must be at least equal to the minimum values required by Article 3.44a of the Texas Insurance Code (Standard Nonforfeiture Law) for a fixed

benefit policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted for fixed benefit life insurance policies under the Standard Nonforfeiture Law of this state. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

(9) The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the commissioner.

(10)(A) If the gross premiums for any variable life insurance policy delivered or issued for delivery in this state produce an excess of (i) over (ii) as defined in (B) below, the present value as of the date of issue of the adjusted premiums used in determining the minimum cash values required by Rule .059.10.01.003(b)(8) shall be decreased by such excess by decreasing each adjusted premium by a uniform percentage.

(B) The excess of (i) over (ii) referred to in paragraph (A) above shall be determined as of the date of issue on the basis of the mortality table and maximum rate of interest permitted for fixed benefit life insurance policies by Article 3.44a of the Texas Insurance Code (Standard Nonforfeiture Law); and

(i) is the present value of the gross premiums for the policy, decreased by one dollar per thousand of equivalent uniform amount for policies with an equivalent uniform amount of less than ten thousand, payable on an annual basis (exclusive of those portions of the gross premiums allocable to any incidental insurance benefits) by a person who meets standard underwriting requirements; and

(ii) is the product of (a) times (b) where (a) is the present value of the maximum premium rates per thousand of insurance shown below payable at the beginning of each policy year to attained age 65 of the insured for issue ages below age 51, for 15 years for issue age 51 to 70, and for life for issue ages above age 70, and (b) is the ratio of (1) the present value of the benefits under the policy to (2) the present value of an insurance of one thousand for the whole of life.

Table of Rates

Age at Issue	Premium Rate	Age at Issue	Premium Rate
0	11.50	41	38.65
1	11.60	42	40.45
2	11.76	43	42.51
3	11.97	44	44.89
4	12.22	45	47.62
5	12.50	46	50.71
6	12.80	47	54.17
7	13.11	48	58.00
8	13.43	49	62.18
9	13.75	50	66.67
10	14.08	51	68.58
11	14.42	52	70.54
12	14.77	53	72.57
13	15.13	54	74.69
14	15.49	55	76.92
15	15.87	56	79.29
16	16.27	57	81.84
17	16.70	58	84.61
18	17.16	59	87.63
19	17.65	60	90.91
20	18.18	61	94.45
21	18.74	62	98.25
22	19.34	63	102.31
23	19.97	64	106.61
24	20.62	65	111.11
25	21.28	66	115.48

26.	21.95	67	119.39
27	22.64	68	122.51
28	23.37	69	124.50
29	24.15	70	125.00
30	25.00	71	118.86
31	25.92	72	123.96
32	26.91	73	129.66
33	27.97	74	135.96
34	29.10	75	142.88
35	30.30	76	150.36
36	31.55	77	158.46
37	32.84	78	167.16
38	34.17	79	176.46
39	35.56	80	186.36
40	37.04		

(C) For purposes of this section, any portion of the premium set aside to support a guarantee that any surrender value shall not be less than a specified amount or for any other benefit that the commissioner shall deem to be excludable, shall not be included.

(11) In determining the net investment return to be applied to the benefit base, the insurer may deduct only the charges described in (g)(1)(A), (g)(1)(B), (g)(1)(D), and (g)(1)(E) of Rule .005.

(c) Mandatory policy provisions. Every variable life insurance policy filed for approval in this state shall contain at least the following:

(1) The cover page or pages corresponding to the cover page of each such policy shall contain:

(A) a prominent statement in either contrasting color or boldface type at least four points larger than the type size of the largest type used in the text of any provision on that page, that the death benefit may be variable or fixed under specified conditions;

(B) a prominent statement in either contrasting color or boldface type at least four points larger than the type size of the largest type size used in the text of any provision on that page that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

(C) a statement that the minimum death benefit will be at least equal to the initial face amount at the date of issue if premiums are duly paid and if there are no outstanding policy loans, partial withdrawals, or partial surrenders;

(D) the rule, or a reference to the policy provision, which describes the method for determining the variable amount of insurance payable at death;

(E) a captioned provision which provides that the policyholder may return the variable life insurance policy within 45 days of the date of the execution of the application or within 10 days of receipt of the policy by the policyholder, whichever is later, and receive a refund of all premium payments for such policy; and

(F) such other items as are currently required for fixed benefits life insurance policies and which are not inconsistent with these rules.

(2) A provision for a grace period of not less than 31 days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date;

(3) A provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of

the grace period following the date of default together with accrued interest, thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

(A) all overdue premiums with interest at a rate not exceeding the rate specified in the policy for loans or partial withdrawals, and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding the rate specified in the policy for loans or partial withdrawals; or

(B) 110 percent of the increase in cash surrender value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding the rate specified in the policy for loans or partial withdrawals.

(4) A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy.

(5) A provision designating the separate account to be used and stating that:

(A) such separate account shall be used to fund only variable life insurance benefits, except to the extent permitted by (e)(3)(F) of this rule;

(B) the assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account; and

(C) the assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

(6) A provision that at any time during the first 18 months of the variable life insurance policy, so long as premiums are duly paid, the owner may exchange the policy for a policy of permanent fixed benefit life insurance on the life of the insured for the same initial amount of insurance as the variable life insurance policy, and on a plan of insurance specified in the policy, provided that the new policy:

(A) shall bear the same date of issue and age at issue as the original variable life insurance policy;

(B) is issued on a substantially comparable plan of permanent insurance offered in this state by the insurer or an affiliate on the date of issue of the variable life insurance policy and at the premium rates in effect on that date for the same class of insurance;

(C) includes such riders and incidental insurance benefits as were included in the original policy if such riders and incidental insurance benefits are issued with the fixed benefit policy;

(D) shall be issued subject to an equitable premium or cash value adjustment that takes appropriate account of the premiums and cash values under the original and new policies. A detailed statement of the method of computing such adjustment shall be filed with the commissioner;

(E) shall not require evidence of insurability for this exchange.

(7) A provision that the policy and any papers attached thereto by the insurer, including the application if attached, constitute the entire insurance contract.

(8) A designation of the officers of the insurer who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties.

(9) An identification of the owner of the insurance contract.

(10) A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation.

(11) A statement of any conditions or requirements concerning the assignment of the policy.

(12) A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured.

(13) A provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured.

(14) A provision stating that the investment policy of the separate account shall not be charged without the approval of the insurance commissioner of the state of domicile of the insurer, and that the approval process is on file with the commissioner of this state.

(15) A provision that:

(A) if no premium is in default or if the policy is being continued under a variable nonforfeiture benefit, payment of variable death benefits in excess of the minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums), or partial surrenders, may be deferred for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical; and

(B) if the policy is being continued under a fixed nonforfeiture benefit, payment of any cash value or loan may be deferred for up to six months from the date of request.

(16) Settlement options which shall be provided on a fixed basis only.

(17) A description of the basis for computing the cash surrender value under the policy shall be included. Such surrender value may be expressed as either:

(A) a schedule of cash value amounts per \$1,000 of variable face amount at each attained age or policy year for at least 20 years from issue, or for the premium paying period, if less than 20 years; or

(B) one cash value schedule as described in subsection (1) for the death benefit, or for each \$1,000 of death benefit, which would be in effect if the net investment return is always equal to the assumed investment rate and a second schedule applicable to any adjustments to the death benefit (disregarding the minimum death benefit guarantee and term insurance amounts) if the net investment return does not equal the assumed investment rate at each age for at least 20 years from issue, or for the premium paying period if it is less than 20 years.

(18) Premiums for incidental insurance benefits shall be stated separately.

(19) Any other policy provisions required by these rules.

(20) A provision which provides for premiums to be paid in advance either at the home office of the company or to an agent of the company upon delivery of a receipt signed by one or more of the officers who are designated in the policy.

(21) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this rule.

(d) Nonforfeiture, partial withdrawal, policy loan, and partial surrender provisions. Every variable life insurance

policy delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:

(1) A provision for nonforfeiture insurance benefits so that at least one such benefit is offered on a fixed basis from the due date of premium in default.

