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TEXAS DOCUMENTS

# TEXAS REGISTER

## In This Issue...

Rehabilitation Commission's proposals on displaced homemakers

Emergency adoptions by the Department of Labor and Standards on boxing, wrestling, and Karate

Amendments to minimum licensing standards for custodial care homes and for nursing facilities proposed by the Department of Health

Repeal of personnel rules proposed by the Department of Public Welfare

Adoptions of the Teacher Retirement System



Office of the Secretary of State

USPS Publication Number 120090

# NOTES ON THE ISSUE

In compliance with House Bill 580, notes of the fiscal implications of all proposed rules are included in this issue. Notations of fiscal implication appear in the In Addition section; future notations will be part of the preambles of the proposed rules and will appear in the Proposed Rules section. The text of HB 580 appeared on page 3206 of the August 26, 1977, issue of the *Register*.

The Department of Public Welfare is proposing the repeal of all of its rules solely concerning internal personnel policies and procedures.

The Industrial Accident Board came under the Administrative Procedure and Texas Register Act on August 29. Their rules are adopted on an emergency basis in this issue to comply.

The Public Utility Commission of Texas proposes rules to govern the submetering of apartment units. The rules, when adopted, will regulate the procedures for the installation of submeters, their testing and reading, and the methods of billing. The rule is in response to legislation passed by the 65th Legislature.

*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

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## Requests for Opinions Summary of Request for Opinion RQ-1707

Request for opinion sent to the Attorney General's Opinion Committee by Everett L. Anschutz, Executive Director, Employees Retirement System of Texas, Austin.

### *Summary of Request:*

(1) May a person on assignment retire from "regular active service" under the terms of Section 2(a)?

(2) May a person on assignment apply for a disability retirement under Section 3 upon a showing that he "can no longer perform his regular judicial duties?"

(3) Section 2(a) provides for an additional 10 percent benefit which shall not be paid to any judge who has "been out of office for a period of longer than one year at the time he applied for retirement benefits." What affect does acceptance of assignment under Section 200a have on a judge's status with regard to this benefit?

(4) Section 4 provides for retirement at any age by a judge with 20 years creditable service "provided that his last service prior to retirement shall have been continuous for a period of not less than 10 years." Does acceptance of an assignment each month constitute "continuous service?"

(5) Is a judge who accepts assignment responsible for the payment of 1/12 of six percent of the annual judicial salary in retirement contributions, or is he only obligated to pay six percent of the state salary actually received?

(6) If a judge has more than 10, but less than 12 years creditable service, is his right to Death Benefit Plan under Section 2(a-1) valid only on those days that he is actually on assignment, or is it also valid during the full month in which he has served?

Doc. No. 774243

## Summary of Request for Opinion RQ-1710

Request for opinion sent to the Attorney General's Opinion Committee by Betty J. Anderson, Executive Secretary, Texas State Board of Examiners in the Basic Sciences, Austin.

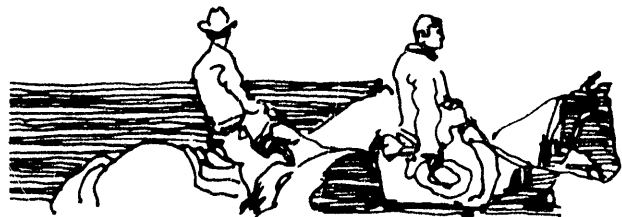
*Summary of Request:* Did Senate Bill 446 of the 65th Legislature, Regular Session, 1977, passed effective April 25, 1977, which amended Section 10, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), negate the requirements of Acts of 51st Legislature, Regular Session, 1949, Chapter 95, as amended, codified as Article 4490c, Vernon's Texas Civil Statutes mandating possession of a valid Basic Sciences Certificate of an applicant for a chiropractic license?

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

Doc. No. 774244      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

Filed: August 22, 1977, 2:15 p.m.

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



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

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

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

## Industrial Accident Board

### General Communication 061.01.00

Because of the enactment of Senate Bill 1275, effective August 29, 1977, the Texas Industrial Accident Board comes under the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) with certain exceptions. Therefore, the board is promulgating the following emergency rules, effective August 29, 1977, regarding general communication.

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

**.010. Compliance and Suspension of Rules.** All parties seeking any action of the board shall comply with these rules, unless in its judgment the board determines that compliance with any of the rules under particular circumstances will result in injustice to either or both parties. Accordingly, rules may be suspended at the discretion of the board and additional hearings held or cases scheduled for hearing out of their regular order. (1968)

**.030. Filing of Instruments.** The following shall be filed with the board in Austin:

- (a) Notice of Injury and Claim for Compensation;
- (b) Employer's First Report of Injury;
- (c) Notice that Employer Has Become Subscriber;
- (d) Former Statements of Position;
- (e) Notice of Intention to Appeal;

(f) Notice of Cancellation of Compensation Insurance.

All other correspondence and forms relating to claims arising under the Workers' Compensation Law must be filed with the proper regional office or the proper resident reviewer of the board in Austin. (1970) (Revised 1977)

**.031. Social Security Number.** All forms, reports, and other documents filed with the board which pertain to a claim shall include the Social Security number of the injured employee. (March 21, 1960)

**.040. Timely Filing.** Forms, reports, and other documents required to be filed before a specified time will be considered timely only if received by the board at Austin or at an appropriate regional office prior to or during business hours on the last permissible day of filing. When the last day for filing is a legal holiday, or is Sunday, then the time is extended so as to include the next succeeding business day. (1970) (Section 5b, Article 8307) (Revised 1973)

**.041. Medical Reports.** When any physician renders medical care or a chiropractor renders chiropractic care to an injured worker, he shall submit an initial report in accordance with Section 7, Article 8306. This initial report may be a narrative report or a form report. If a form report is used for the initial report, it must contain as a minimum all or substantially all of the information required in the Physician's Report IAB-152. (1974) (Revised 1977)

**.042. Narrative Reports.** Narrative reports or any subsequent reports reasonably necessary to relate the status of the injured worker must be submitted to the Industrial Accident Board, in the upper right-hand corner:

- (a) full name of injured worker;
- (b) Social Security number of the injured worker;
- (c) date of injury for which care is rendered;
- (d) name of employer of the injured worker;
- (e) board number, if any.

(Section 7, Article 8306) (1974)

**.060. Carrier's Address.** Unless otherwise approved by the board, all notices and communications to insurance carriers will be addressed to the carrier at an address designated by the carrier as its Texas mailing address. (January 1, 1957)

**.065. General Policy.** The board hereby promulgates its general policy concerning communications to and from the Industrial Accident Board:

- (a) The carrier shall send a copy of all written communications relating to a pending claim before the board to the claimant, or if claimant is represented by counsel, directly to his attorney and to the board. Without limiting the generality of the foregoing, the term

"written communications" shall include Forms A-1, A-2, A-4, and A-2 Lump Sum Transmittal Letter.

(b) The attorney representing the claimant shall send a copy of all written communications relating to a pending claim before the board to the insurance carrier and to the board. Without limiting the generality of the foregoing, the term "written communication" shall include written Claim for Compensation, Affidavit of Hardship, and Power of Attorney. (1970) (Revised 1974)

.070. *Communication to Claimants.* All notices and written communications to claimants will be mailed to the last address supplied, either on the employer's first report of injury or by claimant's letter. If the board is notified that claimant is represented by an attorney, copies of forms, notices, and correspondence will thereafter be mailed to his attorney and not to the claimant. However, copies of compromise approval notices, prehearing settings, and awards of the board will be mailed to the claimant and his attorney.

Doc No 774278



## Insurance Coverage 061.02.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.011. *Notice that Employer Has Become Subscriber.* The Notice that Employer Has Become Subscriber must be completed in detail and shall include:

- (a) name, address, and occupation of insured;
- (b) effective and expiration dates of the policy;
- (c) signature of either the insurance company representative or the employer;
- (d) name of the insurance company;
- (e) new or renewal policy number;
- (f) area or location of the business;
- (g) estimated amount of payroll;

(h) total number of employees or, if appropriate, the number of employees for each of the preceding 12 months. (A new employer will estimate the number of employees for each month of the current year.) (1968) (Revised 1977)

.040. *Self-Insured Entities.* Wherever in these rules a reference is made to "association," "insurance carrier," or "carrier," said rule will apply in the same manner with the same force and effect to self-insured entities.

Doc No 774279

## Employer's Report of Accident 061.03.00

This rule is promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.050. *Employer Reports to Carrier.* Since the direct system of workers' compensation depends upon insurance carriers obtaining early reports of industrial accidents, the employer is requested to also report to his insurance carrier on Employer's First Report of Injury forms all on-the-job injuries resulting in either lost time or any first aid or medical treatment. (1970) (Revised 1973)

.060. *Employer Supplemental Reports to Carrier.* When the employee returns to work or is no longer incapacitated as a result of the injury, the employer is requested to furnish a copy of the Employer's Supplemental Report of Injury to the carrier.

Doc No. 774280

## Employee's Notice of Injury or Death and Claim for Benefits 061.04.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.040. *Information Constituting Claim.* The prescribed claim form or any written communications from an injured employee claiming either medical care or compensation payments, giving his name, the date and the general nature of injury, and the name of his employer, shall constitute a claim. (1970)

.041. *Signature of Claimant.* All claim forms must be personally signed by the injured employee and give his home address. If the employee is unable to write, he must make an "X" for his signature, and his mark must be witnessed by at least one credible witness. (1970) (Revised 1973)

**.042. Employer Advances Compensation.** Where an employer advances compensation in accordance with Section 4b, Article 8309, Vernon's Annotated Civil Statutes, it is necessary that IAB Form EAC 70 be completed and forwarded by the employer within 20 days to the board in Austin, and such form shall also be furnished within 20 days to the employee and the insurance carrier advising the date first payment was made. (1970) (Revised 1973)

**.050. Beneficiaries Filing Claim.** In cases of injury resulting in death, the claim form or any written communication claiming compensation payments giving the employee's name, the employer's name, the date of the employee's death, and the name of the claimant shall constitute a claim. One of several beneficiaries may file claim for all beneficiaries. The names of all beneficiaries should be listed on the claim. (1953)

Doc No 774281

## Procedures for Formal Hearings by the Board 061.05.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

**.031. Schedule of Hearings.** Formal hearing before the board will be scheduled the first Friday following the expiration of 14 days from the date of pre-hearing conference. If the Friday upon which a hearing would otherwise be scheduled is a legal holiday or follows a legal holiday, the hearing will be scheduled for the following Monday. A claimant or his attorney must give the board and all parties seven day's written notice if they intend to be present for such formal hearing. Hearings will begin at 9:30 a.m. in the board's Austin office and cases normally will be heard by the board in the order registered with the receptionist. (1970) (Revised 1977)

**.070. Timely Acceptance of Evidence.** All interested parties required to file evidence with the board for consideration in a claim scheduled for a hearing must file this evidence not later than 5 p.m. on date of hearing. The board will consider requests for delayed evidence filing from any interested party. The request must be filed with the board in writing no later than 5 p.m. on the date of hearing and it must include a statement of the facts showing good cause and necessity for the delay. If delayed evidence is filed by any party after permission has been granted by the board, copies of such evidence must be simultaneously furnished to the opposing party. (1970) (Revised 1975)

**.090. Request for Cancellation.** Upon written request by claimant or all claimant beneficiaries, the board, at its discretion, may at any time prior to the entry of an award, cancel a scheduled hearing when good cause is shown. Request for cancellation of a scheduled hearing may be made on the Employee's Notice of Hearing and Statement or by written communication to the board. (1953)

**.100. Delay or Postponement of Hearing.** On the date of hearing, the board will review the case in accordance with the provisions of Article 8309a of the act; the Industrial Accident Board may delay or postpone the hearing of the claim, provided that within its discretion the board deems it to be the best interest of the injured employee that the case not be heard at that time; and such hearing may be delayed or postponed until the carrier discontinues payment of compensation or the furnishing of hospitalization, chiropractic service, or medical treatment, or until the board deems it to the best interest of such employee for an award to be rendered. (1968) (Revised 1977)

**.160. Filing of Medical Bills.** All bills incurred or copies or receipts thereof must be filed with the board at the pre-hearing conference or attached to the Formal Statement of Position. There must be a clear itemization of all prescriptions or incidentals, date of purchase, treatment rendered, and physician prescribing same on items furnished. (1970) (Revised 1977)

**.170. Request for Medical Examination.** Any insurance carrier may request the board on a form approved by the board to direct a claimant to a doctor for medical examination prior to hearing. The insurance carrier must also submit a copy of the request directly to the claimant's counsel or to the claimant if the claimant is not represented by counsel. Requests will be considered by the board if received at least 20 days immediately prior to pre-hearing conference; provided, however, that at the pre-hearing examiner's discretion, requests based upon unexpected developments may be considered at the pre-hearing conference level. All requests for medical examination orders shall be in writing and shall include:

- (a) the reason for such request;
- (b) a statement reciting whether or not the claimant has been treated or examined by any other doctor or doctors of either the carrier's or the employer's choice, and if so, stating the name, address, and medical specialty of such doctor or doctors, and the approximate date of the last treatment or examination;
- (c) a statement that the insurance carrier has insurance coverage of this claim under the Texas Workmen's Compensation Act. It is understood that this is an admission of coverage by the named insurer of the named employer;



(d) a certification that a copy of the request is furnished by the insurance carrier to the claimant's counsel or to the claimant if the claimant is not represented by counsel; and

(e) in all instances wherein compensation benefits are not being provided, the carrier must attach to his request a statement reciting the reasons for withholding same. Further, the carrier shall certify that the claimant or his attorney has been furnished a copy thereof. (1970) (Revised 1974)

*.185. Application for Suspension of Compensation.* Where application is made by the carrier for suspension of compensation pursuant to Section 12a, Article 8306, or Section 4, Article 8307, the question of suspension will be set for hearing by the board within two weeks of said application, and compensation will be continued until final determination is made by the board. (1970)

*.190. Demand for Surgical Operation.* Any written demand for a surgical operation under Section 12e, Article 8306, Vernon's Annotated Civil Statutes, or any application for reduction or suspension of compensation pursuant to Section 12a, Article 8306, or Section 4, Article 8307, must be filed with the board at least seven calendar days prior to the date of hearing. However, where good cause for waiving strict compliance is approved by the board, parties may file demand for or tender of surgery on or before the scheduled date of hearing. (1970) (Revised 1973)

*.191. Reports Accompanying Demand for Surgical Operation.* Demand for surgery either by the claimant or by the insurance carrier shall be accompanied by a medical report setting forth that claimant does not have any chronic disease or is otherwise in such physical condition as to render surgery more than ordinarily unsafe. Provided, further, that the party demanding surgery shall file with the board with such demand all medical reports pertinent to the injury in question, or such demand for surgery will be denied by the board. (1968) (Revised 1973)

*.210. Wage Information.* The board will accept in lieu of other wage information a stipulated wage agreement executed by the injured employee and the insurance carrier which establishes by mutual agreement an average weekly wage and a weekly compensation rate on a standard form approved by the board. Such stipulation may be considered by the Industrial Accident board, along with any other evidence concerning the wage rate, but it will not necessarily be binding upon the board. No action by the board on the claim shall be taken as formal approval of such stipulation, and the same shall be regarded only as an informal waiver of proof for purposes of the hearing before the board.

Doc. No. 774282

## Award of the Board 061.06.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

*.020. Power of Attorney.* Attorneys representing claimants will be authorized by the board to receive fees only when a signed and dated power of attorney or other document filed with the board clearly identifies the attorney as the authorized attorney representing a claimant. When a dispute arises as to the representation of the claimant by two or more attorneys, the board will require a signed and dated power of attorney or employment contract, and the attorney first retained will be deemed to be the attorney of record, unless the board shall, after a hearing, determine that the claimant had good cause for the discharge of the attorney. (1970) (Revised 1977)

*.030. Authorized Attorney Expense.* Attorneys representing claimants desiring the board to authorize payments of reasonable expenses in addition to the fees authorized by statute shall submit to the board an itemized statement of such incurred expense, with the request that they be authorized. (1970) (Revised 1973)

*.060. Attorney Fees and Expenses on Fatal Cases.* Only those attorney's fees and expenses authorized by the board shall be deducted from the amount awarded the claimant. In all death cases where the carrier admits liability on all issues involved and tenders payment of maximum benefits in writing under the Worker's Compensation Act and no controversies arise, then no attorneys' fee shall be allowed. The board is not, however, prohibited from allowing reasonable expenses incurred by the attorney in the preparation and presentation of said claim before the board, said expenses being allowed by Section 7c, Article 8306. (1953) (Revised 1973)

*.061. Joint Payment of Award.* Any payment by an insurance carrier of an award of the board to a claimant represented by counsel shall be made payable jointly to the claimant and to his attorney. (1970)

*.062. Periodic Installments.* When an award is made for payment of compensation in periodic installments, the carrier will notify the board of payment of the award by filing Form A-1 or A-4, whichever is appropriate. An A-2 will be filed with the board when the carrier discharges its obligation. (1974)

*.063. Lump Sum Payment.* When an award is made for payment of compensation in a lump sum, the carrier will notify the board of payment of the award by filing Form A-2. (1974)

*.070. Payment of Attorney's Fees.* The parties may agree, after the board's award and with the approval of the board, to a different method of payment of at-

torney's fees as provided by law. Any such agreement shall be submitted to the board in writing and, when approved, shall be binding on all parties. (1968)

*.100. Review of Award.* Review may be granted if an erroneous award was made because of fraud or mistake, or if a change has occurred in the physical condition of the injured employee requiring modification of the award as to amount or duration of payments. (1953) (Revised 1974)

*.110. Request for Review.* Requests for review shall be filed in writing with the board stating the reason for which the award is sought to be modified or set aside. The board, in its discretion, may set a date on which the request may be considered and will give notice of the hearing to all parties. As soon as possible after the hearing is held, the board will affirm, set aside, or modify the award on the basis of the information available to it at the time from any source. The board may, on its own motion, correct typographical errors at any time. (1953) (Revised 1974)

Doc No. 774283

## Carrier's Reports of Initiation and Suspension of Compensation Payments 06:07 00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

*.010. Mode of Payment.* Every insurance carrier shall report to the Industrial Accident Board and to the claimant or his attorney on Form A-1, the initial payment of compensation to an injured employee or employee's beneficiary within 10 days from the date of issuance of a draft, check, or other evidence of such payment. If such payment represents both initial and final payment, that fact shall be stated on the face of the Form A-1. All weekly compensation payments shall be made through the use of United States legal tender, negotiable instruments payable on demand or through the use of negotiable drafts drawn on a Texas bank. (1953) (Revised 1977)

*.011. Filing of Wage Statement.* In cases in which the reported weekly compensation rate is less than the maximum prescribed by law, the insurance carrier shall file with the board and the claimant or his attorney a wage statement reporting the wages upon which the compensation rate is based. The wage statement shall accompany the Form A-1, Report of Initial Payment of Compensation, or in the event a wage statement is not available at the time of filing Form A-1, the carrier shall indicate on Form A-1 that a wage statement has been requested and shall file said form within

a reasonable time, not to exceed 30 days from the date of initial payment of compensation. If a wage statement is not timely filed, the board shall set the compensation rate based upon evidence in the file, and the carrier shall be required to pay the rate determined by the board beginning with the date that the initial payment of compensation was due and continuing until the wage statement is filed with the board or until the carrier is authorized to stop or suspend compensation.

*.020. Notice of Suspension.* In every instance in which an insurance carrier has paid compensation to a claimant, except pursuant to a judgment of a court, the carrier shall report to the board and to the claimant or his attorney on Form A-2, Notice of Suspension of Compensation Payments, within 10 calendar days from date of last payment. The reason for suspension of payment shall be stated on the notice. (1957) (Revised 1973)

*.021. Transmittal Letter.* In cases where the carrier tenders a lump sum payment to claimants based upon medical disability, the carrier shall accompany the payment with the A-2 and a transmittal letter which shall read as follows: "Enclosed is our payment of compensation of \$\_\_\_\_\_ for injuries received on \_\_\_\_\_. This payment is based on the medical reports contained in our file and is in accordance with our calculation of the amount due to you under the Texas Workers' Compensation Law at this time. Your case remains open before the Industrial Accident Board. Please call our office or the board if you require additional medical treatment or become further disabled as a result of your injury." (1974)

*.022. Maximum Payment to Minor.* In cases of specific injury or injuries resulting in death, permanent total incapacity, or a high degree of permanent partial disability, where the injured employee is a minor, the compensation rate per week shall be fixed at the maximum allowed by the law unless the evidence clearly dictates the contrary. (1970)

*.030. Certification Procedure.* In cases where it appears that the carrier has suspended compensation without justification, the following procedure will apply:

(a) If, on suspension or stoppage of workers' compensation and/or medical payments, it appears to the board that the insurance carrier has not fully discharged its obligation to the injured employee, the board will notify the insurance carrier of the deficiency, and copies of such notice shall be sent to the claimant or his attorney.

(b) The board will specify a reasonable period of time in which an insurance carrier may either pay the deficiency and submit a corrected report or submit information to the board justifying the amount of its payment.

(c) If the insurance carrier fails to pay the deficiency or fails to submit information justifying the

amount of its payment, the board shall set the case for hearing on the question of compensation rate or underpayment of compensation, notify the carrier to that effect, and a copy of such notification shall be furnished to the claimant or his attorney.

(d) If the board determines at such hearing that the carrier has wilfully failed or refused to pay the compensation when due, it shall certify such fact to the State Board of Insurance, and request that the carrier's right to do business be forfeited, and a copy of such certification shall be furnished to the claimant or his attorney. (Revised 1977)

.070. *Resumption of Compensation.* In the event the carrier shall, after reporting suspension of payment on Form A-2, subsequently resume the payment of compensation, it shall report such resumption on Form A-4 within 10 days from date of first payment after resumption, and a copy of such Form A-4 shall be furnished to the claimant or his attorney. (1970) (Revised 1973)

.080. *Payment for Amputation.* When an industrial injury occurring prior to September 1, 1973, results in the amputation or partial amputation of a finger, thumb, or toe, the insurance carrier shall file with the board, with copy to the claimant or his attorney, a signed medical report and a chart showing the exact point of amputation at the time a Form A-2, Compromise or Lump Sum Payment, is submitted. (1970) (Revised 1973)

Doc. No 774284

## Settlement Agreements 061.08.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Lump Sum Payment Agreements.* Injuries resulting in death or total permanent disability, when compensable, are not subject to compromise, and compensation in such instances should be paid in weekly installments or in lump sum (where authorized by statute), in accordance with a lump sum payment agreement approved by the board. All lump sum payment agreements submitted to the board must be submitted in four parts-- the original must be white, the second copy pink, third copy yellow, and fourth copy white. The forms must either be on NCR paper or be submitted with carbon left intact. A copy of the lump sum payment agreement will be furnished to the parties listed below in lieu of a separate approval notice: The pink copy will be mailed to the claimant (in an envelope of like color) by the board; the yellow copy will be mailed to the claimant's attorney if one has been employed (in an envelope of like color); and the final copy will be placed in the Austin representative's box. (1953) (Revised 1974)

.020. *Settlements Final When Approved.* Compromise settlement agreements between insurance carriers and persons claiming benefits under the Texas Workers' Compensation Law are not final until approved by the board. (1953)

.030. *Conditions for Approval.* A compromise settlement agreement will be approved by the board only under the following conditions:

(a) that the board is of the opinion that the agreement provides for payment of compensation to claimant or claimants in an amount to which he or they are justly entitled under the law;

(b) that the agreement is executed on a form approved by the board;

(c) that the agreement is accompanied by physician's signed report of the findings of a recent examination of the employee;

(d) that the employee has achieved maximum recovery, or that good reason exists for settlement prior to maximum recovery;

(e) that in the event of serious injury to claimant's eye, healing has occurred and the board furnished with a medical report on whether the other eye is or may be affected;

(f) that the agreement is accompanied by a completed copy of the Employer's Wage Statement certified to by the employer in any instance in which claimant's compensation rate is less than the maximum allowed by law or claimant suffers some degree of loss of wage earning capacity;

(g) that the agreement is accompanied by a completed copy of Employer's First Report of Injury;

(h) that in all instances of serious burns or cuts, a detailed medical report of scars or disfigurement is furnished and in all injuries to the face, arms, or hands, a color photograph is provided to the board;

(i) the compromise settlement agreement shall include on the face of the agreement the agreed average weekly wage and compensation rate, the Social Security number, the beginning and ending date of actual or agreed time lost from work with the number of weeks and days totaled, and the exact amount of compensation previously paid, if any;

(j) that the agreement expressly provides whether the claimant or the insurance carrier shall be responsible for unpaid medical expenses and for medical expenses likely to be incurred following approval of the agreement by the board;

(k) when authorized by statute, a lump sum payment for minors' compensation in fatal cases will be considered by the board upon receipt of a certified copy of letters of guardianship. If the carrier requests an order of a probate court directing a lump sum payment, the cost thereof shall be borne by the carrier;

(l) all compromise settlement agreements submitted to the board must include a copy of the payment

of compensation form (combination A-1, A-2, A-4) if compensation was paid before the compromise settlement agreement was entered into;

(m) all compromise settlement agreements submitted to the board must be submitted in four parts--the original must be white, the second copy pink, the third copy yellow, and fourth copy white. The forms must either be on NCR paper or be submitted with carbon left intact. A copy of the compromise settlement agreement will be furnished to the parties listed below in lieu of a separate approval notice: The pink copy will be mailed to the claimant (in an envelope of like color) by the board; the yellow copy will be mailed to the claimant's attorney if one has been employed (in an envelope of like color); and the final copy will be placed in the Austin representative's box. (1970) (Revised 1974)

**.070. Loss of an Eye.** The board considers "loss of an eye" when loss of vision reached 90 percent. Permanent partial loss of vision in an eye will be calculated on the actual loss of vision as a result of an injury, and not on loss of vision after restoration of vision by proper fitting glasses. The following table for the estimate of compensation to be paid workers who have suffered partial or complete loss of vision in one eye, through accident or occupation, is adopted by the board. (1961) (Revised 1973)

Table of Visual Losses of One Eye

	Retained	Lost
20/30	94.5%	5.5%
20/40	89.0%	11.0%
20/50	83.5%	16.5%
20/60	78.0%	22.0%
20/70	72.5%	27.5%
20/80	67.0%	33.0%
20/90	61.5%	38.5%
20/100	56.0%	44.0%
20/110	50.0%	50.0%
20/120	41.0%	59.0%
20/130	36.5%	63.5%
20/140	32.0%	68.0%
20/150	28.5%	71.5%
20/160	23.0%	77.0%
20/170	18.5%	81.5%
20/180	14.0%	86.0%
20/190	12.0%	88.0%
20/200	Total Loss	Total Loss

**.080. Hearing Impairment.**

(a) Hearing tests for use in compensation ratings shall be made with an audiometer calibrated according

to "American Standard for Audiometers for General Diagnostic Purposes, 24.5-- 1951" (American Standards Association). The tests shall be made in a room or area where the background noise level is within the limits specified in "American Standard Criteria for Background Noise in Audiometer Rooms, 3.1-- 1960" (American Standards Association).

(b) Examination shall be performed by a medical specialist who does hearing evaluations or by an accredited speech and hearing center upon referral.

(c) Hearing thresholds, as measured by pure tone air conduction audiometry and bone conduction audiometry when indicated at the frequency of 500, 1000, and 2000 cycles per second, shall be used in determining compensable hearing loss.

(d) Hearing tests for compensation rating purposes shall be made at least 16 hours after the last exposure to noise. If in the opinion of the examining specialist an additional test on a subsequent day is required, the lowest (best) hearing thresholds measured at each of the three frequencies of 500, 1000, and 2000 cycles per second shall be added together and divided by three to determine the monaural average hearing level in decibels for each ear.

(e) For each decibel that the estimated hearing level for speech exceeds 15 decibels, allow one and one-half percent up to the maximum of 100 percent. This maximum is reached at 82 decibels. Each ear is to be calculated.

(f) To determine the percentage of binaural hearing impairment, multiply the percentage loss in the better ear by five, adding the percentage loss in the poorer ear, and dividing the sum of the two by six. The result is the binaural percentage hearing impairment to be applied to the disability schedule for loss of hearing in both ears to determine the percentage of loss of hearing.

(g) Since there is no exact scientific test by which non-industrial hearing losses can be distinguished from induced impairment, the opinion as to the amount of loss due to such other causes shall be made by the examining medical specialist.

(h) No consideration shall be given to possible improvement through use of prosthesis. Where artificial appliances would materially and beneficially improve the future usefulness and occupational opportunities of the employee, the insurer shall provide same, and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall be liable for replacing or repairing any artificial appliances so furnished.

(i) Such prosthesis shall be prescribed upon proper evaluation by a medical specialist who does hearing aid evaluations or by a speech and hearing center upon referral. Such hearing and speech centers shall have no commercial (retail) properties.

(j) The above formula should be used in calculating the percentage of loss of hearing, but the doctor giving the report shall state specifically the exact loss of hearing in percentage, and not decibels. (August 31, 1961) (Revised 1977)

.090. *Stipulation of Medical Payments.* Where an insurance company agrees to pay accrued medical and hospital expenses in a compromise settlement agreement, any exceptions or special stipulations agreed upon by the parties must be clearly stated on the face of the compromise settlement or on an attached affidavit. (1970)

.100. *Attorney's Signature.* Settlement agreements entered into by claimants who are represented by an attorney must be signed by the attorney. The attorney's name and address shall be on the face of the agreement. (1953) (Revised 1973)

.110. *Percent of Medical Impairment.* Where the amount of compensation due is covered by Section 12, Article 8306, Revised Civil Statutes, the board may consider percentage of medical impairment as only one element in arriving at percentage of legal disability as distinguished from medical disability. (1973)

.180. *Attorney's Fees.* Rules 061.06.00.060, 061.06.00.061, and 061.06.00.070 shall govern the authorization and payment of attorney's fees and expenses in cases disposed of by settlement agreement. (1968) (Revised 1977)

.190. *Approval of the Board.* Approval of the compromise settlement agreement by the board shall constitute the approval of the board as of the close of business on date of approval.

.200. *Consent Withdrawn.* The board's approval of a compromise settlement agreement shall be final at the time the approval order is signed by the board unless a member of the board has received notice prior to such entry of the approval order that one or more parties to the agreement has withdrawn his or its consent to the agreement. (1963)

.210. *Presumption of Timely Notice.* If the board is unable to ascertain whether approval was executed prior to receipt of such a request of notice, it will presume that a request of notice was timely if received at any time prior to the close of business on the date of approval. (1953)

.220. *Tender Payment Time Period.* An insurance carrier shall have 20 days from and after the date of approval of a compromise settlement agreement in which to pay or tender payment to the injured employee of the amount approved by the board, and shall have 20 days from the receipt of bills in which to tender all accrued medical expenses resulting from the injury. Failure to tender payment within such time shall cause the board

to immediately set such cause for formal hearing for the purpose of invoking proper sanctions. (Revised 1971)

.230. *Waiving of Approval Appearance.* Personal appearance of the claimant shall be required prior to recommendation by the board representative for approval of compromise settlement agreements, unless upon the showing of good cause said personal appearance is waived by the board representative. (1970) (Revised 1977)

Doc. No. 774285

## Request for Case Folders and Certifications of Actions of the Board 061.09.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Request for Copies.* Written requests for public information by persons entitled thereto under Sections 9 and 9a, Article 8307, shall be mailed or presented in person to the board's Austin office. Copies and certified copies of instruments will be furnished only upon receipt of the correct payment. No copies or certified copies of instruments will be furnished between seven days prior to the date of the formal hearing and the date of the board's award. (1970) (Revised 1977)

.020. *Written Request for Public Information.* All written requests for public information under Section 9a, Article 8307, from prospective employers must be accompanied by a written authorization from the prospective employee. (1977)

.030. *Telephone Request for Public Information.* All telephone inquiries from prospective employers seeking public information under Section 9a, Article 8307, must be directed to the board's Austin office. Written authorizations required under this statute must also be directed to the board's Austin office. (1977)

Doc No 774286

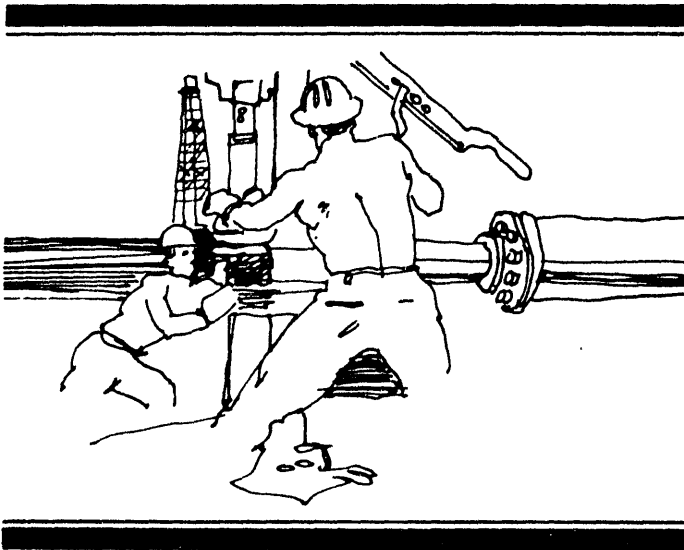
## Notices of Intention to Appeal 061.10.00.

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Filing of Notice.* Notices of intention to appeal from the final award of the board may be mailed to the board or delivered in person to the executive director of the board or to any person designated by the board. (1970)

.020. *Receipt of Notice.* Receipt of the Notice of Intention to Appeal shall be acknowledged by a board member, the executive director of the board, or by persons duly designated by the board for such purpose, who shall immediately stamp and sign each such notice. Acknowledgment will subsequently be made by mail to all interested parties. (1970)

Doc No 774287



## Pre-Hearing Conferences 061.11.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Notice of Pre-Hearing Setting.* The board will give at least 30 days' notice of pre-hearing conference to all interested parties, unless compensation is not being paid, in which event a pre-hearing conference may be set with fewer than 30 days' notice. (1970) (Revised 1977)

.011. *Setting When Compensation Not Paid.* If the carrier, having knowledge of the claim, has not paid weekly compensation benefits, the board, upon request of the claimant or his representative, shall set the case for pre-hearing conference on the first docket following such request. Provided further, that the institution of weekly compensation benefits by the carrier after the setting of the pre-hearing conference may or may not be available as a reason for cancellation of the pre-hearing conference. (1973)

.012. *Setting on Hardship.* In a case wherein a hardship exists and no acceleration of compensation has been tendered by the carrier within 10 days from the filing of a hardship affidavit with the board, the board

shall schedule such case for pre-hearing conference on the next docket following 30 days from the date of the filing of the hardship affidavit. (1973)

.013. *Setting at Carrier's Request.* Upon a showing of good cause, pre-hearing will be set by the board on the insurance carrier's request. (1973)

.030. *Filing of Medical Information.* All available medical information that has a bearing on the claim at hand must be filed with the board at or before the pre-hearing in accordance with Article 8309a(b). (1970)

.031. *Exchange of Medical Information.* All parties concerned with the claim shall exchange all available medical information, written or oral, at least seven days prior to pre-hearing. (1970) (Revised 1973)

.032. *Additional Medical.* Where the hearing officer determines that additional medical examination will probably assist in settlement, he may order such additional medical examination at the expense of the board, provided no undue delay shall occur thereby, and the pre-hearing officer shall reset the pre-hearing conference. (1970) (Revised 1973)

.033. *Charges for Reports.* Reasonable charges shall be allowed by the board for narrative reports required under Section 7, Article 8306, and such charges shall be considered necessary expenses to be paid by the carrier. (1970) (Revised 1977)

.041. *Attendance at Conference.* The claimant and his attorney or authorized agent, if any, and the carrier's representative must attend all pre-hearing conferences pertaining to the claim under consideration. (1970) (Revised 1977)

.042. *Representatives Must be Qualified.* All carrier representatives must be qualified in workers' compensation claims, and each must have sufficient authority to effect settlement. The board recognizes that the carrier at any time may be represented by a licensed and qualified attorney at law. (1970) (Revised 1977)

.043. *Hold Order.* After full pre-hearing conference, if the hearing officer considers that a case may be settled reasonable should additional time be granted, a "hold order" will be placed on the file and the parties will advise the hearing officer within seven days of their decisions in connection with the case. (1970) (Revised 1973)

.047. *Supply of Forms.* The carrier's representative shall have a sufficient supply of proper forms to enable him to complete settlements at the pre-hearing conference. (1970) (Revised 1973)

.050. *Postponement and Continuance.* If for any reason the case should not be heard at the designated time and place, any interested party shall notify the resident reviewer or the hearing officer 10 days prior to

pre-hearing, giving reasons for his objections and he shall furnish a copy of said objections to opposing counsel or party. The resident reviewer or hearing officer may, after reviewing the objections, order the pre-hearing rescheduled or retained on the docket. (1970) (Revised 1973)

.051. *Maintain Setting.* Where the request for continuance or postponement is based upon the payment of compensation and furnishing of medical aid, the resident reviewer or the pre-hearing officer may still maintain the setting where there is a showing of hardship on the part of the claimant. (1970) (Revised 1973)

.052. *Failure to Appear.* Where claimant or his attorney, if any, fails to make a personal appearance at the pre-hearing without good cause, such failure to appear shall result in a postponement of the pre-hearing until the board is assured in writing of his or their appearance. (1970) (Revised 1974)

Doc. No. 774288

## Promptness of First Payment 061.12.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Quarterly Report.* The executive director of the Industrial Accident Board shall make a report, based on each quarter year's performance of all the insurance carriers writing workers' compensation insurance in Texas, which report will reflect the promptness of first payment of each such carrier of benefits due and payable under the Texas Worker's Compensation Act covering all cases occurring after May 18, 1969. (1970)

.020. *Sanctions for Late Payment.* Any insurance carrier writing workers' compensation insurance under the provisions of the Texas Workers' Compensation Act who, on the average, shall fail to make compensation payments due claimants within a reasonable length of time after the same become due and payable, but in no event later than 30 days on the average from the date of incapacity, shall be subject to appropriate sanctions to be invoked by the Texas Industrial Accident Board.

