

# TEXAS REGISTER

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Office of the Secretary of State

USPS Publication Number 120090

A new accounting system for nursing homes and other long-term care facilities has been adopted by the Texas Department of Human Resources. Included in the revised rules are cost-reporting requirements and lists of allowable and unallowable costs. Unallowable costs are defined as expenses not related to costs of care for patients or residents. Costs such as advertising expenses, political contributions, country club dues, and expenses for vehicles not used to transport patients are listed as unallowable costs. Providers failing to file cost reports will have funds withheld by the department until requirements are met.

According to reimbursement methods set by the rules, new rates for nursing home care range from \$26.86 per patient per day for the highest degree of skilled care to \$20.64 for the lowest form of care. Approximately 62,000 patients are in nursing homes which receive funds from the state agency.

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

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*Steven C. Oaks  
Secretary of State*

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## Appointments

### State Board of Insurance

*To be member and chairman and to be effective January 2, 1979, for a six-year term to expire January 31, 1981:*

Lyndon Olson, Jr.  
823 Washington  
Waco, Texas 76701

Mr. Olson is replacing Joe Christie of Austin, Travis County, who resigned.

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

Doc. No. 788110      Dolph Briscoe  
Governor of Texas

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

## Requests for Opinions

### Summary of Request for Opinion RQ-2008

Request from William A. Meitzen, criminal district attorney, Fort Bend County, Richmond.

**Summary of Request:** Once the county juvenile board has set the annual budget for the juvenile probation department under Article 5142d, is it mandatory that the commissioners court approve the budget absent any showing of unreasonableness or abuse of discretion?

Doc. No. 788145

## Opinions

### Summary of Opinion H-1273

Request from George M. Cowden, chairman, Public Utility Commission of Texas, Austin, concerning whether the Public Utility Commission has regulatory authority over utility pole rental agreements between cable television companies and public utilities.

**Summary of Opinion:** The Public Utility Commission should not certify to the Federal Communications Commission that it "has the authority to consider and does consider the interests of the subscribers of cable television services" in regulating the rates, terms, and conditions of pole rental agreements.

Doc. No. 788147

### Summary of Opinion H-1274

Request from Joe Wyatt, Jr., chairman, House Committee on Ways and Means, Austin, concerning the administration of Article VIII, Section 1-d, of the Texas Constitution.

**Summary of Opinion:** A local tax assessor is not prohibited from imposing a requirement that applicants for the agricultural use designation, under Article 8, Section 1-d, of the Texas Constitution furnish him with copies of relevant portions of their federal income tax returns, but tax returns so furnished are excepted from disclosure under the Open Records Act, Article 6252-17a, Vernon's Texas Civil Statutes.

Doc. No. 788148

### Summary of Opinion H-1275

Request from Ben F. McDonald, Jr., executive director, Texas Department of Community Affairs, Austin, concerning the authority of the Texas Department of Community Affairs to expend appropriated state funds on public works programs.

**Summary of Opinion:** The Department of Community Affairs is not prohibited from expending state matching funds for the construction of a sewer lift system, owned and operated by the City of Raymondville, and serving a farm labor camp.

Doc. No. 788149

### Summary of Opinion H-1276

Request from Ben F. McDonald, Jr., executive director, Texas Department of Community Affairs, Austin, concerning the determination of authority of the Texas Department of Community Affairs to administer the Section 8 Housing Assistance Payments Program established by the Federal Housing and Community Development Act of 1974.

**Summary of Opinion:** The Texas Department of Community Affairs has the authority to administer the Housing Assistance Payments Program established by the Federal Housing and Community Development Act of 1974.

Doc. No. 788201

### Summary of Opinion H-1277

Request from Philip G. Hoffman, president, University of Houston, Houston, concerning the authority of the university to promulgate a regulation defining the term "full-time basis" in Section 51.352(4), Education Code.

**Summary of Opinion:** The governing board of an institution of higher education may not promulgate a rule defining employment on a "full-time basis" in Section 51.352(4) of the Education Code to mean "employment for one-half or more of the standard workload. . . ."

Doc. No. 788202

## Open Records Decisions

### Summary of Open Records Decision ORD-212

Request from Dolph Briscoe, governor of the State of Texas, Austin, concerning whether letters of the governor recommending individuals for appointment are public under the Open Records Act.