(A) Variable extended term insurance may not be offered.

(B) A given nonforfeiture option need not be offered on both a fixed and a variable basis.

(C) The insurer may establish a reasonable minimum cash surrender value below which any such nonforfeiture insurance options will not be available.

(2) A provision for policy loans (which may at the option of the insurer be entitled and referred to as a partial withdrawal provision) not less favorable to the policyholder than the following:

(A) Up to 75 percent of the policy's cash value may be borrowed. However, if the policy is being continued as fixed benefit life insurance under a nonforfeiture option, other than extended term insurance, the policyholder may borrow up to 100 percent of the policy's cash value at the end of the current policy year, less interest to the end of the current policy year.

(B) The amount borrowed, or any repayment thereof, shall not affect the amount of the premium payable under the policy.

(C) The amount borrowed shall bear interest at the specified rate.

(D) Any indebtedness to the insurer on the policy shall be deducted from the proceeds payable on death.

(E) Any indebtedness to the insurer on the policy shall be deducted from the cash value upon surrender or in determining any nonforfeiture benefit.

(F) Whenever the indebtedness to the insurer on the policy exceeds the cash value, the insurer shall give written notice of intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date of mailing of such notice.

(G) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

(H) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

(I) No policy loan provision is required if the policy is under the extended insurance nonforfeiture option.

(J) In addition to the foregoing, the policy may contain a partial surrender provision; however, any such provision shall provide that the policyholder may request part of the cash value and both the variable and minimum death benefits will be reduced in proportion to the percentage of the cash value received by the policyholder and the premium for the remaining amount of insurance will also be reduced to the appropriate rates for the reduced amount of insurance. The policy may provide that a partial surrender provision shall not require the insurer to reduce the amount of the

minimum death benefit to less than the lowest amount of minimum death benefit which would have been issued to the insured under the insurance plans of the insurer at the time the policy was issued. The policy must clearly provide that the policyholder has the option of electing to exercise the cash value privileges of the policy loan or partial withdrawal provision rather than the partial surrender provision.

(K) All policy loan, partial withdrawal, or partial surrender provisions shall be constructed so that variable life insurance policyholders who have not exercised such provision are not disadvantaged by the exercise thereof.

(L) Monies paid to the policyholders upon the exercise of any policy loan, partial withdrawal, or partial surrender provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment.

(e) Other policy provisions. The following provisions may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:

(1) An exclusion for suicide.

(2) Incidental insurance benefits may be offered on a fixed basis only.

(3) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following options:

(A) the amount of the dividend may be credited against premium payments;

(B) the amount of the dividend may be applied to provide paid-up amounts of additional fixed benefit whole life insurance;

(C) the amount of the dividend may be applied to provide paid-up amounts of additional variable life insurance;

(D) the amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

(E) the amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

(F) the amount of the dividend may be deposited as a variable deposit in the separate account if the separate account is exempt pursuant to Section 3(c)(11) of the Investment Company Act of 1940.

(4) a provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans or partial withdrawals under (d) of this rule, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed.

.004. Reserve Liabilities for Variable Life Insurance.

(a) Reserve liabilities for variable life insurance policies shall be established under the Standard Valuation Law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(b) Reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

(1) the aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

(2) the aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in paragraph (A), of the prior year's "attained age level" reserve on the contract, with any such "residue" increased or decreased by a payment computed on an attained age basis as described in paragraph (B) below.

(A) the "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

(B) the payment referred to in (b)(2) of this rule shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (i) minus (ii) minus (iii), where (i) is the present value of the future guaranteed minimum death benefits, (ii) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (iii) is any "residue," as described in paragraph (A), of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (i) minus (iii). The amounts of future death benefits referred to in (ii) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate in no event may exceed the maximum interest rate permitted for the valuation of life insurance contracts.

(3) the valuation interest rate and mortality table used in computing the two minimum reserves described in (1) and (2) above shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

(c) Reserve liabilities for all fixed incidental insurance benefits shall be maintained in the general account in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

.005. Separate Accounts. The following requirements apply to the establishment and administration of variable life insurance separate accounts:

(a) Establishment and administration of separate accounts. An insurer issuing variable life insurance in this state shall establish one or more separate accounts pursuant to Article 3.73, Section 2, of the Texas Insurance Code.

(1) If no law or other regulation provides for the custody of separate account assets and if the insurer itself is not the custodian of such assets, all contracts for such custody shall be in writing and the commissioner of the insurer's state of domicile shall approve of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

(2) An insurer shall not without the prior written approval of the commissioner employ in any material connection with the handling of separate account assets any person who:

(A) within the last 10 years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342, or 1343 of Title 18, United States Code; or

(B) within the last 10 years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

(C) within the last 10 years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

(3) All persons with access to the cash, securities, or other assets of the separate account shall be under blanket fidelity or fidelity bond in an amount of not less than \$100,000.

(4) If an insurer establishes more than one separate account for variable life insurance, justification for the establishment of each additional separate account shall also be filed with the commissioner and shall be subject to his approval. The creation of additional separate accounts to avoid lower maximum charges against the separate account is prohibited.

(5) The assets of such separate accounts established for variable life insurance policies shall be valued at least as often as variable benefits are determined, but in any event, at least monthly.

(6) A separate account exempt pursuant to Section 3(c)(11) of the Investment Company Act of 1940 because of the tax qualified status of the policies funded thereby shall not be used to fund other variable life insurance policies.

(7) Except for separate accounts exempt pursuant to Section 3(c)(11) of the Investment Company Act of 1940, variable life insurance separate accounts shall not be used for variable annuities or for the investment of funds corresponding to dividend accumulations or other policyholder liabilities not involving life contingencies.

(b) Amounts in the separate account.

(1) The insurer shall maintain in each variable life insurance separate account assets with a fair market value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

(2) The benefit base of any variable life insurance policy as of the beginning of any valuation period shall not be less than the sum of the following factors after deducting amounts of any indebtedness to the insurer on the policy pursuant to Rule .059.10.01.003(d)(2):

(A) the valuation net premium for such period; for the variable portion of the policy minus the discounted cost of term insurance for such period, based on the tabular mortality and interest rates used in determining valuation reserves; and

(B) the valuation terminal reserve, for the variable portion of the policy, at the end of the immediately preceding valuation period adjusted for the net investment return of such preceding period.

(3) In lieu of the minimum benefit base requirement specified above, an insurer may otherwise qualify under this section if it can be demonstrated to the satisfaction of the commissioner that the policy benefits obtained over a 20-year period from the date of issue by the use of the insurer's benefit base are at least substantially equivalent in the value to the benefits obtained by the use of the minimum benefit base specified above. The commissioner may specify the range of net investment return to be used in this demonstration.

(4) Notwithstanding the actual reserve basis used for policies that do not meet standard underwriting requirements, the benefit base for such policies may be the same as for corresponding policies which do meet standard underwriting requirements.

(c) Investments by the separate account.

(1) No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(A) in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(B) such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the commissioner in advance.

(2) Assets allocated to a variable life insurance separate account shall be held in cash or investments having a reasonable ascertainable market price. For purposes of this subsection, only the following shall be considered "investments having a reasonably ascertainable market price:"

(A) liens in favor of the insurer against separate account policy reserves resulting from use by policyholders of cash values;

(B) securities listed and traded on the New York Stock Exchange, the American Stock Exchange, or regional stock exchanges or successors to such exchanges having the same or similar qualifications;

(C) securities listed on the NASDAQ System;

(D) shares of an investment company registered pursuant to the Investment Company Act of 1940. Where such an investment company issues book shares in lieu of share certificates, such book shares shall be deemed to be adequate evidence of ownership;

(E) obligations of or guaranteed by the United States government, the Canadian government, any state, or municipality or governmental subdivision of a state;

(F) commercial paper issued by business corporations when the total of such paper issued by the corporation does not exceed in value a guaranteed short line of credit by a bank;

(G) certificates of deposit issued by financial institutions the deposits of which are insured by the FDIC or FSLIC; and

(H) new bond or debt issues which may reasonably be expected to be listed on an exchange regulated by the Securities Exchange Act of 1934.