Doc No 774289

## Unethical or Fraudulent Claims Practices 061.13.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Practicing Before the Board.* Whenever the board receives evidence that a person practicing before the board is guilty of unethical or fraudulent conduct, such person shall be cited by certified mail to appear before the board in person to show cause why he or she should not be barred from practicing before the board because of such conduct. In all such cases the board's citation shall contain a detailed description of charges to be considered at such hearing and a reasonable time to secure and prepare evidence shall be given any such person as cited. (November 14, 1955) (Revised 1973)

.020. *Actions by Carrier, Claimant's Attorney, and/or Agent.* The following wilful acts shall be deemed unethical or fraudulent conduct by the board:

(a) Carrier representatives:

(1) misrepresenting to claimants or employers the provisions of the Workers' Compensation Law of Texas;

(2) failing to submit to the board any settlement agreement executed by the parties;

(3) failing to immediately notify the board of the suspension or stopping of compensation and the reason for such suspension or stopping of compensation;

(4) stopping or suspending compensation without substantiating evidence that such action is authorized by law;

(5) misrepresenting that one is employed by the State of Texas or any agency thereof;

(6) instructing employers not to file Employer's First Reports of Injury with the board when such filing is required by statute;

(7) instructing employers to violate the claimant's rights guaranteed by Section 7, Article 8306, Vernon's Texas Civil Statutes;

(8) failing to promptly tender full death benefits where no *bona fide* dispute exists as to the liability of the carrier;

(9) allowing an employer to dictate the methods by which and the terms on which a claim is handled and settled. Nothing in the foregoing shall prohibit the free discussion of a claim prior to pre-hearing conference, prohibit the employer's assistance in the investigation and evaluation of a claim prior to pre-hearing conference, or prohibit the employer's attendance at a pre-hearing conference and participation therein when such participation is requested by the carrier representative or pre-hearing officer;

(10) failing to confirm medical benefits coverage to any persons or facility providing medical treatment to a claimant where no *bona fide* dispute exists as to the liability of the carrier;

(11) failing, without good cause, to attend a pre-hearing conference;

(12) attending a pre-hearing conference without complete authority or failing to exercise authority to effectuate settlement;

(13) adjusting workers' compensation claims in any manner contrary to the provisions of the Adjusters Licensing Act or the Rules and Regulations of the State Board of Insurance;

(14) failing to promptly process claims in a reasonable and prudent manner;

(15) failing to initiate or reinstate compensation when due where no *bona fide* dispute exists as to the liability of the carrier;

(16) misrepresenting the reason for not paying compensation or for the suspension of compensation;

(17) misdating the Form A-1 so as to distort the true date of the initial payment of compensation;

(18) making notations on drafts or other instruments so as to indicate that the draft or instrument represents a final settlement of a claim when, in fact, the claim is still open and pending before the board;

(19) failing and refusing to pay compensation from week to week as and when the same matures and accrues directly to the person entitled thereto;

(20) failing to pay an award of the board as directed by the board when no appeal is perfected;

(21) committing any act with a purpose, design, or intent to perpetrate fraud;

(22) violating any rule of the board.

(b) Claimant's attorney and/or agents:

(1) failing, without good cause, to attend a pre-hearing conference;

(2) committing an act of barratry as defined by the laws of this state;

(3) soliciting workers' compensation claims;

(4) withholding sums not authorized by the board from claimant's weekly compensation or from advancements;

(5) entering into a Compromise Settlement without the knowledge, consent, and signature of the claimant or beneficiary;

(6) taking a fee or withholding expenses in excess of such sums authorized by the board;

(7) violating the Code of Professional Responsibility of the State Bar of Texas;

(8) committing any act with a purpose, design, or intent to perpetrate fraud;

(9) violating any rule of the board. (1974) (Revised 1977).

Doc No 774290

## Allegations of Fraud 061.14.00

These rules are promulgated under the authority of Section 4, Article 8307, Vernon's Texas Civil Statutes.

.010. *Referral to Attorney General.* The board shall promptly refer any written allegation of fraud regarding an employer, employee, attorney, person, or facility furnishing medical services, insurance company or its representative to the attorney general.

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

Doc. No 774291 William (Bill) Treacy  
Assistant Executive Director  
Texas Industrial Accident Board

Effective Date: August 29, 1977

Expiration Date: December 19, 1977

For further information, please call (512) 475-4538.

## Texas Department of Labor and Standards

### Boxing and Wrestling Division

#### Boxing 063.11.01

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is adopting Rules 063.11.01.001-.093, setting forth the methods and procedures for the administration of the boxing licensing and regulation provisions of Article 8501-1, *et seq.*, Texas Civil Statutes. These rules are immediately necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law, which was a total new writing of the law. Without the immediate adoption of these rules the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules are to take effect immediately. However, because of their length and the volume of materials in this *Register*, the complete text will appear in the issue of September 2.

The rules are available for public inspection in the office of the Texas Register Division, Suite 550, Texas Commodore Building, 8th and Brazos Streets, Austin.

These rules are promulgated under the authority of Section 4(b), of Article 8501-1, *et seq.*, Texas Civil Statutes.

Doc No 774338



## Wrestling 063.11.02

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is adopting Rules 063.11.02.001-.050, setting forth the methods and procedures for the administration of the wrestling licensing and regulation provisions of Article 8501-1, *et seq.*, Texas Civil Statutes. These rules are immediately necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law which was a total new writing of the law. Without the immediate adoption of these rules the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules are to take effect immediately.

These rules are promulgated under the authority of Section 4(b) of Article 8501-1, *et seq.*, Texas Civil Statutes.

**.001. License Suspension.** Any license herein provided for may be revoked or suspended pursuant to a hearing by the Commissioner of Labor and Standards for the reason therein stated that the licensed person has in the judgement of the Commissioner of Labor and Standards been guilty of an act in violation of a wrestling rule or regulation issued by the Department of Labor and Standards or a provision of the Boxing and Wrestling Act.

**.002. License Hearing.** Before acting upon an application for a license, the Commissioner of Labor and Standards may at his discretion hold an administrative hearing on the license application.

**.003. Promoter's License-- Where Valid.** A promoter's license is valid only in the incorporated limits of the city for which it is granted, but a promoter may apply for a license for each city in which he desires to operate. If the promotion should occur in a non-incorporated area, the size of the nearest incorporated city shall determine the license fee. No promoter shall hold a wrestling contest in any location other than that location in his license without permission of the commissioner.

**.004. Promoter's Appearance.** Any person applying for a promoter's license must appear in person at the office of the commissioner at Austin, Texas.

**.005. Promoter's Violation of Rules.** Any conduct of a licensed promoter which violates the Texas Boxing and Wrestling Act or the rules and regulations issued by the department can be considered against any and all licenses held by the promoter.

**.006. License in Possession** All licensees, except promoters, shall keep their licenses in their possession and shall present said license upon request to promoters and representatives of the Texas Department of Labor and Standards as evidence of eligibility to act or

perform in their respective capacities in connection with wrestling contests or exhibitions.

**.007. Other Licenses.** Before a person may perform as a matchmaker, manager, second, referee, or timekeeper, he shall file with the department or its authorized representative an application on a form supplied by the department. The applicant may be issued a temporary permit which would permit him taking part in scheduled contests pending processing of the application.

**.008. Contracting by Promoter.** No promoter shall be allowed to contract for the services of a wrestler, referee, timekeeper, matchmaker, or second until the promoter is licensed by the Texas Department of Labor and Standards, nor enter into a contract for the services for or negotiate with any wrestler, referee, timekeeper, manager, or second whose license has been suspended or revoked by the Texas Department of Labor and Standards.

**.009. Fees and Bonds.**

(a) Promoter's annual license fees and bond amount. In a city with population not to exceed: (The first figure is the population, followed by the fee and the minimum bond)

10,000--	\$20--	\$300
10,001-25,000--	\$50--	\$300
25,001-100,000--	\$100--	\$500
100,001-250,000--	\$200--	\$1,000
Over 250,000--	\$300--	\$2,000

(b) The commissioner may require a larger bond than the minimum amount listed under certain circumstances at his discretion.

**.010. License Fees.** All other license fees are as follows:

Wrestlers--	\$10
Managers--	\$50
Matchmakers--	\$50
Referees--	\$15
Timekeepers--	\$5

**.011. Ring Rules.** In time limit matches or exhibitions, the timekeeper shall sound the gong at the start and end of the designated time limit. If the length of any time limit bout or exhibition is more than one hour, all rest periods must be included by the timekeeper as part of the time of the bout or exhibition.

**.012. Time Periods.** At the termination of each five-minute period, the timekeeper shall call out the time that the participants have been wrestling sufficiently loud for the referee to hear, as "five minutes," "10 minutes," etc.

**.013. Costumes.** Participants must be clothed in neat and clean apparel. Trunks and tights must be well fitted and whole, and two pairs of trunks, one over the

other, must be worn. Shoes when worn must have soft tops, smooth soles, and laces, and be equipped with eyelets only.

*.014. Appearance.* Each contestant's skin must be clean and free from grease or other sort of lotion or foreign substance.

*.015. Ring.* The ring floor shall extend beyond the ropes a distance of not less than 12 inches. The ring floor shall be padded with felt matting or other soft material, to be approved by the Commissioner of the Texas Department of Labor and Standards or his authorized representative, extending over the edge of the platform. Material that tends to gather in lumps must not be used. When ring posts extend to within a foot of the ropes, the turnbuckle must be padded. The mat and covering shall be kept clean and free from disagreeable odors at all times. The ring ropes shall be covered with a material to prevent rope burns.

*.016. Referees.* The chief official of the contest shall be the referee, who shall have general supervision over the bout and take his place in the ring. In case of serious injury to a contestant, there will be an immediate investigation by the department to determine whether the injury was the result of negligence or incompetence on the part of the referee or whether the injury was due to circumstances not reasonably within his control. A suspension not to exceed 10 days in duration and a hearing may be held within 10 days by the Commissioner of Labor and Standards on the suspension or revocation of the referee's license. Should a contestant during the course of a match quit or intimate his desire to concede the bout to his opponent, it shall be solely in the judgement of the referee as to whether or not the act is justified or authorized and, at the referee's option, whether or not to order the contest continued. Under no circumstance shall a referee use force to break contestants. The failure of the contestants to obey the referee's order to break may result in disqualification or a purse forfeiture with a hearing to be held by the Commissioner of Labor and Standards within 10 days. The referee may stop a match at any time because of an injured contestant or the weak physical condition of the contestants.

*.017. Dangerous Conduct.* The referee shall not permit physically dangerous conduct or tactics by any wrestler which in his opinion could be dangerous to either the contestants or spectators. Any wrestler who fails to discontinue such tactics after being warned by the referee may be disqualified and at the discretion of the Commissioner of Labor and Standards his purse may be forfeited in the amount of \$1,000 or less pursuant to a hearing by the Texas Department of Labor and Standards.

*.018. Falls-- Decisions.* When both shoulders of a wrestler are momentarily pinned on the mat for the referee's count of three seconds, it shall constitute a fall. The referee shall slap the back or the shoulder of a wrestler who wins a fall, so that the losing contestant shall not receive unnecessary punishment after the fall. Should a wrestler claim injury and refuse to continue the contest at the referee's command, the referee shall stop the contest and have the contestant examined by a physician. If after a physician's examination such wrestler is found to be physically unable to continue the bout, then the referee must decide in favor of his opponent. When wrestlers fall off the mat under the ropes, they shall be ordered into the middle of the mat by the referee, in order to begin anew. The referee is instructed not to put his hands under the shoulders of the contestants unless it is absolutely necessary to determine a fall.

*.019. Spot Promotions.* All wrestling promoters promoting spot shows must notify the Texas Department of Labor and Standards office in Austin at least five days before a show is held. If a promoter fails to notify the Texas Department of Labor and Standards in accordance with this rule, his promoter's license may be suspended or revoked pursuant to a hearing by the Commissioner of Labor and Standards.

*.020. Sunday Promotions.* Wrestling shows may be held on Sunday after 12:01 p.m.

*.021. Promoter's Reports.* A promoter must submit the tax report, doctor's reports, and contracts within three working days after the show is held.

*.022. Payment Before Contest.* No contestants shall be paid for services before the contest, and should it be determined by the referee that such contestant did not give an honest exhibition of his skill, such services shall not be paid for.

*.023. Payment of Purse.* All payments of purses shall be made immediately after such match or exhibition or, in case of a percentage contract, as soon as the percentage can be determined, and a receipt signed by the contestant shall be delivered to the Texas Department of Labor and Standards.

*.024. Club Contracts.* Promoters shall be required to have written agreements or contracts executed in triplicate with wrestlers, showing the amount of guarantee or percentage promised, the number of time limit falls, when and where they are scheduled to appear, and all other details governing contracts or agreements. Standard forms will be furnished by the Texas Department of Labor and Standards.

*.025. Promoter- Contestant's Contractual Obligations.* The promoter shall furnish one copy of the contract to the wrestler, retain one copy, and forward one copy to the Commissioner of Labor and Standards, with

a tax report on the contests held. Contracts must be available for examination by the inspectors of the Texas Department of Labor and Standards on the day of shows. Failure of wrestlers to carry out the terms of their contracts subjects them to a hearing before the Commissioner of Labor and Standards regarding possible forfeiture of their purses up to \$1,000 and/or suspension of their licenses. Whenever a contestant fails to appear in accordance with his contract, said contestant must be prepared to satisfactorily prove he was sick, had a valid reason for not appearing, or that he was otherwise prevented from carrying out the agreement. A doctor's certificate shall be required in cases of illness and affidavits are required to bear out other assertions or reasons for not appearing for the contest. The failure of a promoter to perform according to the terms of the contract, to produce contestants as advertised, to pay the contestants their contractual guarantee or percentage, or the failure of a promoter to live up to his agreement with the contestants or performers who did perform as scheduled shall subject said promoter to a hearing before the Commissioner of Labor and Standards regarding the possible suspension or revocation of his license.

*.026. Matchmaker.* Any person acting in the capacity of arranging matches for a wrestling show for compensation shall be acting in the capacity of "matchmaker" and required to obtain a license.

*.027. Matchmaker's Responsibilities.* It a matchmaker is employed by a licensed promoter, the matchmaker and the promoter shall be jointly responsible to the commissioner for matches made and for the mailing in of contracts, doctor's reports, and taxes to the commissioner's office. Matches shall be made only by a licensed promoter or licensed promoter or licensed matchmaker.

*.028. Purse Forfeitures.* Purse forfeitures for violations of any terms of contracts for matches or any of the rules prescribed may be assessed by the representative of the Texas Department of Labor and Standards, at Austin, and forwarded such remittances with other reports on contests or exhibitions held.

*.029. Dressing Rooms.* No one shall be allowed in the wrestler's dressing room except his manager, his seconds, club physician, a representative of the Texas Department of Labor and Standards, or the news media representatives and law enforcement representatives. Promoters are directed to post a sign at the entrance of the dressing room informing all concerned of the above requirements, and promoters will be held responsible for the strict enforcement of this rule.

*.030. Advertising Unrecognized Champions.* The advertising of unrecognized champions by a promoter in championship matches is prohibited.

*.031. Ring Name.* A wrestler shall wrestle under the same ring name which appears on his wrestling license.

*.032. Dispensing of Drinks.* All drinks shall be dispensed only in paper or plastic cups, and it shall be the promoter's responsibility to enforce this rule.

*.033. Matches between Opposite Sexes.* No promoter, matchmaker, or any other person shall arrange, match, or advertise any wrestling bout or exhibition between persons of opposite sex. Exhibitions are permitted between women when matched against women, but no male person will be permitted to engage in a wrestling bout or exhibition with a female person. No exceptions shall be made to this rule without the written permission of the Commissioner of Labor and Standards.

*.034. Failure of Promoter to Produce Contestants.* The failure of promoters to produce a contestant or special attraction that was scheduled to appear as advertised or failure of promoter to live up to an agreement with contestant or performers of such special added attractions who did perform as scheduled may cause said promoter to be suspended for a period of not less than 30 days nor more than six months pursuant to a hearing by the Commissioner of Labor and Standards. The term "special added attraction," as used herein, shall mean the appearance of any person or persons to act in any capacity at any wrestling bout or exhibition, other than licensed contestants, who by reason of their reputation, ability, or otherwise is calculated for and has a tendency to increase the attendance at such wrestling bout or exhibition.

*.035. Payment of Bills.* Licensees must pay all legitimate bills contracted in connection with training and gymnasium expenses or other expenses incurred directly related to a contest. Failure to pay such bill may result in suspension for such licensees.

*.036. Minimum Payment.* Promoters shall be required to pay a wrestler a minimum of \$25 for his and/or her performance as a wrestler. Any promoter violating this rule may be suspended after a hearing for a period of 30 days for the first offense, 60 days for the second offense, and on the third offense his and/or her promoter's license shall be cancelled.

*.037. Amateur Contest.* Any club seeking exempt status under this act shall furnish on a form provided by the department information concerning ownership, affiliation, and such information as should be included on the form. Failure to submit may prevent recognition of exempt status of clubs. Non-exempt amateur clubs promoting contests where an admission fee is charged shall promote under the following conditions:

(a) The commissioner must approve the contest, match, or exhibition at least seven days in advance of the event.

(b) All entries shall be filed with the amateur organization at least three days in advance of the event.

(c) The amateur contest, match, or exhibition shall be subject to the supervision of the commissioner and all profits derived from such contests shall be used for the development of amateur athletics.

(d) Only referees and judges licensed by the commissioner may participate in amateur contests, matches, or exhibitions.

(e) All contestants shall be examined by a licensed physician within a reasonable time prior to the event, and a licensed physician shall be in attendance at the ringside during the entire event.

*.038. Proper Physical Condition.* Contestants in all matches or exhibitions must be properly trained and in proper physical condition to wrestle at their best. The Commissioner of Labor and Standards or his authorized representative and the medical attendant are to be the sole judges of such condition. If the contestant is not physically fit, the Commissioner of Labor and Standards or his authorized representative shall refuse to sanction such bout or exhibition.

*.039. Medical Attendant.* A person of qualified medical background, approved by the Commissioner of Labor and Standards, shall examine all referees and contestants before they enter the ring and shall be in attendance during the match or exhibition. It shall be the responsibility of the promoter to secure the attendance of the same at the contest.

The examining party shall deliver reports of examinations to the promoter before the contest begins.

Should a contestant examined prove unfit for competition through physical injury, high blood pressure, faulty heart action, presence of any infection or contagious disease, defective vision, or any weakness or disability, the contestant must be rejected and an immediate report of the facts must be made to the promoter and the Commissioner of Labor and Standards.

A contestant rejected for a disability will be placed on a medical suspension list until it is shown that the disability no longer exists. A contestant may request a hearing before the Commissioner of Labor and Standards if he disagrees with the medical suspension.

*.040. Unable to Compete.* Whenever a wrestler, because of injuries or illness, is unable to take part in a contest for which he is under contract, he or his manager must immediately report the fact to the promoter and the Commissioner of Labor and Standards.

*.041. Use of Drugs.* The administration or use of any drugs, alcohol, or stimulants or injections in any part of the contestant's body, either prior to or during a match, to or by any wrestler, is prohibited unless administered by a physician with the approval of the commissioner.

*.042. Ticket Inventory.* The promoter shall mail to the Texas Department of Labor and Standards a sworn inventory of all tickets delivered to any club. This inventory shall account for any known overprints, changes, complimentary tickets, or extras. Said form will be provided by the Texas Department of Labor and Standards.

*.043. Sale of Complimentary Tickets.* Any promoter or employee thereof selling complimentary tickets may have his promoter's license revoked or suspended after a hearing and at the discretion of the Commissioner of Labor and Standards. Complimentary tickets shall be over stamped with the wording "complimentary" on the printed face of the ticket. The promoter must retain a clipped end or perforated portion of each complimentary ticket. *Bona fide* employees of the management of the club, municipal or county officers on official business, employees of the news media assigned to work by their recognized employers or superiors, policemen and firemen in uniform and on duty, and persons of similar vocation who are admitted free to any club for the performance of special duties in connection with the event and whose special duties are the sole reason for their presence are entitled to complimentary tickets.

(a) Complimentary tickets shall be provided by the club for representatives of the Texas Department of Labor and Standards and for contestants and seconds, who are engaged in the contest, and for those officials provided for under the law and rules. Any club admitting a person without a ticket is liable to suspension or revocation of its promoter's license pursuant to a hearing held by the Commissioner of Labor and Standards.

(b) Tickets of every description used for any wrestling match or exhibition must be held by promoters for a period of 30 days. Such tickets may be destroyed after 30 days or delivered to the Texas Department of Labor and Standards, if requested. Such tickets must be kept in separate packages for each show in order that a recheck or recount can be made by the department.

*.044. Exchanges.* No exchanges of tickets shall be made except at the box office, and no tickets shall be redeemed after the show has taken place. Tickets in the hands of agencies must be returned not later than one hour after the show has started.

*.045. Printing.* All tickets shall have the price and the name of the promoter and date of show must be printed plainly thereon. Requests for changes in ticket prices or dates must be referred in writing to the Texas Department of Labor and Standards for approval.

Working press seats are limited as follows: Three rows for outdoors and two rows for indoor shows unless specific permission is obtained from the commissioner to increase these numbers. There must be an aisle

space at the end of the working press section after which the ringside section begins.

.046. *Refunds.* The price paid for the tickets shall be printed on the ticket and the stub detached and returned to the ticket holder at the entrance gate. This stub shall also show the name of the club and the date of the contest or exhibition, and may be redeemed at its face value by the club upon presentation by the purchaser if the advertised main event is postponed or does not take place as advertised.

.047. *Color of Tickets.* Tickets of different prices must be printed on cardboard of different colors.

.048. *Counting Tickets.* Representatives of the Texas Department of Labor and Standards will check the numbers and places of ticket cans and cause them to be sealed and padlocked, and, after the show, have them opened and the tickets counted under their supervision. Licensed clubs are prohibited from selling tickets for any price other than the price printed thereon unless appropriately stamped and from changing of the price of tickets at any time after tickets for an exhibition have been placed on sale, or from selling any ticket at any time during the exhibition at a lesser price than tickets for the same seats were sold or offered before the exhibition.

.049. *Ticket Stubs.* Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub.

.050. *Seating Capacity.* No tickets shall be sold for more than the actual approved capacity of the place where the contest is being held.

Doc. No. 774339

### Karate 063.11.03

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is adopting Rules 063.11.03.001-.016, setting forth the methods and procedures for the administration of the karate licensing and regulation provisions of Article 8501-1, *et. seq.*, Texas Civil Statutes. These rules are immediately necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law, which was a total new writing of the law. Without the immediate adoption of these rules, the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules are to take effect immediately.

These rules are promulgated under the authority of Section 4(b) of Article 8501-1, *et. seq.*, Texas Civil Statutes.

.001. *Professional Boxing Rules Applicable.* The following boxing rules and regulations, when appropriate, apply to full contact karate: Rules 063.11.01.008-.014.

.002. *Weights and Classes.*

(a) *Weights within classes.*

Flyweight .....	113 lbs. or under
Bantamweight .....	113-124 lbs.
Super Lightweight .....	125-134 lbs.
Lightweight .....	135-145 lbs.
Welterweight .....	146-157 lbs.
Middleweight .....	158-170 lbs.
Light Heavyweight .....	171-184 lbs.
Heavyweight .....	185-220 lbs.
Super Heavyweight .....	221 lbs. and over

(b) The following weight spread is permissible for matchmaking within each weight division. Any greater spread requires the approval of the commission.

Flyweight .....	no limit
Bantamweight .....	not more than 4 lbs.
Super Lightweight .....	not more than 5 lbs.
Lightweight .....	not more than 6 lbs.
Welterweight .....	not more than 7 lbs.
Middleweight .....	not more than 8 lbs.
Light Heavyweight .....	not more than 9 lbs
Heavyweight .....	no limit
Super Heavyweight .....	no limit

.003. *Rounds; Number; Length; Rest Period.* Matches shall not exceed nine two-minute rounds with a one-minute rest period between rounds; however, the commission may permit an additional two rounds for the purpose of the championship events.

.004. *Contestants Equipment.* Male contestants must wear a foul-proof groin protector. A plastic cup with an athletic supporter is adequate, but an abdominal guard is preferable. Female contestants must wear foul-proof breast protectors. Plastic breast covers are adequate. Female contestants must also wear a pelvic protective of hips. All contestants must wear fitted mouth pieces.

.005. *Method of Judging.* Judges shall score all rounds and determine the winner by a tally of total rounds won by each respective contestant. In this system the winner of each round may receive 10 points and the opponent a proportionately less number. Judges shall also tally up to a possible 10 points for each fighter for each round depending on the sequel of the contestant. If the round is even, each contestant receives an equal number of points. No fraction of a point may be given. Points shall be marked and relied upon where contestants have won an equal number of rounds to determine the winner. If both rounds and points are equal, the contest shall be determined a draw. Following each round at the termination of the

contest, the announcer shall deliver the ballots to the master scorekeeper, who shall tally up foul points and who shall make final tally and deliver the totals to the commission representative assigned to check and total them. The majority opinion shall be conclusive, and if there is no majority, then the decision shall be a draw. When the commission representative has completed verifying and totaling the scores, the ring announcer will be informed of the decision and the announcer then in turn shall inform the audience on the speaker system.

**.006. Minimum Kicking Requirement.** Each contestant must execute a minimum of six kicks during the course of each round. If either fighter does not execute his minimum kicks, he will automatically lose the round. If both contestants during the course of a round should fail to execute the required minimum kicks by the end of a round, then the round is declared a draw. In any match of nine or more rounds, if either fighter fails to execute in any three rounds he automatically loses the fight. In a non-title fight, if either fighter fails to execute his minimum kicks in any two rounds, he loses the fight.

**.007. Fouls.**

(a) The following tactics are fouls and are forbidden. Use of these tactics may result in a warning and loss of points as determined by the referee. Use of these tactics may also result in disqualification or fine.

(1) headbutts, elbow strikes, or clubbing, kicks or punches or any other strikes to the groin, attacking with the knees, open-hand attacks to the eyes or throat, and striking at that part of the body over the kidneys or spine;

(2) spitting, slapping, or biting;

(3) palm heel strikes (using the heel of the palm of the hand to deliver a blow to the face);

(4) arm bars (grabbing one arm with the other and pressing the grabbed arm against the opponent's throat);

(5) grabbing or holding onto an opponent's leg or foot, and grabbing or holding onto any other part of the body except for the purpose of attempting to throw the opponent to the floor;

(6) punching or kicking a contestant when he or she is down. A contestant is down when any part of his or her body, other than his or her feet, touch the floor. His or her opponent may continue to attack until the contestant has touched the floor with any part of the body other than the feet;

(7) leg checking (extending the leg to check an opponent's leg or to prevent him or her from kicking);

(8) purposely going down without being hit;

(9) the use of abusive language in the ring;

(10) any unsportsmanlike trick or action causing any injury to an opponent;

(11) attacking on the break;

(12) attacking after the bell or gong has sounded ending the round, or when the opponent is out of the ring;

(13) intentionally pushing, shoving, or wrestling an opponent out of the ring with any part of the body;

(14) kicking or striking below the belt.

(b) Any contestant guilty of foul tactics in a contest may be disqualified, his or her purse withheld from payment, and shall be automatically suspended. Disposition of the purse and the penalty to be imposed upon the contestant shall be determined by action by the commission.

**.008. Intentional Evasion of Contact.** A contestant intentionally avoiding any physical contact with his or her opponent will receive a warning. If a contestant continues to avoid a confrontation with his or her opponent after receiving a warning during that round, he or she will be declared the loser of that round. If a contestant repeats this evasive action, in either the same round or in the following round, he or she may be subject to the same penalties and procedures as a contestant guilty of foul tactics.

**.009. The Referee Shall Have Power to Stop Contest.**

The referee shall have the power to stop a contest at any stage during the bout and if he or she considers it too one-sided, or if either contestant is in such condition that to continue might subject him or her to any serious injury, and, in either case, shall have the power to render a decision. Should both contestants be in such condition that to continue might subject them to serious injury, the referee will declare the match a technical draw. In cases where a contestant receives a cut eye from a fair blow or an accidental foul or any other injury which the referee believes may incapacitate the contestant, the referee must call into the ring the attending physician for examination of the contestant before the referee decides whether to stop the contest. Time will be called during the examination.

**.010. Procedure Where Failure to Compete.** In any case where the referee decides that the contestants are not honestly competing, that the knockout is a "dive," or the foul is a prearranged termination of the bout, he or she will not finish the knockout count, disqualify the contestant for fouling or render a decision, but shall stop the bout and declare it ended not later than before the end of the last round and order purses of both fighters held pending investigation and disposition of the funds by the commission, and the announcer or referee shall inform the audience that no decision will be made.

**.011. Failure to Resume Contest.** No contestant shall leave the ring during the one-minute rest period between rounds. Should any contestant fail or refuse to

resume fighting when the bell sounds denoting the commencement of the next round, the referee will award a knock-out victory to his or her opponent as of the round which has last been finished, unless the circumstances indicate to the referee the need for an investigation or disciplinary action, in which event the referee will not make a decision and will order the purse or purses of either or both contestants withheld.

.012. *Wiping Gloves.* Before a fallen contestant resumes fighting after having been knocked to, slipped to, or fallen to the floor, the referee shall wipe the contestant's gloves free of any foreign substance.

.013. *Method of Counting Over a Contestant Who is Down.* When the contestant has been wrestled, pushed, or has fallen through the ropes during a contest, the provision of Rule 063.11.036(c)(5) shall apply. The timekeeper will begin the count pursuant to Rule 063.11.03.015. If both contestants go down at the same time, counting will be continued as long as one of them is down. If both contestants remain down until the count of 10, the contest will be stopped and the decision will be a technical draw. If one contestant rises before the count of 10, and the other contestant remains down, the first contestant to rise shall be declared the winner by knockout. If both contestants rise before the count of 10, the round will continue. The referee may, at his or her own discretion, request the ring physician to examine a contestant during the course of a round, the clock shall be stopped until the examination is completed.

.014. *Resuming Count.* Should a contestant who is down rise before the count of 10 is reached and go down immediately without being struck, the referee shall resume the count where it was left off.

.015. *Communication of Counting Knockdowns.* As soon as a fighter has been knocked down, the official timekeeper begins calling the count (from 1 to 10) while the referee directs the opponent to a neutral corner, he or she returns to the fallen fighter and counts over him or her, picking up the count from the timekeeper.

.016. *Change of Decision.* A decision rendered at the termination of any contest is final and cannot be changed unless the commission determines that any one of the following occurred:

(a) there was collusion affecting the results of any contest;

(b) the compilation of the scorecard of the judges shows an error which would mean that the decision was given to the wrong contestant;

(c) there was a clear violation of the laws or rules and regulations governing karate which affected the result of any contest.

If the commission determines that any of the above occurred with regards to any contest, the decision rendered shall be changed as the commission may direct.

Issued in Austin, Texas, on August 17, 1977.

Doc No 774340      Jackie W. St. Clair  
Commissioner  
Texas Department of  
Labor and Standards

Effective Date: August 23, 1977

Expiration Date December 19, 1977

For further information, please call (512) 475-5691

# PROPOSED RULES

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

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

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

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

## Texas Department of Health

### Nursing and Convalescent Homes

#### Minimum Licensing Standards for Nursing Homes 301.54.02

The Texas Department of Health has existing rules for minimum licensing standards for nursing homes, 301.54.02.001-.011. The Board of Health proposes that Rule .005 on physical plants be amended to require the 1976 edition of the Life Safety Code, No. 101, and the National Electrical Code, 1975 edition, No. 70, both as published by the National Fire Protection Association, be used for minimum fire and safety standards for licensing nursing homes.

The board further proposes that use of the 1976 edition of the Life Safety Code is to supercede all previous interpretations and directives which have been bound together and commonly referred to as the *Planning and Construction Manual* (for nursing and custodial care homes).

Use of the 1976 edition of the Life Safety Code is proposed by the board to apply only to new construction; nursing homes or parts thereof already meeting the 1973 or 1967 editions of the Life Safety Code, with or without waivers, would be deemed to have met the 1976 edition as long as such facilities or parts thereof continue substantially to meet the 1973 or 1967 editions.

The board proposes that this allowance for continuing use of the 1973 or 1967 editions, with or without waivers, as specified in the paragraph above, shall apply with respect to changes in ownership which occur either by sale of the building that houses a licensed facility or by change of holder of a license to operate a facility.

Sections (e), (f), (i), (j), and (k) are not being amended.

These rules will apply to an existing program and will have no fiscal implications.

Public comment on the proposed rule change is invited and should be submitted in writing no later than September 30, 1977, to Howard C. Allen, Director, Nursing and Convalescent Homes Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Public hearings will be held on the proposed rule change at the following locations:

(1) Austin, September 19, 1977, 9 a.m.-- Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756

(2) Lubbock, September 21, 1977, 10 a.m.-- Texas Department of Health, Public Health Region 2, 3411 Knoxville, Lubbock, Texas 79413

(3) Rosenberg, September 23, 1977, 10 a.m.-- Fort Bend Federal Bank, Annex, 3420 Avenue H, Rosenberg, Texas 77471

(4) Arlington, September 27, 1977, 10 a.m.-- Chamber of Commerce, 316 West Main, Arlington, Texas 76010

The proposed changes are being made pursuant to Article 4442c, Texas Civil Statutes.

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

#### .005. *Physical Plant.*

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

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

(2) Building additions shall require that the entire facility generally meet the existing standards at the time for new construction, as required by the licensing agency. *In applying the Life Safety Code, the existing portions need only meet the section of the referenced code for existing buildings.*



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

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

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

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

(D) All other requirements for new buildings, *except for subject covered in paragraphs (a), (b), and (c) immediately above*, shall be provided as approved by the licensing agency [as interpreted from the referenced Planning and Construction Manual].

(4) Remodeling programs shall generally be considered as new construction, and when the remodeling is other than very minor or other than that normally included in building maintenance, the entire facility shall generally meet the existing standards at that time for new construction, as required by the licensing agency; *however, for Life Safety Code considerations, the requirements will be as indicated in the referenced Life Safety Code*.