**Summary of Decision:** Information concerning the fact of a recommendation for an appointment being made is not per se excepted from required public disclosure under Sections 3(a)(1), 3(a)(2), or 3(a)(9). In particular instances, where a factual showing of significant potential infringement of First Amendment rights of association and belief can be made, such recommendations might be excepted by a constitutional right of privacy. Information in particular letters would not be excepted under a common law right of privacy unless they contain highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person and the information is not of legitimate concern to the public. If it is believed that a particular letter falls within an exception, the information should be submitted to the attorney general in accordance with Section 7 of the act, for an in-camera inspection and determination of whether and to what extent the information may be withheld.

Doc. No. 788146

## Summary of Open Records Decision ORD-213

Request from W. O. Shultz, associate general counsel, University of Texas System, Austin, concerning whether an internal audit of a division of a state university is required to be released under the Open Records Act.

*Summary of Decision:* Portions of an internal audit reflecting recommendations are excepted from required public disclosure under Section 3(a)(8) of the Open Records Act. Those portions consisting of evaluation are public.

Issued in Austin, Texas, on December 12, 1978.

Doc. No. 788200      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

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



# PROPOSED RULES

4398

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

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

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

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

## Office of the Secretary of State Elections

### Suffrage 004.30.05.201-.202

(Editor's note: The texts of the following rules proposed for repeal are not being published. The rules may be examined in the office of the Texas Register Division, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal Rules 004.30.05.201-.202 because they are now obsolete.

The Elections Division of the Secretary of State's Office has determined that these proposed repeals have no fiscal implications for the state or for units of local government.

Public comment on the proposed repeals is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

These repeals are proposed under the authority of Article 1.03, Vernon's Texas Election Code.

- .201. *Certificate of Permanent Disability.*
- .202. *Mailing Application for Absentee Ballot.*

Doc. No. 788127

### 004.30.05.420

The secretary of state proposes to adopt Rule 004.30.05.420, which adopts by reference the Handbook for Volunteer Deputy Registrars. Rule .403, published November 3, 1978, in the *Texas Register* (3 TexReg 3848) permitted the county registrar of voters to provide to deputy registrars a handbook published by the secretary of state.

The Elections Division of the Secretary of State's Office has determined that this proposed rule has no fiscal implications for the state or for units of local government.

Public comment on the proposed rule is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

The rule is proposed pursuant to the authority of Article 1.03, Vernon's Texas Election Code.

.420. *Handbook for Volunteer Deputy Registrars.* The secretary of state adopts by reference the Handbook for Volunteer Deputy Registrars. This handbook is published by and available from the secretary of state, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Doc. No. 788128

## Arrangement and Expense of Election 004.30.07

(Editor's note: The texts of the following rules proposed for repeal are not being published. The rules may be examined in the office of the Texas Register Division, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal Rules 005.30.07.101-.102 because they are now obsolete.

The Elections Division of the Secretary of State's Office has determined that these proposed repeals have no fiscal implications for the state or for units of local government.

Public comment on the proposed repeals is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

These repeals are proposed under the authority of Article 1.03, Vernon's Texas Election Code.

- .101. *Report on Inspection of Shoup Voting Machines.*
- .102. *Plurality to Win.*

Doc. No. 788129

## Conducting Elections; Returns of Election 004.30.08

(Editor's note: The texts of the following rules proposed for repeal are not being published. The rules may be examined in the office of the Texas Register Division, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal Rules 004.30.08.103; .105-.109; and .111 because they are now obsolete.

The Elections Division of the Secretary of State's Office has determined that these proposed repeals have no fiscal implications for the state or for units of local government.

Public comment on the proposed repeals is invited. Comments may be submitted by telephoning the Elections Divi-



sion of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

These repeals are proposed under the authority of Article 1.03, Vernon's Texas Election Code.

- .103. *Voting by Disabled Voter.*
- .105. *Proper Course for the Conduct of the Canvass by the Montgomery County Commissioners' Court.*
- .106. *Time for Delivery of Returns in a Municipal Election.*
- .107. *Placing of Signs within 100 Feet of a Polling Place.*
- .108. *Destruction of Election Records.*
- .109. *Use of Handwritten Notes in a Voting Booth.*
- .111. *Delegation of Duties of Canvass.*

Doc. No. 788130

### Nominations 004.30.13.102, .105-.106, .108-.109

(Editor's note: The texts of the following rules proposed for repeal are not being published. The rules may be examined in the office of the Texas Register Division, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal Rules 004.30.13.102; .105-.106; and .108-.109 because they are obsolete.

The Elections Division of the Secretary of State's Office has determined that these proposed repeals have no fiscal implications for the state or for units of local government.