(3) Notwithstanding any other provision of law or the provisions of subsection (2) above, assets allocated to a variable life insurance separate account shall not be invested in:

- (A) commodities or commodity contracts;
- (B) put and call options or combinations of such options;
- (C) short sales;
- (D) purchases on margins;
- (E) letter or restricted stock;
- (F) units or other evidences of ownership of a separate account of another insurer, except those registered under the Investment Company Act of 1940; or
- (G) real estate other than shares of a real estate investment trust listed as described in subsection (b) above.

(d) Limitations on ownership.

(1) A variable life insurance separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such separate account in such security valued as required by these rules would exceed 10 percent of the value of the assets of the separate account. The commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

(2) No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts, in the aggregate, will own more than 10 percent of the total issued and outstanding voting securities of such issuer. The commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of such securities.

(3) The percentage limitation specified in subsection (1) of this section shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 if the investments and investment policies of such investment companies comply substantially with the provisions of Rule .059.10.01.005(c) and other applicable portions of this rule.

(e) Valuation of assets of a variable life insurance separate account.

(1) Investments of the separate account shall be valued at their market value on the date of valuation.

(A) Market value for investments traded on the recognized exchanges means the last reported sale price on the date of valuation. If there has been no sale on that date, the market value means the last reported bid quotation on the date of valuation.

(B) Market value for investments listed on the NASDAQ System means the last representative bid quotation on the valuation date. If an investment ceases to be listed but continues to be traded over the counter, it shall be valued at the lowest bid quotation as it appears on the National Quotation Bureau sheets.

(C) If the valuation date referred to in paragraphs (A) and (B) above is a day when the exchange or the NASDAQ System is not open for business, the valuation date shall be the last date when the exchange or the NASDAQ System was open for business.

(2) If an investment ceases to be traded, it shall be valued at fair value as determined in good faith by or at the direction of the Committee of the Separate Account or, if there is no such committee, the board of directors of the insurer, but not in excess of the last reported bid quotation. Within 30 days, notification of cessation of trading of any investment shall be reported by the insurer to the insurance commissioner of the state of domicile of the insurer. Such commissioner shall within a reasonable period of time determine the method of valuation of disposition of such investment.

(f) Separate account investment policy.

(1) The investment policy of a separate account operated by a domestic insurer filed under Rule .059.10.01.002(b)(3) shall not be changed without the approval of the insurance commissioner.

(2) With respect to changes of investment policy for which the commissioner must give his approval, the following regulations shall apply:

(A) Such approval shall be deemed to be given 60 days after the date the request for approval was filed with the commissioner, unless he notifies the insurer before the end of such 60-day period of his determination that the proposed change is a material change in the investment policy.

(B) If the change is deemed material by the commissioner, he shall approve such change only if he determines, after a public hearing, that the change does not appear detrimental to the interest of the policyholders of the insurer.

(C) At least 30 days prior to any public hearing under paragraph (B), the insurer shall mail a notice to each policyholder and to the insurance commissioner of each state in which the affected variable life insurance policies are being sold. Such notice shall describe the proposed change in investment policy, list the reasons therefor, designate the date and place of the public hearing, inform the policyholder of the procedures to be followed in commenting on the change, and describe the conduct of the meeting. Any such notice shall be in a form approved by the commissioner.

(D) Within 60 days after such public hearing, the commissioner must approve or deny the proposed change in investment policy.

(E) Should any policyholder object to the proposed change and the change is allowed by the commissioner, the objecting policyholder shall be given the option within 60 days of notification to the policyholder of the approval by the commissioner of such change, of converting, without evidence of insurability, under one of the following options, to a fixed benefit life insurance policy issued by the insurer or an affiliate:

(i) If the policy is in force on a premium paying basis, either: conversion as of the original issue age to a substantially comparable permanent form of fixed benefit life insurance, based on the insurer's premium rates for fixed benefit life insurance at the original issue age, for an amount of insurance not exceeding the death benefit of the variable life insurance policy on the date of conversion; or conversion as of the attained age to a substantially comparable permanent form of fixed benefit life insurance for an amount of in-

insurance not exceeding the excess of the death benefit of the variable life insurance policy on the date of conversion over its cash value on the date of conversion (if the withdrawing policyholder elects the cash surrender option) if the policyholder elects to surrender the variable life policy for its cash value, or the death benefit payable under any paid-up insurance option (if the withdrawing policyholder elects such nonforfeiture option under the variable life policy).

(ii) If the policy is in force as paid-up variable life insurance, then conversion will be to a substantially comparable paid-up fixed benefit life insurance policy for an amount of insurance not exceeding the death benefit of the variable life insurance policy on the date of conversion.

(iii) If conversion is made pursuant to (i) above, then if the cash value of the variable life insurance policy exceeds the cash value of the fixed benefit life insurance policy, the difference shall be paid to the policyholder; if the cash value of the fixed benefit life insurance policy exceeds the cash value of the variable life insurance policy, the difference shall be paid by the policyholder; and any indebtedness to the insurer under the variable life insurance policy shall become indebtedness to the insurer under the fixed benefit policy, provided that any excess of such indebtedness over the cash value of the fixed benefit policy on the date of conversion shall be deducted from any amount otherwise payable to the policyholder.

(g) Charges against a variable life insurance separate account.

(1) The insurer may deduct only the following from the separate account:

(A) taxes or reserves for taxes attributable to investment gains and income of the separate account;

(B) actual cost of reasonable brokerage fees and similar direct acquisition and sales costs incurred in the purchase or sale of separate account assets;

(C) actuarially determined costs of insurance (tabular costs) and the release of reserves and benefit base consistent with the release of separate account liabilities;

(D) charges for investment management expenses, including internal costs attributable to the investment management of assets of the separate account, not exceeding the following percentages, on an annual basis, of the average net asset value of the separate account as of the dates of valuation under (a)(5) of this rule:

(i) .75 percent of that portion of separate account assets valued at or under \$75,000,000; and

(ii) .50 percent of that portion of separate account assets valued in excess of \$75,000,000 but less than \$150,000,000; and

(iii) .40 percent of that portion of separate account assets valued in excess of \$150,000,000 but less than \$400,000,000; and

(iv) .35 percent of that portion of separate account assets valued in excess of \$400,000,000 but less than \$800,000,000; and

(v) .30 percent of that portion of separate account assets valued in excess of \$800,000,000.

(E) A charge, at a rate specified in the policy, not to exceed .50 percent per year of the average net asset value of the separate account as of the dates of valuation under (a)(5) of this rule, for mortality and expense guarantees.

(F) any amounts in excess of those required to be held in the separate account.

(2) Any charges against the separate account made by either an affiliate of the insurer or an unaffiliated fund shall be considered part of the charges limited by paragraphs (D) and (E) of subsection (1) above. Any charge against the separate account, excluding taxes, shall not vary in accordance with the difference between the investment performance of the separate account and any index of securities prices or other measure of investment performance.

(h) Standards of conduct. Every insurer seeking approval to enter into the variable life insurance business in this state shall adopt by formal action of its board of directors and file with the commissioner a written statement specifying the standards of conduct of the insurer, its officers, directors, employees, and affiliates with respect to investments of variable life insurance separate accounts and variable life insurance operations. Such standards of conduct shall be binding on the insurer and those to whom it refers and must contain at a minimum the items contained in (i)(2) of this rule.

(i) Conflicts of interest.

(1) Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body. No officer or director of such company nor any member of any managing committee or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account. The board of directors of the insurer shall be responsible for all acts concerning the separate account.