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

(6) *Notwithstanding the requirements of paragraphs (1) through (5) immediately above, the allowance of Rule .005(b)(2) of these standards shall apply with respect to changes of ownership which occur either by sale of the building that houses a licensed facility or by change of holder of the license to operate the facility.*

(b) *Codes and guides* [Codes, guides, and manuals].

(1) *All nursing homes shall conform to the following codes, except as otherwise specified in these standards:*

(A) *the Life Safety Code, 1976 edition, No. 101, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.*

(B) *the National Electrical Code, 1975 edition, No. 70, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.*

(2) *At the time of effective date of these standards amendments concerning existing nursing homes or parts thereof already meeting the 1973 edition or the 1967 edition of the Life Safety Code, No. 101, of the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, with or without waivers, shall be deemed to have met the 1976 edition of the Life Safety Code as long as such facilities or parts thereof continue substantially to meet the 1973 or 1967 editions. Such a facility or part thereof shall be assured substantially meeting the editions of the National Electrical Code, No. 70, of the National Fire Protection Association, in effect at the time of the construction of the facility or the part thereof, except as may have been required or allowed otherwise in the licensing agency's determination that the 1973 or 1967 edition has been met.*

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

(A) The National Building Code, 1955, with amendments of December, 1957, and January, 1963, as published by the National Board of Fire Underwriters, 85 St. Johns Street, New York, New York 10038.

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

(C) The Life Safety Code, 1967, No. 101, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

(B)(D) American Standard Safety Code for Elevators, Dumbwaiters, and Escalators, as published by the American Standard Association, 70 East 45th Street, New York, New York 10017.

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

(D)(F) Heating, Ventilating, and Air Conditioning Guide, 1967 Edition, American Society of Heating, Refrigerating, and Air Conditioning Engineers, 345 East 47th Street, New York, New York 10017.

(E)(G) IES Lighting Handbook, 1962, as published by Illuminating Engineering Society, 345 East 47th Street, New York, New York 10017.

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

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

(c) Safety of patients.

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

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

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

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

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

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

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

(4) Exit provisions, including corridors, stairways, and other exitways, handrails, doors, locks, patient control, and other applicable items shall be in ac-

cordance with the requirements of the referenced Life Safety Code [and the referenced Planning and Construction Manual].

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

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

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

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

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

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

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

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

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

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

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

(11) Non-mentally alert patients who smoke should have or be provided with outside clothing that is flame proof or that will not support combustion or is self extinguishing. Non-mentally alert patients who smoke

without the protection mentioned above shall be supervised by a non-resident or a mentally alert patient during any smoking period.]

(d) Favorable environment for patients.

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

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

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

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

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

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

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

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

(8)(9) The waste water drainage and sewerage system shall assure that sanitation is maintained for patients. Waste water or sewage shall not be discharged on the surface of the ground. Rainwater or

other water shall be rapidly carried away from the building and shall not be allowed to pool on the site. In no case shall traps be allowed to lose their seal. Appliances shall have air gaps as required for connections to the sewerage system. Venting shall assure a rapid flow of waste water in the sewerage system. Generally the National Plumbing Code [as interpreted in the Planning and Construction Manual] shall apply.

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

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

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

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

(g) Patients' bedrooms.

(1) Patients' bedrooms shall be arranged and equipped for adequate personal care and for comfort and privacy.

(2) Bedrooms shall have 100 square feet of usable floor space for a one-bed room.

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

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

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

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

(7) Bedrooms shall have exterior exposure with windows having not less than one-tenth of the usable floor area of the bedroom. [Unless otherwise approved,

at least one window in each bedroom shall have a sill not more than 36 inches from the floor and shall have beginning at the sill height an operable section at least 36 inches in clear width by 24 inches in clear height which can be used for emergency evacuation or for release of smoke and heat as well as for supply of fresh air.]

(8) An individual bed shall be furnished each patient and beds shall have moisture-proof covered mattresses not less than 36 inches wide. Beds shall be placed no closer than 36 inches apart.

(9) Bedrooms shall be not over 36 inches below outside grade. Where building walls above the floor line are in contact with the earth, proper water-proofing shall be provided.

(10) Each bed shall have access to a nurse call device. Electric nurse call system is recommended.

(11) Each bed shall have a reading light, firmly fastened to wall or bed or otherwise suitably fastened.

(12) **Cubicle curtains** [Fire retardant cubicles] or folding screens shall be available for those patients requiring privacy.

(13) Draperies or curtains shall be fire retardant unless non-combustible blinds are used.

(14) All patient rooms shall open upon an exit or service corridor or living area.]

~~(13)~~(15) An isolation room with separate toilet and bathing facilities is recommended.

(h) Patients' toilet and bathing facilities.

(1) It is desirable to provide as a minimum interconnecting water closet (commode) compartments between bedrooms and a lavatory in each bedroom or else to provide interconnecting water closet (commode) and lavatory compartments.

(2) Bedrooms not provided with the above mentioned water closet and lavatory facilities or not provided with complete baths shall be served by general water closets for each sex (if the facility houses both sexes), and general bathing rooms. The ratio of fixtures to patients shall be one water closet and one lavatory for each eight patients and one tub or one shower for each 20 patients. General water closet and bathing areas shall be suitably compartmentalized.

(3) Lavatories shall be raised for the use of wheel chair patients as required.

(4) Water closets shall have surrounding space for wheelchair patients as required.

(5) Grab bars of sufficient strength to support 200 pounds dead weight shall be provided at or available to water closets, tubs, and showers, and shall be arranged to supply the most safety for the patients.

(6) Provision shall be made for separate towel racks or paper towel containers and separate soap and toothbrush holders, or else procedures shall be established to assure against cross contamination.

(7) Tubs and showers shall have slip-proof bottoms or devices or furnishings available to provide this requirement.

(8) Floors, walls, and ceilings shall have non-absorbent surfaces, be smooth and easily cleanable, and floors shall be relatively slip-proof.

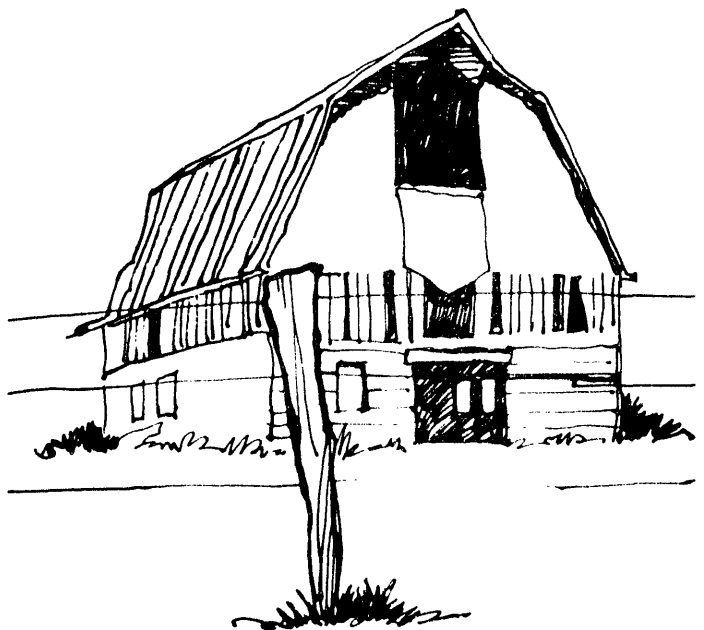
(9) All bath or restrooms with water closets, tubs, or showers shall have forced exhaust to the outside air even though a window may be in the room or compartment.

(10) Doors to bath or rest rooms shall be wide enough for easy and safe passage for ambulatory and wheelchair patients unless otherwise approved.

(11) Doors to bathrooms and water closet compartments shall open outward or be capable of easily being opened outward so that a patient who may have fallen against a closed door may be attended without being moved. Where interconnecting doors are located such that there is little probability of a fallen patient blocking both doors, the doors may open inward.

(12) Folding or sliding doors shall not be used for patient bathrooms or compartments unless it can be established that no safety hazard exists with the type of installation proposed or in use.]

Doc No 774383



## Minimum Licensing Standards for Custodial Care Homes 301.54.03

The Texas Department of Health has existing rules for minimum licensing standards for custodial care homes, 301.54.03.001-.011. The Board of Health proposes that Rule .005 on physical plants be amended to require the 1976 edition of the Life Safety Code, No. 101, and the National Electrical Code, 1975 edition, No. 70, both as published by the National Fire Protection Association be used for minimum fire and safety standards for licensing nursing homes.

The board further proposes that use of the 1976 edition of the Life Safety Code is to supercede all previous interpretations and directives which have been bound together and commonly referred to as the *Planning and Construction Manual* (for nursing and custodial care homes).

Use of the 1976 edition of the Life Safety Code is proposed by the board to apply only to new construction; custodial care homes or parts thereof already meeting the 1973 or 1967 editions of the Life Safety Code, with or without waivers, would be deemed to have met the 1976 edition as long as such facilities or parts thereof continue substantially to meet the 1973 or 1967 editions.

The board proposes that this allowance for continuing use of the 1973 or 1967 editions, with or without waivers, as specified in the paragraph above, shall apply with respect to changes in ownership which occur either by sale of the building that houses a licensed facility or by change of holder of a license to operate a facility.

These rules will apply to an existing program and will have no fiscal implications.

Public comment on the proposed rule change is invited and should be submitted in writing no later than September 30, 1977, to Howard C. Allen, Director, Nursing and Convalescent Homes Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Public hearings will be held on the proposed rule change at the following locations:

(1) Austin, September 19, 1977, 9 a.m.-- Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756

(2) Lubbock, September 21, 1977, 10 a.m.-- Texas Department of Health, Public Health Region 2, 3411 Knoxville, Lubbock, Texas 79413

(3) Rosenberg, September 23, 1977, 10 a.m.-- Fort Bend Federal Bank, Annex, 3420 Avenue H, Rosenberg, Texas 77471

(4) Arlington, September 27, 1977, 10 a.m.-- Chamber of Commerce, 316 West Main, Arlington, Texas 76010

The proposed changes are being made pursuant to Article 4442c, Texas Civil Statutes.

### .005. *Physical Plant.*

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

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

(2) Building additions shall require that the entire facility generally meet the existing standards at that time for new construction, as required by the licensing agency. *In applying the Life Safety Code, the existing portions need only meet the section of the referenced code for existing buildings.*

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

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

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

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

(D) All other requirements for new buildings, *except for subjects covered in paragraphs (a), (b), and (c) immediately above*, shall be provided as approved by the licensing agency [as interpreted from the referenced *Planning and Construction Manual*].

(4) Remodeling programs shall generally be considered as new construction, and when the remodeling is other than very minor or other than that nor-

mally included in building maintenance, the entire facility shall generally meet the existing standards at that time for new construction, as required by the licensing agency[.]; *however, for Life Safety Code considerations, the requirements will be as indicated in the referenced Life Safety Code.*

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

(6) *Notwithstanding the requirements of paragraphs (1) through (5) immediately above, the allowance of Rule .005(b)(2) of these standards shall apply with respect to changes of ownership which occur either by sale of the building that houses a licensed facility or by change of holder of the license to operate the facility.*

(b) *Codes and guides* [Codes, guides, and manuals].

(1) *All custodial care homes shall conform to the following codes, except as otherwise specified in these standards:*

(A) *The Life Safety Code, 1976 Edition, No. 101, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.*

(B) *The National Electrical Code, 1975 Edition, No. 70, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.*

(2) *At the time of effective date of these standards, amendments existing concerning custodial care homes or parts thereof already meeting the 1973 edition or the 1967 edition of the Life Safety Code, No. 101, of the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, with or without waivers, shall be deemed to have met the 1976 edition of the Life Safety Code as long as such facilities or parts thereof continue substantially to meet the 1973 or 1967 editions. Such a facility or part thereof shall be assured substantially meeting the editions of the National Electrical Code, No. 70, of the National Fire Protection Association, in effect at the time of the construction of the facility or the part thereof, except as may have been required or allowed otherwise in the licensing agency's determination that the 1973 or 1967 edition has been met.*

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

(A) The National Building Code, 1955, with amendments of December, 1957, and January, 1963, as published by the National Board of Fire Underwriters, 85 St. Johns Street, New York, New York 10038.

[(B) The National Electric Code, 1962 edition, as published by the National Fire Protection Association, 60 Batterymarch Street, Boston, Massachusetts 02110.

[(C) The Life Safety Code, 1966, No. 101, as published by the National Fire Protection Association, 60 Batterymarch Street, Boston, Massachusetts 02110.]

(B)(D) [American Standards Safety Code for Elevators, Dumbwaiters, and Escalators, as published by the National Fire Protection Association, 70 East 45th Street, New York, New York 10017.

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

(D)(F) [Heating, Ventilating, and Air Conditioning Guide, 1967 Edition, American Society of Heating, Refrigerating, and Air Conditioning Engineers, 345 East 47th Street, New York, New York 10017.

(E)(G) [IES Lighting Handbook, 1962, as published by Illuminating Engineering Society, 345 East 47th Street, New York, New York 10017.

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

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

(c) Safety of residents.

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

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

(3) Fire resistance, flame spread, and related fire characteristics shall be in accordance with the re-

requirements of the referenced Life Safety Code [and the referenced Planning and Construction Manual. For general guidance without reference to the Life Safety Code and the Planning and Construction Manual the following construction types are required:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Favorable environment for residents.

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

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

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

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

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

[(5)](6) The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas which do not

have outside windows and which are used by residents or personnel shall be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage.

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

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

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

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

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

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

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

(g) Residents' bedrooms.

(1) Residents' bedrooms shall be arranged and equipped for adequate personal care and for comfort and privacy.

(2) Bedrooms shall have 100 square feet of usable floor space for a one-bed room. Existing licensed facilities shall have not less than 80 square feet.

(3) Bedrooms shall have 72 square feet of usable floor space per bed for multiple-bed rooms. Existing licensed facilities shall have not less than 60 square feet.

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

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

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

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

(8) An individual bed shall be furnished each resident and beds shall have moisture-proof covered mattresses not less than 36 inches wide. Beds shall be placed no closer than 36 inches apart.

(9) Bedrooms shall be not over 36 inches below outside grade. Where building walls above the floor line are in contact with the earth, proper water-proofing shall be provided.

(10) Each bed shall have access to an attendant call device.

(11) Each bed shall have a reading light, firmly fastened to wall or bed or otherwise suitably fastened.

(12) **Cubicle curtains** [Fire retardant cubicles] or folding screens shall be available for those residents requiring privacy.

(13) Flame-proof draperies or curtains shall be installed unless flame-proof blinds are used.

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

(h) Residents' toilet and bathing facilities.

(1) It is desirable to provide as a minimum interconnecting water closet (commode) compartments between bedrooms and a lavatory in each bedroom or else to provide interconnecting water closet (commode) and lavatory compartments.

(2) Bedrooms not provided with the above-mentioned water closet and lavatory facilities or not provided with complete baths shall be served by general bathrooms for each sex (if the facility houses both



sexes), and the ratio of fixtures to residents shall be one water closet and one lavatory for each eight residents and one tub or one shower for each 20 residents.

(3) Lavatories shall be raised for the use of wheelchair residents as required.

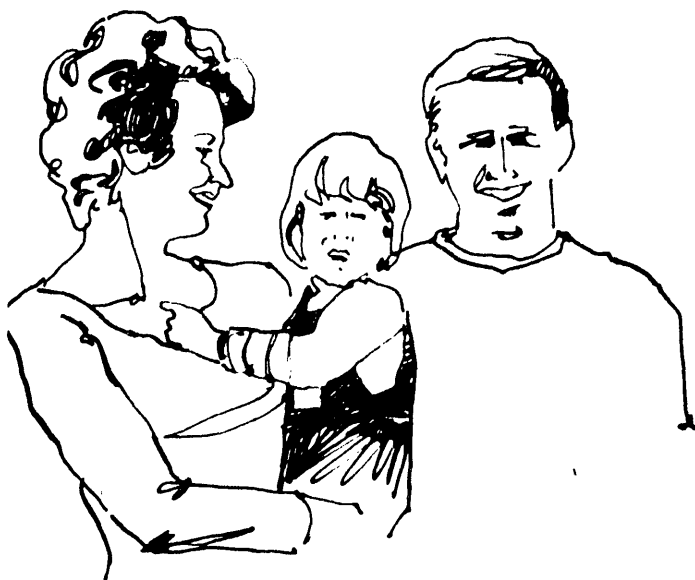
(4) Water closets shall have surrounding space for wheelchair residents as required.

(5) Grab bars of sufficient strength to support 200 pounds dead weight shall be provided at or available to water closets, tubs, and showers, and shall be arranged to supply the most safety for the residents.

(6) Provision shall be made for separate towel racks or paper towel containers and separate soap and toothbrush holders, or else procedures shall be established to assure against cross contamination.

(7) Tubs and showers shall have slip-proof bottoms or devices or furnishings available to provide this requirement.

(8) Floors, walls, and ceilings shall have non-absorbent surfaces, be smooth and easily cleanable, and floors shall be relatively slip-proof.



(9) All bath or restrooms with water closets, tubs, or showers shall have forced exhaust to the outside air even though a window may be in the room or compartment.

(10) Doors to bath or restrooms shall be wide enough for easy and safe passage for ambulatory and wheelchair residents.

(11) Doors to bathrooms and water closet compartments shall open toward or be capable of easily being opened outward so that a resident who may have fallen against a closed door may be attended without

being moved. Where interconnecting doors are located such that there is little probability of a fallen resident blocking both doors, the doors may open inward.

(12) Folding or sliding doors shall not be used for resident bathrooms or compartments unless it can be established that no safety hazard exists with the type of installation proposed or in use.

Issued in Austin, Texas, on August 17, 1977.

Doc No 774384 Raymond T Moore, M.D.  
Deputy Director  
Texas Department of Health

Proposed Date of Adoption October state board meeting

For further information please call (512) 458-6711

## Texas Department of Mental Health and Mental Retardation

### Client (Patient) Care

#### Employment of Patients or Residents Under the Fair Labor Standards Act 302.04.08

The Texas Department of Mental Health and Mental Retardation proposes to repeal Rules 302.04.08.001-.018, which govern the employment of patients or residents under the Federal Fair Labor Standards Act.

The United States Supreme Court in *National League of Cities v. Usery*, 96 Section Supreme Court 2465 (1976), held that insofar as the 1974 amendments to the Fair Labor Standards Act operate directly to displace the states' abilities to structure employer-employee relationships in areas of traditional governmental functions, such as public health, such amendments are invalid for the reason that Congress had no authority to enact the amendments. As a result of that decision, Rules 302.04.08.001-.018 are no longer necessary. Furthermore, Senate Bill 484, Acts of the 65th Legislature, Regular Session, 1977, amended the Texas Minimum Wage Law to authorize the department to fairly compensate client workers. The department has proposed rules which will govern client worker programs at all facilities and which will ensure that client workers are fairly compensated for services they perform.

The repeal of these rules will have no fiscal implications.

Public comment on the proposed repeal of Rules 302.04.08.001-.018 is invited. Persons may submit their comments in writing to Kenneth D. Gaver, M.D., Commissioner, Texas Department of Mental Health and

Mental Retardation, P.O. Box 12668, Capitol Station, Austin, Texas 78711, or by telephone at (512) 454-3761.

The repeal of Rules 302.04.08.001-.018 is proposed under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

*.001. Purpose.* The purpose of these rules concerning the employment of patients and residents under the Fair Labor Standards Act is to enable residential facilities of the department to employ patient and resident clients and to prescribe the means by which the employment is to be done, consistent with state and federal laws.

*.002. Application.* These rules concerning the employment of patients and residents under the Fair Labor Standards Act apply to the following:

- (a) patients or residents who reside in residential facilities of the department;
- (b) patients or residents who, though they do not reside in residential facilities of the department, come onto the grounds of residential facilities of the department for services.

*.003. Definitions.* As used in these rules concerning the employment of patients and residents under the Fair Labor Standards Act:

- (a) "Commissioner" means the Commissioner of Mental Health and Mental Retardation.
- (b) "Department" means the Texas Department of Mental Health and Mental Retardation.
- (c) "Facility" means any department operation which has residential services as its primary assignment and which derives more than half of its funds for that purpose.
- (d) "Patient or resident worker" means
  - (1) any person admitted to and residing in any residential facility of the department who has an employment relationship with the facility on its physical site;
  - (2) any person engaging the professional services of any residential facility who, though not a patient or resident of the facility, has an employment relationship with the facility on its physical site.
- (e) "Employment relationship" means the condition which generally arises whenever a patient or resident is suffered or permitted to work.
  - (1) all of the facts relating to or surrounding a given situation determine:
    - (A) whether an "employment relationship" exists,
    - (B) whether the work performed is of any consequential economic benefit to the departmental facility.
  - (2) Determination of an "employment relationship" does not depend upon:
    - (A) the level of performance of the patient or resident,
    - (B) whether the work is of therapeutic value to the patient or resident.

(A) the level of performance of the patient or resident,

(B) whether the work is of therapeutic value to the patient or resident.

(3) No "employment relationship" exists

(A) when patients or residents perform tasks at the conclusion of an instructional activity session where the individual assists with the clean up of the immediate work or play area.

(B) during the first three months of engagement in a work activity or activities provided that the person spends no more than one hour per day in the activity or activities; and, provided further, that competent instruction and supervision is furnished the individual during such periods.

(C) merely if the patient or resident performs personal housekeeping chores, such as maintaining his or her own quarters.

(D) merely if the patient or resident receives a token remuneration for his or her services.

(E) if the patient or resident is engaged in such activities as making craft products, where the patient or resident worker voluntarily engages in such activity and the products become the property of the patient or resident making them, or the funds resulting from the sale of the products are divided among the clients participating in that program or are used for the purpose of purchasing materials consumed in making the craft products.

(f) "Consequential economic benefit" means the benefit derived by the residential facility of the department

(1) if the work is of the type non-handicapped workers normally perform, in whole or in part, in the facility or elsewhere.

(2) if the work in question would be performed by someone else if it were not done by the patient or resident.

(g) "Commensurate wages" or "commensurate pay" means wages consistent with those paid non-handicapped workers in the institution or nearby industry for the same type, quality, and quantity of work. For example, a patient or resident worker who is 75 percent as productive as a non-handicapped worker doing similar work in the institution in terms of quality and quantity of work would be paid 75 percent of the wage paid to the non-handicapped worker. Thus, though the group minimum wage certificate may authorize a base pay of one-half of the current federal minimum wage, the upper pay limits for department patient or resident workers would be higher than the minimum wage if the non-handicapped employee of the institution is paid more.

(h) "Certificate" means one of several types of permits issued by the Secretary of Labor, as authorized under Part 529 attached as Exhibit A-.04.06.003,

which becomes a part of this rule the same as if it were fully set out herein, to provide for the employment of handicapped persons in groups or individually at subminimum wages.

(i) "Part 529" attached as Exhibit A-.04.08.003 means that part of the *Federal Register*, Volume 40, Number 27, Friday, February 7, 1975, under Title 29-- Labor, Chapter V-- Wage and Hour Division, Department of Labor. Part 529 establishes the rules and regulations of "employment of patient workers in hospitals and institutions at subminimum wages."

(j) "Part 525" means that part of the *Federal Register* under Title 29-- Labor, Chapter V-- Wage and Hour Division, Department of Labor, May 17, 1974. Part 525 establishes the rules and regulations of "employment of handicapped clients in sheltered workshops."

*.004. Certificates to be Secured; Regulation of Patient or Resident Employment in Sheltered Workshops.*

(a) Certificates appropriate to the clientele to be served shall be secured and the terms of the certificates observed. In no case may any patient or resident workers on any certificate be paid less than the commensurate wage.

(b) A group minimum wage certificate shall be secured for that group of patient or resident workers whose earning capacity is estimated upon preliminary evaluation to be one-half or more of the minimum wage. Commensurate wages above that amount shall be paid based on the patient or resident worker's productivity. In no case may any patient or resident worker on this certificate be paid less than the commensurate wage.

(c) The work activity center certificate is for employment planned and designed to provide therapeutic activities for patients or residents whose handicap is so severe that their ability to produce is less than one-fourth that of the normal worker. A work activity center certificate shall be secured for that group of patient or resident workers. Workers employed under a work activity center certificate shall be paid the commensurate rate.

(d) For those patients or residents whose earning or productive capacity is less than the group minimum wage but not less than 25 percent of the current minimum wage, individual exception certificates may be secured from a Texas Rehabilitation Commission counselor, under conditions prescribed by that agency.

(e) The employment of patients or residents in sheltered workshops will be regulated under Part 525. Handicapped persons who are neither inpatients nor outpatients of facilities as defined in these rules may be hired under provisions allowing special minimum wages for handicapped workers, if special wages are indicated.

*.005. Work Placements and Assignments.*

(a) Work placements shall be evaluated to ensure that any assignment of a patient or resident is part of an overall plan emphasizing the following:

- (1) mental and physical well being,
- (2) evaluation of work readiness,
- (3) determination or improvement of the level of occupational function,
- (4) improvement or maintenance of
  - (A) personal adjustment,
  - (B) social adjustment,
  - (C) vocational adjustment.

(b) Considerations for the work placement of patients or residents shall be based fundamentally on evidence that the placement is beneficial to the patient or resident. Benefit to the institution may occur but shall not be used as a criteria for determining work assignments.

*.006. Patient or Resident Records to be Maintained; Records Under the Fair Labor Standards Act; Placing of Department of Labor Posters.*

(a) Records shall be maintained which show:

- (1) the disability of the patient or resident,
- (2) the productivity of the patient or resident worker on a continuing basis or periodically,
- (3) the prevailing wage of non-handicapped workers doing the same kind of work in the institution,
- (4) the production standards for non-handicapped workers doing the same kind of work in the institution,
- (5) in the instance of work activity and group minimum wage certificates, the differentiation of patients or residents working under each certificate.

(b) Timekeeping and payroll and other records as maintained for any employee under the Fair Labor Standards Act are also required to be maintained.

(c) Posters, as prescribed by the Department of Labor, shall be conspicuously placed for reviewing by patient, resident, or other workers in the institution.

*.007. Hourly Restrictions on the Work Week of Patient or Resident Workers.* Patient or resident workers shall generally be employed for not more than 20 hours per week unless specifically approved by the superintendent on a case-by-case, needs basis. No patient or resident worker may work beyond 40 hours per week for any reason.

*.008. Matching Work Demands with Patient's or Resident's Capacity and Level of Progress.* Reasonable efforts shall be made to match the intellectual, physical, and social demands of a job with a patient's or resident's capacity and level of progress.

*.009. Advising Patient or Resident Workers of Coverage Under the Fair Labor Standards Act, Work Assignments, and Rate of Pay.* Patient or resident

workers will be advised orally and in writing of their coverage under the act and be provided information about the work assignment and the rate of pay. Parents or guardians, where applicable, shall be notified in writing.

*.010. Responsibility of Work Area Supervisors; Duties of Work Area Staff.*

(a) Work area supervisors shall have adequate orientation to their role of supervisor/trainer of patients or residents and shall assume responsibility for this role as a condition of institutional employment.

(b) The work area staff will be informed of the patient or resident worker's care, treatment, and training goals and will assist the patient toward these goals, as feasible or appropriate to the work setting.

*.011. Volunteer Services by Patients and Residents.* Patients and residents may volunteer to perform services that other citizens may ordinarily volunteer to do. The processing of volunteers must be done in essentially the same manner for patients and residents as for other volunteers. Safeguards will be established to see that a good faith effort is made to distinguish volunteer activities from those which an employee would usually and customarily be expected to perform.

*.012. Job Descriptions for Patient or Resident Workers; Formula for Determining Amount of Pay.* Job descriptions shall be available for each patient or resident worker. These job descriptions may be the same as those used for regular employees of the department. The percentage of actual work performed by the handicapped worker on each specific item on the job description shall be computed, item by item. The total of these percentages divided by the number of duties listed shall represent the percentage of the pay of a non-handicapped worker which the handicapped worker will receive.

*.013. Employment Relationship Exists only for Compliance with the Fair Labor Standards Act; Patient or Resident Work, Not State Employees.* An "employment relationship" with a patient or resident worker exists for the purpose of satisfying the requirements of the Fair Labor Standards Act only. Patient or resident worker activity covered by these rules may not be construed as causing a patient or resident to be an employee of the State of Texas.

*.014. Submission of Plan and Budget as Part of Budgeting Process.* The plan and the budget based upon these guidelines shall be submitted as part of the annual budget preparation process. This plan is to be sent to the commissioner and shall reflect such adjustments in the program as are supported by past experience and current circumstances.

*.015. Distribution.*

(a) These rules will be distributed to members of the Texas Board of Mental Health and Mental Retardation; regional office of the U.S. Department of Labor; Office of the Attorney General; Texas Public Employees Association; assistant commissioners; deputy commissioners; directors and section chiefs of central office; and superintendents/directors of all TDMHMR facilities.

(b) The superintendent/director of each facility shall provide a copy of these rules to each business manager or administrator of the facility.

(c) The superintendent/director shall be responsible for the dissemination of the information contained herein to all appropriate staff members.

*.016. References.* Reference is made to the following statutes:

(a) Fair Labor Standards Act of 1938, Section 201, 29 United States Code, *et seq.*

(b) Section 2.12, Article 5547-202, Vernon's Annotated Civil Statutes.

(c) Section 3d, Article II, Senate Bill 52, Acts of the 64th Legislature, Regular Session, 1975 (Appropriations)

(d) Texas Attorney General Opinion H-502 (January 22, 1975). This opinion is attached to these rules as Exhibit B-- .04.08.016. The opinion holds that the "Fair Labor Standards Act does not preempt Texas law in the area of establishing entitlements to the rights, privileges, and 'fringe' benefits of state employment. Patient-workers of a state hospital or residents of a state school for the mentally retarded whether performing institution-maintaining labor or engaged in activities of a sheltered workshop or a work activities center are not state 'employee' for fringe benefit purposes." Copies of this exhibit may be obtained from the central office of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, Texas 78711.

*.017. Information Concerning Exhibit A-- .04.08.003.* Attached to and made a part of these rules is Exhibit A-- .04.08.003. The title of this exhibit is "Part 529-- Employment of Patient Workers in Hospitals and Institutions at Subminimum Wages." The text of the exhibit is that part of the *Federal Register*, Volume 40, Number 27, Friday, February 7, 1975, under Title 29-- Labor, Chapter V-- Wage and Hour Division, Department of Labor. Part 529 established the rules and regulations of "Employment of Patient Workers in Hospitals and Institutions at Subminimum Wages." The text of the exhibit may be found in the *Federal Register* just indicated and copies of the exhibit may be obtained from the central office of the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, Texas 78711.

**.018. Effective Date.** The effective date of these rules concerning the employment of patients and residents under the Fair Labor Standards Act is December 22, 1975. Upon the effective date of these rules, Administrative Order No. 17 and all other instructions on this subject, written or verbal, are rescinded.

Doc. No. 774341

### Client Workers 302.04.33

The Texas Department of Mental Health and Mental Retardation is proposing to adopt Rules 302.04.33.001-.018, which would govern the operation of client worker programs at all facilities of the department.

Proposed Rules 302.04.33.001-.018 have been written as required by Senate Bill 484, Acts of the 65th Legislature, Regular Session, 1977, which amended the Texas Minimum Wage Law to authorize the department to fairly compensate client workers for the services they perform. The proposed rules would govern the operation of client worker programs at all department facilities. The effect of the proposed rules would be uniform rules and procedures governing client worker programs which would ensure that work assignments and placements are beneficial to the client and that the client receive fair compensation for the work he or she does.

The repeal of these rules will have no fiscal implications.

Public comment on proposed Rules 302.04.33.001-.018 is invited. Persons should submit their comments in writing to Kenneth D. Gaver, M.D., Commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Capitol Station, Austin, Texas 78711, or by telephone at (512) 454-3761.

Rules 302.04.33.001-.018 are proposed under the authority of Section 10a of Article 5159d, Texas Civil Statutes, and Section 2.11 (b) of Article 5547-202, Texas Civil Statutes.

**.001. Purpose.** The purpose of these rules concerning client workers is to implement Section 10a of Article 5159d, Texas Civil Statutes, which authorizes the Texas Department of Mental Health and Mental Retardation to compensate client workers for work which they perform.

**.002. Applicability.**

(a) These rules concerning client workers apply to:

(1) patients and residents who reside in residential facilities of the department; and

(2) patients and residents who, though they do not reside in residential facilities of the department, come onto the grounds of residential facilities of the department for services.

(b) The rules concerning client workers apply to all facilities of the department.

(c) These rules concerning client workers do not apply to vocational education programs accreditable under the Texas Educational Agency standards for such programs.

**.003. Definitions.** In these rules,

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

(2) "Commissioner" means the Commissioner of Mental Health and Mental Retardation.

(3) "Client worker" means a patient, resident, or student who is a client of any facility of the Texas Department of Mental Health and Mental Retardation, whose productive capacity is impaired, and who is assisting in the operation of the institution as part of his or her therapy, or who is receiving occupational training in a sheltered workshop or other program operated by the department, and where the institution or department derives an economic benefit from such client's services. A patient, resident, or student is not a client worker:

(A) when he or she assists with the cleanup of the immediate work or play area at the conclusion of an instructional or recreational activity session,

(B) if he or she is engaged in such activities as making craft products where the product becomes the property of the client or where the funds resulting from the sale of the products are divided among the clients participating in that program or are used for the purpose of purchasing materials consumed in the manufacture of the products,

(C) if he or she merely performs personal housekeeping chores, that is, the maintenance of his or her own quarters.

(4) "Maintenance of own quarters" and "personal housekeeping chores" means such levels of activity as suggested by sweeping and mopping of floors; bedmaking; cleaning bathrooms; sharing in light housekeeping of areas designated for client usage; on-dorm laundering and maintenance of clothing; sweeping and picking up in immediate outdoor area of the client's own residential building.

(5) "Commensurate rate of pay" means a rate of pay based upon the federal minimum wage or that percentage thereof which the client worker is able to earn when his or her productivity is compared to the quantity and quality of the productivity of a non-handicapped worker doing the tasks on the client worker's job description. Provisions for the application of a non-handicapped state employee job description and base pay level to a vocationally non-handicapped client

worker are contained in Rule .006 of these rules.

(6) "Facility" means any institution, including the central office, under the jurisdiction, control, and management of the department.

*.004. Compensation of Client Workers for Services Rendered.*

(a) Client workers shall be compensated for services they render at a percentage of the base wage, which percentage corresponds to the percentage of their productive capacity when compared with employees not so impaired performing the same or similar tasks; provided, however, that client workers engaged in sheltered workshop or similar activities may be compensated on a piece-work basis. In determining the piece-work rate to be paid such client workers, facilities shall use piece-work pay-setting practices that are acceptable in private industry in the area which are engaged in the same or similar work.

(b) The services rendered and the payment provided for such services shall not be construed so as to create an employer-employee relationship between the department and the client worker.

(c) The percentage of the base wage which a client worker may be paid for services rendered shall be computed individually for each client worker in accordance with the provisions of Rule .007 of these rules.

*.005. Personal Housekeeping Chores.*

(a) For the purposes of training and for the maintenance of skills and work habits in normal housekeeping activities, clients will be encouraged to participate in the maintenance of their immediate living quarters and in the performance of personal housekeeping chores for a period not to exceed one hour per day.

(b) Levels of activity that are subject to commensurate wage payment and employment in the client work program are inferred by such levels of tasks as stripping and waxing floors, exterior window washing, lawn mowing, attending clothing rooms, and food service work (in excess of the one hour per day total for all maintenance of own quarters chores performed by the client on his or her own living quarters). A client shall be paid for work performed away from the client's own living quarters or in staff usage areas.

(c) Unless otherwise expressly stated in these rules, an activity must take place within a patient's, resident's, or student's immediate living quarters to be considered a personal housekeeping chore.

*.006. Job Descriptions.*

(a) Job descriptions shall be available for all client workers.