Public comment on the proposed repeals is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

These repeals are proposed under the authority of Article 1.03, Vernon's Texas Election Code.

- .102. *Order Establishing Rules for Primary Election Fees.*
- .105. *Exemption from Paying Sales Tax on Approved Items Purchased with Monies from the Primary Fund.*
- .106. *Petition in Lieu of Filing Fee.*
- .108. *Primary Election Expense Voucher.*
- .109. *Financing of Party Runoff Primary Elections (Senate Bill 11, 63rd Legislature).*

Doc. No. 788131

### 004.30.13.113-.115, .118-.119

(Editor's note: The texts of the followings rules proposed for repeal are not being published. The rules may be examined in the office of the Texas Register Division, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal Rules 004.30.13.113-.115 and .118-.119 because they relate to a law which has been repealed.

The Elections Division of the Secretary of State's Office has determined that these proposed repeals have no fiscal implications for the state or for units of local government.

Public comment on the proposed repeals is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

These repeals are proposed under the authority of Article 1.03, Vernon's Texas Election Code.

- .113. *Presidential Candidate Appointment of Delegate Selection Committee.*
- .114. *Delegate Nominee Consent.*
- .115. *Presidential Candidate Application Form.*
- .118. *Uncommitted Group Application.*
- .119. *Appointment of Delegate Selection Committee of an Uncommitted Group.*

Doc. No. 788184

### 004.30.13.122

The secretary of state is proposing to repeal Rule 004.30.13.122 because the election for which the forms were effective has passed.

The Elections Division of the Secretary of State's Office has determined that this proposed repeal has no fiscal implications for the state or for units of local government.

Public comment on the proposed repeal is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

This repeal is proposed under the authority of Article 1.03, Vernon's Texas Election Code.

- .122. *Adoption by Reference of Existing Forms for Reporting Estimated Expenses of May 1, 1976, Primary Election.*

Issued in Austin, Texas, on December 8 and 12, 1978.

Doc. No. 788185      Steven C. Oaks  
Secretary of State

Proposed Date of Adoption: January 19, 1979  
For further information, please call (512) 475-3091.



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## Texas Animal Health Commission

### Fever Ticks

#### Quarantine Line Defining and Establishing Tick Eradication Areas 177.11.05

Pursuant to provisions of Article 7014g-1, Vernon's Texas Civil Statutes, the Texas Animal Health Commission has amended Rule 177.11.05.014 to read as follows:

**.014. Quarantine Line.**

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

(d) Quarantine areas are as follows:

(1) Val Verde County. Beginning at a point on the south bank of the Devils River where the Amistad Dam Compound east fence intersects the water line and following this east fence of the compound in a southerly direction to the southeast corner of the Amistad Dam Compound, approximately 1-3/4 miles;

Thence, following the meanderings of this compound fence in a southwesterly direction to where it intersects the east right-of-way fence of the old railroad, approximately 3-1/4 miles;

Thence, following the old railroad right-of-way fence in a southeasterly direction to its intersection with the right-of-way fence of the present Southern Pacific Railroad, approximately 3-1/8 miles;

Thence, following Southern Pacific Railroad in a southeasterly direction to a point directly north across a gravel road from the northeast corner of the Slover Field, approximately 5-3/4 miles;

Thence, south across this gravel road to the northeast corner of the Slover Field and following the meanderings of the east fence of the Slover Field in a southwesterly direction to where it intersects the northeast corner of the Woodson Field 1, approximately one-eighth mile;

Thence, following the meanderings of Woodson Field 1 east fence in a southwesterly direction to the southwest corner of the same, approximately one-fourth mile;

Thence, following the north fence of the Payne Pasture in a westerly direction to the southwest corner of the same, approximately 100 yards;

Thence, following the west fence of the Payne Pasture in a southeasterly direction across Cienegas Creek to its junction with Kite Road, approximately 100 yards;

Thence, following Kite Road in a southerly direction to where it intersects Garza Lane, approximately three-tenths mile;

Thence, following Garza Lane in a westerly direction to a corner, approximately one-eighth mile;

Thence, following Garza Lane in a southeasterly direction to where it intersects U.S. Highway 277 Spur, approximately 1-1/8 mile;

Thence, following U.S. Highway 277 Spur in a southeasterly direction to its intersection with Hudson Drive, approximately one-half mile;

Thence, following Hudson Drive in a southeasterly direction to where it joins Rio Grande Drive, formerly called Silo Field Road, approximately six-tenths mile;