(2) Unless otherwise approved in writing by the commissioner in advance of the transaction, with respect to variable life insurance separate accounts, an insurer or affiliate thereof shall not:

(A) sell to or purchase from any such separate account established by the insurer any securities or other property, other than variable life insurance policies;

(B) purchase or allow to be purchased for any such separate account any securities of which the insurer or an affiliate is the issuer;

(C) accept any compensation, other than a regular salary or wages from such insurer or affiliate, for the sale or purchase of securities to or from any such separate account other than as provided in (i)(3)(C) of this rule;

(D) engage in any joint transaction, participation, or common undertaking whereby such insurer or an affiliate participates with such separate account in any transaction in which an insurer or any of its affiliates obtains an advantage in the price or quality of the item purchased, in the service received, or in the cost of such service and the insurer or any of its other affiliates is disadvantaged in any of these respects by the same transaction;

(E) borrow money or securities from any such separate account other than under a policy loan provision.

(3) No provision of this regulation shall be construed to prohibit:

(A) the investment of separate account assets in securities issued by one or more investment companies registered pursuant to the Investment Company Act of 1940 which is sponsored or managed by the insurer or an affiliate, and the payment of investment management or advisory fees on such assets;

(B) the combination of orders for the purchase or sale of securities for the insurer, an affiliate thereof, any sep-

arate accounts, or any one or more to them, which is for their mutual benefit or convenience so long as any securities so purchased or the proceeds of any sale thereof are allocated among the participants on some predetermined basis expressed in writing which is designed to assure the equitable treatment of all participants;

(C) an insurer or an affiliate to act as a broker or dealer in connection with the sale of securities to or by such separate account; however, any commission fee or remuneration charged therefore shall not exceed the minimum broker's commission established for any such transaction by any national securities exchange through which such transaction could be effected, or where such charges are subject to negotiation or where no minimum charge is applicable, then such charge shall be consistent with the charges prevailing in the ordinary course of business in the community where such transaction is effected;

(D) the rendering of investment management or investment advisory services by an insurer or affiliate, for a fee, subject to the provision of these rules.

(4) The commissioner may, upon the written request of an insurer or an affiliate, approve a particular transaction or series of proposed transactions which would otherwise be prohibited under subsection (2) if he determines such transaction is not unfair or inequitable to persons affected under the circumstances of such transactions.

(j) Investment advisory services to a separate account.

(1) An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

(A) the person providing such advice is registered as an investment adviser under the Investment Advisers Act of 1940; or

(B) the insurer has filed with the commissioner and continues to file annually the following information and statements concerning the proposed adviser:

(i) the name and form of organization, state of organization, and its principal place of business;

(ii) the names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment adviser be an individual, of such individual;

(iii) a written standard of conduct complying in substance with the requirements of Rule .059.10.01.005(h) which has been adopted by the investment adviser and is applicable to the investment adviser, its officers, directors, and affiliates;

(iv) a statement provided by the proposed adviser as to whether the adviser or any person associated therewith: has been convicted within 10 years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a bank, an insurance agent, a securities broker, or an investment adviser, involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of the United States Code; has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or

practice in connection with any such activity; has been found by federal or state regulatory authorities to have willfully violated or has acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or has been censured, denied an investment adviser registration, had a registration as an investment adviser revoked or suspended, or been barred or suspended from being associated with an investment adviser by order of federal or state regulatory authorities; and

(C) such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than 60 days written notice to the investment adviser.

(2) The commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

.006. Information Furnished to Applicants. An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for the policy and obtain a written acknowledgment of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this rule shall be deemed to have been satisfied by the delivery to the applicant of a prospectus included in a registration statement which satisfies the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission to the extent that the prospectus contains the information required by this rule:

(a) A summary explanation, in nontechnical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by Rule .059.10.01.003(c)(1)(E) and Rule .059.10.01.003(c)(6).

(b) A statement of the investment policy of the separate account, including:

(1) a description of the investment objective and orientation intended for the separate account and the principal types of investments intended to be made; and

(2) any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

(c) A statement of the net investment return of the separate account for each of the last 10 years for which the separate account was in existence.

(d) A statement describing, as an approximate percentage of an annual gross premium for each year and for the life of the policy all commission or equivalent payments to be paid to all agents or other persons as a result of the proposed sale for each year of the policy for which such payments are to be made. As used in this section, "commission" means all monies and other valuable consideration, including but not limited to prizes, bonuses paid directly or indirectly for or on behalf of the selling agent as compensation for services, in the sale of variable life insurance.

(e) A statement of the annual taxes, brokerage fees, and similar costs, and the charges, expressed as an annual

percentage levied against the separate account during the previous year.

(f) A summary of the method to be used in valuing assets held by the separate account.

(g) A summary of the federal income tax liabilities of the policy applicable to the insured, the policy owner, and the beneficiary.

(h) If the applicant is furnished illustrations of benefits payable under any variable life insurance contract, such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

(i) A prominent statement either in contrasting color or in boldface type at least four points larger than the type size of the largest type used in the text of any provision on the page, providing in substance the following information:

(1) the purpose of this variable life insurance policy is to provide insurance protection for the beneficiary named therein;

(2) no claim is made that this variable life insurance policy is in any way similar or comparable to a systematic investment plan of a mutual fund.

.007. Applications. The application for a variable life insurance policy shall contain:

(a) a prominent statement that the death benefit may be variable or fixed under specified conditions;

(b) a prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

(c) questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

.008. Reports to Policyholders. Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

(a) Within 30 days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to Rule .059.10.01.003(d) under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within 30 days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than 45 days prior to the mailing of such notice. The statement shall state in contrasting color or distinctive type that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this rule. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate.

(b) Annually, statement or statements including:

(1) a summary of the financial statement of the separate account based on the annual statement last filed with the commissioner;

(2) the net investment return of the separate account for the last year and for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of five years when available;

(3) a list of investment held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the commissioner;

(4) any charges, taxes, and brokerage fees determined on an accrual basis payable by the separate account during the previous year, each expressed as a dollar amount and a percentage, and the total, expressed as a dollar amount and as a percentage, of the assets of the separate account;

(5) a statement of the portfolio turnover rate as defined herein during the preceding fiscal year of investments allocated to the separate account.

(A) The rate shall be calculated by dividing (i) the lesser of purchases or sales of portfolio securities for the particular fiscal year by (ii) the monthly average of the value of the portfolio securities owned by the separate account during the particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding 11 months, and dividing the sum by 13, except that the average value of securities for which market quotations are not available may be based upon the value of such securities as of the end of the preceding fiscal quarters.

(B) For the purposes of this item, there shall be excluded from both the numerator and the denominator all U.S. Government securities (short-term and long-term) and all other securities whose maturities at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of redemptions of portfolio securities by call or maturity.

(C) The insurer shall show, in addition to the calculated portfolio turnover rate, both the amount of the purchases and the amount of the sales (calculated as prescribed in (B) above) and the monthly average (but not the individual monthly figures) of the value of the portfolio securities owned by the separate account during the fiscal year.

(D) The insurer may, if it wishes, make any statement or explanation with respect to any significant variations in the portfolio turnover rate during the three fiscal years next preceding.

(6) a statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment adviser of the separate account;

(7) the name of each broker or dealer handling portfolio transactions on behalf of the separate account in which the insurer or an affiliate has any material direct or indirect interest and the nature of such transactions and the amount of compensation received by each such broker or

dealer from business originating with the separate account during the preceding fiscal year;

(8) the names and principal occupations of each principal executive officer and each director of the insurer; and

(9) the names of all parents of the insurer and the basis of control of the insurer, and the name of any person who is known to own, of record or beneficiary, 10 percent or more of the outstanding voting securities of the company.

.009. Qualification of Agents for the Sale of Variable Life Insurance.

(a) Qualification to sell variable life insurance.

(1) No person may sell or offer for sale in this state any variable life insurance policy unless such person is an agent and has filed with the commissioner, in a form satisfactory to the commissioner, evidence that such person holds any license or authorization which may be required for the solicitation or sale of variable life insurance by any federal or state securities law, and who has satisfactorily completed the examination for a variable life insurance agent prescribed by the commissioner.

(2) Examinations administered by the department for the purpose of determining the eligibility of any person for licensing as variable life insurance agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and sale of variable life insurance as the commissioner deems appropriate.