(b) Special job descriptions shall be established which are suited to the tasks of the client worker. Such job descriptions shall state the tasks which the client workers

(1) will be required to do,

(2) can do with some level of productivity, and

(3) will be held responsible for.

(c) Regular employee job descriptions may be used only when

(1) there is a reasonable expectation that the client worker is able or will shortly be able to do all elements of the regular employee's job description with some level of productivity, and

(2) the client worker will be allowed and required to perform all elements of that job description as a condition of employment.

*.007. Base Wage; Determination of Commensurate Rates for Pay Purposes.*

(a) The base wage used in the calculation of a client worker's percentage of productive capacity (and, thus, the client worker's commensurate rate of pay) shall not be less than the federal minimum wage.

(b) The percentage of productive capacity of each client worker shall be established. A client worker shall be compensated for services he or she performs at a percentage of the base wage, which percentage corresponds to the percentage of the client worker's productive capacity when compared with employees not so impaired performing the same or similar tasks.

(c) The percentage of actual work performed by a client worker as compared to a non-impaired worker for each specific item on the client worker's job description shall be computed item by item. The total of the percentages divided by the number of duties shall represent the percentage of pay for that job, that is, the "commensurate rate of pay," and wages shall be paid accordingly.

(d) The client worker's commensurate rate of pay shall be established immediately whenever possible, but will in all cases be established within one month from the day on which the client worker begins performing services. Subsequent evaluations of the client worker's commensurate rate of pay shall be done no less frequently than every three months for the subsequent six months, and no less frequently than every six months for continued employment on that job description.

(e) Commensurate rates of pay shall be established to the extent possible for client workers who are working but have not yet been evaluated. Beginning client workers who have not been previously evaluated on a particular job description shall be paid not less than 25 percent of the federal minimum wage.

*.008. Work Placements and Assignments.*

(a) Work placements and assignments shall be evaluated to ensure that any placement or assignment of a client worker is part of an overall plan emphasizing the following:

- (1) mental and physical well being,
- (2) evaluation of work readiness,

(3) determination or improvement of the level of occupational function, and

(4) improvement or maintenance of:

- (A) personal adjustment,
- (B) social adjustment, and
- (C) vocational adjustment.

(b) Considerations for the work placement or assignment of a patient or resident shall be based fundamentally on evidence that the placement or assignment is beneficial to the patient or resident. Benefit to the institution shall not be used as a criteria for determining work placements or assignments.

(c) An appropriate variety of client work stations for work experience and training in the various service areas which maintain the facility such as, but not necessarily limited to, food service, housekeeping, laundry, maintenance, and supply, shall be provided.

(d) Information concerning client worker placements, assignments, and conditions of employment shall be shared with the client worker and the parents of a client worker who is a minor, or the guardian of the client worker, in a manner consistent with sound case management practices.

*.009. Hourly Restrictions on the Work Week of Client Workers.* Each facility of the department shall assure that client workers generally not be employed for more than 20 hours per week. No client worker shall work in excess of 40 hours per week in any combination of work assignments for any reason. A procedure for monitoring and approving work by client workers beyond 20 hours per week shall be established and maintained at each facility of the department.

*.010. Methods of Pay; Charges for Support, Maintenance, and Treatment.*

(a) A client worker may be paid by payment directly into the client worker's trust fund, or by payment of cash in hand to the client worker, as dictated by the needs and abilities of the client worker, and as prescribed in the Rules of the Commissioner of MH/MR Governing the Internal Management of Facilities of the Department, Accounting, 302.05.02.

(b) Charges for the support, maintenance, and treatment shall not be deducted from a client worker's wages. Collections for the support, maintenance, and treatment of client workers shall be made in the same manner as prescribed for this process in state law and in Rules of the Commissioner of MH/MR Governing Collections for Support, Maintenance, and Treatment of Clients, 302.03.33.

*.011. Records.* Records shall be maintained which show:

- (1) a current job description for each client worker,
- (2) the productivity of each client worker on a continuing basis or periodically,

(3) timekeeping and payroll records which are the same or similar to those maintained for department employees, and

(4) documentation in each client worker's case record relating to the care, treatment, or training in a manner consistent with sound case management practices and department standards.

*.012. Volunteer Services by Patients and Residents.*

(a) Patients and residents may volunteer to perform services that other citizens may ordinarily volunteer to do. The processing of volunteers who are patients or residents shall be done in essentially the same manner as for other volunteers.

(b) Safeguards shall be established at each department facility to insure that a good faith effort is made to distinguish volunteer activities from those activities which an employee would usually and customarily be expected to perform.

*.013. Responsibilities of Work Area Supervisors: Duties of Work Area Staff.*

(a) Work area supervisors shall have adequate orientation to their role of supervisor/trainer of client workers and shall assume responsibility for this role as a condition of institutional employment.

(b) The work area staff will be informed of the client worker's care, treatment, and training goals and will assist the client worker toward such goals as is feasible or appropriate in the work setting.

(c) Work area supervisors shall periodically report a client worker's progress and problems to the client worker's treatment or program team so that the team may evaluate the work placement as a part of the client worker's treatment or habilitation.

*.014. Submissions of Plans and Budgets.* The plan and the budget based upon these rules shall be submitted as part of the annual budget preparation process for each facility of the department. The plan shall be sent to the appropriate deputy commissioner and shall reflect such adjustments in the program as are supported by past experience and current circumstances.

*.015. Special Purpose Program Exemption.* Small, on-grounds, unstaffed, or minimally staffed alternate-living units such as, but not limited to, quarterway houses, whose prime mission is short-term, intensive self-help training in preparation for imminent re-entry into the community, may be exempted from the provisions of these rules upon approval of a written plan by the appropriate deputy commissioner or his designee.

*.016. References.* Reference is made to the following statute and rules:

- (1) Section 10a of Article 5159d, Vernon's Texas Civil Statutes,
- (2) Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Rights of Patients and Residents, 302.04.16,

(3) Rules of the Commissioner of MH/MR Affecting Other Agencies and the Public, Collection for Support, Maintenance and Treatment of Clients, 302.03.03.

*.017. Distribution.*

(a) These rules shall be distributed to members of the Texas Board of Mental Health and Mental Retardation; the Texas Public Employees Association; assistant commissioners, deputy commissioners, directors, and section chiefs of central office; and superintendents and directors of all department facilities.

(b) The superintendent or director of each department facility shall provide a copy of these rules to the business manager or administrator of the facility.

(c) The superintendent or director of each department facility shall be responsible for the dissemination of the information contained herein to all appropriate staff members.

*.018. Effective Date.*

(a) These rules concerning client workers become effective on the expiration of 20 days from the day on which they are filed as adopted rules with the Texas Register Division of the Office of the Secretary of State.

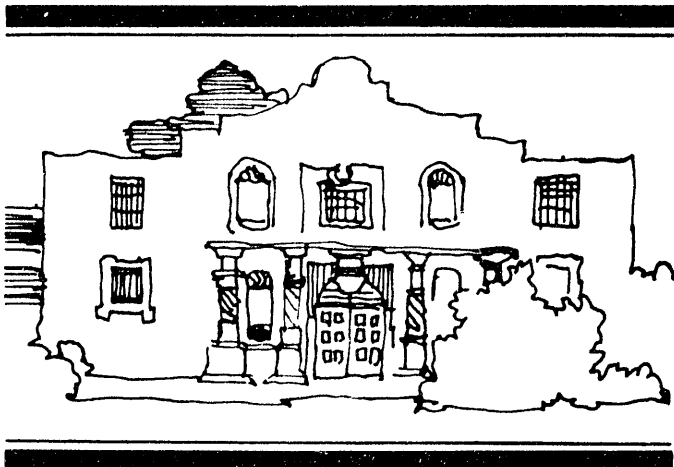
(b) Upon the effective date of these rules, all prior instructions, verbal or written, on this subject are rescinded.

Issued in Austin, Texas, on August 23, 1977.

Doc. No. 774342      Kenneth D. Gaver, M.D.  
                                  Commissioner  
                                  Texas Department of Mental  
                                  Health and Mental Retardation

Proposed Date of Adoption    September 29, 1977

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



## Public Utility Commission of Texas

### Practice and Procedure 052.01.00

The Public Utility Commission of Texas is proposing to adopt Rule 052.01.00.094, establishing a method for adoption of final orders concerning utilities with the lesser of either 500 customers or 10 percent of its total customers residing in the State of Texas and where another state has adopted a final order in a rate case filed by the utility. A hearing will be held at the commission's headquarters at 9 a.m. on Friday, September 30, 1977, at which time this rule will be adopted.

This rule is proposed due to the need to expeditiously process rate applications for such utilities and to limit unnecessary administrative costs to such utilities which would ultimately be borne by the utilities' ratepayers.

The fiscal implications of this proposal are in the In Addition section of this issue.

Public comment on this rule is invited. Comments should be submitted in writing to Roy Henderson, Public Utility Commission of Texas, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757. Comments will be accepted up until the day of the public hearing.

This rule is proposed under the authority of Articles 1446c and 6252-13a, Vernon's Annotated Civil Statutes.

*.094. Reciprocity of Final Orders between States.* After reviewing the facts and the issues presented, a final order may be adopted by the commission even though it is inconsistent with the commission's procedural or substantive rules if the final order is an adoption, in whole or in part, of a final order rendered by a regulatory agency of some state other than the State of Texas after a hearing on the merits has been held by that other state's regulatory agency and if the number of customers in Texas affected by the final order is no more than the lesser of either 500 customers or 10 percent of the total number of customers of the affected utility.

Doc. No. 774380

## Substantive Rules

### Special Rules 052.02.05

The Public Utility Commission of Texas is proposing to adopt Rule 052.02.05.057, establishing a comprehensive regulatory system involving submetering and billing of apartment houses. A hearing will be held at the commission's headquarters at 9 a.m. on Friday, September 30, 1977, at which time this rule will be adopted.



This rule is being proposed because of a legislative mandate set out in Sections 1-4, Article 1446(d). This statute was passed by the 65th Legislature.

A notice of the fiscal implications of this rule appears in the In Addition section of this issue.

Public comment on this proposal is invited. Comments should be submitted in writing to Roy Henderson, Public Utility Commission of Texas, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757. Comments will be accepted up until the day of the hearing.

This rule is proposed under the authority of Sections 1-4, Article 1446(d), Vernon's Annotated Civil Statutes.

*.057. Electric Submetering.*

(a) General.

(1) Purpose and scope of the rules.

(A) This rule is intended to establish a comprehensive regulatory system to assure that the practices involving submetering and billing of dwelling units are just and reasonable to the tenant and the apartment owner and to establish the rights and responsibilities of both the apartment owner and the tenant. This rule shall be given a fair and impartial construction to obtain these objectives and shall be applied uniformly regardless of race, color, creed, sex, or marital status.

(B) For purposes of enforcement, both utilities and apartment owners are subject to the enforcement pursuant to the Public Utility Regulatory Act, which may involve civil penalties of up to \$5,000 for each offense and criminal penalties for willful and knowing violations.

(2) Application. This rule shall apply to existing apartment houses utilizing electrical submetering as of the effective date of this rule as well as those apartment houses which engage in electrical submetering at any subsequent date. By statutory requirement, after January 1, 1978, no incorporated city or town, including home-rule city or other political subdivision of the state, may issue a permit, certificate, or other authorization for the construction or occupancy of a new apartment house or conversion to a condominium unless the construction plan provides for individual metering by the utility company or submetering by the owner of each dwelling unit for the measurement of the quantity of electricity, if any, consumed by the occupants within that dwelling unit. Therefore, this rule shall also apply to such apartment houses and condominiums in the event submetering is chosen.

(3) Severability clause. The adoption of this rule will in no way preclude the Public Utility Commission from altering or amending it in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion or upon application of any utility. Furthermore, this rule will not relieve in any way an

apartment owner or tenant from any of its duties under Sections 1-4, Article 1446(d), Texas Revised Civil Statutes, or other laws of this state or of the United States. If any provision of this rule is held invalid, such invalidity shall not affect other provisions or applications of this rule which can be given effect without the invalid provision or application, and to this end, the provisions of this rule are declared to be severable. This rule shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission or the substantive rights of any person.

(4) Definitions. As used in this rule, unless the context requires otherwise, the following words shall have the indicated meaning:

(A) Apartment house-- a building or buildings containing more than five dwelling units all of which are rented primarily for nontransient use, with rental paid at intervals of one week or longer. Apartment house shall include residential condominiums, whether rented or owner occupied.

(B) Apartment owner-- shall mean, for purposes of enforcement, record keeping, and reporting, any owner, operator, or manager of an apartment house engaged in electrical submetering.

(C) Bulletin-- a commission publication printed twice monthly containing information about the commission such as notices of hearings, orders, decisions, rules, and other information of general interest to the public. It shall be sent to all persons and agencies requesting to be put on the bulletin mailing list and paying the applicable fee.

(D) Commission-- the Public Utility Commission of Texas.

(E) Dwelling unit-- a room or rooms suitable for occupancy as a residence containing kitchen and bathroom facilities.

(F) Electric metering-- individual apartment dwelling until metering performed by a utility company.

(G) Electric submetering-- apartment dwelling unit metering performed by the apartment owner.

(H) Hearing-- any proceeding based on an application, petition, complaint, or motion.

(I) Master meter-- a meter used to measure, for billing purposes, all electric usage of an apartment house, including common areas, common facilities, and dwelling units therein.

(b) Records and reports.

(1) The apartment owner shall maintain and make available for inspection by the tenant the following records:

(A) the billing from the utility to the apartment owner for the current month and the 12 preceding months;

(B) the calculation of the average cost per kilowatt-hour for the current month and the 12 preceding months;

(C) all submeter readings and tenant billings for the current month and the 12 preceding months;

(D) all submeter test results for the current month and the 12 preceding months.

(2) Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the apartment owner and tenant.

(3) All records shall be made available to the commission upon request.

(c) Billing.

(1) Bills shall be rendered for the same billing period as that of the utility, generally monthly, unless service is rendered for less than that period. Bills shall be rendered as promptly as possible following the reading of the submeters. The submeters shall be read with two days of the reading of the utility's master meter.

(2) The unit of measurement shall be a kilowatt-hour (KWH).

(3) The apartment owner shall be responsible for determining that the energy billed to any dwelling unit shall be only for energy consumed within that unit, and so metered.

(4) The apartment owner shall not impose any extra charges on the tenant over and above those charges which are billed by the utility to the apartment owner.

(5) The tenant's bill shall be calculated in the following manner: after the apartment electric bill is received from the utility, the apartment owner shall divide the total charges for electrical consumption, plus applicable tax, by the total number of kilowatt-hours to obtain an average cost per kilowatt-hour. This average kilowatt-hour cost shall then be multiplied by each tenant's kilowatt-hour consumption to obtain the charge to the tenant. The computation of the average cost per kilowatt-hour shall not include any penalties charged by the utility to the apartment owner for disconnect, reconnect, or late payment.

(6) The tenant's bill shall show all of the following information:

(A) the date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered;

(B) the number of kilowatt-hours metered;

(C) the computed rate per kilowatt-hour;

(D) the total amount due for electricity used;

(E) a clear and unambiguous statement that the bill is not from the electric utility, which shall be named in the statement;

(F) the name and address of the tenant to whom the bill is applicable;

(G) the name of the firm rendering the submetering bill and the name, address, and telephone number of the person or persons to be contacted in case of a billing dispute.

(7) In the event of a dispute between the tenant and the apartment owner regarding any bill, the apartment owner shall forthwith make such investigation as shall be required by the particular case, and report the results thereof to the tenant.

(8) The tenants of any dwelling unit in an apartment house whose electrical consumption is submetered shall be allowed by the apartment owner to review and copy the master billing for the current month's billing period and for the 12 preceding months, and all submeter readings of the entire apartment house for the current month and for the 12 preceding months.

(9) All rental agreements between the apartment owner and the tenants and dwelling units therein shall clearly state that the dwelling unit is submetered, that the bills will be issued thereon, that electrical consumption for all common areas and common facilities will be the responsibility of the apartment owner and not of the tenant, and that any disputes relating to the computation of the tenant's bill and the accuracy of the submetering device will be between the tenant and the apartment owner.

(10) Estimated bills shall not be rendered unless the meter has been tampered with or is out of order, and in such case the bill shall be distinctly marked as such.

(d) Submeters.

(1) Submeter requirements.

(A) Use of submeter. All electrical energy sold by an apartment owner shall be charged for by meter measurements.

(B) Installation by apartment owner. Unless otherwise authorized by the commission, each apartment owner shall be responsible for providing, installing, and maintaining all submeters necessary for the measurement of electrical energy to its tenants.

(2) Submeter records. Each apartment owner shall keep the following records:

(A) submeter equipment record: each apartment owner shall keep a record of all of its submeters, showing the tenant's address and date of the last test;

(B) records of submeter tests: all submeter tests shall be properly referenced to the submeter record provided for herein. The record of each test made shall show the identifying number of the submeter, the standard meter and other measuring devices used, the date and kind of test made, by whom made, the error (or percentage of accuracy) at each load tested, and sufficient data to permit verification of all calculations.

(3) Submeter readings. Submeter unit indication-- in general each meter shall indicate clearly the kilowatt-hours for which charge is made to the tenant.

(4) Submeter tests on request of tenant. Each apartment owner shall, upon the request of a tenant, and, if the tenant so desires, in the tenant's presence or

in that of the tenant's authorized representative, make a test of the accuracy of the tenant's submeter. The test shall be made at a time convenient to the tenant desiring to observe the test. If the submeter tests within the accuracy standards for self-contained watt-hour meters as established by the latest edition of American National Standards Institute, Incorporated, Standard C12 (American National Code for Electricity Metering), a charge of up to \$15 may be charged the tenant for making the test. However, if the submeter has not been tested within a period of one year, or if the submeter's accuracy is not within the accuracy standards for self-contained watt-hour meters as established by the latest edition of American National Standards Institute, Incorporated, Standard C12, no charge shall be made to the tenant for making the test. Following completion of any requested test, the apartment owner shall promptly advise the tenant of the results of the test.

(5) Bill adjustment due to submeter error. If any submeter is found to be not within the accuracy standards for self-contained watt-hour meters as established by the latest edition of American National Standards Institute, Incorporated, Standards C12, proper correction shall be made of previous readings for the period of one month immediately preceding the test, or from the time the submeter was in service since last tested, but not exceeding one month, as the submeter shall have been shown to be in error by such test and an adjusted bill shall be rendered. No refund is required from the apartment owner except to the tenant last served by the submeter prior to the testing. If a submeter is found not to register for any period, unless bypassed or tampered with, the apartment owner may make a charge for units used, but not metered, for a period not to exceed one month, based on amounts used under similar conditions during period preceding or subsequent thereto, or during the corresponding period in previous years.

(6) Bill adjustment due to conversion. If, during the 90-day period preceding the installation of electric meters or submeters, an apartment owner increases rental rates, and such increase is attributable to increased costs of utilities, then such apartment owner shall immediately reduce the rental rate by the amount of such increase and shall refund all of such increase that has previously been collected within said 90-day period.

(7) Location of submeters. Submeters and service switches in conjunction with the submeter shall be installed in accordance with the latest edition of American National Standards Institute, Incorporated, Standard C12, or other standards as may be prescribed by the commission, and will be readily accessible for reading, testing, and inspection, where such activities will cause minimum interference and inconvenience to the tenant.

(8) Submeter testing facilities and equipment.

(A) Each apartment owner shall engage an independent qualified expert to provide such instruments and other equipment and facilities as may be necessary to make the submeter tests required by this rule. Such equipment and facilities shall generally conform to American National Standards Institute Incorporated, Standard C12, unless otherwise prescribed by the commission, and shall be acceptable to the commission and shall be available at all reasonable times for the inspection by its authorized representatives.

(B) Portable standards. Each apartment owner engaged in electrical submetering shall, unless specifically excused by the commission, provide portable test instruments as necessary for testing billing submeters.

(C) Reference standards. Each apartment owner shall provide or have access to suitable indicating electrical instruments as reference standards for insuring the accuracy of shop and portable instruments used for testing billing submeters.

(D) Testing of reference standards. Reference standards of all kinds shall be submitted once each year or on a scheduled basis approved by the commission to a standardizing laboratory of recognized standing, for the purpose of testing and adjustment.

(E) Calibration of test equipment. All shop and portable instruments used for testing billing submeters shall be calibrated by comparing them with a reference standards at least every 120 days during the time such test instruments are being regularly used. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations shall be kept on file in the office of the apartment owner.

(9) Accuracy requirements for submeters.

(A) No submeter that exceeds the test calibration limits for self-contained watt-hour meters as set by the American National Standards Institute, Incorporated, Standard C12, shall be placed in service or left in service. Whenever on installation, periodic, or other tests, a submeter is found to exceed these limits, it shall be adjusted.

(B) Adjustments. Submeters shall be adjusted as close as possible to the condition of zero error. The tolerances are specified only to allow for necessary variations.

(10) Submeter tests prior to installation. No submeter shall be placed in service unless its accuracy has been established. If any submeter is removed from actual service and replaced by another submeter for any purpose whatsoever, it shall be properly tested and adjusted before being placed in service again.

(11) Testing of submeters in service. Submeters shall be tested annually unless specified otherwise by the commission.

(12) No dwelling unit may be submetered unless all dwelling units in the apartment house are submetered.

(13) If an apartment owner is engaged in submetering, all submeters shall be of the same standard type.

Issued in Austin, Texas, on August 24, 1977.

Doc No. 774381 Roy J. Henderson  
Commission Secretary  
Public Utility Commission  
of Texas

Proposed Date of Adoption September 30, 1977

For further information please call (512) 458-6111, ext. 238.

## State Department of Public Welfare

### General Information

#### 326.01.01.049-.051

The Department of Public Welfare proposes the repeal of the following rules, which adopt by reference Provider Forms 4, 4a, and 5. The forms, which were used in family planning services, are now obsolete. The repeal of the rule adopting by reference the Assessment of Quality Child Care Requirements form is also proposed, since the content is adequately covered in other department rules.

The repeal of these rules will have no fiscal implications.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau-- 536, Department of Public Welfare, Austin, Texas 78701, within 30 days of publication of this *Register*.

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

.049. The Department of Public Welfare adopts by reference the rules contained in the Provider Form 4.

.050. The Department of Public Welfare adopts by reference the rules contained in the Provider Form 4a.

.051. The Department of Public Welfare adopts by reference the rules contained in the Provider Form 5.

.056. The Department of Public Welfare adopts by reference the rules contained in Form 264-D, Assessment of Quality Child Care Requirements.

Doc No 774328

#### Temporary Adoptions 326.01.01.054-.055

The Department of Public Welfare proposes to repeal the following rules which adopt by reference two-day care provider agreement forms. This is done concurrently with the proposal of amended versions of these rules as new Rules 326.53.99.800-.801. The forms have been revised since the original rules were written, and the Temporary Adoptions designation is no longer appropriate.

The repeal of these rules will have no fiscal implications.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau-- 536, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

The repeals are proposed under the authority of Article 695c, Texas Civil Statutes.

.054. The Department of Public Welfare adopts by reference the rules contained in Form 266, Provider Agreement for Child Day Care.

.055. The Department of Public Welfare adopts by reference the rules contained in Form 278, Individual Provider Agreement and Service Authorization.

Doc No 774329

### AFDC

#### Process 326.10.71

The Department of Public Welfare proposes to repeal its rule about accepting applications for Aid to Families with Dependent Children (AFDC) from pregnant women who have no other children. Currently, these cases are held in a special pending file until notification is received of the birth of the child. As a result of a court decision, the policy in this rule is no longer necessary. These cases will be handled the same as any other application for assistance.

The repeal of these rules will have no fiscal implications.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 468, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

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

.007. *Applications from Pregnant Women Who Have No Other Children.*

(a) Any application for Aid to Families with Dependent Children (AFDC) made by a woman who states

she is pregnant with her first child will be filed and an applicant's statement form provided. If the applicant is otherwise eligible on the basis of the applicant's statement form, she will be requested to supply a signed statement from her physician that she is pregnant and stating the estimated month of conception. Such applications are to be held in a separate pending file until further notice.

(b) The date of birth of the child and the date of certification of the case will be noted on the Case Name Index Card. This card must be retained in the pending file.

(c) On these pending applications, when the department is notified of the child's birth, the case will be certified immediately if all other aspects of eligibility are met.

Doc. No. 774330

## Food Stamps

### Notice 326.15.27

The Department of Public Welfare proposes the repeal of the following rule about local office responsibilities in the application process for food stamps. The policy in this rule is covered elsewhere in Department of Food Stamp Program rules; therefore, the rule is repealed to avoid duplication.

The repeal of these rules will have no fiscal implications.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 535, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

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

#### .007. *Local Office Responsibilities.*

(a) When households make timely application for participation prior to the end of the current period of certification, the local office must compute household certification and provide the household with food stamp eligibility notice, or a denied application letter, prior to the expiration of the current certification period, informing the household of its eligibility or denial and fair hearing procedures. If program benefits are interrupted for eligible households because of department failure to take timely action, the household will be eligible for retroactive benefits.

Doc No 774331

## Support Documents 326.15.99

The Department of Public Welfare proposes the repeal of one of its rules about issuing tables in the Food Stamp Program. The policy in this rule is covered in more detail in other department rules and this repeal is proposed to avoid duplication.

The repeal of these rules will have no fiscal implications.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 536, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

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

.600. *Food Stamp Issuing Tables.* The Department of Public Welfare adopts by reference the rules contained in the issuing tables in the non-narrative appendix section of the Food Stamp Handbook.

Doc No. 774332

## Family Services

### Support Documents 326.53.99

The Department of Public Welfare proposes the following rules to replace Rules 326.01.01.054-.055, the repeals of which are likewise being proposed. The day care provider agreement forms which the rules adopt by reference have been revised, and the Temporary Adoption designation is no longer appropriate.

Rule .800 adopts by reference the form to be used as an agreement between the department and a day home or day care center. It contains a list of provisions as well as blanks for the individual program description to be entered. The other rule concerns the form used with individual in-home care providers. This form contains blanks for information about the provider and the children in care as well as the provisions of the agreement between the department, the provider, and the eligible parent. The department provides day care to prevent or remedy abuse or neglect of a child and to allow eligible persons to seek work or participate in work or training.

The adoption of this rule will have no fiscal implications.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau-- 536, Department of Public Welfare,

John H. Reagan Building, Austin, Texas 78701, within 30 days of the publication of this *Register*.

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

800. *Provider Agreement for Child Day Care.* The Department of Public Welfare adopts by reference the rules contained in its form titled *Provider Agreement for Child Day Care* and dated May, 1977.

801. *Provider Agreement for In-Home Child Day Care.* The Department of Public Welfare adopts by reference the rules contained in its form titled *Provider Agreement and Service Authorization for In-Home Child Day Care* and dated June, 1977.

Doc No 774333

## Personnel Administration

### General Personnel Policies and Procedures 326.73.01

The Department of Public Welfare proposes to repeal all of its rules which are related solely to internal personnel policies practices. This is in compliance with the revision to the Administrative Procedure and Texas Register Act signed by the governor as Senate Bill 912, effective August 29, 1977. The following rules are a part of those to be repealed.

The repeal of these rules has no fiscal implications.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau-- 465, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication of this *Register*.

The following repeals are proposed under the authority of Article 695c, Texas Civil Statutes.

#### 001. *Employment of Locally Paid Child Welfare Employees.*

(a) Employment of locally paid child welfare personnel is handled in the same manner as the selection of state-paid employees. When a locally paid job becomes vacant, the supervisor works with the regional personnel officer in securing a replacement. Job vacancies are filled through the coordinated efforts of the supervisor and regional personnel officer. The supervisor may make a recommendation for filling the vacancy, with approval from regional administrative staff and the regional personnel officer.

(b) Locally paid employees who are hired on a provisional basis are expected to take the appropriate Merit System examination as soon as possible. It is re-

quired that employment forms be completed in keeping with the same regulations covering state employees.

(c) This policy is intended to ensure a system of employee selection for locally paid employees that is uniform with the one governing selection of state-paid employees.

#### 002. *Moving Policy.*

(a) The department will pay the cost of transporting, in state-owned or leased equipment, the household goods and effects of supervisory employees who are transferred by the Department of Public Welfare (DPW). Supervisory employees are moved if the department requests the transfer and determines that the best interests of the state and the department will be served. In addition, the head of the agency may authorize the payment of moving expenses for other competent and experienced employees since the cost of training a new employee exceeds any expense that might be incurred in moving an employee.

(b) In the event that state-owned or leased equipment is not available for such use, the department will reimburse an employee for the cost incurred in the use of a commercial transportation company. The cost is reimbursed when the employee presents a *bona fide* receipt of payment.

(c) Employees desiring any personal insurance to cover damages during such a move must secure and purchase it themselves.

#### 003. *Workmen's Compensation.*

(a) All DPW employees are covered by workmen's compensation. This program is administered by the Attorney General's office and includes the implementation and administration of accident prevention programs, as well as approval and payment of claims.

(b) The state office and regional offices are required to designate accident prevention coordinators. These coordinators will administer safety programs, establish safety committees, submit all required safety reports, and coordinate the inspections conducted by representatives of the Workmen's Compensation Division of the Office of the Attorney General.

(c) If an employee is injured or becomes ill as a result of a work-related accident or incident, the appropriate state office or regional claims coordinator is to be notified immediately. In the regions, the regional personnel officer will either serve as the claims coordinator or refer employees to the person serving in this capacity. In the state office, the claims coordinator function is handled in the Personnel Division.

#### 004. *Recommendations for Adverse Personnel Actions against Employees.*

(a) Supervisors are expected to make certain that employees understand office procedures and work rules and that employees receive assistance in learning job assignments. Employees are expected to fully acquaint

themselves with office procedures and work rules and are expected to make every effort to learn job assignments. Failure of an employee to assume responsibility in these areas may result in recommendations for adverse personnel actions. All recommendations for adverse actions should be processed promptly. Administrative actions following these recommendations, such as approvals or recommended actions or administrative reviews, should be initiated without delay. Procedures to be followed involving such recommendations are described below.

(b) Recommendations to decrease salary, demote, or place on probation. Before a supervisor requests that an employee receive a salary decrease, be demoted, or placed on probation for disciplinary reasons, the supervisor:

(1) holds periodic conferences with the employee to determine problems and agree on steps to be taken to remedy the situation. Documentation of these conferences and agreements are to be in writing and signed, both by the supervisor and employee.

(2) provides supervisory assistance to the employee in an effort to help the employee overcome the problem. The supervisor makes available documentation regarding assistance provided.

(3) routes an adverse recommendation, signed by the employee, in the form of a regular or special performance evaluation through administrative personnel to the regional or division administrator for concurrence before submittal through the regional personnel officer or state office Personnel Division to the personnel committee;

(4) provides the employee an opportunity to file a complaint and subsequent grievance, if appropriate, or to express an intention not to file.

(c) Temporary suspension without pay for disciplinary reasons.

(1) Violations of departmental policies, procedures, or work rules constitute a basis for possible recommendation to the regional administrator or division administrator for temporary suspension without pay for a minimum of one day but not to exceed five days for each offense.

(2) The decision of the regional administrator or division administrator does not require additional approval. The regional administrator or division administrator is responsible for furnishing to the Assistant Commissioner for Personnel Administration a written report regarding the nature of the violation(s), action(s) taken in attempting to correct the problem, and final decision regarding temporary suspension.

(3) An employee may not elect to use annual leave, compensatory leave, or substitute leave in lieu of a temporary suspension without pay.

(4) The regional personnel officer or appropriate state office personnel officer is to be immediately

notified by the regional administrator or division administrator when a decision is made to temporarily suspend an employee without pay. This is to be done in order that appropriate payroll adjustments can be made.

(d) Extended suspension without pay. An employee may be recommended for extended suspension without pay of up to 30 calendar days at a time for alleged actions which would be grounds for termination. Such alleged actions would include flagrant violation of department policies, disturbance of work areas, commission of a serious offense against the department, or violation of law. Extended suspension without pay will not be used as a disciplinary action; it is designed to allow time for completion of the investigation of the charge or allegation, for completion of an administrative review and/or grievance, or for the rendering of a final decision by the personnel committee.

(e) Listed below are examples of employee actions which could be possible grounds for extended suspension without pay and/or dismissal. However, these violations may not always lead to a recommendation for extended suspensions without pay. Each situation must be reviewed and assessed on its own merits. Examples:

- (1) abuse of clients;
- (2) physical assault against a client, member of the community, or fellow employees;
- (3) flagrant acts of insubordination;
- (4) suspected fraud or theft;
- (5) reporting to duty under the influence of alcohol or drugs;
- (6) conduct which interferes with the performance of duty or operations of the office of assignment;
- (7) falsification of travel records;
- (8) intentional misrepresentation of facts on application for employment;
- (9) falsification of sign-out records;
- (10) knowingly revealing confidential information regarding such things as department records, information, or names.

(f) A supervisor who is recommending extended suspension without pay pending receipt of additional facts shares written documentation of facts as known at that time with employee. The recommendation is sent through administrative personnel to the regional or division administrator for concurrence. The employee must be provided an opportunity to file a complaint and subsequent grievance, if eligible, or to express an intention not to file. Although an employee may file a complaint, the regional or division administrator may proceed with the request to place the employee on extended suspension without pay.

(g) If the employee does not wish to file a complaint, the recommendation is routed to the appropriate personnel officer for submittal to the personnel committee through the personnel director. If the employee

does file a complaint, and is eligible and subsequently files a grievance, the matter will be heard by the grievance committee rather than the personnel committee.

(h) In cases where the offense is of a nature that immediate action is required, the regional or division administrator may contact the Assistant Commissioner for Personnel Administration, the personnel director, or the appropriate personnel field representative for guidance in expediting the action.

(i) If the review or investigation reveals that the employee is blameless of any wrongdoing, the employee will receive full payment and benefits for the period of suspension without pay and will be restored to his or her position with no loss of benefits.

(j) If the employee is found guilty to the extent that disciplinary measures should be imposed but dismissal is not warranted, a recommendation should be made to restore the employee to the status held prior to suspension. The employee will receive full pay and benefits for the period of suspension. A further recommendation may then be made to impose a disciplinary action. Disciplinary actions recommended may be an involuntary demotion, salary decrease, six months' probation, or temporary suspension without pay not to exceed five days, or some combination of these actions.

(k) If the department finds the employee guilty of wrongdoing, a recommendation for dismissal should then be submitted in accordance with procedures for recommending termination of employees.

(l) If a grievance has been filed and no decision has been reached within 25 days after suspension, a written report of the current status of the proceedings and findings is furnished to the personnel director. This is done no later than the 30th day and each 30 days thereafter until a final decision is reached.

(m) Recommendations to terminate employees. Before a supervisor requests that an employee be terminated because of inability to perform the job or because of other work-related problems, the supervisor must determine that the proper steps have been followed. His evaluation is forwarded through administrative personnel to the regional or division administrator for concurrence before submittal through the regional personnel officer or state office Personnel Division to the personnel committee. If the reasons for recommending dismissal are of a nature that require immediate action, the procedures as outlined in extended suspension without pay are followed. The employee must be provided with an opportunity to file a complaint and subsequent grievance, if appropriate, in accordance with the administrative procedures within the department.

Doc No 774344

## Personnel Administration

### Employee Complaints and Grievance Procedures 326.73.02

The Department of Public Welfare proposes to repeal all of its rules which are related solely to internal personnel policies and practices. This is in compliance with the revision to the Administrative Procedure and Texas Register Act signed by the governor as Senate Bill 912, effective August 29, 1977. The following rules are a part of those to be repealed.

Because of the length of this proposed repeal, it will be continued in the *Register* of September 2, 1977.

The repeal of these rules has no fiscal implications.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau - 465, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication of this *Register*.

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

#### 001 - Complaint Review

(a) Any employees, regardless of merit status, have the opportunity to obtain a just and timely informal review. The review can cover any aspect of working conditions, environment, relationships with supervisors and employees, or departmental decisions considered by the employee to be inappropriate, harmful, unfair, or discriminatory.

(b) Each Department of Public Welfare employee has the right to present complaints to the appropriate administrative staff for prompt consideration and equitable decision. Inasmuch as dissatisfaction and disagreements arise occasionally among staff in any work situation, seeking a change through the complaint process will not be construed as reflecting unfavorably on the employee's good standing, performance, loyalty, and desirability. Similarly, the occurrence of complaints will not necessarily be construed as reflecting unfavorably on the quality of supervision.

(c) A complaint is an employee's informal expression of dissatisfaction with aspects of employment or working conditions.

(d) The review officer is a regional personnel officer or state office personnel officer who conducts a thorough review of the complaint and attempts to reach an equitable solution that is acceptable to the complaining employee and appropriate administrative staff. This is to be done prior to a formal grievance hearing.

(e) An administrative review is an investigation of the complaint conducted by a review officer after attempts to reach a solution informally between the supervisor and the employee have failed. This is also done prior to a grievance hearing.



**.002. Responsibility of Supervisory Personnel.**

(a) Supervisors are responsible for performing their duties in a manner which promotes a climate of confidence and teamwork among employees. The supervisor must also assure employees of fair and responsive consideration of their well-being and rights. The immediate supervisor is normally the first point of contact for an employee who has a complaint.

(b) Under department policies, the supervisor should resolve the employee's complaint if appropriate. When the action desired by the employee is not considered appropriate, the supervisor may be in a position to help clarify or resolve the complaint by explanations and discussion.

(c) If a review officer becomes involved in the complaint, the supervisor works with the review officer and the employee in an effort to reach an equitable settlement at this phase of the complaint.

(d) The supervisor is responsible for taking the follow-up action, as determined by the decision, from the appropriate administrative level. The supervisor takes appropriate action to assure that the employee, if retained, remains or is restored as a productive member of the staff.

**.003 Responsibilities and Rights of Employees.**

(a) An employee is expected to cooperate with co-workers and supervisors in the accomplishment of the goals of the department.

(b) Each employee has the right, and is encouraged, to consult with the immediate supervisor concerning any problem relating to duties, working conditions, employment situation, and other matters involved in daily work performance.

(c) Each employee shares a responsibility with the immediate supervisor to attempt to resolve the complaint informally through supervisory channels.

(d) If a complaint cannot be settled through supervisory channels, a review officer will conduct a thorough review of the facts surrounding the complaint. The employee should work with the supervisor and the review officer in an attempt to reach an equitable settlement at this phase of the complaint.

(e) An employee who has a complaint initially presents the matter, on an informal basis, to his or her immediate supervisor. However, if the employee feels that the discussion with his or her immediate supervisor would be prejudicial to his or her interests, the complaint may be presented to a higher level supervisor. If the complaint involves other employees in the immediate office, it may be appropriate for a higher level supervisor to discuss the matter with the employee's immediate supervisor.

(f) Most complaints can be resolved through counseling sessions in which the employee is permitted to express opinions. The supervisor can explain the policies, practices, and reasons for the actions or matter

against which the employee has complained. When a complaint involves a matter within the supervisor's control, the supervisor will:

(1) hear the employee's complaint immediately;

(2) impartially and objectively review the facts and make every effort to effect a reasonable adjustment;

(3) inform the employee of the right to seek resolution at a higher supervisory level if not satisfied with the remedy reached.

(g) When the complaint involves a matter beyond the control of the supervisor, the supervisor counsels the employee and, as appropriate, furnishes information which may have a bearing on the complaint. The supervisor may offer to arrange a meeting, through normal channels, between the employee and the individual or a designee who has authority to act on the matter. This is done in an attempt to achieve a settlement of the complaint.

(h) The supervisor or the employee may consult with a staff member of the Personnel Division or, as appropriate, invite the regional personnel officer to participate in the discussion of the problem or complaint. The supervisor may invite higher level program or administrative supervisory personnel to participate in meetings to explain, discuss, or otherwise attempt to resolve complaints.

**.004 Administrative Review**

(a) If attempts to resolve the complaint between the employee and the supervisor fail, the employee contacts the regional personnel officer for regional employees or a state office personnel officer for state office employees. A complaint should be presented to the appropriate personnel officer within 10 days after the alleged incident has occurred or within 10 days after a supervisory decision has been rendered. This time limitation may be extended if the employee can show that circumstances beyond his or her control prevented his or her filing the complaint. In reviewing the complaint the review officer is responsible for carrying out the following steps:

(1) The review officer interviews the complaining employee and his or her supervisor. In addition, the review officer may interview any other persons who may be able to add to material facts surrounding the complaint.

(2) The complaining employee is the first person interviewed. It is important to establish communication and rapport with the complaining employee. The review officer follows the guidelines in this section and tells the complainant that the case will be investigated as quickly as possible.

(b) In gathering facts surrounding a complaint, the review officer should analyze the complaint and available background information. After receiving the

assignment, the review officer studies the case carefully so that the issues involved are clear. A clear understanding of the issue helps the review officer avoid false starts and unnecessary steps in the investigation and makes it easier to meet target dates.

(c) Consider the qualities and conduct required of review officers.

(1) The success of a review officer depends not only on how well the person knows methods and procedures, but also on personality, attitude, and character. In the course of the review, the review officer will probably be called upon to interview a variety of witnesses. He or she must be adaptive to changing situations as they occur. The review officer is to be politely cautious in all contacts, and at the same time act with firmness and steadfastness of purpose.

(2) In conducting the review, the review officer maintains a fair, impartial, and objective attitude toward the matter being reviewed. The review officer avoids forming a theory or fixed opinion based on information developed early in the review. Even though the information developed strongly points to a certain conclusion, the review officer maintains an open mind to information that does not support the conclusion or that points to a different conclusion. All information is weighed carefully to determine if additional review is necessary. This is done in order to assure that the report reflects pertinent facts concerning both sides of the matter at issue.

(3) In addition to being fair-minded and impartial, the review officer is to have distinctly in mind the possibility of a misinterpretation of his or her remarks, acts, and motives. He or she is to never leave the impression that he or she has a personal interest in the outcome of the review.

(d) Conduct complete and objective interviews.

(1) There is no set formula to follow in interviewing employees. The method used in a given situation ordinarily is determined by the kind of individual encountered and the circumstances which relate this individual to the matter under review. The development of the interview depends upon the review officer's judgment, tact, ingenuity, and appraisal of the employee. The development of the review also depends on the employee's attitude and knowledge of the matter under inquiry. People may be cooperative, indifferent, evasive, or openly hostile. Accordingly, the review officer gauges the temperament of the interviewee and directs the interview in such a way that the needed information is obtained.

(2) The review officer makes every reasonable effort to get definite statements from employees. The review officer avoids, if possible, terminating an interview after obtaining only ambiguous, noncommittal, or contradictory statements. Noncommittal statements are of no value because they establish nothing beyond the fact that the employee was interviewed and that the

interviewee furnished no helpful information. The review officer is to be sure that failure to obtain definite statements from a witness is due to lack of knowledge on the part of the employee and not failure to question the individual properly. The review officer must not attempt to color or influence the employee's statement and must be careful not to put words in the mouth of the employee. Questions are asked to determine what information or opinions the employee actually has.

(e) Trace hearsay information to the original source. Occasionally, a person makes statements based not upon what he or she knows but upon what someone else is said to know. If such hearsay information has relevance to the matter under review, the person is to be questioned concerning the source of the information so that direct evidence can be obtained from that source.

(f) Obtain information from all sources and properly record same. Before the interview is concluded, the review officer makes sure that sufficient information has been recorded that identifies the witness and the witness's relevance to the case. If the information is in the review officer's possession before the interview, it should be verified. Before concluding the interview, the employee is asked to identify other persons who would be able to provide information about the matter.

(g) Obtain all essential items of information. The review officer obtains the following:

- (1) name, unit, and assignment of all persons being interviewed,
- (2) location and unit involved in complaint,
- (3) nature of the action, decision, or condition giving rise to the complaint,
- (4) date and time of alleged injustice,
- (5) identity of person or persons responsible for alleged injustice,
- (6) information known to witness(es) involved in alleged injustice,
- (7) identity of the complaining person(s), the supervisor, or next higher level supervisor to be interviewed, and an indication of information which may be expected from each individual;
- (8) information about the alleged injustice and a survey of the general environment out of which the complaint arose,
- (9) information on whether there has been any reprisal, intimidation, or harassment as a result of the complaint.

(h) The review officer also:

- (1) determines whether the matter has been discussed between the supervisor and employee in formal conference sessions or otherwise, how many times, and when;
- (2) determines whether the employee has requested special conference sessions with the supervisor

or program director to discuss the matter. If so, how many times, when requested, and when granted:

(3) determines whether there has been an exchange of correspondence on the matter with the supervisor or with the next higher level supervisor. Are copies available?

(4) indicates whether any person contacted refuses to answer questions, and if so, make a record of it in the report. The review officer also attempts to ascertain the reason for refusal:

(i) The review officer prepares a written report of each interview conducted. This report is maintained as a record separately from the personnel file

(j) After conducting a thorough review, the review officer makes recommendations for an equitable settlement which may be satisfactory to the complainant and his or her immediate supervisor or the appropriate administrative level as determined necessary by the review officer. Except in unusual circumstances, all reviews are conducted and recommendations for settlements are submitted to the appropriate administrative staff within 10 working days from the time the review officer is contacted

(k) If an agreement can be reached which is acceptable to the employee and to the appropriate administrative staff, a statement is written specifying the terms of the agreement. The agreement is signed by the employee, the supervisor, and the review officer

(l) The review officer is responsible for sending the complainant a copy of the agreement after it has been approved by the appropriate administrative staff

(m) If the review officer cannot negotiate an agreement acceptable to the complaining employee, the employee's immediate supervisor, and the appropriate higher level supervisor, he or she immediately notifies the complaining employee in writing and verbally, if appropriate.

(n) If, in the opinion of the review officer, the complaint has no valid foundation, the review officer endeavors to persuade the complainant that there is no substantial foundation for the complaint and recommends that the complaint be dropped at this point.

(o) When the following types of complaints are not resolved to the satisfaction of the employee by the informal administrative procedures described above, a grievance hearing may be requested in accordance with procedures described in Article VI:

(1) A complaint by an employee with permanent merit status concerning an adverse personnel action.

(2) A complaint by any employee that his or her employment status has been adversely affected because of discrimination based on race, color, religion, national origin, sex, age, or physical handicap.

(p) Upon written request of the complaining employee that the review process be cancelled, the review officer terminates the review.

#### .005. *Bases for Grievance Hearings*

Each employee is expected to attempt to resolve complaints informally. A grievance hearing is only available to review the following types of actions, and only when a complaint cannot be resolved informally to the employee's satisfaction.

(1) A recommended adverse personnel action, as that term is defined in this article, which is directed to an employee with permanent merit status.

(2) An action adversely affecting any employee's employment status which is taken because of discrimination based on race, color, religion, national origin, sex, age, or physical handicap

(b) A grievance committee at the state office or within each region will hear employee grievances and submit findings and recommendations to the appropriate deputy commissioner or regional administrator. In its recommendations, the grievance committee may sustain or reverse the action or situation complained of to the extent permitted under department policies. It may recommend revision of policies when deemed appropriate. The committee may recommend a less severe action, but it may not recommend any action more severe to the employee presenting the grievance than the action which prompted the grievance. Informally, the committee may suggest steps designed to prevent future grievances or to minimize problems expected to arise from recommended actions.

(c) The appropriate deputy commissioner or the regional administrator reviews and makes decisions on all recommended actions submitted by the appropriate grievance committee. The decision of the deputy commissioner or regional administrator is final.

.006. *Definitions* The following definitions apply to terms used in these procedures:

(a) Adverse personnel action means demotion, suspension, probation, and/or termination.

(b) Grievance is an employee's formal written expression of dissatisfaction with an adverse personnel action or discrimination which has not been resolved satisfactorily through informal complaint measures.

(c) Employee representative is another department employee designated by the grieving employee to assist, or to act for, the employee in the presentation of a grievance. If an employee elects to have more than one individual to assist with the grievance, the employee must designate only one to serve as spokesman in any oral or written presentation.

(d) Grievance committee, hereafter referred to as the committee, is a group of employees selected, as specified below, by the Assistant Commissioner for Personnel Administration or the regional administrator to hear grievances and to make recommendations to the appropriate deputy commissioner or the regional administrator. The committee also assists management in dealing with the individual problems disturbing

employees and in establishing policies and practices which will reduce or eliminate the cause of such disturbances.

(c) Hearing is a meeting of a grievance committee requested by an employee who is dissatisfied with administrative action on a complaint and who has filed a formal grievance statement. During the hearing the employee, witnesses, and administrative staff involved in the grievance may present evidence and express their viewpoints concerning the policy, procedures, or action from which the grievance arose.

**.007. Employee Rights** In presenting a grievance committee each employee has the following rights and shall be:

- (a) dealt with impartially and objectively;
- (b) free from restraint, interference, coercion, discrimination, or reprisal;
- (c) accompanied by an employee representative or legal counsel chosen by the employee;
- (d) given a reasonable amount of time to prepare and present his or her case;
- (e) allowed to conduct cross-examination required for a full and true disclosure of the facts;
- (f) allowed to join in presenting a grievance, subject to consideration of cost and job performance.

**.008. Initiating Grievances**

(a) A complaint becomes a grievance when an employee has exhausted all avenues available to obtain administrative remedy to the complaint through informal measures with supervisors and the review process. At this point the employee notifies the division administrator or regional administrator in writing that a hearing is desired.

(b) Grievances should be submitted within 10 working days after the employee has been notified of the decision on his or her complaint. This time limitation may be extended in cases in which the employee can show that circumstances beyond his or her control prevented the filing of grievance.

(c) The employee submits a statement of the grievance in writing, on the grievance statement, to the division administrator or regional administrator, with carbon copies to all intermediate supervisors and the state office Personnel Division. The statement of grievance must include responses to each question and issue on the form, including the following:

- (1) employee identification, including name, BJN, and address;
- (2) name of immediate supervisor;
- (3) a clear, detailed statement of the grievance identifying:
  - (A) the policy, practice, or circumstance complained of;
  - (B) the employee or supervisory person applying the policy or practice complained of;

(C) the date, time, and circumstance when the policy or practice was applied to the disadvantage of the employee;

(D) any information concerning adverse effects of the same nature on other employees or the department;

(4) a brief summary of the steps taken by the employee to resolve the problem prior to filing this grievance, including

(A) the date or approximate dates of any discussions held;

(B) the names of supervisory employees or other appropriate persons with whom the problems or grievances were discussed;

(C) the results of the discussion;

(5) a clear statement, if possible, of the remedial action or relief sought by the employee in filing this grievance, including:

(A) the nature of any policy change sought;

(3) the records concerning the employee which are in dispute;

(C) the nature of any action sought on behalf of the employee filing the grievance;

(D) any action believed to be appropriate in respect to other employees;

(6) a statement of reasons why the employee believes that the sought for remedy should be granted;

(7) an indication of the earliest date and time at which the employee expects to be ready to present his or her case before the committee.

(8) the name of any legal counsel or employee representative and any witness which the employee wishes to have present for the hearing.

(d) Informal disposition may be made of any grievance before the grievance committee holds a hearing. The employee may cancel a grievance by writing to the division administrator or regional administrator at any time before the hearing is held. If the department and the employee agree to a settlement of the grievance, any agreed settlement must be in writing and must be signed by the employee, his supervisor, and either the regional administrator or deputy commissioner. An employee who fails to appear at the scheduled hearing without prior notice is regarded as having defaulted unless evidence of extenuating circumstances is submitted to the committee within 10 days of the date on which the hearing was scheduled.

**.009. Composition and Selection of Grievance Committees**

(a) State office grievance committee. The Assistant Commissioner for Personnel Administration appoints the state office grievance committee. The committee conducts a complete examination of the grievance and makes recommendations in writing to the appropriate deputy commissioner. The committee consists of:

(1) chairperson, an attorney, selected by the chief of Legal Services, without vote except in case of tie;

(2) recorder, a personnel representative other than the review officer, without vote;

(3) four other Department of Public Welfare staff members who have not participated in the action complained of, with vote.

(b) Regional office grievance committee. The regional administrator appoints the regional grievance committee. The committee conducts a complete examination of the grievance and makes recommendations in writing to the regional administrator. The committee consists of:

(1) chairperson, an attorney, selected by the regional administrator, without vote except in case of tie;

(2) recorder, a regional personnel officer or his or her designee, other than the review officer, without vote;

(3) four regional employees who have not participated in the action complained of, with vote.

(c) In selecting members for a grievance committee, the Assistant Commissioner for Personnel Administration or regional administrator does not discriminate against any ethnic group or sex. No member of the committee serves on a hearing involving an employee under his or her direct supervision. No employee whose position will be affected by the outcome of the hearing may serve as a committee member.

#### 010 Scheduling of Hearings

(a) Upon receipt of a request for a grievance hearing, the recorder schedules a hearing promptly. This is normally done within 10 working days after receipt of all pertinent data. The grievant receives at least 10 days' notice of the hearing.

(b) The notice includes

(1) a statement of the time, place, and nature of the hearing.

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statute, department rules, and Merit System rules involved;

(4) a short and plain statement of the matters asserted.

(c) If the department or grievant is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Therefore, on timely written application, a more definite and detailed statement is furnished not less than three days prior to the date set for the hearing.

(d) The committee may grant one postponement at the written request of one of the parties. The committee may grant an additional postponement when

satisfied that the basis for such a request justifies the further delay. A postponement normally will not exceed two weeks from the date of the previously scheduled hearing.

Doc No 774345



### Equal Employment Opportunity and Affirmative Action Plan 326 73.03

The Department of Public Welfare proposes to repeal all of its rules which are related solely to internal personnel policies and practices. This is in compliance with the revision to the Administrative Procedure and Texas Register Act signed by the governor as Senate Bill 912, effective August 29, 1977. The following rules are a part of those to be repealed.

Written comments are invited and may be sent to Susan J. Johnson, Administrator, Systems and Procedures Bureau- 465, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication of this *Register*.

The following repeals are proposed under the authority of Articles 695c and 6252-16, Texas Civil Statutes

#### 001.

(a) The State Department of Public Welfare supports the national goal of achieving equal opportunity for persons of every race, religion, color, sex, national origin, and the physically handicapped. This goal is understood to mean equal opportunity for every employee or potential employee and persons served by the department. There is need for positive action at all levels of the department and within all divisions of the department if such equal opportunity is to become a reality. The affirmative action plan of the State Department of

Public Welfare must be interpreted as a guide to assist in this effort.

(b) The affirmative action plan shows the need for action in several areas. Some of these areas are personnel systems, departmental policies, employee training programs, financial planning, and long-range planning. This list is not intended to be all inclusive but is intended to be indicative of the scope of affirmative action in the department. This plan is to grow as new opportunities to promote equal opportunity are discovered and as the programmatic elements of the department change over time. Affirmative action is an on-going activity which expresses an organizational commitment. The test of this affirmative action plan will be in its usefulness in helping the total organization complete activities which help the department meet its equal opportunity goals.

**002.** Each region and the state office will be responsible for developing an affirmative action plan, as each region is unique in its composition and special problems. As with most effective management plans, the affirmative action plan will consist of:

(a) Establishment of a strong departmental policy and commitment to equal employment goals.

(b) Assignment of responsibility and authority for program implementation to individuals and organizational units.

(c) Analysis of present work force to identify jobs, departments, and units where minorities and females are underutilized.

(d) Setting of specific, measurable, and attainable hiring and promotion goals, with timetables, to assure equal employment opportunity for minorities and women.

(e) Making every manager and supervisor responsible and accountable for their hiring and promotion practices.

(f) Re-evaluation of job descriptions and hiring criteria to ensure that they reflect actual job needs.

(g) Recruitment of minorities and females who qualify or can become qualified to fill goals.

(h) Reviewing and revising all employment procedures to ensure that they do not have a discriminatory effect and that they help attain affirmative action goals.

(i) Focusing on placement of minorities and females into upward mobility and relevant training pipelines where they have not had previous access.

(j) Developing systems to monitor and measure affirmative action progress regularly. If results are not satisfactory to meet goals, find out why, and make necessary modifications.

**003.**

(a) Recruitment, hiring, and promotion for all job classifications are done in order to ensure equal oppor-

tunity to persons of every race, religion, color, sex, national origin, and the physically handicapped, except where specific physical requirements constitute a *bona fide* occupational qualification.

(b) Hiring and promotion is based upon an individual's qualifications as related to the requirements of the position for which he or she is being considered.

(c) All personnel actions such as compensation, benefits, transfers, reductions in force, return from reduction in force, departmental training, education, and tuition assistance are administered in order to ensure equal opportunity to all persons of all races, religion, color, sex, national origin, and the physically handicapped.

(d) Personnel at all levels are responsible for positive program support and personal leadership in establishing, maintaining, and carrying out a positive Equal Employment Opportunity (EEO) Program. Training and supervisory personnel are reminded of their responsibility for covering the policy in depth in their orientation of new employees. All supervisory personnel are reminded that equal employment opportunity support is one of the job responsibilities on which their performance is rated.

(e) The State Department of Public Welfare recognizes that the passive prohibition of discriminatory practices is not enough to effectuate the principle of equal opportunity and that a program of affirmative action is required. It is further recognized that any program of affirmative action must emphasize both equal opportunity for job entry and for career advancement. Affirmative action by this department includes full and active support of the following objectives and the implementation of practical plans for specific steps to accomplish these objectives:

**004.** Internal dissemination of this equal employment policy is accomplished through:

(a) inclusion in the department's personnel manual, which is available to all employees.

(b) distribution of an affirmative action plan to all new employees in an orientation packet.

(c) distribution to all applicants who wish to have copies.

(d) discussion of equal employment policy in the orientation of new employees and in on-going training programs.

(e) appearance of "An Equal Opportunity Employer" on all department stationery and recruitment materials.

(f) publicity in the department's newsletter and other publications.

**005.** Recruitment sources are informed verbally and in writing of the department's policy, stipulating that these sources actively recruit and refer minorities for all positions listed. Recruitment sources include such organizations as Texas Employment Commission,

Merit System Council, NAACP, G.I. Forum, and LULAC.

006 The goals and objectives of the regional and state affirmative action plans are monitored quarterly by the state EEO director and assistant director along with a representative from the Governor's Office on Equal Employment Opportunity.

007 The director, assistant director, and 10 regional equal employment opportunity officers are responsible for the implementation of the Affirmative Action Program. These employees recommend for board approval policy statements, affirmative action plans, and internal and external communication techniques. They assist management in arriving at solutions to problems. Affirmative action affects all employment practices including, but not limited to, recruiting, hiring, transfers, promotion, training, compensation, benefits, reduction in force, and termination.

008 Recruitment activities must be designed to implement the objectives of the affirmative action plan. The steps to accomplish this objective are as follows:

(a) State EEO directors, regional EEO officers and staff will make recruitment visits and attend career day activities at schools and colleges with large minority enrollment.

(b) State EEO directors and regional EEO officers will send job vacancy announcements and recruitment materials to community groups with minority and female representation.

(c) State EEO directors and media services will develop recruitment literature, brochures, and films that inform recruitment sources of DPW's EEO program.

(d) State EEO directors, regional personnel officers, and regional EEO officers will advertise job vacancies on radio stations, in newspapers, and in magazines with large minority and female audiences.

(e) EEO staff and other female and minority staff will make public interest appearances at community functions and disseminate DPW EEO information.

(f) EEO staff and the public information office will coordinate information stories in DPW newsletter and local news media.

(g) EEO staff will maintain a resource list of qualified women and minorities to refer to appropriate positions.

(h) EEO staff will coordinate efforts with the Merit System Council to aid in recruitment efforts of potential employees not previously reached.

(i) State EEO directors and continuing education, through training, will inform all persons involved in the employment process of the DPW's EEO efforts in recruiting and hiring qualified women and minorities.

(j) State office personnel officers will issue monthly state-wide vacancy listing to regional person-

nel officers and regional civil rights coordinators and encourage referral of applicants to areas where vacancies exist.

009 No employee will work at a level below his or her skill level against his or her wishes. The steps to accomplish this objective follow:

(a) All supervisors will assist under utilized employees by providing career counseling and identifying training needs.

(b) All supervisors, regional personnel officers and regional EEO officers will identify all under employed employees and encourage them to apply for higher positions.

(c) Regional personnel officers and regional directors for administrative management will post announcements for job openings for seven to 10 working days; post all job announcements for all vacant and newly created positions in all regions and divisions on bulletin boards or wherever all employees will notice.

(d) State EEO directors, the assistant commissioner for Personnel Administration, and the classification officer will create an open and continuous promotion system for all personnel.

(e) All supervisors will assist employees in bringing their qualifications to the attention of other organizations in those instances where an employee's skill level is substantially above their employment level, and their skills are of a nature not normally utilized by DPW nor which can be utilized in the foreseeable future.

(f) The Assistant Commissioner of Personnel Administration and State EEO directors will create and review a screening, ranking, and evaluation procedure to ensure EEO for all employees and applicants.

(g) The classification officer, assistant commissioner for Personnel Administration and state EEO directors will establish viable career ladders for all job classifications and levels to provide employees advancement opportunity to the fullest extent of their capabilities.

010 All employees will have a full opportunity to enhance their skills and ability and will be made aware of the DPW programs to assist in upward mobility. The steps to accomplish this objective follow:

(a) The personnel or management specialists, supervisors, regional administrators, and state EEO directors will encourage employees to further develop skills and capabilities.

(b) Continuing Education Bureau will provide information on DPW stipends to all employees.

(c) Continuing Education will provide information on college courses and GED opportunities to all employees.

(d) Continuing Education will explore the possibility of release time for class attendance to become eligible for promotion.

(e) All supervisors will utilize other manpower training programs for DPW employees

**011** EEO training will be provided to all levels to staff. The steps to accomplish this objective follow:

(a) Continuing Education and state EEO directors will provide intensified human relations training to all personnel officers, supervisors, regional administrators, program directors, and other management staff.

(b) State EEO directors and Continuing Education will provide EEO training to all regional personnel officers.

(c) All supervisors will hold special meetings with non-supervisory employees to familiarize them with the department's EEO policy.

(d) Regional directors for administrative management, regional personnel officers, and regional EEO officers will provide employees and applicants with EEO information by the display of equal employment opportunity posters where all employees may notice.

(e) Continuing Education and state EEO directors will prepare a training module for EEO.

**012** A cooperative working relationship will be maintained with the Merit System Council which will provide for positive objective evaluation of all operational procedures. The steps to accomplish this objective follow:

(a) State EEO directors and state office personnel officers will encourage the evaluation of recruitment, testing, and promotion procedures of the Merit Council with special emphasis given to the elimination of possible educational, cultural, and physical barriers to equal employment opportunity for all applicants and employees.

(b) State EEO directors will encourage exploration of the possibility of providing as standard Merit Council procedures, an analysis of Merit test performance to all unsuccessful candidates so that they may have a basis for upgrading their skills and improving their chances for employment or advancement.

(c) State EEO directors will explore the possibility of community-based Merit System testing such as on college campuses.

**013** EEO related problems will be handled in all regions. Steps to accomplish this objective follow:

(a) Regional EEO officers will develop an affirmative action plan for each region and the state office which will identify specific problem areas and will develop specific goals and objectives.

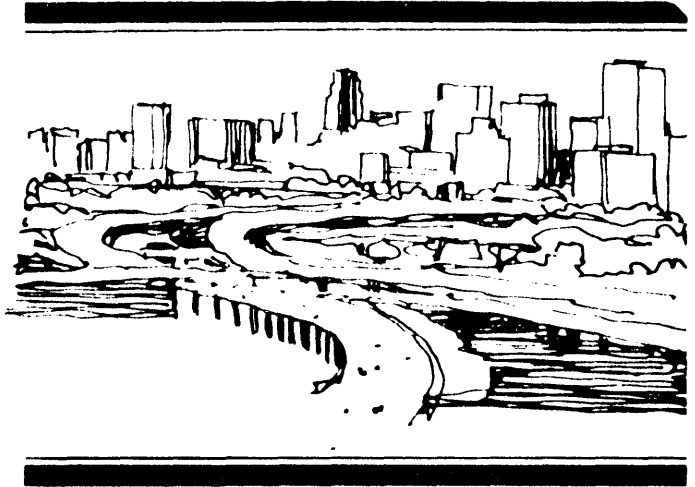
(b) Regional EEO officers will develop EEO committees in each region and the state office.

(c) Regional EEO officers, regional administrators, and management staff will establish credibility with employees.

(d) State EEO directors, regional EEO officers, and management staff will gain and maintain cooperation and involvement of management.

**014** A complaint procedure will be provided for the processing of intra-agency complaints.

**015** DPW will identify and document artificial barriers to employment of minorities and women.



**016** This department's objective is to resolve complaints of discrimination informally before they are filed with the Equal Employment Opportunity Commission. Actions to be followed are:

(a) Any individual desiring to file a discrimination complaint should do so with the person(s) in charge of the Equal Employment Program. In the DPW regions, complaints should be filed with the regional equal employment officers. In the state office, complaints should be filed with the director or assistant director of the Equal Employment Program.

(b) The equal employment officer will counsel with complainant, determine nature of complaint and decide upon the best avenue to follow towards a solution to the problem. Employees may make direct contact with the EEO officer without discussion with the supervisor when the situation is not conducive to discussion at the supervisor level. However, the EEO officer will emphasize the desire for the complainant to discuss the problem with the immediate supervisor and advise the complainant of all administrative remedies available within the department. In most instances the process will proceed as follows:

(1) Advise the complainant of the right to remain anonymous, particularly in cases where the complainant is offering testimony relative to a condition of discrimination, but the act does not directly involve the complainant.

(2) Make whatever inquiry is believed to be necessary.

(3) Consult with the employer or supervisor regarding the issues of the complainant.



(4) Keep a record, for own use, of counseling activities. EEOC complaint files should be treated in the same confidential manner as personnel files or client case records. EEOC files should be accessible only to the regional administrator or the regional director for administrative management unless there are special circumstances.

(5) Advise the aggrieved of right to file a formal complaint with an appropriate agency.

(6) When advised that a complaint of discrimination has been formally accepted by the Equal Employment Opportunity Commission, a written report summarizing actions taken and attempts to seek solutions informally, will be completed and submitted to the state office director of Equal Employment Opportunity who will coordinate the investigation made by EEOC.

(7) Facilitate the gathering of all information requested by the EEOC when conducting a discrimination investigation.

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

Doc No 774346      Raymond W Vowell  
Commissioner  
State Department of Public  
Welfare

Proposed Date of Adoption: September 29, 1977

For further information please call (512) 475-4601

## Railroad Commission of Texas

### Liquefied Petroleum Gas Division

Liquefied Petroleum Gas Docket No. 1

051.05.03.020

The Railroad Commission of Texas is proposing to adopt Rule 051.05.03.020 (Docket reference: Section A.11). The substance of this rule provides that an LP-gas licensee cannot continue licensed operations at an outlet or location where the person responsible for and actively supervising dealership operations at that outlet or location has not passed commission-required examination(s) evaluating the supervisor's capability to meet the safety requirements provided by statute and rules of the commission.

Under present rules, a duly-examined supervisor could be removed from such supervisory position by death or change of employment leaving dealership operations to continue without commission-approved supervision un-

til license-renewal time. Consequently, Rule 051.05.03.020 is proposed for adoption to preserve the continuity of qualified supervision of LP-gas operations.

The adoption of this rule will have no fiscal implications.

Public comment on the proposed adoption of Rule 051.05.03.020 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of Proposed Rule 051.05.03.020 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to adopt Rule 051.05.03.020 to read as follows.

#### 020 Original Testing of Operations Supervisors

(a) Testing requirement. At no time may operations of any licensee continue at an outlet or location where the person directly responsible for and actively supervising the dealership's operations at that outlet or location has not passed required examination(s) administered by the Railroad Commission of Texas.

(b) Original testing. Testing must demonstrate a supervisor's ability and willingness to meet the safety requirements provided in Article 6066d, Texas Revised Civil Statutes Annotated, and in the rules and regulations of the Railroad Commission insofar as the same apply to the category of license(s) held by the dealership.

Doc No 774251

#### 051.05.03.027

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.027 (Docket reference: Section B.7), which would update manufacturing standards from those found in the 1968 edition of the ASME Boiler and Pressure Vessel Code to those of the present edition.

In that new codes are published every three years, the 1968 edition is outdated. Consequently, the division's present rules could require a manufacturer to build tanks in accordance with obsolete specifications although such tanks would be unsalable. The proposed amendment would eliminate a manufacturer's dilemma, *i.e.*, building an unsalable tank or building to specification that do not conform with division rules. Proposed amendments to this effect have been made throughout the docket (reference filings made today with the *Texas Register*: Rules .004, .028, .099, 170, .266, and .282).

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.027 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.027 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.027 to read as follows:

*027 Requirements for Construction of Containers.* All containers used for storing and/or dispensing liquefied petroleum gas in the State of Texas, except containers manufactured and maintained in accordance with the requirements of the Department of Transportation, shall be fabricated and marked in strict accordance with *the current edition* [Section VIII] of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition]. A copy of Section VIII of the ASME Boiler and Pressure Vessel Code, Division I, [1968 edition,] is on file in the office of the LP Gas Division of the Railroad Commission of Texas, Austin, Texas. Exception: conformity with paragraph UG-125 to UG-134 inclusive of this code shall not be required.

Doc No 774252

## 051.05.03.028

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.028 (Docket reference: Section B8), which would update manufacturing standards from those found in the 1968 edition of the ASME Boiler and Pressure Vessel Code to those of the present edition.

In that new codes are published every three years, the 1968 edition is outdated. Consequently, the division's present rules could require a manufacturer to build tanks in accordance with obsolete specifications although such tanks would be unsalable. The proposed amendment would eliminate a manufacturer's dilemma, *i.e.*, building an unsalable tank or building to specifications that do not conform with division rules. Proposed amendments to this effect have been made throughout the docket (reference filings made today with the *Texas Register*: Rules .004, .027, .099, .170, .266 and .282).

The amendment of this rule will have no fiscal implications.

Public comments on the proposed amendment of Rule 051.05.03.028 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.028 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.028 to read as follows:

*028 Inspection of Containers.* All containers except ICC or DOT containers shall be inspected during fabrication in accordance with the provisions of *the current edition* [Section VIII] of the ASME Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition].

Doc No 774253

## 051.05.03.099

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.099 (Docket reference: Section 2.14), which would update manufacturing standards from those found in the 1968 edition of the ASME Boiler and Pressure Vessel Code to those of the present edition.

In that new codes are published every three years, the 1968 edition is outdated. Consequently, the division's present rules could require a manufacturer to build tanks in accordance with obsolete specifications although such tanks would be unsalable. The proposed amendment would eliminate a manufacturer's dilemma, *i.e.*, building an unsalable tank or building to specifications that do not conform with division rules. Proposed amendments to this effect have been made throughout the docket (reference filings made today with the *Texas Register*: Rules .004, .027, .028, .170, .266, .282).

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.099 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.099 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.099 to read as follows:

*.099. Skid Tanks.*

(g) Skid, or lugs for attachment to skids, shall be secured to container in accordance with the provisions of *the current edition* [Section VIII] of the ASME Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition], with a minimum factor of safety of four times the weight of the container and attachments when filled to the maximum permissible loaded weight.

Doc No 774254

**051.05.03.158**

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.158 (Docket reference: Section 4.24), which establishes parking restrictions for LP-gas transports and semi-trailers.

The phrase "or being serviced" has been added to permit a transport truck or semi-trailer experiencing mechanical difficulty to be repaired without restriction on its location in relation to buildings. Further, "over night" has been deleted insofar as restrictions on nighttime parking, from a safety standpoint, are deemed applicable to parking during daylight hours. Lastly, all reference to property-line distance requirements have been deleted in order to bring Rule 051.05.03.158 in conformity with other rules proposed for amendment this day. (Reference filings: Rules .072, .095, .108, .115, .188, .240, .275, and .277.)