(b) Reports of disciplinary actions. Any person qualified in this state under this rule to sell or offer to sell variable life insurance shall immediately report to the commissioner:

(1) any suspension or revocation of his agent's license in any other state or territory of the United States;

(2) the imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

(3) any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(c) Refusal to qualify agent to sell variable life insurance. Suspension, revocation, or nonrenewal of qualification. The commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualification under this rule to sell or offer to sell variable life insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable life insurance.

.010. Separability Article. If any provision of these rules or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rules and the application of such provision to other persons or circumstances shall not be affected thereby.

.011. Cumulative Effect of Rules. The provisions of these rules are cumulative of, supplemental, and in addition to all

other rules respecting the same subject matter; they do not repeal, supersede, or amend such other rules unless their context clearly requires a different construction.

Issued in Austin, Texas, on August 10, 1978.

Doc. No. 785366

Pat Wagner
Chief Clerk
State Board of Insurance

Effective Date: September 1, 1978

For further information, please call (512) 475-3325.

Texas State Board of Examiners of Psychologists

Applications 400.02.00

The Texas State Board of Examiners of Psychologists has adopted amendments to Rule 400.02.00.004, which deals with the fees required of applicants to the board and fees required of psychologists already certified and/or licensed and of psychologist associates already certified by the board, to state that the above-mentioned fees are not refundable. This has been the policy of the board since its existence. It was also decided to remove the phrase "includes examination fee" for psychological associates.

The amendment to Rule 400.02.00.004 is adopted under the authority of Article 4512c, Texas Civil Statutes.

.004. Fees. Fees for application for certification, licensure, and health service provider; renewal of certification, licensure, and health service provider; and examination are listed below. None of the fees is refundable.

Psychologist:

application for certification—\$65, effective January 1, 1978;

examination fee—\$60, effective for April 1978 exam and all exams thereafter;

application for licensure—\$50;

annual renewal of certification—\$15;

annual renewal of licensure—\$50 (to renew licensure, certification must be renewed and current);

original application for health service provider—\$20;

annual renewal of health service provider—\$10.

Psychological associate:

application for certification—\$50;

annual renewal of certification—\$15.

Doc. No. 785361

Announcements 400.04.00

The Texas State Board of Examiners of Psychologists has adopted amendments to Rule 400.04.00.005, which deals with the Yellow Pages listings under "Psychologists" in telephone directories. The rule is being expanded to address the matter of local professional societies.

The amendment to Rule 400.04.00.005 is adopted under the authority of Article 4512c, Texas Civil Statutes.

.005. Listings in Yellow Pages. All listings in the Yellow Pages under the title "Psychologists" must be by individual name only or by local professional societies whose membership is open to all licensed psychologists in good standing and whose purpose, in the determination of the board, is public service and information and whose request has been received and approved by the board to list their name, address, and telephone number in the Yellow Pages for the purpose of referral to a licensed psychologist.

Doc. No. 785362

Renewal 400.06.00

The Texas State Board of Examiners of Psychologists has adopted amendments to Rule 400.06.00.001, which deals with renewal notification. The amendment adds the phrase "psychologist's certification, licensure, and/or specialty certification and psychological associate's certification" after the word "whose" in the first sentence. The amendment allows for the recognition of specialty certifications which must also be renewed on an annual basis. The amendment would also change the annual renewal date for psychological associates from December 31 to May 31 each year.

The amendment to Rule 400.06.00.001 is adopted under the authority of Article 4512c, Texas Civil Statutes.

.001. Notification of Renewal. Persons whose psychologist's certification, licensure, and/or specialty certification is about to expire shall be notified once by regular mail at least 30 days before December 31, as required by the Psychologists' Certification and Licensing Act, and notified by registered mail if they fail to renew certification and/or licensure and/or specialty certification by December 31. The second notice will not be mailed prior to December 31. Persons whose psychological associate's certification is about to expire shall be notified once by regular mail at least 30 days before May 31, as required by the Psychologists' Certification and Licensing Act, and notified by registered mail if they fail to renew certification by May 31. The second notice will not be mailed prior to May 31.

Issued in Austin, Texas, August 10, 1978.

Doc. No. 785363

Patti Smith
Executive Secretary
Texas State Board of
Examiners of Psychologists

Effective Date: September 2, 1978

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

Legislation Signed

The following is the list of bills and resolutions signed by the governor during the Second Called Session of the 65th Legislature. The date of the governor's signature and the measure's effective date are included.

House of Representatives

HB 1 Wyatt—Relating to exemptions from the state inheritance tax for certain Class A beneficiaries; relating to the taxation or exemption from taxation of the receipts from the sale, production, distribution, lease or rental of, and the storage, use, or other consumption of gas and electricity for residential use under state and local sales and use taxes. Signed August 9. Article 1 (inheritance tax), effective September 1, 1978. Article 2 (utility sales tax), effective October 1, 1978.

HB 18 B. Clark—Relating to restricting increases in property taxes by local taxing units. Signed August 14. Effective January 1, 1979.

HB 36 Close—Relating to the compensation and expenses of the court reporter of the 31st Judicial District. Signed August 14. 90-day bill, effective November 7, 1978.

HB 57 Presnal and Heatly—Relating to creation and allocation of a special fund for reimbursement of school districts for loss of revenue resulting from certain constitutional provisions. Signed August 15. Effective if HJR 1 is approved by voters on November 7, 1978.

HJR 1 Von Dohlen—Proposing a constitutional amendment relating to ad valorem taxation of agricultural property, exemptions of certain property from taxation, limitations on increases in total property tax revenues, and limitations on state legislative appropriations and state taxation. Signed August 14. Will appear on general election ballot on November 7, 1978.

Senate

SB 8 Schwartz—Relating to the validation of the acts and proceedings of certain municipalities. Signed August 14. Effective immediately.

SB 10 Doggett—Relating to contributions by state agency from Social Security Trust Fund in order to obtain Federal Old Age and Survivors Insurance coverage for state employees. Signed August 4. Effective immediately.

SB 13 Jones of Taylor—Relating to transfer of the land, buildings, facilities, and other property of the Gatesville State School for Boys to the Texas Department of Corrections. Signed August 14. Effective immediately.

SB 17 Aikin—Making an appropriation to pay for the cost of publication of notice of proposed constitutional amendments. Signed August 14. Effective immediately.

SB 18 Jones of Harris—Relating to the arrangement on the ballot of certain proposed constitutional amendments. Signed August 14. Effective immediately.

SB 19 Farabee—Relating to county school administration. Signed August 14. Effective immediately.

SJR 17 Farabee—Proposing an amendment to SJR 44, 65th Legislature, Regular Session, 1977, relating to a constitutional amendment concerning municipal tax increment bonds. Signed August 14. Will appear on general election ballot on November 7, 1978.

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

Texas Alcoholic Beverage Commission

Monday, August 28, 1978, 10 a.m. The Texas Alcoholic Beverage Commission will meet in Room 210, Jefferson Building, 1600 West 38th Street, Austin, to consider the following items, as summarized: administrator's report of each division; approval of affidavit of destruction of tested alcoholic beverages; and approval of proposed amendments to various rules and regulations of the agency (proposed amendments were published in the *Texas Register* on July 25, 1978, Volume 3, Number 54, Pages 2521-2522.).

Additional information may be obtained from W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, telephone (512) 475-3611.

Filed: August 15, 1978, 10:02 a.m.
Doc. No. 785390

Texas Coastal and Marine Council

Friday, August 18, 1978, 9:30 a.m. The Texas Coastal and Marine Council made an emergency addition to the agenda of a meeting held in the Lieutenant Governor's Committee Room, State Capitol, Austin, to include action on personnel matters.

Additional information may be obtained from Jenny Aldridge, P.O. Box 13407, Austin, Texas 78711, telephone (512) 475-5830.