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.158 is invited. Comments may be submitted in writing to Railroad Commission of Texas, Liquefied Petroleum Gas Division, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.158 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.158 to read as follows:

*.158. Parking of Liquefied Petroleum Gas Transports.*

(a) Liquefied petroleum gas transport trucks or semi-trailers, when not in use *or being serviced*, shall not be parked [over night] closer than 50 feet to any

building or group of buildings [or to any adjoining property line], except where such building or buildings are devoted exclusively to the transaction of liquefied petroleum gas business operations. [Where property lines are highways or railway right-of-way lines, the spacing may be reduced to 15 feet.]

Doc No 774255

**051.05.03.162**

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.162 (Docket reference: Section 4.28), which would delete the phrase "owner, person, or firm" and replace it with the term "licensee" and insert, as subsection (b), a permissible exception to the lettering rule. This change would result in a revision requiring the name of the operating licensee or, in certain instances, of the owner of the unit to be lettered on all LP-gas units. In contrast, the present rule is ambiguous and non-specific: the phrase "owner, person, or firm" includes numerous possibilities of tank identification. Consequently, the proposed amendment would provide a more exact and specific determination as to the requirements of the rule.

The proposed amendment would assure greater accuracy in division record keeping. Moreover, the amendment would facilitate the ready identification of LP-gas units by the public, law enforcement officials, and commission personnel. Finally, the proposed amendment would be consistent with the language of Rule 051.05.03.119 (Docket reference: Section 3.5).

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.162 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of amended Rule 051.05.03.162 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.162 to read as follows:

*.162. Lettering.*

(a) *Name of Licensee and Contents.* All such tanks and semi-trailer tanks, in addition to the heat reflecting finish, shall have painted thereon, in letters not less than six inches in height, the name of the *licensee* [owner, person, or firm] operating the transport unit, and the nature of the contents of the tanks.

(b) *Exception.* Where a transport unit is loaned or leased for a period of time not to exceed 30 days, the unit may have painted thereon, in lieu of the name of the licensee operating the transport unit, the name of the owner of the transport unit in letters not less than six inches in height.

Doc No 774256

## 051.05.03.170

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.170 (Docket reference: Section 5.1), which would update manufacturing standards from those found in the 1968 edition of the ASME Boiler and Pressure Vessel Code to those of the present edition.

In that new codes are published every three years, the 1968 edition is outdated. Consequently, the division's present rules could require a manufacturer to build tanks in accordance with obsolete specifications although such tanks would be unsalable. The proposed amendment would eliminate a manufacturer's dilemma, *i.e.*, building an unsalable tank or building to specifications that do not conform with division rules. Proposed amendments to this effect have been made throughout the docket (reference filings made today with the *Texas Register*: Rules .004, .027, .028, .099, .266, and .282).

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.170 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.170 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.170 to read as follows:

.170. *Liquid and Vapor Withdrawal Fuel Systems.* All containers installed and used as motor fuel containers shall be constructed in accordance with *the current edition* [Section VIII] of the ASME Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition]; or in accordance with ICC or DOT specifications for LP gas containers. The minimum design working pressure for ICC or DOT motor fuel containers shall not be less than 240 PSIG. The minimum design

working pressure for ASME motor fuel containers shall not be less than 250 PSIG. Exception: Motor fuel containers installed on self-propelled vehicles used on public roads shall be constructed only in accordance with *the current edition* [Section VIII] of the ASME Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition].

Doc No 774257

## 051.05.03.266

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.266 (Docket reference: Section 10.11), which would update manufacturing standards from those found in the 1968 edition of the ASME Boiler and Pressure Vessel Code to those of the present edition.

In that new codes are published every three years, the 1968 edition is outdated. Consequently, the division's present rules could require a manufacturer to build tanks in accordance with obsolete specifications although such tanks would be unsalable. The proposed amendment would eliminate a manufacturer's dilemma, *i.e.*, building an unsalable tank or building to specifications that do not conform with division rules. Proposed amendments to this effect have been made throughout the docket (reference filings made today with the *Texas Register*: Rules .004, .027, .028, .099, .170, and .282).

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.266 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.266 in the *tx Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.266 to read as follows:

.266. *Design Working Pressure and Classification of Containers.*

(a) All containers installed and used as farm carts shall be constructed in accordance with *the current edition* [Section VIII] of the ASME Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition]. The minimum design working pressure for farm cart containers shall be not less than 200 pounds per square inch gauge.

Doc. No. 774258

**051.05.03.282**

The Railroad Commission of Texas is proposing to amend Rule 051.05.03.282 (Docket reference: Section 11.8), which would update manufacturing standards from those found in the 1968 edition of the ASME Boiler and Pressure Vessel Code to those of the present edition.

In that new codes are published every three years, the 1968 edition is outdated. Consequently, the division's present rules could require a manufacturer to build tanks in accordance with obsolete specifications although such tanks would be unsalable. The proposed amendment would eliminate a manufacturer's dilemma, i.e., building an unsalable tank or building to specifications that do not conform with division rules. Proposed amendments to this effect have been made throughout the docket (reference filings made today with the *Texas Register*: Rules .004, .027, .028, .099, .170, and .266).

The amendment of this rule will have no fiscal implications.

Public comment on the proposed amendment of Rule 051.05.03.282 is invited. Comments may be submitted in writing to Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of the proposed amendment to Rule 051.05.03.282 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to amend Rule 051.05.03.282 to read as follows:

*.282. Requirements for Construction, Test, and Working Pressure of ASME Containers.*

(a) ASME containers for use with LP gas shall be constructed in accordance with *the current edition* [Section VIII] of the ASME Boiler and Pressure Vessel Code, Division I, *Section VIII* [1968 edition].

Doc. No. 774259

**051.05.03.302**

The Railroad Commission of Texas is proposing to adopt Rule 051.05.03.302 (Docket reference: Section A.7), which requires a licensee who proposes to operate under a changed name or names to make specific filings with the LP-Gas Division.

The proposed adoption of subsections (a) and (b) would enable the division to maintain accurate and updated records; that of subsection (a)(2) and (a)(3) would in-

sure that technicalities ensuing from name change do not void an insurer or surety's policy liability; and the adoption of subsection (b) would provide a means for ready identification of LP-gas units.

The adoption of this rule will have no fiscal implications.

Public comment on the proposed adoption of Rule 051.05.03.302 is invited. Comments may be submitted in writing to Railroad Commission of Texas, Liquefied Petroleum Gas Division, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of proposed Rule 051.05.03.302 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to adopt Rule 051.05.03.302 to read as follows:

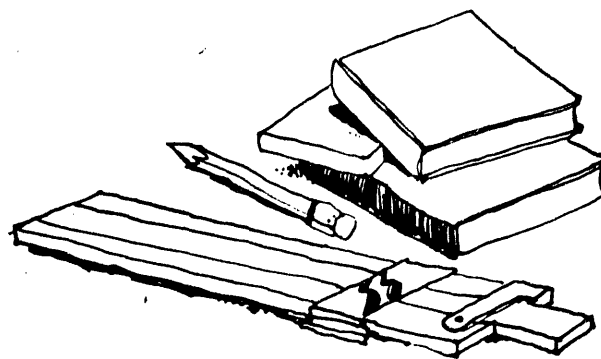
*.302. Dealership Name Change.*

(a) Duty to report. A licensee shall file the following forms, evidencing any change in the licensee's name(s), with the LP-Gas Division prior to engaging, under such name(s), in operations that require an LP-gas license:

- (1) an amended application for license;
- (2) certificates of insurance and or affidavits in lieu of insurance (where permitted by Rule 051.05.03.300); and
- (3) an amended bond or bond rider.

(b) Duty to re-register. A licensee operating under a changed name(s) shall cause the re-registration of any LP-gas transport/delivery trailer and/or motor vehicle in the changed name(s) by filing an amended LPG Form No. 7 with the division prior to the use of any such unit in the transport or delivery of LP-gas.

Doc No 774260



## 051.05.03.303

The Railroad Commission of Texas is proposing to adopt Rule 051.05.03.303 (Docket reference: Section A.9), which would require a licensee or ultimate consumer to register each unit with the division in the dealership's name before using the unit to transport or deliver LP-gas.

Though it has been the policy of the division previously to require the registration of all transport/delivery units, this rule, if adopted, will apprise all affected persons, firms, or corporations of the need to register such units with the division before their use in the transport or delivery of LP-gas. Also, the rule provides for ready identification of all units and accurate record keeping within the division.

The adoption of this rule will have no fiscal implications.

Public comment on the proposed adoption of Rule 051.05.03.303 is invited. Comments may be submitted in writing to Railroad Commission of Texas, Liquefied Petroleum Gas Division, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of proposed Rule 051.05.03.303 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to adopt Rule 051.05.03.303, which reads as follows:

### .303. Registration of LPG Transport and Delivery Units.

(a) A licensee who has purchased, leased, or obtained other rights in any LPG transport/delivery trailer(s) and/or motor vehicle(s) shall register each such unit with the LP-Gas Division in the dealership's name(s) prior to the use of such unit(s) for the licensed transport or delivery of LP-gas.

(b) An ultimate consumer who has purchased, leased, or obtained other rights in any LPG transport/delivery trailer(s) and/or motor vehicle(s) shall register each such unit with the LP-Gas Division in his (its) name(s) prior to the use of such unit(s) for the transport or delivery of LP-gas on public highways.

Doc No 774261

## 051.05.03.304

The Railroad Commission of Texas proposes to adopt Rule 051.05.03.304 (Docket reference: Section A.10), which will specifically restrict an LP-gas licensee's ability to limit or avoid liability resulting from the licensee's negligent act or acts: before the occurrence of the negligent act, an LP-gas licensee may not limit or avoid or attempt to limit or avoid either its own liability

or that of its insurer for damages proximately resulting from such act; any attempt to do so will be null and void. Further, the rule expressly states that the prohibitions against limitation/avoidance of liability are inapplicable to both negotiations and settlements which occur subsequent to a licensee's negligent act or acts.

This rule, proposed in the interest of the public health, welfare, and safety, is intended to apprise the industry of a licensee's inability to shift the economic burden of loss resulting from its own negligence to an injured party or parties. (See Attorney General Opinion No. H-1030.)

The adoption of this rule will have no fiscal implications.

Public comment on the proposed adoption of Rule 051.05.03.304 is invited. Comments may be submitted in writing to Railroad Commission of Texas, Liquefied Petroleum Gas Division, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of Proposed Rule 051.05.03.304 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to adopt Rule 051.05.03.304 to read as follows:

### .304. Limitation/Avoidance of Licensee Liability.

(a) An LP-gas licensee may not limit or avoid its liability or that of its insurer for damages proximately resulting from any negligent act or acts of the licensee.

(b) An attempt to limit or avoid liability before the negligent act or acts, through indemnity clauses or otherwise, shall be null and void.

(c) This rule does not apply to negotiations and/or settlements made subsequent to a licensee's negligent act or acts.

Doc. No. 774262

## 051.05.03.305

The Railroad Commission of Texas is proposing to adopt Rule 051.05.03.305 (Docket reference: Section A. 12), which requires that the person actively supervising dealership operations be examined every five years.

Frequent changes in division rules necessitate that operations supervisors at each dealership outlet or location be re-qualified through examination evidencing an understanding of rules in force at the time of re-examination. The division feels that rule changes are so numerous and significant that a five-year expiration date should be established as to any examination testing such subject matter.

The adoption of these rules will have no fiscal implications.

Public comment on the proposed adoption of Rule 051.05.03.305 is invited. Comments may be submitted in writing to Railroad Commission of Texas, Liquefied Petroleum Gas Division, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until 30 days after publication of Proposed Rule 051.05.03.305 in the *Texas Register*.

Pursuant to the authority of Section 3, Article 6066d, Texas Revised Civil Statutes Annotated, the Railroad Commission of Texas proposes to adopt Rule 051.05.03.305, which will read as follows:

*.305. Re-Examination of Operations Supervisors.*

(a) Re-examination of the person responsible for and actively supervising operations at any dealership outlet or location shall be required five years from the date of original testing and prior to or on that date every five years thereafter and shall be a condition precedent to continued dealership operations.

(b) The substance of those tests administered pursuant to subsection (a) herein shall include any or all areas of knowledge evaluated on original testing and/or those changes in relevant laws and rules effected since supervisory qualification has last been determined by the commission.

(c) This rule shall become effective September 1, 1978.

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

Doc. No. 774263      John E. White, Director  
Liquefied Petroleum Gas  
Division  
Railroad Commission of Texas

Proposed Date of Adoption: September 29, 1977

For further information, please call (512) 475-4352.

## Texas Rehabilitation Commission

### Service Centers for Displaced Homemakers Program-- General Rules 328.14.00

The Texas Rehabilitation Commission is proposing to adopt Rules 328.14 through 328.18, relating to the Service Centers for Displaced Homemakers Program.

In House Bill 444, the 65th Texas Legislature recognized the needs of a group of Texas citizens that have long gone unnoticed, referred to as "displaced homemakers." The Displaced Homemaker Act was signed into law by the governor on May 11, 1977.

A "displaced homemaker" is basically an individual who has spent a substantial portion of his or her life as a homemaker and when the family wage earner dies, or is otherwise unable to support the family, has no employable skills in the labor market, and may be ineligible for welfare assistance, unemployment insurance, or social security benefits.

The purpose of the Displaced Homemaker Act is to provide counseling, training, and service programs for displaced homemakers in order that they may continue to make a contribution to society and the community in which they live.

The Displaced Homemaker Act directs the Commissioner of the Texas Rehabilitation Commission to establish two pilot programs in two multiservice centers in the state for displaced homemakers. One of these service centers must be established in the largest metropolitan area of the state, and the other in a county with a population of 100,000 or less. The Displaced Homemaker Act is therefore not a statewide program but is limited by law to the two service centers.

The authorization for Service Centers for Displaced Homemakers Program was provided by state legislation in House Bill 444, 65th Texas Legislature (Sections 1 to 10, Article 695m, Vernon's Annotated Civil Statutes).

A notice of the fiscal implications for these rules appears in the In Addition section of this issue.

Public comment is invited on the proposed rules. Persons should submit their comments in writing to Jess M. Irwin, Jr., Commissioner, Texas Rehabilitation Commission, 118 Riverside Drive, Austin, Texas 78704. Comments will be accepted by the commission for 30 days after publication of this notice in the *Texas Register*.

These rules are proposed under the authority of Sections 1 to 10, Article 695m, Vernon's Annotated Civil Statutes.

*.001. Legal Basis.* The legal basis for the Displaced Homemakers Program is House Bill 444, 65th Legislature (Sections 1 to 10, Article 695m, Vernon's Annotated Civil Statutes).

*.002. Purpose.* The purpose of the Displaced Homemaker Program is to provide counseling, training, and service programs at two multipurpose service centers for displaced homemakers necessary to promote their health and welfare and to enable them to enjoy independence and economic security.

*.003. Definition.*

(a) A "displaced homemaker" is an individual who:

(1) is 40 years of age or older and has worked without pay as a homemaker for his or her family;

(2) is not gainfully employed on a full-time basis or has had, or would have, difficulty in finding adequate employment; and

(3) has depended for support on the income of a family member and has lost that income or has depended on and received income support primarily from another source while working as a homemaker or parent and has lost that support.

(b) "Department" means the Texas Rehabilitation Commission.

(c) "Commissioner" means the Commissioner of the Texas Rehabilitation Commission.

.004. *Nondiscrimination in the Provision of Services.* The services under this program will be provided in such a manner that no person in the United States will be excluded from participation, be denied the benefits of, or be subjected to discrimination on the grounds of race, color, national origin, sex, religion, age, political affiliation, or physical or mental handicap if otherwise eligible.

.005. *Availability of Services.* All services under this program are provided subject to the availability of funds and to contractual agreements with the providers of such services.

Doc No 774268



## Establishment of Centers 328.15.00

The following rules are proposed under the authority of Article 695m, Vernon's Annotated Civil Statutes.

.001. *Location of Centers.* To carry out the purpose of the Displaced Homemakers Program, two pilot multipurpose service centers will be established in the state. One center will be established within the largest federal standard metropolitan statistical area (SMSA) as determined by the U.S. Bureau of the Census and the second center will be established in a county with a population of 100,000 or less.

.002. *Operation of Centers.* The two centers will be operated pursuant to contractual agreements between the department and a selected nonprofit organization or a unit of local government, or both.

.003. *Staffing of Centers.* To the greatest extent possible, the staff of each center shall be filled by displaced homemakers, to include supervisory, technical, and administrative staff positions.

.004. *Payments for Operation of Centers.* For the first month of operation of a center, payment will be made in advance to the organization operating the center. For subsequent months of operation, payment will be made on a billing basis as provided for in the contractual agreement.

.005. *Standards for Service Centers.*

(a) Service centers operated under contractual agreement with the Department are required to satisfy the following minimum standards:

(1) The organizational and administrative structure of the center shall contribute effectively to the achievement of its goals.

(2) The staff of the center shall be competent, professionally ethical, and qualified for position held. Qualifications of the staff shall meet all requirements established by recognized professional groups and/or state certification regulations. The governing body shall develop minimum qualifications for all staff positions not covered by licensure or certification requirements.

(3) The program of services shall be planned and operated in relation to present and future needs of its clientele. These services shall be of such a quality and so applied that they constitute an effective program which achieves the objectives of independence and economic security for the individual displaced homemaker.

(4) The center shall observe personnel policies and practices which focus on the needs and goals of the individual.



(5) The center shall maintain accurate and complete records and prepare and distribute reports necessary to the achievement of its goals.

(6) The center shall endeavor to gain community understanding, approval, and continued support of its goals, services, and needs through a consciously structured community public relations program designed to sharpen and enhance public understanding of the agency's purposes and achievements.

(7) The physical plant of the center and its environment shall be such that the safety and health of the staff and clientele are protected.

(b) Any additional standards the department publishes for facilities will be made available to the public.

Doc. No. 774269

## Programs at Service Centers 328.16.00

The following rules are proposed under the authority of Article 695m, Vernon's Annotated Civil Statutes.

.001. *Job-Counseling Program.* Each multipurpose service center shall provide a job-counseling program for displaced homemakers. Job counseling shall be specifically designed for the person entering the job market after a number of years as a homemaker. Counseling shall take into account and build upon the skills and experiences of a homemaker and shall emphasize job readiness as well as skill development.

.002. *Job-Training Program.* Each multipurpose service center shall provide a job-training program for displaced homemakers. The job-training program shall utilize existing skills and be directed toward meeting community needs and creating new jobs, as well as filling available positions, in both public and private employment. Each center shall work with agencies of local government, nonprofit organizations, and private employers in developing job-training cooperative agreements for various vocations. Each center shall provide stipends job trainees within the limits of available funds. The Texas Employment Commission shall assist each center in finding permanent employment for persons who have completed the job-training program conducted through each center.

.003. *Service Program.*

(a) Each multipurpose service center shall operate a health information service to disseminate information about preventive health care and nutrition. The service shall emphasize the health problems, including menopause of older persons. The clinic service shall provide information, which may include lectures,

discussion, and informal courses on alcohol and drug addiction and the causes of addiction in older persons. The service may, with the assistance of a county medical society or hospital staff, establish a referral service to direct displaced homemakers to physicians.

(b) Each service center shall provide information, which may include lectures, discussions, and informal courses on money management, specifically including information about insurance, taxes, mortgages, loans, and probate problems.

(c) Each service center may establish additional service programs designed to prepare the displaced homemaker to be a wage earner, to manage his or her own affairs, or to enable the displaced homemaker to provide for his or her physical or mental well-being and security.

Doc. No. 774270

## Funding and Fees at Service Centers 328.17.00

The following rules are proposed under the authority of Article 695m, Vernon's Annotated Civil Statutes.

.001. *Funding Sources.* In addition to legislative appropriation, the department shall explore all possible legal sources of funding for the pilot multipurpose service centers. The department may accept gifts, grants, and in-kind contributions from federal, local, and private sources and may use federal funds under Title 20, Social Security Act, Section 1397, 42 United States Code, *et seq.* (1975), if they become available. The department shall seek contributions of building space, equipment, and services.

.002. *Schedules of Fees.* The local director of each service center may establish a schedule of fees, based on ability to pay, for various counseling and service programs offered by the center. Fees shall be designed to help defray the costs of operation of the centers.

.003. *Guidelines.* Each local director may also establish guidelines for participation in the job-training program, taking into account the degree of need of the displaced homemaker, the extent of existing agreements with training employers, and the limits of available funds.

.004. *Schedules of Stipends.* Each local director shall establish a schedule of stipends, based on need and the extent of any compensation by the training employer for job trainees.

Doc. No. 774271

## Reports and Evaluations 328.18.00

The following rules are proposed under the authority of Article 695m, Vernon's Annotated Civil Statutes.

*.001. Monitoring and Evaluation by Department.*

(a) The department shall monitor the operation of each service center four times each year.

(b) The department shall prepare an annual evaluation of the performance of each center in meeting the needs of displaced homemakers in the area. The evaluation shall consider the effectiveness of the programs offered by each center in terms of number of persons served, quality of services rendered, number of job placements, and degree of need for continuance of similar programs.

*.002. Annual Report by Service Center.* The local director of each service center shall prepare an annual report to the department, accounting for all funds provided the centers and describing in detail the services performed at and through the center during the preceding 12-month period and shall make records of the operation of the centers available to the commissioner at his request.

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

Doc. No. 774272      Vernon H. Newman, Attorney  
Office of General Counsel  
Texas Rehabilitation  
Commission

Proposed Date of Adoption: September 29, 1977

For further information, please call (512) 452-8192.

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

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

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

## Texas Parks and Wildlife Department

### Wildlife Division

Gus Engeling, Gene Howe, Kerr, Matador, Pat Mayse, Angelina, and Las Palomas Wildlife Management Areas Hunting, Fishing, and Trapping Proclamation No. 21, 1976-77  
127.70.03

Pursuant to the authority of Sections 81.401-81.404, Texas Parks and Wildlife Code, the Texas Parks and Wildlife Commission has repealed Rules 127.70.03.002-.060, which constituted the Gus Engeling, Gene Howe, Kerr, Matador, Pat Mayse, Angelina, and Las Palomas Wildlife Management Areas Hunting, Fishing, and Trapping Proclamation No. 21, 1976-77. The proposed repeal was published in the July 19, 1977, issue of the *Texas Register* (Volume 2, Number 56).

Doc. No. 774245

Black Gap Wildlife Management Area in Brewster County and Sierra Diablo Wildlife Management Area in Culberson and Hudspeth Counties Hunting, Fishing, and Trapping Proclamation No. 22, 1976-77  
127.70.04

Pursuant to the authority of Sections 81.401-81.404, Texas Parks and Wildlife Code, the Texas Parks and

Wildlife Commission has repealed Rules 127.70.04.002-.060, which constituted the Black Gap Wildlife Management Area in Brewster County and Sierra Diablo Wildlife Management Area in Culberson and Hudspeth Counties Hunting, Fishing, and Trapping Proclamation No. 22, 1976-77. The proposed repeal was published in the July 19, 1977, issue of the *Texas Register* (Volume 2, Number 56).

Doc No 774246



Chaparral Wildlife Management Area in Dimmit and La Salle Counties Hunting, Fishing, and Trapping Proclamation No. 9, 1976-77, 127.70.05

Pursuant to the authority of Sections 81.401-81.404, Texas Parks and Wildlife Code, the Texas Parks and Wildlife Commission has repealed Rules 127.70.05.002-.060, which constituted the Chaparral Wildlife Management Area in Dimmit and La Salle Counties Hunting, Fishing, and Trapping Proclamation No. 9, 1976-77. The proposed repeal was published in the July 19, 1977, issue of the *Texas Register* (Volume 2, Number 56).

Doc. No. 774247

J. D. Murphree Wildlife Management Area, Jefferson County, Hunting, Fishing, and Trapping Proclamation No. 18, 1976-77  
127.70.06

Pursuant to the authority of Sections 81.401-81.404, Texas Parks and Wildlife Code, the Texas Parks and

Wildlife Commission has repealed Rules 127.70.06.002-.060, which constituted the J. D. Murphree Wildlife Management Area, Jefferson County, Hunting, Fishing, and Trapping Proclamation No. 18, 1976-77. The proposed repeal was published in the July 19, 1977, issue of the *Texas Register* (Volume 2, Number 56).

Doc. No. 774248

## Predator Control from Aircraft 127.70.07

This amendment is promulgated under the authority of Sections 43.101 through 43.111, Texas Parks and Wildlife Code, and Section (b)(1), Public Law 92-159 (85 Statute 480, 16 United States Code, 742j-1).

*.001. Applicability.* The department is authorized to issue permits for predator animal control by the use of aircraft in the following counties: Andrews, Archer, Armstrong, Atascosa, Bailey, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Briscoe, Brown, Burnet, Caldwell, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Dimmit, Donley, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fisher, Floyd, Foard, Frio, Gaines, Garza, Gillespie, Glasscock, Gray, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, LaSalle, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McMullen, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Robertson, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Throckmorton, Tom Green, Upton, Uvalde, Val Verde, Ward, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Yoakum, Young, and Zavala.

Doc. No. 774249

## Wildlife Management Areas Hunting, Fishing, and Trapping Proclamation No. 23, 1977-78, 127.70.13

The Texas Parks and Wildlife Commission has adopted Rules 127.70.13.002-.059, which constitute Wildlife Management Areas Hunting, Fishing, and Trapping Proclamation No. 23, 1977-78, with several changes in the proposed text.

No public comments were received on the proposed rules. The commission in a public hearing adopted the proposed rules with several changes listed below.

In Rule .033 (c)(3), Gus Engeling regular deer hunting dates of November 12, 13, 14, 18, 19, 20, 1977, and December 9, 10, 11, 16, 17, 18, 1977, were changed to November 12, 13, 14, 18, 19, 20, 25, 26, 27, and December 2, 3, 4, 1977. In Rule .038 (a)(3), Gus Engeling quail hunting dates of December 1-6, 1977, were changed to December 10-16, 1977. In Rule .043, there is no open season on fur-bearing animals.

The Texas Parks and Wildlife Commission, by authority of Sections 81.401-81.404, Texas Parks and Wildlife Code, has adopted Rules 127.70.13.002-.059, to read as follows:

### *.033. Deer and Exotic Mammals-- By Permit Only.*

(c) Regular season-- open season:

(3) Gus Engeling: November 12, 13, 14, 18, 19, 20, 25, 26, 27, 1977, and December 2, 3, 4, 1977 (muzzle-loading rifles, .45 caliber or larger without telescopic sights, may be used);

### *.038. Quail.*

(a) Open season:

(3) Gus Engeling: December 10-16, 1977;

### *.043. Fur-Bearing Animals.* No open season.

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

Doc. No. 774250

Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife  
Department

Effective Date: September 8, 1977

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



# Teacher Retirement System of Texas

## Administrative Procedures 334.02.00

The Board of Trustees of the Teacher Retirement System of Texas has adopted Rule 334.02.00.004 under the authority of Section 3.59(i) of the Texas Education Code.

### .004. Public Participation in Adoption of Rules.

(a) "Interested person" means any member of the Teacher Retirement System; any beneficiary of a member; any retiree of the Teacher Retirement System; any guardian, administrator, or executor of a member, retiree, or beneficiary; or any public school.

(b) Any interested person may informally request adoption of a rule by correspondence or conference with TRS staff members. If satisfactory results cannot be achieved in this manner, any interested person may petition the Teacher Retirement System to adopt, amend, or repeal a rule by filing a clear, written request to initiate rule-making procedures with the executive secretary. The petition shall set forth the exact text of the proposed rule and the petitioner's name and address, and the name, business address, and telephone number of petitioner's counsel, if any. The petition may also include written documents in support of the petition.

(c) The executive secretary shall grant or deny the petition within 60 days of its receipt. The executive secretary may consult informally with staff members and the petitioner in reaching a decision. The petition may be amended with consent of the petitioner at any time before a final decision is rendered.

(1) Upon granting the petition in writing, the executive secretary shall initiate rule-making proceedings pursuant to the Administrative Procedure and Texas Register Act and the rules and regulations of the Teacher Retirement System.

(2) Denial of the petition by the executive secretary, and reasons therefor, shall be in writing. The petitioner may appeal this decision to the board of trustees provided that a written notice of appeal is filed with the executive secretary within 10 days after the decision of the executive secretary is issued. If no such notice of appeal is timely filed, or if the next regularly scheduled meeting of the board of trustees will occur more than 60 days after receipt of the petition by the executive secretary, and the petitioner is unwilling to waive the deadline for a final decision until that meeting, the decision of the executive secretary shall be the final decision of TRS. The final decision of the board shall be based on the written petition and written decision of the executive secretary unless the board orders

a hearing on the petition. If the board approves the petition, the executive secretary shall initiate rule-making proceedings pursuant to the Administrative Procedure and Texas Register Act and the rules and regulations of the Teacher Retirement System.

(d) Oral and written data, views, and arguments on a proposed rule may be submitted informally to the executive secretary by informal conference or correspondence within 20 days after publication of notice of the proposed rule in the *Texas Register*.

(e) A written request for a public hearing on a proposed substantive rule may be submitted to the executive secretary within 10 days after publication of notice of the proposed substantive rule in the *Texas Register*, provided that the request is made by 25 persons, a governmental subdivision or agency, or an association having at least 25 members. The request shall contain the name and address of each person requesting the hearing and shall clearly specify the proposed rule for which a hearing is requested.

(f) The executive secretary shall schedule the proposed rule for hearing on a date no earlier than seven days after notice of the hearing date is published and no later than 20 days after receipt of the written request. The executive secretary or the board of trustees may reschedule the hearing in the interest of justice or administrative necessity or for good cause; however, the proposed rule shall not be adopted prior to the requested hearing.

(g) The executive secretary shall designate himself, a TRS employee, or a specially appointed person as hearing officer to take the testimony of any interested person in support of or in opposition to the rule. The hearing officer shall designate the order of taking testimony and may establish reasonable time limits on oral testimony, provided that reasonable opportunity is given to amplify oral testimony in writing. All hearings will be held in the offices of TRS in Austin, Texas, unless for good cause TRS shall designate another place of hearing.

Doc No. 774292

## Membership Credit

### Service Eligible for Membership 334.03.01

The State Board of Trustees of the Teacher Retirement System of Texas has adopted Rule 334.03.01.010 with changes in the text as originally proposed. The changes clarify the consequences of exempt student employment. A person will not be eligible for membership in the Teacher Retirement System of Texas based upon his or her exempt student employment. However, membership may continue, without additional member contributions or service credit, under the provisions for

extended membership while absent from service provided that the student employee had previous employment eligible for membership and has not otherwise legally terminated such membership, *e.g.*, by withdrawal of accumulated contributions. The adopted changes also consolidate the enumerated conditions under which student employees are exempt from membership. The last condition was amended to make clear that a student employee, otherwise exempt from membership, who has other employment during the same payroll period which is eligible for membership, will not be exempt from membership contributions based upon the student employment.

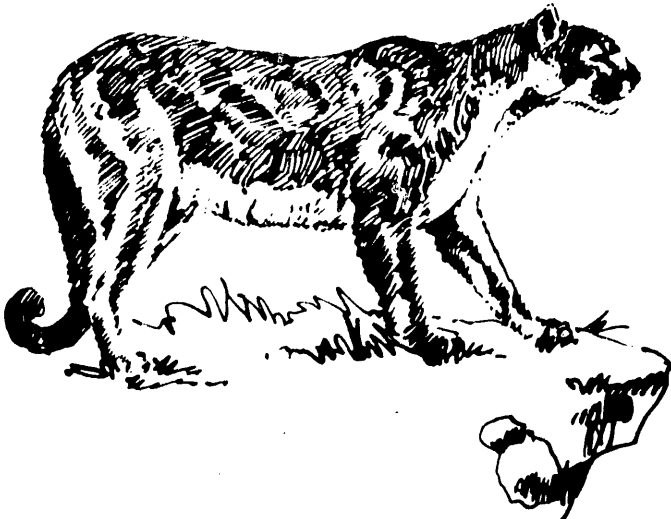
The Board of Trustees of the Teacher Retirement System of Texas, by authority of Section 3.59, Texas Education Code, has adopted Rule 334.03.010, to read as follows:

*.010. Student Employment.* A person employed in a Texas public college or university is not eligible for membership based upon that employment, will not have deductions made from compensation for that employment, and will not receive service credit for that employment if both the following conditions apply:

(a) The employment is conditioned upon the employee's being enrolled as a student at the same institution; and

(b) The employee has no other employment during the same payroll period which is eligible for membership in TRS.

Doc No 774293



## Notice of Repeals

The Teacher Retirement System of Texas has adopted repeals of several rules. The complete text of the rules was published in the July 12, 1977, issue of the *Texas Register* (Volume 2, Number 54), when the repeals were proposed. The effective date of the repeals is September 11, 1977.

Listed are the subcategories, code numbers, and docket numbers of the rules being repealed:

**Classification of Members as Teachers or Auxiliaries:**  
343.03.02.001-.007; Doc. No. 774294

**Military Service:**

334.03.06.002; Doc. No. 774298  
334.03.06.003; Doc. No. 774299  
334.03.06.005; Doc. No. 774300  
334.03.06.006; Doc. No. 774301  
334.03.06.007; Doc. No. 774302  
334.03.06.008; Doc. No. 774303  
334.03.06.009; Doc. No. 774304

**Service Retirement:**

334.05.01.008; Doc. No. 774314

**Death Before Service Retirement:**

334.05.03.003; Doc. No. 774317

## Compensation 334.03.03.002

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.03.03.002 under the authority of Section 3.59, Texas Education Code.

*.002. Compensation not Paid in Money.* The employer shall transmit with each payroll report a deposit equal to 6.65 percent of the value of compensation not paid in money. A certified copy of the minutes of the governing board of the employing educational institution shall be accepted as evidence of such compensation.

Doc. No. 774295

## 334.03.03.005

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.03.03.005 under the authority of Section 3.59, Texas Education Code.

*.005. Required Deposits.* Members shall deposit 6.65 percent of the first \$25,000 compensation received after September 1 or, if applicable, after the beginning

of their qualified contract year, whichever occurs first (see Rule 334.03.10.003(c)). Those whose rate of compensation is more than \$25,000 per year will complete their deposits before the end of the year.

Doc. No. 774296

### Military Service 334.03.06.001

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.03.06.001 under the authority of Section 3.59, Texas Education Code.

#### .001. *Service Credit for Eligible Military Duty.*

(a) A member with 10 years of credit for service in the public schools of Texas may receive additional retirement credit for active military duty in any of the following periods:

(1) school years during which the military draft was in effect (1940-41 through 1972-73),

(2) a period of service directly resulting from the member's being called to active duty as a reservist, National Guard member, or draftee pursuant to federal law, or

(3) a member's initial term of volunteer service under an enlistment which occurred while the military draft was in effect (before September 16, 1940, but not later than January 27, 1973).

(b) Credit for military duty is limited to a maximum of five years. Eligible military duty will be evaluated for crediting only in the school year in which it was rendered, pursuant to the rules governing the granting of credit for service in the public schools of Texas. No credit may be given for any school year of military duty which duplicates any other credit already granted or in which a year of creditable service is available for service in the public schools of Texas.

(c) To obtain each school year of military credit, the member must make a deposit based upon the full annual compensation rate for the last school year of membership service preceding the school year of military duty, if the member was a member while the duty was being rendered, or upon the full annual compensation rate for the first school year of membership service occurring after the duty. Membership service does not include service as a substitute. The deposit shall be a percentage of the applicable full annual compensation rate equal to that in effect for deductions from member salaries for the school year in which the military duty was rendered. A member must make deposits simultaneously for all eligible school years of military credit.

Doc. No. 774297

### 334.03.06.011

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.03.06.011 under the authority of Section 3.59, Texas Education Code.

.011. *Crediting Fee.* A crediting fee of five percent per annum shall be charged for the purchase of credit from the end of the year in which the member was first eligible to purchase the credit until payment for the credit is received. The date of first eligibility to purchase credit shall be the latest of the following:

(a) the date the member obtains 10 years' credit for service in the public schools of Texas;

(b) the date the Teacher Retirement Law made the military service available for credit;

(c) the date the member completed military service to qualify for each year of credit.

Doc No 774305

### 334.03.06.012

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.03.06.012 under the authority of Section 3.59, Texas Education Code.