Filed: August 14, 1978, 4:27 p.m.
Doc. No. 785389

Texas Department of Community Affairs

Thursday, August 24, 1978, 9:30 a.m. The Texas Commission on Services to Children and Youth of the Texas Department of Community Affairs will meet in the fourth floor conference room, 210 Barton Springs Road, Austin, to discuss and finalize conference plans and to discuss obtaining input for the legislature.

Additional information may be obtained from Sam Castleberry, 210 Barton Springs Road, Austin, Texas 78701, telephone (512) 475-6335.

Filed: August 15, 1978, 10:12 a.m.
Doc. No. 785392

Credit Union Department

Tuesday, August 29, 1978, 3 p.m. The Credit Union Commission will meet in the Pioneer Room, Hilton Inn, 6000 Middle Fiskville Road, Austin, to consider the following items, as summarized: budget adjustment 1978; approval of new exam report format; building progress report; and review and study of proposed regulations (workshop session).

Additional information may be obtained from Harry L. Elliott, Suite 520-E, 1106 Clayton Lane, Austin, Texas 78723, telephone (512) 475-2295.

Filed: August 14, 1978, 2:09 p.m.
Doc. No. 785378

Texas Election Code Revision Commission

Friday, August 25, 1978, 9 a.m. The Texas Election Code Revision Commission will meet in the Senate Finance Committee Room, Room 301, State Capitol, Austin, to take action on suggested changes to be made in existing code provisions for inclusion in revised code and on reports received from special study committees of the commission, as summarized in the agenda.

Additional information may be obtained from Walter Fisher, Texas Legislative Council, P.O. Box 12128, Austin, Texas 78711, telephone (512) 474-2736.

Filed: August 17, 1978, 10:53 a.m.
Doc. No. 785443

Commission on Fire Protection Personnel Standards and Education

Wednesday, August 30, 1978, 4 p.m. The Subcommittee on Investigative Personnel (Arson) of the Commission on Fire Protection Personnel Standards and Education will meet in Suite 122, 8330 Burnet Road, Austin, to consider certification eligibility of part-paid fire marshals and authorization

by fire officials for issuing arson investigator certificates to police officers. Both subjects were received in comments by visitors at the last regular commission meeting and referred back to the committee for recommendations.

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

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785420

Thursday, August 31, 1978, 3 p.m. The Subcommittee on Recruitment and Selection Standards of the Commission on Fire Protection Personnel Standards and Education will meet in the Empress Room, Villa Capri Motel, 2400 North Interregional, Austin, to conduct a special meeting. The subcommittee will present current findings and results of study to the full commission at a meeting following the joint meeting of the APAP (Academy Planning and Assistance Programs, National Fire Academy, National Fire Prevention and Control Administration) Advisory Committee (federal grant) and the commission.

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

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785419

Thursday, August 31, 1978, 4:30 p.m. The Commission on Fire Protection Personnel Standards and Education made an emergency addition to a meeting held in the Empress Room, Villa Capri Motel, 2400 North Interregional, Austin, to conduct a special meeting for the purpose of receiving recommendations of the Recruitment and Selection Subcommittee and taking action as necessary.

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

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785418

Texas Health Facilities Commission

Thursday, August 24, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The commission will consider the following applications:

Texas Children's Hospital, Houston—certificate of need
Medi Park Care Center, Amarillo—declaratory ruling
St. Luke's Episcopal Hospital, Houston—two exemption certificates

Galveston County Memorial Hospital, Galveston—declaratory ruling

Marion County Hospital, Jefferson—exemption certificate

E. Richard Packer, M.D., Austin—declaratory ruling

Lutheran General Hospital, San Antonio—motion to amend certificate of need

Medical City Dallas Hospital, Dallas—motion to amend certificate of need

Additional information may be obtained from Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: August 16, 1978, 12:01 p.m.
Doc. No. 785436

Thursday, August 31, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The commission will consider the following applications:

National Living Centers, Inc., doing business as Resthaven Nursing Home, Athens—certificate of need

Bremond Convalescent Center, Bremond—certificate of need

Hillcrest Baptist Hospital, Waco—certificate of need

Bexar County Hospital, San Antonio—certificate of need

The University of Texas System Cancer Center, M.D. Anderson Hospital and Tumor Institute, Houston—certificate of need

Kleburg County Hospital, Kingsville—exemption certificate

Collin Memorial Hospital, McKinney—exemption certificate

Sweetbriar Nursing Home of Taylor, Taylor—exemption certificate

Brazosview Healthcare Center, Richmond—exemption certificate

Fort Bend Community Hospital, Sugar Land—administrative order

Timberlawn Psychiatric Hospital, Inc., Dallas—exemption certificate

Additional information may be obtained from Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: August 16, 1978, 12:01 p.m.
Doc. No. 785437

State Board of Insurance

Wednesday, August 30, 1978, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider a name protest of Commonwealth National Life Insurance Company, Cleveland, Mississippi.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: August 15, 1978, 10:25 a.m.
Doc. No. 785393

Wednesday, August 30, 1978, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application for original charter by Summit Life Insurance Company, Houston.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: August 15, 1978, 10:25 a.m.
Doc. No. 785394

Thursday, August 31, 1978, 9 a.m. The State Board of Insurance will meet in Room 142, 1110 San Jacinto, Austin, to consider an amendment of rates applicable to exposure under the Longshoremen's and Harbor Workers' Compensation Act of stevedoring classifications 7309F, 7313F, 7317F, 7323F, and 7327F.

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

Filed: August 15, 1978, 10:25 a.m.
Doc. No. 785395

Texas Advisory Commission on Intergovernmental Relations

Friday, August 25, 1978, 1:30 p.m. The Committee on Personal Tort Liability of Public Officials and Employees of the Texas Advisory Commission on Intergovernmental Relations will meet in Room 618, Stephen F. Austin Building, Austin, to discuss the preliminary results of staff research on the current status of personal tort liability of public officials and employees and possible methods of preventing such liability.

Additional information may be obtained from Louise Winecup, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-3728.

Filed: August 15, 1978, 10:36 a.m.
Doc. No. 785405

Texas Legislative Council

Saturday, September 2, 1978, 10 a.m. The Finance Committee of the Texas Legislative Council will meet in Room 155, State Capitol, Austin, to consider the 1978-1979 budget.

Additional information may be obtained from Dick Strader, P.O. Box 12128, Austin, Texas 78711, telephone (512) 475-2736.

Filed: August 16, 1978, 11:45 a.m.
Doc. No. 785433

North Texas State University

Wednesday, August 23, 1978, 2 p.m. The North Texas State University Health Sciences Center/Texas College of Osteopathic Medicine Subcommittee of the Role and Scope Committee of the Board of Regents will meet in Room 108, NTSU Health Sciences Center/TCOM, Fort Worth, to consider legal, real estate, and personnel matters in executive session, as summarized.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (512) 788-2275.

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785426

Thursday, August 24, 1978, 1 p.m. The Role and Scope Committee of the North Texas State University Board of Regents will meet in the Board Room, Administration Building, NTSU campus, Denton, to consider legal, real estate, and personnel matters in executive session, as summarized.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (512) 788-2275.

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785425

Thursday, August 24, 1978, 3 p.m. The Facilities Committee of the North Texas State University Board of Regents will meet in the Board Room, Administration Building, NTSU campus, Denton, to consider legal, real estate, and personnel matters in executive session, as summarized.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (512) 788-2275.

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785427

Thursday, August 24, 1978, 4 p.m. The Board of Regents of North Texas State University will meet in the Board Room, Administration Building, NTSU campus, Denton, to consider legal, real estate, and personnel matters in executive session, as summarized.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (512) 788-2275.

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785428

Friday, August 25, 1978, 9 a.m. The Board of Regents of North Texas State University will meet in the Board Room, Administration Building, NTSU campus, Denton, to consider the following items, as summarized: president's recommendations regarding personnel changes and promotion recommendations for 1978-1979; committee reports; and election of officers.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (512) 788-2275.

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785424

Friday, August 25, 1978, 9 a.m. The Board of Regents of North Texas State University Health Sciences Center/Texas College of Osteopathic Medicine will meet in the Board Room, Administration Building, NTSU campus, Denton, to consider the following items, as summarized: approval of action of Executive Committee; president's recommendations; committee reports; and other business.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (512) 788-2275.

Filed: August 16, 1978, 10:18 a.m.
Doc. No. 785423

Texas Board of Licensure for Nursing Home Administrators

Thursday, August 17, 1978, 9 a.m. The Texas Board of Licensure for Nursing Home Administrators met in emergency session at 7333 Highway 290 East, Austin, to act on the hiring of an investigator by September 1, 1978; the duties of the investigator must be outlined prior to employment. The agenda includes the election of officers and the discussion of any complaints or hearings that may be necessary.

Additional information may be obtained from E. M. Lawrence, Jr., P.O. Box 9706, Austin, Texas 78766, telephone (512) 926-9530.

Filed: August 15, 1978, 10:40 a.m.
Doc. No. 785406

Board of Pardons and Paroles

Monday through Friday, August 28-September 1, 1978, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. As summarized, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole and procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives.

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

Filed: August 15, 1978, 10:34 a.m.
Doc. No. 785404

Texas Parks and Wildlife Department

Thursday, August 31, 1978, 10 a.m. The Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Headquarters Complex, 4200 Smith School Road, Austin, to consider the following items, as summarized: Bastrop State Park additional nine-golf-hole concept; Blanco State Recreation Area private land sale request; Galveston Island State Park capital improvement program; Bastrop/Buescher State Parks' capital improvement program; Magoffin Home State Historic Site design/development review; methodology on establishing statewide outdoor recreational resource and state park system requirements; Mustang Island State Park water service agreement; Dundee State Fish Hatchery domestic water supply; endangered fish and wildlife regulation 127.30.09.001-.006 amendment for deletion of the Mexican Duck; 1978-1979 migratory game bird regulations; Houston/Comal Counties' deer regulations; and first three-month incoming WATS line analysis.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: August 17, 1978, 9:27 a.m.
Doc. No. 785441

Friday, September 1, 1978, 9 a.m. The Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Headquarters Complex, 4200 Smith School Road, Austin, to consider the following items, as summarized: endangered fish and wildlife regulation 127.30.09.001-.006 amendment for deletion of Mexican Duck; 1978-1979 migratory game bird regulations; White Amur; Lockhart State Recreation Area capital improvement program; Houston/Comal Counties' deer regulations; sale contract acceptance, Enchanted Rock State Park acquisition project; oil/gas lease nomination request, Fort Parker State Historic Site; pipeline easement request, Sea Rim State Park; historic artifact conservation/maintenance, Governor Hogg Shrine State Historical Park; Jose Antonio Navarro State Historic Site, bid review/final funding; Magoffin Home State Historic Site construction document A/E fee request; park site master plans for Palmetto Bend, Purtil Creek, and Hale Ranch; Kerrville State Recreation Area water contract; employees' protective equipment; Mustang Island State Park increased operational staffing/budget; pending park donation offers; Fannin Battleground State Historic Site interpretive exhibits; park site budget adjustments for aerial photography, Enchanted Rock, South Llano River, and Hill Country natural area; San Jacinto Museum of History Association operating budget consideration, San Jacinto Battleground State Historical Park; VORTAC Station lease, Sea Rim State Park; Caddoan Mounds Historic Site water supply; Mustang Island State Park water service agreement; Dundee State Fish Hatchery domestic water supply; computer terminal purchase using Caddo Creek Club Fund donation; Texas Coastal and Marine Council seafood marketing program presentation; fiscal year 1978 operating expense budget adjustment for electricity cost.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: August 17, 1978, 9:26 a.m.

Doc. No. 785442

Thursday, September 21, 1978, 2 p.m. The Texas Parks and Wildlife Department will conduct a public hearing in Room A-100, Headquarters Building, 4200 Smith School Road, Austin. The topic of the hearing will be the proposed construction of a water line from a point on the northeast boundary of the Kerrville State Recreation Area, Kerr County, which is approximately 400 feet from the north corner of the state park to an existing well house, a distance of approximately 1,050 feet.

Additional information may be obtained from Dr. Harold D. Toy, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: August 15, 1978, 1:59 p.m.

Doc. No. 785415

Texas State Board of Pharmacy

Monday-Wednesday, August 28-30, 1978, 8:30 a.m. daily. The Texas State Board of Pharmacy will meet in the Highland Room, Hilton Inn, 6000 Middle Fiskville Road, Austin, to conduct violation hearings. In open session the board will hear testimony and view evidence of alleged violations of those laws and regulations under the purview of the board. In an executive session the board will determine which persons are subject to administrative sanctions and what form the sanctions are to take.

Additional information may be obtained from Jim Riley, Suite 1121, Southwest Tower, East 7th Street, Austin, Texas 78701, telephone (512) 478-9827.

Filed: August 15, 1978, 11:20 a.m.

Doc. No. 785410

State Board of Registration for Public Surveyors

Monday through Wednesday, August 21-23, 1978, 8 a.m. The State Board of Registration for Public Surveyors met in emergency session in the Castillian Room, Chariot Inn, 7300 North Interstate Highway 35, Austin, to consider the following items, as summarized: examinations; interviewing of applicants; new applications; reconsideration of applicants who were not approved previously to take the examination; and complaints.

Additional information may be obtained from the State Board of Registration for Public Surveyors, Suite H-109, 5555 North Lamar, Austin, Texas 78751, telephone (512) 452-9427.

Filed: August 14, 1978, 2:18 p.m.

Doc. No. 785379

Public Utility Commission of Texas

Tuesday, August 29, 1978, 10 a.m. The Public Utility Commission of Texas has rescheduled a prehearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an application of Westex Communications, Inc. As summarized, the applicant seeks a certificate of convenience and necessity to provide radio-telephone service in Kerr, Bandera, Real, Edwards, Kimble, Gillespie, and Kendall Counties. This prehearing was originally scheduled for August 21.

Additional information may be obtained from Philip F. Ricketts, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-0100.

Filed: August 16, 1978, 10:18 a.m.

Doc. No. 785422

Wednesday, August 30, 1978, 2 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding a complaint of Southwestern Bell Telephone Company (Docket No. 2054) for a determination of the gross receipts assessment, as summarized.

Additional information may be obtained from Philip F. Ricketts, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-0100.

Filed: August 17, 1978, 10:53 a.m.

Doc. No. 785446

Texas Real Estate Commission

Friday, August 25, 1978, 10 a.m. The Texas Real Estate Commission will meet in Room 119, Stephen F. Austin Building, 17th and Congress, Austin, to consider the following items, as summarized: staff reports for July 1978; education and school matters; proposed Rules 402.03.02.003, 402.03.02.010, and 402.03.02.013 (clerical or secretarial employees and associates); Sunset Advisory Commission report; approval of assistant administrator to be an authorized signer; appointments to the Broker-Lawyer Joint Committee and the Research Center Advisory Committee (executive session); and date and place of next meeting.

Additional information may be obtained from Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, telephone (512) 475-4250.

Filed: August 15, 1978, 10:33 a.m.

Doc. No. 785403

Texas Southern University

Wednesday, August 16, 1978, 3 p.m. The Board of Regents of Texas Southern University met in emergency session in the board conference room, Hannah Hall 117, 3201 Wheeler Avenue, to consider authorizing the sale of refunding bonds and the creation of an escrow fund for the payment of the bonds to be refunded.

Additional information may be obtained from Everett O. Bell, 3201 Wheeler Avenue, Houston, Texas 78704, telephone (713) 529-8911.

Filed: August 15, 1978, 10:44 a.m.
Doc. No. 785407

Texas Tourist Development Agency

Thursday, September 14, 1978, 9:30 a.m. The Texas Tourist Development Agency will meet at the Hilton Inn, Austin, to consider the following items, as summarized: status of fiscal year 1978 budget; review of autumn-winter 1978 media plan and adoption of proposed spring-summer 1978 media plan; status of 1980-1981 budget request; and 1980 annual conference site.