.012. *Effective Dates of Laws Expanding Military Duty Credit.* The board of trustees recognizes the following dates as important in making certain military service eligible for credit:

(a) May 28, 1943-- military duty while a member of TRS except that first made eligible on April 18, 1975, or June 10, 1977.

(b) June 12, 1967-- military duty during World War II rendered prior to becoming a member of TRS.

(c) April 18, 1975-- military duty other than during World War II rendered prior to becoming a member of TRS and military duty while a member of TRS eligible only by virtue of being a draftee or activated reservist.

(d) June 10, 1977-- volunteer duty not otherwise eligible.

Doc. No. 774306

### 334.03.06.013

The Board of Trustees of the Teacher Retirement System of Texas has adopted Rule 334.03.06.013 under the authority of Section 3.59, Texas Education Code.

.013. *Application For Military Credit.* Members desiring to make deposits for military credit should request in writing to be billed for the cost of the credit.

Requests should be addressed to Teacher Retirement System of Texas, 1001 Trinity, Austin, Texas 78701. Included with the request should be a certified copy or copies of the member's service record showing the dates and nature of the member's active military duty. The system may require the member to make available to it such other evidence as may be required to establish the member's eligibility for retirement credit and the amount of deposits due. When the system determines the duty eligible for credit, it shall bill members for the total amounts of deposits and fees due for the credit at the last address of the member of which the system has record. The member must sign the statements contained on the bill certifying the accuracy of the information provided on the bill and return the bill to the system with the total amount due for the military duty credit. A member who requests a bill and submits all necessary evidence for crediting his or her military duty before the end of a school year shall have 30 days from the date the bill is transmitted by the system in which to submit the amount due without owing any additional fees otherwise becoming due because of the intervening termination of the school year. Deposits for military duty credit will not be accepted after the date of death or date of service retirement of a member.

Doc No 774307

## Developmental Leave 334.03.11

The Board of Trustees of the Teacher Retirement System of Texas has adopted Rule 334.03.11.001 with no changes in the text proposed and has adopted Rule 334.03.11.002 with amendments. The amendments subdivide the rule into the separate steps involved for developmental leave credit applications. Also, the rule was changed to provide that the bill for the credit would be sent to the member after his or her return from the leave rather than at the beginning of the leave.

The Board of Trustees of the Teacher Retirement System of Texas, by authority of Section 3.59, Texas Education Code, has adopted Rules 334.03.11.001-.002, to read as follows:

### .001. *Developmental Leave, Eligibility, and Cost.*

(a) A member with five years of membership service may receive retirement credit for developmental leave if the leave has been approved as developmental leave in advance by the member's employer and notice of intent to take the leave has been filed with the system on or before the date a member begins the leave.

(b) The member's employer is responsible for determining whether a member's leave meets the definition of "developmental leave" in Section 3.02(a)(21) of the Texas Education Code.

(c) Credit granted for developmental leave may not exceed two school years.

(d) To obtain each school year of credit for developmental leave, the member must make a deposit equal to 14.15 percent of the member's annual compensation rate during the last school year of creditable service which preceded the developmental leave. Persons making deposits for developmental leave credit must be employed in the public schools of Texas at the time of the deposit. A member must make the deposits for developmental leave credit within the first creditable school year of service after taking developmental leave. A member who does not make deposits within that year loses eligibility for purchasing credit for any preceding developmental leave.

### .002. *Application and Payment for Developmental Leave Credit.*

(a) Application for developmental leave credit must be made on a form available from TRS entitled "Notice of Intent to Take Developmental Leave."

(b) A member desiring developmental leave credit should obtain the form in time for it to be completed, certified by the member's employer, and submitted to TRS before the leave begins. The member must sign a statement on the form that he or she intends to take developmental leave for which credit is desired and must indicate the beginning and ending dates of the leave which has been granted. After completing the form, the member must submit it to his or her employer for certification.

(c) The employer must certify in the space provided on the form that the leave satisfies the statutory requirements for developmental leave. The employer must submit the form directly to TRS. The form will not be accepted directly from the member.

(d) The completed and certified form must be received by TRS not later than the date the member's developmental leave begins.

(e) TRS will acknowledge receipt of the form. A cost statement for developmental leave will be sent to the member upon his or her return to employment. The cost statement will contain space for certification by the employer granting the leave that the developmental leave as approved was in fact taken.

(f) Credit will be granted to the member if the cost statement, including the employer's certification, and the full amount of the required deposits are submitted during the first school year of creditable service after the member's return to employment.

Doc No 774308

## Credit for Previous Work Experience of Distributive Education Teachers 334.03.12

The State Board of Trustees of the Teacher Retirement System of Texas has revised Proposed Rule 334.03.12.001 substantially because of legislation



enacted by the 65th Texas Legislature in the first called session after the rule was submitted. The legislature, during its regular session in 1977, amended Section 16.056 of the Texas Education Code, authorizing the Texas Education Agency to recognize the approved previous work experience of distributive education teachers as a year of teaching experience under the Texas Public Education Compensation Plan for salary increment purposes. The legislation also added Section 3.28 to the Texas Education Code, permitting distributive education teachers to purchase additional retirement credit for each year of previous work experience recognized by the Texas Education Agency for salary increment purposes.

The Teacher Retirement System proposed Rules 334.03.12.001-.003 to implement Section 3.28. However, in its first called session, the 65th Legislature repealed the provisions of Section 16.056 which authorized recognition of previous work experience for salary increment purposes. Rule 334.03.12.001, as adopted, explains that distributive education teachers cannot purchase retirement credit under Section 3.28, since the statutory authority for approval of the work experience on which the credit was to be based has been removed.

The Board of Trustees of the Teacher Retirement System of Texas, by authority of Section 3.59, Texas Education Code, has adopted Rule 334.03.12.001, to read as follows:

*.001. Credit for Eligible Previous Work Experience Credit.* The Teacher Retirement System is authorized by Section 3.28, Texas Education Code, to grant retirement credit for only that previous work experience of distributive education teachers which has been approved by the Texas Education Agency for salary increment purposes. Since Senate Bill 1, Acts of the 65th Texas Legislature, First Called Session, 1977, repealed the provision for approval of previous work experience of distributive education teachers for salary increment purposes, TRS cannot grant credit for such experience.

Doc No 774309

## Notice of Withdrawal

### 334.03.12.002-.003

The Teacher Retirement System of Texas is withdrawing Proposed Rules 334.03.12.002, Status of Members at the Time of Purchase Credit, and 334.03.12.003, Application for Credit. The proposals were published in the July 12, 1972, issue of the *Texas Register* (Volume 2, Number 54).

Filed: August 22, 1977, 11:25 a.m.

Doc. No. 774310

## Benefits

### Service Retirement 334.05.01.002

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.05.01.002 under the authority of Section 3.59, Texas Education Code.

*.002. Age and Service Requirements for Service Retirement.* Service retirement benefits are payable according to the following schedule. See Rule 334.05.01.003 for computation of standard annuity, Rule 334.05.01.007 for minimum benefits, and Rule 334.05.01.009(b) for optional reduced benefits. All retired members are covered by survivor benefits. (The following lists length of service, age, and benefits.)

#### Normal Age Retirement

20 years or more-- 60: the larger of a standard annuity or a minimum benefit

10 years through 19 years-- 65: the larger of a standard annuity or a minimum benefit

#### Early Age Retirement

10 years through 19 years-- between 55 and 65: the larger of a standard annuity or a minimum benefit reduced from age 65

20 years through 29 years-- between 55 and 60: the larger of a standard annuity or a minimum benefit reduced from age 60

30 years or more-- any age below 60: the larger of a standard annuity or a minimum benefit reduced from age 60

Doc. No. 774311

### 334.05.01.003

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.05.01.003 under the authority of Section 3.59, Texas Education Code.

*.003. Standard Annuity.* The standard annuity is annuity payable monthly based on the following computation:

(a) The average annual salary (see Rule 334.05.01.004) earned in the best five years of creditable service serves as a base to determine the benefits. The best five years do not have to be consecutive but are the best five individual school years at any time during the Texas teaching service.

(b) Two percent of the base salary is allowed for each year of creditable service (Rule 334.03.10.006).

(c) The total percentage factor is multiplied times the base salary and the sum divided by 12 to determine the monthly standard annuity.

Doc. No. 774312

## 334.05.01.007

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.05.01.007 under the authority of Section 3.59, Texas Education Code.

*.007. Minimum Service Retirement Benefits.* Minimum service retirement benefits are payable if benefits as calculated by the standard annuity formula in Rule 334.05.01.003 are below the following amounts:

\$6.50 per month multiplied times the member's creditable years of service but, if the member is 65 years of age or older, no less than \$75 per month. Example: 22 years of creditable service times \$6.50 equals \$143 per month.

Doc No 774313

## 334.05.01.010

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.05.01.010 under the authority of Section 3.59, Texas Education Code.

*.010. Survivor Benefits.* In addition to any of these retirement annuity payments, the designated beneficiary of any retired member is eligible to receive survivor benefits of a \$500 lump sum and one of the following:

(a) To the unremarried widow, widower, or dependent parent, \$75 per month from age 65.

(b) To the unremarried widow or widower with children under the age of 18, \$150 per month until the youngest child reaches the age of 18; benefits cease until age 65 and then resume at \$75 per month.

(c) To the guardian of dependent children under the age of 18, \$150 per month for two or more children and \$75 per month when there is only one.

(d) If the widow or widower with children under the age of 18 remarries or dies, the guardian of the children may receive benefits for the children.

(e) Any other beneficiary of retired member-- no monthly payments unless provided by one of the optional retirement plans.

Doc No 774315

## Death Before Service Retirement

### 334.05.03

The Board of Trustees of the Teacher Retirement System of Texas has amended Rule 334.05.03.002 under the authority of Section 3.59, Texas Education Code.

*.002. Death Benefit Options.* A member's beneficiary entitled to death benefits under Rule 334.05.03.001 shall receive the largest of:

(a) a lump sum payment (not to exceed \$25,000) equal to

(1) the rate of annual compensation of the member for the last year of service; or

(2) the annual compensation of the member for the year before the last year of service; or

(b) monthly payments:

(1) 60 payments equal to the member's monthly standard annuity payment (see Rule 334.05.01.003); or

(2) a life annuity equal to that payable under Option 1 (see Rule 334.05.01.009), had the member retired on the last day of the month preceding his death; or

(c) a refund of accumulated deposits; or

(d) survivor benefits amounting to a \$500 lump sum payment plus one of the following monthly payment plans if the beneficiary is eligible:

(1) To the unremarried spouse or dependent parent, \$75 per month from age 65.

(2) To the unremarried spouse with children under the age of 18, \$150 per month until the youngest child reaches the age of 18; benefits cease until age 65 and then resume to the unremarried spouse at \$75 per month.

(3) To the guardian of dependent children under the age of 18, \$150 per month for two or more children and \$75 when there is only one child.

(4) If the spouse with children under the age of 18 remarries or dies, the guardian of the children may receive benefits for the children.

Doc No 774316

## Employment After Retirement

### 334.06.00

The State Board of Trustees of the Teacher Retirement System of Texas has amended Rules 334.06.00.003-006 under the authority of Section 3.59, Texas Education Code.

*.003. Permissible Substitute Employment.* Any person receiving a service retirement annuity may be employed without affecting the annuity:

(a) on a part-time day-to-day basis not to exceed 120 school days in a single school year as a substitute for an employee who is absent from duty; or

(b) in a vacant position as a substitute until the position can be filled, but not to exceed 45 school days.

.004. *Calculation of Amount of Substitute Employment.* Any substitute employment in a vacant position shall be deducted from the 120 school days permitted as a substitute for an absent employee. A vacant position remains vacant until the regular employee reports for duty.

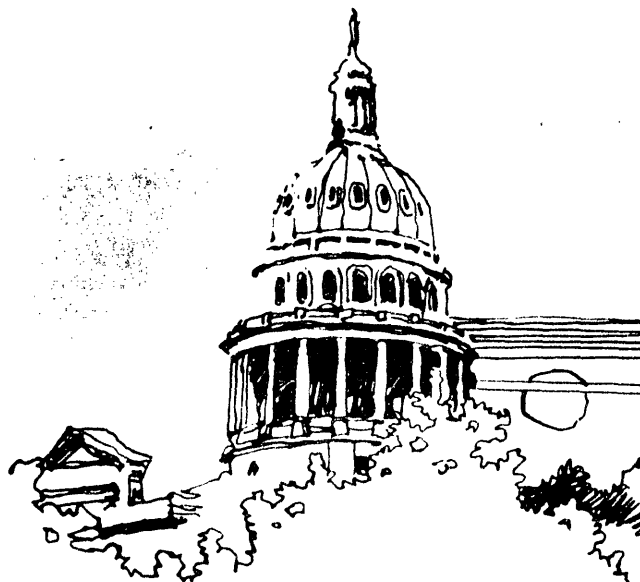
.005. *Effect of Exceeding Limits on Substitute Employment.* Any person who substitutes on a day-to-day basis in a regular position for an absent employee for 120 school days or for 45 school days in a vacant position then continues in the same position shall be considered to have been a regular employee since the first day of employment and shall forfeit his retirement benefits for all months of employment in that position.

Issued in Austin, Texas, on August 19, 1977.

Doc. No. 774318      Leonard Prewitt  
Executive Secretary  
Teacher Retirement System of  
Texas

Effective Date: September 11, 1977

For further information, please call (512) 477-9711.



This section includes summarized opinions in cases on appeal from administrative decisions of local, state, and federal governments and agencies. The section contains opinions of the U.S. Supreme Court, U.S. Circuit Courts of Appeals, U.S. District Courts, the Texas Supreme Court, and Texas Courts of Civil Appeals. Selected opinions of particular importance dealing with other than administrative appeals may also be included here from time to time. State court opinions are cited in the *Texas Lawyers' Weekly Digest*. Opinions from federal courts are cited in *The United States Law Week*.

## 4th Court of Civil Appeals A Y v. State

The Trial Court's judgment did not contain a specific statement of the reasons for modifying a prior disposition.

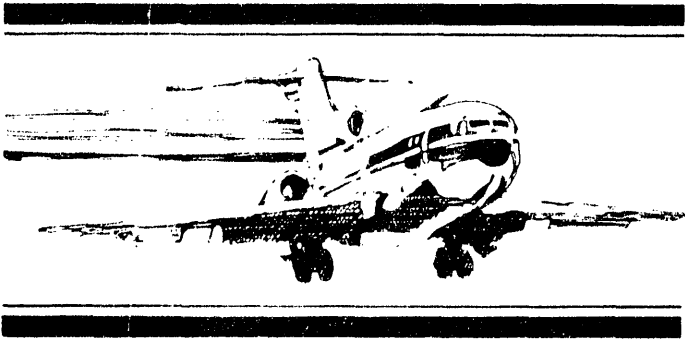
*Held:* The Court of Civil Appeals is unable to determine whether the record supports the action of the Trial Court. The Trial Court is directed, pursuant to Rule 434, to enter an order stating the reasons for its action, as required by Section 54.05(i), Family Code, and transmit to the Court of Civil Appeals, by a set date, a copy of the order, after which the Court of Civil Appeals will determine an appeal.

The Trial Court revoked a juvenile's probation and committed him to the care of the Texas Youth Council. The order recited that the Trial Court found that the evidence was sufficient to support a motion to modify the disposition insofar as it alleged violation of one provision of the judgment.

*Held:* Reversed with directions. A modifying order must contain a specific recital of an offense committed by a child. It is not enough that a modification order refers to the provision of a judgment which sets out the conditions of the probation. (15 TLWD 32, at 2)

Filed July 20 1977 San Antonio

Doc No 2C88



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

## Texas Adult Probation Commission

### Meeting

An organizational meeting of the Texas Adult Probation Commission will be held on Thursday, September 8, 1977, 10 a.m., in the Supreme Court courtroom, Supreme Court Building, Austin. The commission will elect a chairman.

Additional information may be obtained from C. Raymond Justice, Suite 600, 1414 Colorado, Austin, Texas 78701, telephone (512) 475-2421.

Filed August 24 1977 9:21 a.m.  
Doc No 774373

## State Banking Board Meeting

A meeting of the State Banking Board will be held on Wednesday, August 31, 1977, 2 p.m., at 2601 North Lamar, Austin. The board will consider charter applications from: First State Bank in Orange, Orange; Bank of Cedar Creek, Seven Points; First Texas Bank and Trust of Plano, Plano; and Texas American Bank-Plano, Plano. Interim charter applications will be considered concerning: Allied Hillcroft Bank, Houston; Allied Addicks Bank, Houston; and Allied Gulf Coast Bank, Winnie. The board will also consider a motion for rehearing on Mineola State Bank, Mineola, and conduct a review of charter applications approved, but not yet open.

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

Filed August 22, 1977, 3:25 p.m.  
Doc No. 774335

## Texas Cosmetology Commission

### Meeting

A meeting of the Texas Cosmetology Commission will be held on Sunday, September 18, 1977, 10 a.m., at the Holiday Inn Central, Dallas. The agenda includes the consideration of the following matters: Sandra Hunt; Malcolm Smith; Theresa Clark; Jessie Mae Hicks; reciprocity agreements; forms for academic hours; rule and regulation change; slip on hair pieces for state examination; instructor seminar; executive session; and report on former inspector. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Ron Resech, 1111 Rio Grande, Austin, Texas 78701, telephone (512) 475-3304.

Filed August 25 1977 9:52 a.m.  
Doc No 774396

## Credit Union Department Meeting

A meeting of the Credit Union Commission of the Credit Union Department will be held on Wednesday, September 7, 5 p.m., and Thursday, September 8, 1977, 9 a.m., at the Government Employees Credit Union of San Antonio, Vance Jackson Road at Interstate Highway 10 West, San Antonio. The commission will consider the following: review of regulations pertaining to reserve requirements, chartering of area central credit unions, and other pending proposing regulations on data processing and EFTS; and a status report on building program.

Additional information may be obtained from Harry L. Elliott, Suite 206-E, 1106 Clayton Lane, Austin, Texas 78723, telephone (512) 475-2295.

Filed August 25, 1977, 10:59 a.m.  
Doc No. 774400

## Texas Commission on Fire Protection Personnel Standards and Education

### Meeting

A meeting of the Fire Suppression Subcommittee of the Commission on Fire Protection Personnel Standards and Education will be held on Monday, September 19, 1977, 10 a.m., at the Fire Department Academy, 213 Canal Street, Corpus Christi, to receive input from interested groups and organizations for the purpose of formulating standards for the certification of marine firemen, in accordance with House Bill 322, 65th Legislature, as passed and signed by the governor.

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

Filed August 24 1977 11 13 a m

Doc No 774377

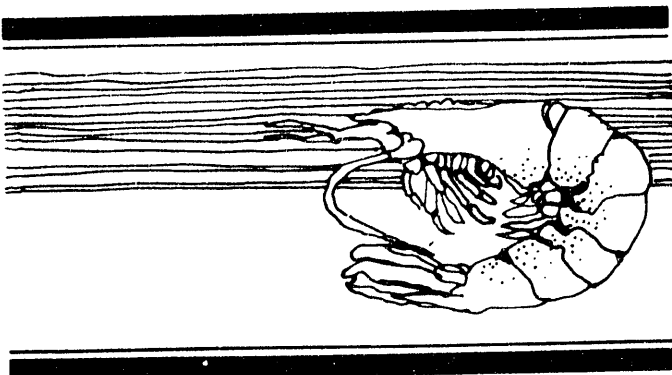
### Hearing

A hearing by the Fire Suppression Sub-Committee of the Texas Commission on Fire Protection Personnel Standards and Education will be held on Tuesday, September 20, 1977, 10 a.m., at the Youth Center, Fort Brown Civic Center, 600 International Boulevard, Brownsville, to receive input from interested groups and organizations for the purpose of formulating standards for the certification of marine firemen, in accordance with House Bill 322, 65th Legislature, as passed and signed by the governor.

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

Filed August 24 1977 11 13 a m

Doc No 774378



## Texas Health Facilities Commission

### Meeting

A meeting of the Texas Health Facilities Commission will be held on Thursday, September 8, 1977, 10 a.m., in Suite 305, Jefferson Building, 1600 West 38th, Austin, to consider the following applications:

Cable Home Health Agency, Houston-- certificate of need;

Texoma Medical Center, Denison-- certificate of need;

Methodist Hospital, Lubbock-- certificate of need;

Methodist Hospital of Dallas, Dallas-- certificate of need;

Rio Grande Home Health Agency, Harlingen-- certificate of need;

Brazos Artificial Kidney Center, Waco-- certificate of need;

Sweetbriar Nursing Home, Bellville-- certificate of need;

Bellville Geriatrics Center, Bellville-- certificate of need;

Texoma Christian Care Center, Wichita Falls-- certificate of need;

Wood Family Enterprises, Wichita Falls-- certificate of need;

Blalock Nursing Home-Spring Branch, Houston-- exemption certificate;

St. Luke's Episcopal Hospital, Houston-- exemption certificate;

Texas Department of Mental Health and Mental Retardation for Denton State School, Denton-- exemption certificate;

Happy Harbor Methodist Home, La Porte-- exemption certificate;

Fort Worth Medical Plaza, Inc., doing business as Medical Plaza Hospital, Fort Worth-- exemption certificate;

Texas Children's Hospital, Houston-- exemption certificate;

San Antonio State Hospital, San Antonio-- exemption certificate;

American Nursing Homes, Inc., Sugarland-- exemption certificate;

Medical Center Hospital, Tyler-- exemption certificate;

Autumn Hills-Galveston Convalescent Center, Galveston-- reissuance of certificate of need; and

C & W Home Health Services, Garland-- exemption certificate;

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

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

Filed: August 24, 1977, 11:51 a.m.

Doc. No. 774379

## Texas Department of Health Resources

### Meeting

A meeting of the Title XIX Denture Advisory and Review Committee of the Texas Department of Health Resources will be held on Sunday, September 11, 1977, 9:30 a.m., in Conference Room No. 107, Main Building, 1100 West 49th Street, Austin. The agenda includes consideration of: approval of minutes of last meeting; budget for Fiscal Year 1978; manual for Fiscal Year 1978; budget report; change in names for parent departments; and utilization reviews.

Additional information may be obtained from Dr. Oliver J. Knoll, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7635.

Filed: August 25 1977 11 13 a.m.

Doc No 774402

## Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

### Hearing

A hearing by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids will be held on Thursday, September 15, 1977, 1:30 p.m., at the Airport Marina Hotel, Dallas-Fort Worth Airport, to determine if James H. Ellis is guilty of having violated subsection 3, Section 10, Article 4566, Vernon's Civil Statutes, by having practiced fraud, deceit, and misrepresentation in the fitting and dispensing of hearing aids.

Additional information may be obtained from the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids, Room 105, 1212 Guadalupe, Austin, Texas 78701, telephone (512) 475-3429.

Filed: August 25, 1977, 9:52 a.m.

Doc. No 774397

## State Department of Highways and Public Transportation

### Meeting

A meeting of the State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will be held on Wednesday, August 31, 1977, 9 a.m., in Room 207, State Highway Building, 11th and Brazos, Austin. The agenda will include: execution of contract awards and routine minute orders; consideration of presentations from previous public hearing dockets as necessary; review of staff reports relative to planning and construction programs and projects; and consideration of remaining old business from previous meetings. The complete agenda is available in the second floor office of the minute clerk in the State Highway Building, Austin, and is posted in the East Wing of the State Capitol.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos, Austin, Texas 78701, (512) 475-3525.

Filed August 23 1977 2 08 p.m.

Doc No 774336

## Texas Department of Human Resources

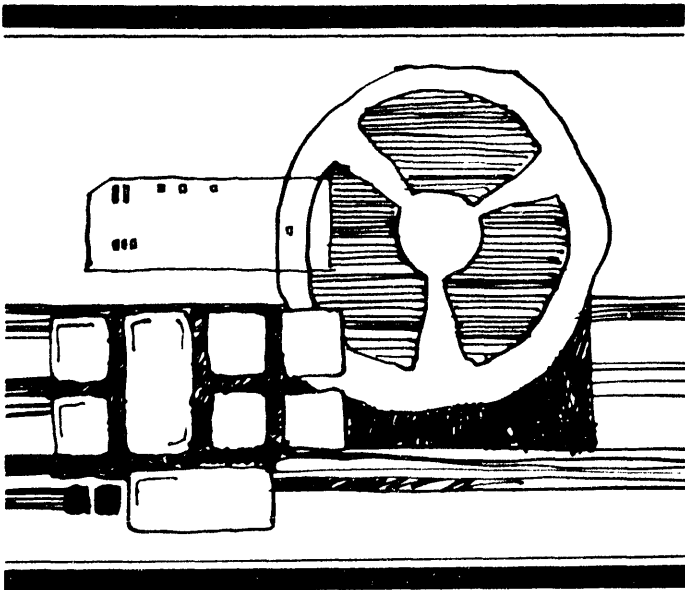
### Meeting

A meeting of the Texas Board of Human Resources of the Texas Department of Human Resources will be held on Wednesday, August 31, 1977, 6:45 p.m., at the Sheraton Crest Inn, 111 East First Street, Austin, to conduct an executive session on personnel matters.

Additional information may be obtained from Bill Woods, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6297.

Filed: August 22, 1977, 4:50 p.m.

Doc No 774389



## State Board of Insurance Emergency Meeting

An emergency meeting of the State Board of Insurance was held on Monday, August 29, 1977, 9 a.m., in Room 408, 1110 San Jacinto, Austin, to consider Montgomery-Ward's Charg-All Security Plan, and general liability filing.

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

Filed: August 22, 1977, 1:51 p.m.

Doc No 774238

## Emergency Hearing

An emergency hearing by the Commissioner's Hearing Section of the State Board of Insurance was held on Monday, August 29, 1977, 9:15 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider American Continental Insurance Company, Cincinnati, Ohio-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 22, 1977, 1:51 p.m.

Doc. No. 774239

## Emergency Hearing

An emergency hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, August 30, 1977, 11 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider LL Life Insurance Company, Austin-- application for a hearing to consider original articles of incorporation, pursuant to Article 3.02 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 25, 1977, 9:53 a.m.

Doc No 774398

## Emergency Hearing

An emergency hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, August 30, 1977, 11:15 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider MM Life Insurance Company, Austin-- application for a hearing to consider original articles of incorporation, pursuant to Article 3.02 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 25, 1977, 9:53 a.m.

Doc No 774399

## Meeting

A meeting of the State Board of Insurance will be held on Thursday, September 1, 1977, 10 a.m., in Room 408, 1110 San Jacinto, Austin, to consider revision of glass insurance rates.

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

Filed: August 22, 1977, 1:51 p.m.

Doc No 774240

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday,



September 6, 1977, 9 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Gamble Alden Life Insurance Company, Minneapolis, Minnesota-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:20 a.m.  
Doc. No 774348

### Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, September 6, 1977, 9:15 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider German American Mutual Assurance Association, Pflugerville-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:20 a.m.  
Doc No 774349

### Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, September 6, 1977, 9:30 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Guaranty Income Life Insurance Company, Baton Rouge, Louisiana-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:20 a.m.  
Doc. No. 774350

### Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, September 6, 1977, 9:45 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Horace Mann Mutual Insurance Company, Springfield, Illinois-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:21 a.m.  
Doc. No 774351

### Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, September 6, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Household Insurance Company, Chicago, Illinois-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:21 a.m.  
Doc No 774352

### Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 7, 1977, 9 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Knights of Peter Claver National Council, New Orleans, Louisiana-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:21 a.m.  
Doc No 774353

### Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 7, 1977, 9:15 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Life Insurance Company of New Hampshire, Wilmington, Delaware-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc No 774354

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 7, 1977, 9:30 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Lumbermens Underwriting Alliance, Boca Raton, Florida-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc No 774355

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 7, 1977, 9:45 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Lutheran Benevolent Insurance Exchange, Alma, Missouri-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc No 774356

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 7, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Mission Life Insurance Company, Houston-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc No 774357

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 8, 1977, 9 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Munich Reinsurance Company, New York, New York-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc No 774358

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 8, 1977, 9:15 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider North American Reassurance Company, New York, New York-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc No 774359

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 8, 1977, 9:30 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Old Republic Life Insurance Company, Chicago, Illinois-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10:21 a.m.

Doc. No. 774360

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 8, 1977, 9:45 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Presbyterian Minister's Fund, Philadelphia, Pennsylvania-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 23, 1977, 10:21 a.m.  
Doc. No. 774361

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 8, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Progress Life and Accident Insurance Company, Oklahoma City, Oklahoma-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 23, 1977, 10:22 a.m.  
Doc. No. 774362

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 8, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider F. W. Asmussen, Jr., Athens-- application for a hearing to consider approval of the acquisition of Security State Life Insurance Company, Athens, pursuant to Section 5, Article 21.49-1 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 23, 1977, 10:22 a.m.  
Doc. No. 774363

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 9, 1977, 9 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Puritan Life Insurance Company, Providence, Rhode Island-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 23, 1977, 10:22 a.m.  
Doc. No. 774364

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 9, 1977, 9:15 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Pyramid Life Insurance Company, Shawnee Mission-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 23, 1977, 10:22 a.m.  
Doc. No. 774365

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 9, 1977, 9:30 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Savings Life Insurance Company of Texas, Waskom-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: August 23, 1977, 10:22 a.m.  
Doc. No. 774366

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 9, 1977, 9:45 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Sun Life Insurance Company of America, Baltimore, Maryland-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10 22 a m

Doc No 774367

## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 9, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Texas Standard Life Insurance Company, Houston-- application for a hearing to consider failure to timely file 1976 annual statement.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23 1977 10 22 a m

Doc No 774368

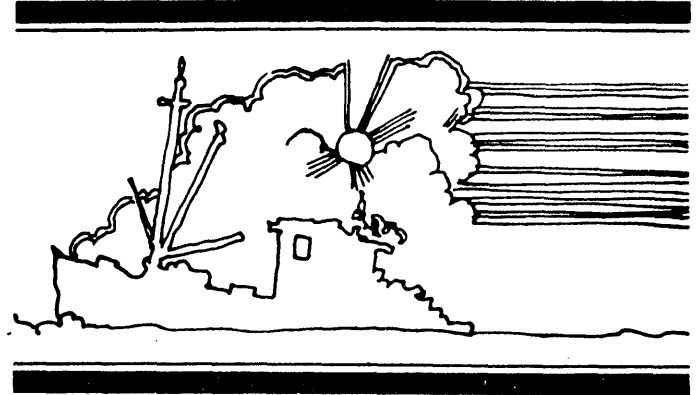
## Hearing

A hearing by the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 9, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Mid-South Service Corporation, Bossier City, Louisiana-- application for a hearing to consider approval of the acquisition of control of Vehicle Insurance Company, Houston, pursuant to Section 5, Article 21.49 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed August 23, 1977, 10:22 a.m.

Doc No 774369



## Board of Pardons and Paroles

### Meetings

Meetings of the Board of Pardons and Paroles will be held at 9 a.m. daily, Tuesday through Friday, September 6-9, 1977, in Room 711, Stephen F. Austin Building, Austin, to review cases of inmates for parole consideration; to act on emergency reprieve requests and other acts of executive clemency; and to review reports regarding persons on parole.

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

Filed August 24, 1977, 9:20 a.m.

Doc No 774371

### Meeting

A meeting of the Board of Pardons and Paroles will be held on Wednesday, September 7, 1977, 9 a.m., at the Diagnostic Unit, Texas Department of Corrections, Huntsville. A parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

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

Filed August 24, 1977, 9:21 a.m.

Doc No 774370

## Texas Parks and Wildlife Department

Additional information may be obtained from Fred S. Brinkley, Jr., Suite 1121, Southwest Tower, 211 East 7th Street, Austin, Texas 78701, telephone (512) 478-9827.

Filed August 25 1977 9 32 a m

Doc No 774395

### Emergency Addition to Agenda

An emergency addition has been made to the agenda of a meeting of the Parks and Wildlife Commission of the Parks and Wildlife Department to be held on Wednesday, August 31, 1977, 9 a.m., in Building B, 4200 Smith School Road, Austin, to include consideration of a proposed parking construction permit, Kerrville office site.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4804.

Filed August 24, 1977, 9 20 a m

Doc No. 774372

### Meeting

A meeting of the Fisheries Division, Environmental Branch of the Texas Parks and Wildlife Department will be held on Tuesday, September 13, 1977, 2 p.m., in Room A-200, 4200 Smith School Road, Austin, to consider the application of Billy Crisp, doing business as Spring Faith Enterprises, Inc., to remove approximately 1,000 cubic yards of sand and 100 cubic yards of gravel per month from the west fork of the San Jacinto River in Montgomery County.

Additional information may be obtained from C. D. Harris, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4888.

Filed: August 24, 1977, 11.12 a m

Doc. No. 774375

## Texas State Board of Pharmacy

### Meetings

The Texas State Board of Pharmacy will meet at 1:30 p.m. Monday, September 12, and at 8:30 a.m. Tuesday, September 13, 1977, in Suite 1009, Southwest Tower, 211 East 7th Street, Austin, to conduct violation hearings.

## Texas Board of Private Investigators and Private Security Agencies

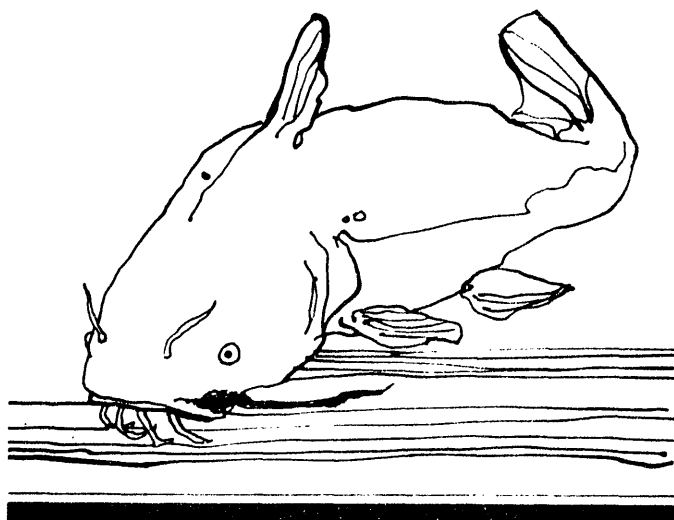
### Emergency Meeting

An emergency meeting of the Board of the Texas Board of Private Investigators and Private Security Agencies was held on Thursday, August 25, 1977, 2 p.m., in the first floor conference room, 7600 Chevy Chase Drive, Austin. The board discussed the adoption of proposed board rules, a request for waiver of board rule on three denial cases, and an executive session with the executive director for discussion on personnel matters.

Additional information may be obtained from Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711, telephone (512) 475-3944.

Filed August 22 1977 1 51 p m

Doc No 774237



## Public Utility Commission of Texas

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Wednesday, August 31, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to rule on motions for rehearing in Docket Nos. 72, 74, and 366, and issue final orders in Docket Nos. 96, 145, 279, 391, 398, 409, 517, 529, 555, 562, 565, 566, and 581. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed August 22, 1977, 4:13 p.m.  
Doc No 774274

### Emergency Addition to Agenda

An emergency addition has been made to the agenda of a meeting of the Public Utility Commission of Texas to be held on August 31, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to include consideration of an application of East Texas Management Corporation and East Texas Water Systems, Ltd., for the sale of assets and the transfer of their certificate of convenience and necessity (Docket No. 528).

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

Filed August 24, 1977, 4:32 p.m.  
Doc No 774393

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Thursday, September 1, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Elm Creek Water Supply Corporation for a rate increase (Docket No. 396).

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

Filed August 22, 1977, 4:13 p.m.  
Doc No 774275

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Friday, September 2, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the applications of Windy's Water Words, Inc., and the San Antonio City Water Board, to amend their certificates of convenience and necessity to provide water service in Bexar County (Docket Nos. 653, 654, and 655).

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

Filed August 22, 1977, 1:50 p.m.  
Doc No 774242

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Thursday, September 8, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of City of Parker, Collin County, for adjustment of service area boundary between General Telephone Company of the Southwest and Southwestern Bell Telephone Company (Docket No. 470). The companies are ordered to appear at the hearing to present all relevant facts, information, and legal arguments pertaining to this matter.