Additional information may be obtained from Margaret Younger, P.O. Box 12008, Austin, Texas 78711, telephone (512) 475-4326.

Filed: August 17, 1978, 10:53 a.m.
Doc. No. 785445

Wednesday, September 14, 1978, noon, and Thursday, September 15, 2 p.m. The Texas Tourist Development Agency will meet at the Hilton Inn, Austin, to consider tourism-related subjects covered in general sessions and concurrent seminars, as summarized.

Additional information may be obtained from Margaret Younger, P.O. Box 12008, Austin, Texas 78711, telephone (512) 475-4326.

Filed: August 17, 1978, 10:53 a.m.
Doc. No. 785444

Texas Water Commission

Tuesday, September 5, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding International Pollution Control, Inc. (ICPI), Corpus Christi. As summarized, the applicant seeks an authorization to increase the permitted maximum injection volume for Waste Disposal Well No. 70 from 50 gallons per minute to 150 gallons per minute with a maximum surface injection pressure not to exceed 750 pounds per square inch.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: August 14, 1978, 2:34 p.m.
Doc. No. 785380

Monday, September 11, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider requests to convert the following named districts into municipal utility districts, as summarized: Montgomery County Water Control and Improvement District No. 1; and Bammel Utility District.

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

Filed: August 16, 1978, 4:19 p.m.
Doc. No. 785439

Thursday, September 21, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application (No. 2658B) by Edwin Singer. As summarized, the applicant seeks an amendment to Permit No. 2423, as amended, pursuant to Section 11.22, Texas Water Code, to divert and use public waters from a reservoir on the Nueces River, Nueces River Basin, for irrigation purposes in McMullen County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2514.

Filed: August 14, 1978, 2:34 p.m.
Doc. No. 785381

Thursday, September 21, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application (No. 3900) by Truman McKillip. As summarized, the applicant seeks a permit to divert and use public waters from a reservoir on Catfish Draw, a tributary of Running Water Draw, a tributary of White River, a tributary of Salt Fork Brazos River, a tributary of Brazos River, Brazos River Basin, for irrigation purposes in Parmer County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2514.

Filed: August 14, 1978, 2:34 p.m.
Doc. No. 785382

Thursday, September 21, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application (No. 3899) by Lewis L. Pierce. As summarized, the applicant seeks a permit to maintain a dam and reservoir on an unnamed tributary Blanco River, tributary San Marcos River, tributary Guadalupe River, Guadalupe River Basin, for recreational purposes, in Hays County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2514.

Filed: August 14, 1978, 2:34 p.m.

Doc. No. 785383

Texas Water Development Board

Tuesday, August 15, 1978, 8:30 a.m. The Texas Water Development Board made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of the adoption of an emergency rule relating to the approval of the revisions to project priority lists under the Federal Construction Grant Program.

Additional information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: August 14, 1978, 4:16 p.m.

Doc. No. 785387

Tuesday, August 15, 1978, 8:30 a.m. The Texas Water Development Board made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of a request by the Banderita County Water Control and Improvement District No. 1 for the board to authorize the executive director to certify a combination Step II and III construction grant to EPA for the district from the fiscal year 1978 priority funding list, as summarized.

Additional information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: August 14, 1978, 4:16 p.m.

Doc. No. 785388

Regional Agencies

Meetings Filed August 15, 1978

The Austin-Travis County MH/MR Center, Board of Trustees, met at 1430 Collier, Austin, on August 17, 1978, at 7 p.m. Further information may be obtained from Daniel Dierschke, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Camino Real Health Systems Agency, Inc., Board of Directors, will meet in the third floor conference room, 1017 North Main Avenue, San Antonio, on August 16, 1978, at 7

p.m. Further information may be obtained from Jose A. Contreras, Suite 310, 1017 North Main Avenue, San Antonio, Texas 78212, telephone (512) 225-4426.

The Heart of Texas Council of Governments, Executive Committee, will meet at 110 South 12th, Waco, on August 24, 1978, at noon. Further information may be obtained from Marcia Ross, 110 South 12th Street, Waco, Texas 76701, telephone (817) 756-6631.

Doc. No. 785409

Meetings Filed August 16, 1978

The Deep East Texas Council of Governments, Board of Directors, will meet at the Groveton Community Center, Highways 287 and 94, Groveton, on August 24, 1978, at 2:30 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The Lower Rio Grande Valley Development Council, Board of Directors, will meet at the Harlingen City Hall, 118 East Tyler, Harlingen, on August 24, 1978, at 2 p.m. Further information may be obtained from Robert A. Chandler, Suite 207, First National Bank Building, McAllen, Texas 78501.

The San Jacinto River Authority, Board of Directors, will meet in the office building, Lake Conroe Dam Site, Highway 105 West, Conroe, on August 24, 1978, at 2 p.m. Further information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77301, telephone (713) 588-1111.

The West Central Texas Council of Governments, Executive Committee, will meet at the Jamaica Inn, 3161 South 23rd Street, Abilene, on August 23, 1978, at noon. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 1395, Abilene, Texas 79604, telephone (915) 8544.

Doc. No. 785417

Meetings Filed August 17, 1978

The Edwards Underground Water District, Board of Directors, will meet in the meeting room, Tower Life Building, Villita and St. Mary's, San Antonio, on September 12, 1978, at 10 a.m. Further information may be obtained from McDonald D. Weinert, 1200 Tower Life Building, San Antonio, Texas 78205, telephone (512) 222-2204.

The Middle Rio Grande Development Council, Regional Manpower Advisory Committee, will meet at the Civic Center Auditorium, Uvalde, on August 22, 1978, at 2 p.m. The Board of Directors (quarterly meeting) will meet at the Uvalde Civic Center, 300 East Main, at 3 p.m. Further information may be obtained from Mrs. Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

The South Texas Health Systems Agency, Nominating Committee, Golden Crescent Subarea Advisory Council, will meet in Room 126, Allied Health Building, Victoria College, Victoria, on August 30, 1978, at 7 p.m. Further information may be obtained from Paul Villaret, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

Doc. No. 785448

Comptroller of Public Accounts

Administrative Decisions

Summary of Administrative Decision 8732

Summary of Decision: Although a parent corporation accounts for its investment in its subsidiary on the equity basis on its books and records, it cannot consider the dividend from the subsidiary as a Texas receipt for franchise tax purposes until the dividend is lawfully declared by the subsidiary.

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Doc. No. 785434

Summary of Administrative Decision 8796

Summary of Decision: The manufacture and sale of a gas processing plant without installation is the sale of tangible personal property for sales and use tax purposes.

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Issued in Austin, Texas, on August 16, 1978.

Doc. No. 785435 **Harriet D. Burke**
Hearings Section
Comptroller of Public Accounts

Filed: August 16, 1978, 11:48 a.m.

For further information, please call (512) 475-2148.

Railroad Commission of Texas

Public Conference

On August 29, 1978, the Railroad Commission of Texas will conduct an informal public conference pursuant to Section 5(F), Texas Revised Civil Statutes Annotated (Vernon Supplement 1978), to consider revisions to its proposed general rules of Practice and Procedure after comments were received following publication in the January 13, 1978, issue of the *Texas Register* (3 TexReg 152). The conference will begin at 9:30 a.m. in Room 229, 611 South Congress, Austin. Any interested person may attend.

Issued in Austin, Texas, on August 16, 1978.

**Doc. No. 785430 James P. Grove IV
Assistant Special Counsel
Railroad Commission of Texas**

Filed: August 16, 1978, 10:47 a.m.

For further information, please call (512) 475-4686.

Texas Register

Correction of Error

Section (b)(3) of *Texas Department of Health* adopted Rule 301.83.12.005, published in the August 15, 1978, issue of the *Texas Register* (3 TexReg 2855), contained an error. That section should have read:

“(b) Pressures.

“(3) Metering for community-type public water systems. Accurate metering devices shall be provided at each service connection for the accumulation of water usage data at each service outlet. Systems with an ultimate development potential of 50 connections or less where no direct charge is made for the water shall be excused from this requirement.”

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