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

Filed August 22, 1977, 4:12 p.m.  
Doc No 774273

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Friday, September 9, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Central Power and Light Company for review of action by the City of Camp Wood, *et al.*, and application to change existing rates outside the boundaries of incorporated municipalities (Docket 426). The hearing will be held on Central Power and Light Company's application to change rates in unincorporated areas and on its petitions for review for actions taken by several cities (Dockets 535-551 and 593, such dockets being consolidated with Docket 426).

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

Filed August 18, 1977, 2:59 p.m.  
Doc No. 774182

## Meeting

A meeting of the Public Utility Commission of Texas will be held on Wednesday, September 14, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Mobile Phone of Texas, Inc., for a certificate of convenience and necessity to provide radio-telephone service in Brown, Eastland, Comanche, Mills, San Saba, McCullough, Coleman, and Callahan Counties (Docket No. 360).

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

Filed: August 22, 1977, 4:13 p.m.

Doc No 774276

## Meeting

A meeting of the Public Utility Commission of Texas will be held on Wednesday, September 14, 1977, 10 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Karnak Telephone Company, Avery Telephone Company and Hooks Telephone Company for rate increases (Docket Nos. 502, 503, and 504).

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

Filed: August 19, 1977, 4:52 p.m.

Doc. No. 774234

## Meeting

A meeting of the Public Utility Commission of Texas will be held on Thursday, September 22, 1977, 9:30 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the petition of Central Power and Light Company in the matter of Del Mar Conservation District (Docket No. 630).

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

Filed: August 22, 1977, 4:12 p.m.

Doc No 774277

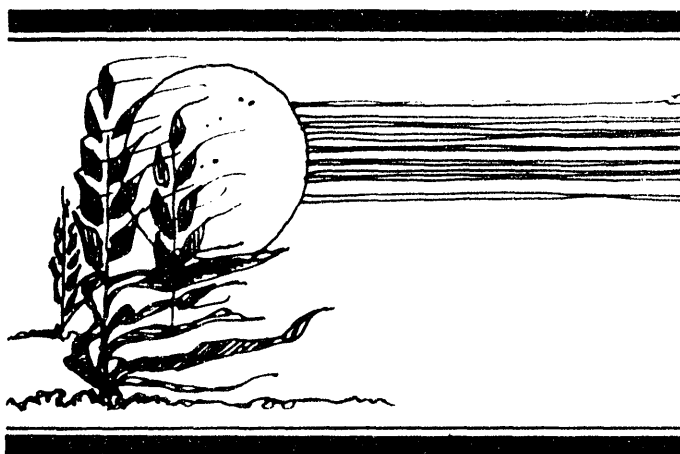
## Meeting

A meeting of the Public Utility Commission of Texas will be held on Monday, September 26, 1977, 10 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Five Area Telephone Cooperative, Inc., for an upgrade of service and a rate increase (Docket No. 534).

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

Filed: August 22, 1977, 1:50 p.m.

Doc. No. 774241



## Railroad Commission of Texas

### Meeting

A meeting of the Oil and Gas Division of the Railroad Commission of Texas will be held on Tuesday, September 6, 1977, 9 a.m., in the E. O. Thompson Building, 10th and Colorado, Austin, to consider applications for hearing and for administrative action. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed: August 19, 1977, 11:06 a.m.

Doc No. 774211

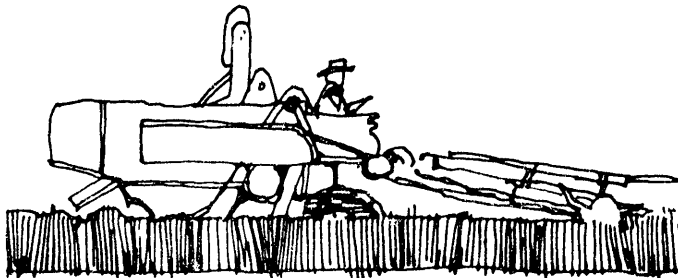
## State Securities Board Hearing

A hearing before the Securities Commissioner of the State Securities Board will be held on Wednesday, September 7, 1977, 10 a.m., in Room 709, Lyndon Baines Johnson Building, 111 East 17th Street, Austin, to determine whether the registration of the proposed exchange offer by Federated Development Company for shares of SMR Holding Corporation should become effective with the board.

Additional information may be obtained from J. J. Nichol, P.O. Box 13167, Austin, Texas 78711, telephone (512) 475-4561.

Filed August 19, 1977, 3:55 p.m.

Doc No 774226



## Texas State Soil and Water Conservation Board

### Emergency Meeting

An emergency meeting of the Texas State Soil and Water Conservation Board was held on Monday, August 29, 1977, 7:30 p.m., in Meeting Room A, Ramada Inn, 410 Texas Avenue, College Station, to consider district director appointments; 208 contract and activities; PL 566 Upstream Flood Prevention Program; annual state meeting program; division and reorganization of SWCD's; transfer of territory between SWCD's; review of Senate Bill 576; and other related activities.

Additional information may be obtained from Harvey Davis, 1009 First National Building, Temple, Texas 76501, telephone (817) 773-2250.

Filed August 22, 1977, 3:25 p.m.

Doc No 774322

## Texas A&M University System

### Emergency Meeting

An emergency meeting of the Executive Committee of the Board of Regents of the Texas A&M University System was held on Thursday, August 25, 1977, 3 p.m. in Conference Room E, Tarleton Center, Tarleton State University, Stephenville, to consider matters on the agenda of the meeting of the board of regents which were not to be considered by another committee.

Additional information may be obtained from Robert G. Cherry, Board of Regents Office, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: August 22, 1977, 3:28 p.m.

Doc. No. 774319

### Emergency Meeting

An emergency meeting of the Planning and Building Committee of the Board of Regents of the Texas A&M University System was held on Thursday, August 25, 1977, 4:30 p.m., in the Conference Room E, Tarleton Center, Tarleton State University, Stephenville, to review all the items on the agenda of the meeting of the board of regents which relate to planning and construction in the Texas A&M University System.

Additional information may be obtained from Robert G. Cherry, Board of Regents Office, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: August 22, 1977, 3:34 p.m.

Doc. No. 774334

### Emergency Meeting

An emergency meeting of the Board of Regents of the Texas A&M University System was held on Friday, August 26, 1977, 8:30 a.m., in Conference Room E, Tarleton Center, Tarleton State University, Stephenville.

The agenda included consideration of the following: the sale of surplus and obsolete property; the letting of contracts for the various parts of the system for construction, services, and materials; plans for new buildings, existing buildings and grounds, and the demolition of structures; personnel matters; approval of budgets for



each part of the system and the Texas Veterinary Medical Diagnostic Laboratory for the fiscal year beginning September 1, 1977, and the adoption of rules and regulations relating to the execution of funds; degree plans, academic programs, and other academic matters; the purchase or sale of real estate that is determined to be in the public interest and mineral leases and the forfeiture of mineral leases; matters relating to insurance; the acceptance of gifts, grants-in-aid, loans, scholarships, fellowships, and awards; authorization of patent agreements with employees of any part of the system; changes in policies affecting faculty, staff, and students as may be deemed in the public interest; reports from committees of the board of regents and from administrative officers of the system; approval of minutes of previous meetings of the board; and appropriation of funds.

Additional information may be obtained from Robert G. Cherry, Board of Regents Office, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: August 22, 1977, 3:41 p.m.

Doc No. 774320

## Texas State Technical Institute

### Emergency Meeting

An emergency meeting of the Board of Regents of the Texas State Technical Institute was held at 1:30 p.m. Sunday, August 28, and 9 a.m. Monday, August 29, 1977, at the Mid-Continent Campus, Amarillo. The agenda included the following items: approval of minutes of meeting of July 11, 1977; and reports from Mid-Continent Campus and committees on instruction, fiscal affairs, development, and human resources.

Additional information may be obtained from Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, telephone (817) 799-3611.

Filed: August 22, 1977, 3:40 p.m.

Doc. No. 774321

## Tourist Development Agency

### Meeting

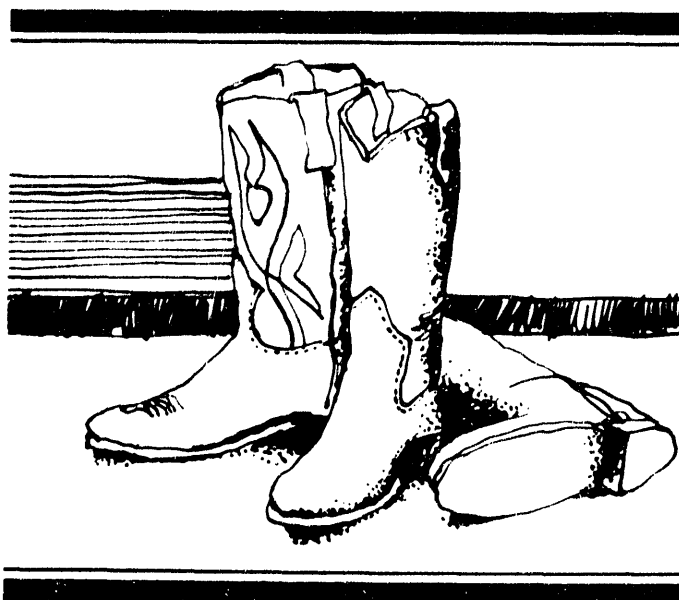
A meeting of the board of the Texas Tourist Development Agency will be held on Friday, September 16,

1977, 9:30 a.m., in Room 1033, Stephen F. Austin Building, Austin. The board will elect officers; adopt internal budget for fiscal year 1978; adopt media advertising plan for spring 1978, and consider other miscellaneous matters.

Additional information may be obtained from Margaret Younger, P.O. Box 12008, Austin, Texas 78711, telephone (512) 475-4326.

Filed: August 18, 1977, 3 p.m.

Doc. No. 774183



## Texas Water Commission

### Meeting

A meeting of the Texas Water Commission will be held on Thursday, September 1, 1977, 2 p.m., in the Stephen F. Austin Building, 1700 North Congress, Austin. The agenda will include: adoption of emergency procedural rules; appointment of chief clerk and chief hearings examiners; and approval of agency staffing level.

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

Filed: August 24, 1977, 4:15 p.m.

Doc. No. 774390

## Meeting

A meeting of the Texas Water Commission will be held on Tuesday, September 6, 1977, 10 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin.

The commission will consider the following: application by Tarrant County Municipal Utility District No. 1 for approval of \$1,235,000 waterworks and sewer systems combination tax and revenue bonds, 8 percent, second issue; application by Northwest Harris County Municipal Utility District No. 6 for approval of \$2,950,000 waterworks and sewer systems combination tax and revenue bonds, 8 percent, first issue; application by Quail Valley Utility District of Fort Bend County for approval of a change in plans, \$5,785,000 bond issue; application by Harris County Water Control and Improvement District No. 140 for use of surplus funds, \$1,000,000 bond issue, approved April 25, 1973; application by Montgomery County Utility District No. 3 for approval of escrow release, \$1,595,000 bond issue, approved February 22, 1977; dissolution of Seabourne Creek Public Utility District due to inactivity for the last five years and having no bonded indebtedness; dissolution of Angelina County Water Control and Improvement District No. 2 due to inactivity for the last five years and having no bonded indebtedness; and complaint of the Lower Colorado River Authority v. Camp Longhorn. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed August 24, 1977 4:16 p.m.

Doc No 774391

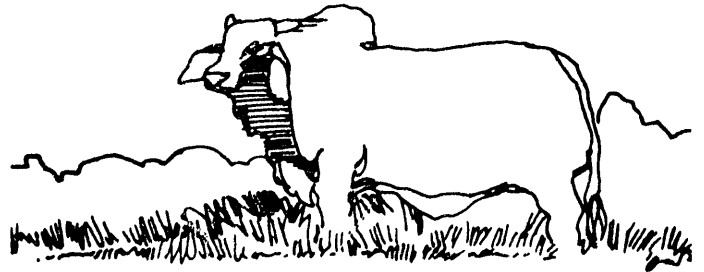
## Hearing

A hearing by the Texas Water Commission will be held on Wednesday, September 7, 1977, 9:30 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following applications for temporary permits: Kerr-McGee Corporation, Delaney Drilling Company, Trunkline Gas Company, L-W-B Construction Company, Inc., Allan Construction Company, Inc., House-Braswell Company, Dean Word Company, Char-Ro Farms, W. L. Hoffman Company, Inc., and E. E. Hood and Sons. The complete hearing notice is posted in the East Wing of the State Capitol.

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

Filed August 19, 1977, 3:55 p.m.

Doc No 774232



## Hearing

A hearing by the Texas Water Commission will be held on Thursday, September 8, 1977, 10 a.m., in the Stephen F. Austin State Office Building, 1700 North Congress, Austin, on Cause No. 255,519, McMullen County, Texas, *et al.* v. Texas Water Rights Commission, *et al.* - Choke Canyon Project (A-3631). The complete hearing notice is posted in the East Wing of the State Capitol.

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

Filed August 19, 1977, 4:25 p.m.

Doc No 774233

## Hearing

A hearing by the Hearings Division of the Texas Water Commission will be held on Tuesday, September 13, 1977, 10 a.m., in the meeting room of the Lower Neches Valley Authorities, 7850 Eastex Freeway, Beaumont. The commission will consider the following applications for amendments to permits: E. I. duPont de Nemours and Company, Beaumont, Permit No. 00473; Gulf Refining Company (Lucas Station and Tank Farm), Beaumont, Permit No. 01953; and Goodyear Tire and Rubber Company, Beaumont, Permit No. 00519. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from Larry Soward, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7856.

Filed: August 19, 1977, 3:32 p.m.

Doc No. 774228

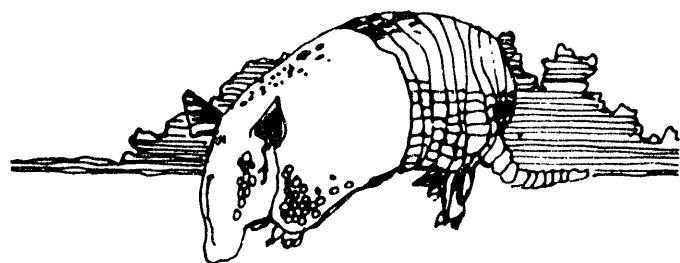
## Hearing

A hearing by the Hearings Division of the Texas Water Commission will be held on Wednesday, September 14, 1977, 10 a.m., in the City of Houston Health Department Auditorium, 1115 North MacGregor, Houston. The commission will consider the following applications for a permit: Phillips Petroleum Company (Automotive Maintenance Center), Pasadena; and Dresser Industries, Inc. (Damon Mine), Houston. The commission will also consider the following applications for amendments to permits: Reichhold Chemicals, Inc., Houston, Permit No. 01006; and Gulf Oil Chemicals Company, Baytown, Permit No. 01006.

Additional information may be obtained from Larry Soward, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7856.

Filed August 19, 1977 3:32 p.m.

Doc No. 774229



## Hearing

A hearing by the Hearings Division of the Texas Water Commission will be held on Friday, September 16, 1977, 10 a.m., in the conference room of the Houston-Galveston Area Council, 3701 West Alabama, Houston. The commission will consider the following applications for permits: Mr. and Mrs. A. Rachel (Bridge Cove Marina), Montgomery; AGR Development Company (Park View Subdivision), Orange; Harris County Municipal Utility District No. 58, Houston; M.C.V., Inc. (Mayde Creek Village Plant No. 1), Houston; and Harris County Municipal Utility District No. 49 (Timberhills Interim Plant), Houston. The commission will also consider the application for an amendment to Permit No. 10206, City of La Porte (Fairmont Park Plant), La Porte. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from Lee Mathews, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7861.

Filed August 19, 1977 3:33 p.m.

Doc No. 774230

## Hearing

A hearing by the Hearings Division of the Texas Water Commission will be held on Friday, September 23, 1977, in the Council Chamber, City Hall, 302 South Shoreline, Corpus Christi. The commission will consider the following applications for amendments to permits: ASARCO Inc., Corpus Christi, Permit No. 00314; City of Corpus Christi (Flour Bluff Laguna Madre), Corpus Christi, Permit No. 10401; and Duval County Conservation and Reclamation District (San Diego Sewage Treatment Plant), San Diego, Permit No. 10270. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from David Hume, P.O. Box 13246, Austin, Texas 78711, telephone (512) 485-7845.

Filed August 19, 1977 3:33 p.m.

Doc No. 774231

## Meeting

A meeting of the Texas Water Commission will be held on Friday, September 30, 1977, 10 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the City of Dallas, Park and Recreation Department, Application Nos. 3801 and 3802. The complete agenda is posted in the East Wing of State Capitol.

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

Filed August 22, 1977, 3:56 p.m.

Doc No. 774323

## Hearing

A hearing by the Texas Water Commission will be held on Tuesday, October 18, 1977, in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider: Melvin J. Bujnoch, Application No. 3803; N. B. Hunt, Application No. 3804; and Lester F. Schockner, Application No. 3805. The complete hearing notices are posted in the East Wing of the State Capitol.

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

Filed August 22, 1977, 3:55 p.m.

Doc. No. 774324

## Meeting

A meeting of the Texas Water Commission will be held on Wednesday, October 19, 1977, 10 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider cancellations of permits: City of Bartlett, Permit No. 2421; Angelina County Water Control and Improvement District No. 2, Permit No. 2431; Raintree Limited, Permit No. 3008; and City of Sherman, Permit No. 2857. The complete agenda is posted in the East Wing of State Capitol.

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

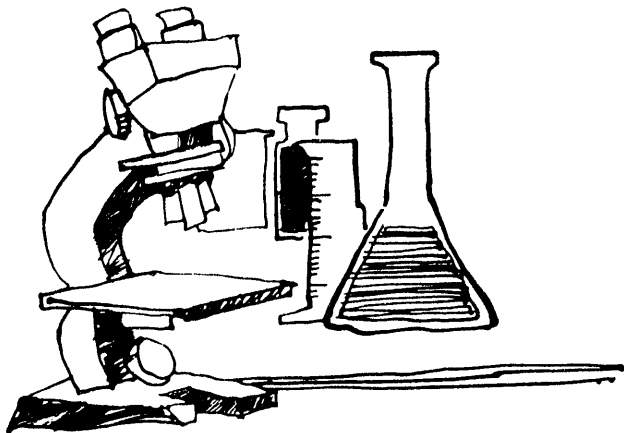
Filed August 24 1977 4:16 p.m.  
Doc No 774392

## Hearing

A hearing by the Texas Water Commission will be held on Tuesday, October 25, 1977, in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider Edwards Underground Water District, Application No. 3806, and the City of Denison for extension of time on Permit No. 2837. The complete hearing notices are posted in the East Wing of the State Capitol.

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

Filed August 22 1977 3:56 p.m.  
Doc No 774325



## Texas Water Development Board

### Meeting

A meeting of the Texas Water Development Board will be held on Wednesday, August 31, 1977, 7 p.m., in the Driskill Room, Driskill Hotel, Austin, to hold an executive session to discuss personnel matters relating to the Department of Water Resources.

Additional information may be obtained from James M. Rose, P.O. Box 13087, Austin, Texas 78711, telephone (713) 475-3187.

Filed August 23 1977 4:31 p.m.  
Doc No 774343

## Texas Water Quality Board Emergency Meeting

An emergency meeting of the Texas Water Quality Board will be held on Wednesday, August 31, 1977, 9 a.m., in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to consider permit applications and other board business. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Sandra Johnson, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-2651.

Filed August 24 1977 11:03 a.m.  
Doc No 774374

## Hearing

A hearing by the Enforcement Division of the Texas Water Quality Board will be held on Thursday, September 22, 1977, 10 a.m., in the City Council Chambers, on the second floor, Lake Jackson City Hall, 5 Oak Drive, Lake Jackson, to explore the status of Community Utility's compliance with the terms and the conditions of Permit No. 10674-01. The entire hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from Lee H. Mathews, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7861.

Filed August 24, 1977, 4:02 p.m.  
Doc No. 774386

## Texas Department of Water Resources

### Meeting

A meeting of the Texas Department of Water Resources will be held on Thursday, September 1, 1977, 9 a.m., in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin.

The agenda will include: the executive director's report on the status of the agency's programs and on the merger; adoption of emergency rules to be effective September 1, 1977, and initiation of rule-making procedures for adoption of permanent rules; ratification of previous selection of an acting executive director and recommendations for acting deputy director and acting development fund manager; adoption of resolution authorizing approval and execution of certain contracts for department, adoption of resolution to authorize members Glen E. Roney and Milton T. Potts, together with acting executive director or acting development fund manager, to sell any securities owned in the interest and sinking fund or in the development fund, and other transactions; ratification of previous approval of the department's tentative Fiscal Year 1978 operating budget; consideration of an expression of intention to cooperate with the U.S. Geological Survey for Fiscal Year 1978; consideration of approval of payable contracts; and consideration of certain personnel matters relating to the new Department of Water Resources. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from James M. Rose, P.O. Box 13087, Austin, Texas 78711, (512) 475-3187.

Filed: August 24, 1977, 3:56 p.m.

Doc No 774385

## Regional Agencies

### Meetings Filed August 22, 1977

*The Ark-Tex Council of Governments*, Human Resources Division, met at Guaranty Bond Bank, Mount Pleasant, on August 24, 1977, at 8 p.m. Further information may be obtained from William K. Perkison, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

*The Ark-Tex Council of Governments*, Executive Committee, will meet at Rivercrest Power and Light, Talco, on September 1, 1977, at 2 p.m. Further information may be obtained from Genevieve Burtchell, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

*The Ark-Tex Council of Governments*, Area Agency on Aging, will meet in the Community Room, First National Bank, Mount Pleasant, on September 8, 1977, at 1:30 p.m. Further information may be obtained from Beverly Cherney, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

*The Central Plains MH/MR Center*, Board of Trustees, met at 2601 Dimmitt Road, Plainview, on August 27, 1977, at 2 p.m. Further information may be obtained from Bill Dillard, 2700 Yonkers, Plainview, Texas 79072, telephone (806) 296-2726.

*The CETA Consortium*, Region XI, met at 216 North 5th Street, Waco, on August 25, 1977, at 10 a.m. Further information may be obtained from Tony Byars, 216 North 5th Street, Waco, Texas 76701, telephone (817) 756-7171, Ext. 255.

*The Coastal Bend Council of Governments* met in the Community Room, Corpus Christi Bank and Trust, Corpus Christi, on August 26, 1977, at 2 p.m. Further information may be obtained from John P. Buckner, P.O. Box 6609, Corpus Christi, Texas 78411, telephone (512) 854-3081.

*The Coastal Bend Council of Governments*, Executive Board, met in the Terrace Room of the Petroleum Club, Corpus Christi, on August 26, 1977, at noon. Further information may be obtained from John P. Buckner, P.O. Box 6609, Corpus Christi, Texas 78411, telephone (512) 854-3081.

*The Education Service Center Region XIII*, Board of Directors, met in Conference Room 101, 7703 North Lamar, Austin, on August 29, 1977, at 6 p.m. Further information may be obtained from Joe Parks, 7703 North Lamar, Austin, Texas 78752, telephone (512) 458-9131.

*The Education Service Center Region 14*, Board of Directors, met at 3001 North Third, Abilene, on August 25, 1977, at 3 p.m. Further information may be obtained from Dr. Thomas Lawrence, P.O. Box 3258, Abilene, Texas 79604, telephone (915) 677-2911.

**The Education Service Center Region 20**, Board of Directors, met at the Region 20 Instructional Media Center, 1314 Hines Avenue, San Antonio, on August 24, 1977, at 3 p.m. Further information may be obtained from Dwain M. Estes, 1550 North East Loop 410, San Antonio, Texas 78209, telephone (512) 828-3551.

**The Coastal Bend Subarea Health Advisory Council**, Plan Development Committee, met at Greenwood Branch Library, 4044 Greenwood, Corpus Christi, on August 23, 1977, at 7:30 p.m. Further information may be obtained from Harry Rosenzweig, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

**The Deep East Texas Council of Governments**, Board of Directors, met in the District Court Room, Trinity County Courthouse, Groveton, on August 25, 1977, at 3 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

**The Golden Crescent Council of Governments**, Board of Directors, will meet in the LaSalle Room, Victoria Bank and Trust Building, 120 South Main, Victoria, on August 31, 1977, at 5 p.m. Further information may be obtained from Robert W. Burr, P.O. Box 2028, Victoria, Texas 77901, telephone (512) 578-1587, Ext. 30.

**The Heart of Texas Council of Governments**, Executive Committee, met at 110 South 12th Street, Waco, on August 25, 1977, at noon. Further information may be obtained from H. W. Davis, 110 South 12th Street, Waco, Texas 76701, telephone (817) 756-6631.

**The Heart of Texas Region MH/MR Center**, Board of Trustees, met in the Basement Conference Room, 1401 North 18th Street, Waco, on August 25, 1977, at 4 p.m. Further information may be obtained from Dean Maberry, 1401 North 18th Street, Waco, Texas 76703, telephone (817) 752-3451.

**The Lower Rio Grande Valley Subarea Health Advisory Council**, Nominating Committee, met at the Rodeway Inn, Mercedes, on August 23, 1977, at 7 p.m. Further information may be obtained from E. M. Maese, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

**The Lower Rio Grande Valley Subarea Health Advisory Council**, Specialized Services, Cost and Finance Committee, met at the Mercedes Housing Authority, 430 North Vermont, Mercedes, on August 25, 1977, at 7 p.m. Further information may be obtained from E. M. Maese, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

**The Panhandle Regional Planning Commission**, Board of Directors, met in the Chamber of Commerce Conference Room, Amarillo Building, 301 Polk, Amarillo, on August 25, 1977, at 1:30 p.m. Further information may be obtained from George Loudder, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

**The San Jacinto River Authority**, Board of Directors, met in the conference room, Lake Conroe Damsite Building, Highway 105 West, Conroe, on August 25, 1977, 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 Upper Leon River Municipal Water District**, Board of Directors, met at Proctor Lake, Comanche, on August 25, 1977, at 7:30 p.m. Further information may be obtained from Lowell G. Pittman, P.O. Box 67, Comanche, Texas 76442, telephone (817) 879-2258.

Doc No 774337

## Department of Banking Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes requires any person who intends to buy control of a state bank to file an application with the Banking Commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 12, 1977, the Banking Commissioner received an application to acquire control of First State Bank, Weimar, by James C. Heger, Weimar; John F. Heger, Weimar; and John H. Heger, Houston.

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

Doc No 774264

## Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the Banking Commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 15, 1977, the Banking Commissioner received an application to acquire control of Citizens State Bank, Bastrop, by Carroll N. Sullivan, Copperas Cove; Steve Rivers, Austin; J. B. McDuff, Burnet; Paul Goode, Killeen; Ted Connell, Killeen; Allen McMurrey, Bastrop.

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

Doc No 774265

## Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the Banking Commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 18, 1977, the Banking Commissioner received an application to acquire control of Main Bank, Houston, by Fredrick Erek, Alice; John B. Connally, Houston; Khaled Bin Mahfouz, Jeddah, Saudi Arabia; and Ghaith R. Pharaon, Jeddah, Saudi Arabia.

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

Doc No 774266

## Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the Banking Commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 19, 1977, the Banking Commissioner received an application to acquire control of Texas Bank of Beaumont, Beaumont, by Gerald C. Clark, Beaumont, and James D. Austin, Beaumont.

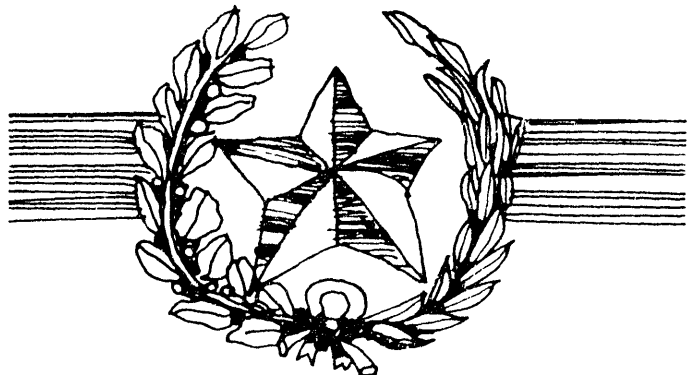
Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Issued in Austin, Texas, on August 19, 1977.

Doc No 774267      Robert E. Stewart  
Banking Commissioner

Filed: August 22, 1977 4 p m

For further information please call (512) 475-4451



## Firemen's Pension Commissioner

### Volunteer Fire Fighters' Benefits

#### Workshops and Summary of Legislation

During the last regular session of the Texas Legislature, Senate Bill 411 was passed to provide retirement, disability, and death benefits on a financially sound basis for volunteer fire fighters throughout Texas. There are specific provisions covering fire fighters in an existing retirement plan, *i.e.*, "buy back" of prior service, and merger of existing plans; however, these provisions are not applicable to fire fighters serving a governing body not covered by a present plan.

The act covers all fire fighters who serve without monetary remuneration for fire fighting units that have no fewer than 10 active members and a minimum of two drills each month, each drill two hours long, and each active member present at 60 percent of the drills and 25 percent of the fires.

Area workshops to discuss the provisions of the bill will be held throughout Texas. The time and place of these area workshops are listed below. Except where indicated, the workshops will be held at the central fire station at 7:30 p.m.

Tuesday, September 6: Kermit and Weatherford

Wednesday, September 7: Levelland and Dublin

Thursday, September 8: Spur and Brady

Tuesday, September 13: 900 W. Commerce, County Fire Marshal's Office, Fort Worth

Thursday, September 15: County Courthouse, County Fire Marshal's Office, Dallas

Tuesday, September 27: Sonora and Edinburg

Monday, October 3: City Hall, Council Chamber, Cisco

Tuesday, October 4: Canyon and Seymour

Wednesday, October 5: Perryton and Electra

Thursday, October 6: Memphis and Sulphur Springs

#### Compliance Dates

All governing bodies throughout Texas who are served by volunteer fire fighters in units as described above will be covered by the act, unless they exempt themselves from the act. Any governing body that becomes covered by the act may withdraw without penalty within five years after the effective date of coverage. A governing body that elects out must do so prior to November 1, 1977. Any governing body that elects out is permitted to elect in at any time in the future.

#### Costs to Governing Bodies

The individual fire fighter is not required to pay any portion of the cost. All governing bodies with eligible fire fighters who do not elect out of the program will be required to make contributions to the Fire Fighters' Relief and Retirement Fund created by this act in the amount of \$12 per month for each active member plus any additional discretionary contributions made by the governing body to provide additional benefits.

The state shall contribute a sum necessary to make the fund actuarially sound each year. The state's contribution may not exceed an amount equal to one-third of the total of all contributions.

#### Retirement Benefits

Upon the attainment of age 55, a member who is vested may retire and receive a monthly pension equal to his vested percentage multiplied by three times the governing body's average monthly contribution over his years of service under the act. For each year of service after 15 years, the foregoing benefit is increased at the rate of seven percent compounded annually. A member becomes vested upon completing service after September 1, 1977. A member's vested percentage is computed on a scale based on the member's years of service. For example, a member with four or less years of service has no vested percentage; with five years of service, the vested percentage is 25 percent; with 15 years of service, the vested percentage is 100 percent.

Upon death of a retired member, the surviving unmarried spouse shall receive two-thirds of the monthly pension the member was receiving at the time of his death.

#### Disability Benefits

A member is automatically vested 100 percent at date of disability. The amount of disability benefit is \$250 per month if the disability results from the performance of duties. If the disability is not caused by the performance of duties, the amount of disability benefit is three times the amount of monthly contribution on behalf of the member at the date of his disability.

A member must elect between retirement or disability benefits if eligible for both.

Upon death of a disabled member, the surviving unmarried spouse shall receive two-thirds of the monthly pension the member was receiving at the time of his death.



## Death Benefits Prior to Retirement

A member is automatically vested 100 percent at date of death. The death benefit is comprised of a lump-sum payment, a monthly benefit to a surviving spouse (and dependents), and an additional monthly benefit solely to dependents.

The amount of death benefit differs based on the cause of death as follows:

### Death resulting from performance of duties:

(a) To surviving spouse or other beneficiary, a lump-sum amount equal to the greater of (1) the sum contributed to the fund on behalf of the member; or (2) the sum that would have been contributed to the fund for 15 years of qualified service on behalf of the member; plus \$5,000.

(b) To unmarried surviving spouse and dependents in equal shares, an amount equal to two-thirds of the disability benefit computed as though disability occurred on the date of death.

(c) To dependents in equal shares (if surviving with spouse), an amount equal to one-third of the disability benefit computed as though disability occurred on the date of death.

### Death not resulting from performance of duties:

(a) To spouse or other beneficiary, a lump-sum amount equal to the greater of the sum contributed to the fund on behalf of the member; or the sum that would have been contributed to the fund for 15 years of qualified service on behalf of the member.

(b) To unmarried surviving spouse and dependents in equal shares, an amount equal to two-thirds of the disability benefit computed as though disability occurred on the date of death.

(c) To dependents in equal shares (if surviving with spouse), an amount equal to one-third of the disability benefit computed as though disability occurred on the date of death.

Issued in Austin, Texas, on August 16, 1977.

Doc No 774326 Hal H. Hood  
Commissioner  
Office of the Firemen's Pension  
Commissioner

Filed August 23, 1977 8 57 a m

For further information, please call (512) 475-5879

## Public Utility Commission of Texas

### Fiscal Notes to Proposed Rules

052.01.00.094

The commission estimates that there will be no cost to the state or to any unit of local government of the state in administering or enforcing such rule. This statement is submitted pursuant to Section 5(a)(4), Article 6252-13a, Vernon's Annotated Civil Statutes.

052.02.05.057

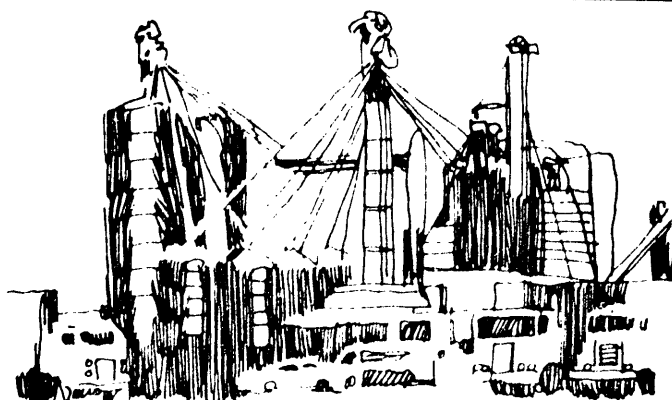
The commission estimates that the cost of implementing and enforcing such rule will be approximately \$321,154 for Fiscal Year 1978, and \$254,930 for Fiscal Years 1979, 1980, 1981, and 1982. The commission anticipates that no cost will be incurred by any unit of local government of the state as a result of the enforcement or administration of this rule. This statement is submitted pursuant to Section 5(a)(4), Article 6252-13a, Vernon's Annotated Civil Statutes.

Issued in Austin, Texas, on August 25, 1977.

Roy J. Henderson  
Commission Secretary  
Public Utility Commission  
of Texas

Filed August 25 1977 4 41 p m

For further information please call (512) 458-6111



## Texas Rehabilitation Commission

### Fiscal Note to Proposed Rules

328.14 through 328.18

The Appropriations Act of the 65th Legislature (HB 510), Section II, page 43, states:

"8. Out of the General Revenue Fund for the Displaced Homemaker Program as provided by House Bill No. 444, Acts of the 65th Legislature: For the year ending August 31, 1978-- \$200,000; for the year ending August 31, 1979-- unexpended balance."

The total probable cost of administering the rules relating to the Displaced Homemaker Program is \$100,000 per year for the first two years of the program, which

expires on August 31, 1981. Since this is a pilot program, the commission at the present time has no basis upon which to base an estimate of the costs for the second two years.

Issued in Austin, Texas, on August 24, 1977.

Doc No 774268-  
774272

Vernon H. Newman  
Office of General Counsel  
Texas Rehabilitation  
Commission

Filed: August 25, 1977 11 35 a m

For further information please call (512) 452-8192