Thence, following the west fence of Rio Grande Drive in a southeasterly direction to where it joins the east fence of the Rudy Mota Vega, approximately four-tenths mile;

Thence, following the east fence of the Rudy Mota Vega in a southeasterly direction to where it joins the San Felipe Creek, approximately three-tenths mile;

Thence, following the San Felipe Creek in a southwesterly direction to where it joins the new W. L. Moody double fence, approximately two-tenths mile;

Thence, following the new W. L. Moody double fence in a southwesterly direction to a corner, approximately 1-1/10 mile;

Thence, following the meanderings of the same double fence paralleling the Rio Grande River in a southeasterly direction to where it intersects the Val Verde-Kinney County line at Sycamore Creek, approximately 9-1/2 miles.

(2) Kinney County. (No change.)

(3) Maverick County. Beginning at a point where the Maverick County Water District main canal intersects the Kinney-Maverick County line and following this main canal in a southeasterly direction to where it intersects the west right-of-way fence of U.S. Highway 277, approximately 5-5/8 miles;

Thence, following the west right-of-way fence of U.S. Highway 277 in a southerly direction to where it intersects Maverick County Water District Lateral No. 2, approximately one-half mile;

Thence, following the Maverick County Water District Lateral No. 2 in a southerly direction to where it intersects the north fence of the Calley Property, approximately 5-1/4 miles;

Thence, east along the north fence of the Calley property to a corner, approximately 200 yards;

Thence, following the east fence of the Calley property in a southerly direction to the northeast corner of the Hal Bowles Ranch, approximately three-eighths mile;

Thence, following the east fence of the Hal Bowles Ranch in a southeasterly direction to where it intersects the north fence of the Lehman Brothers Ranch, approximately three-fourths mile;

Thence, following the Lehman north fence in a southeasterly direction to a drainage canal, approximately one-eighth mile;

Thence, following the drainage canal in a southerly direction to the north fence of the Las Vegas Ranch, approximately seven-eighths mile;

Thence, following the meanderings of the Las Vegas Ranch fence in a southeasterly direction to the northeast corner of the same, approximately one mile;

Thence, following the meanderings of the east fence of the Las Vegas Ranch in a southerly direction to where it intersects the Alex Ritchie north fence, approximately 3-1/2 miles;

Thence, along the north fence of the Alex Ritchie Farm in an easterly direction to where it intersects the Maverick County Water District main canal, approximately three-eighths mile;

Thence, following the meanderings of the Maverick County Water District main canal in a southerly direction to where it intersects the C.P.&L. Power Plant Road, approximately 3-1/2 miles;

Thence, following the C.P.&L. Power Plant Road in an easterly direction to where it intersects the west fence of the Beer Joint Trap, approximately 1-3/8 miles;

Thence, following the west fence of the Beer Joint Trap in a southerly direction to the southwest corner of the same, approximately five-eighths mile;

Thence, following the meanderings of the south fence of the Beer Joint Trap in an easterly direction to where it intersects the west right-of-way fence of U.S. Highway 277, approximately three-fourths mile;

Thence, following U.S. Highway 277 in a southerly direction into the City of Eagle Pass, Texas, and following the meanderings of U.S. Highway 277 in a southerly direction to its intersection with Church Street, approximately 8-1/2 miles;

Thence, following Church Street in a westerly direction to its intersection with Commercial Street, approximately one-half mile;

Thence, following Commercial Street in a southerly direction to its intersection with Garrison Street, approximately seven-tenths mile;

Thence, following Garrison Street in an easterly direction to its intersection with Adams Street, approximately two-tenths mile;

Thence, following the meanderings of Adams Street in a southerly direction to where it becomes Industrial Road, approximately one mile;

Thence, following the meanderings of Industrial Park Road to where it intersects Brown Street, approximately 1-1/2 miles;

Thence, following Brown Street in an easterly direction to the intersection of Farm Road 1021, approximately one-half mile;

Thence, following Farm Road 1021 in a southeasterly direction to the intersection of Farm Road 1021 and Farm Road 2366;

Thence, following Farm Road 2366 in a southwesterly direction to an intersection of Farm Road 2366 and a paved county road, approximately 1-1/2 miles;

Thence, continuing along a paved county road in a southwesterly direction to a cattle guard at the eastmost corner of the Loma Linda Ranch double fence, approximately 1-1/4 miles;

Thence, following the same double fence in a westerly direction to a corner, approximately five-eighths mile;

Thence, following the same double fence in a northerly direction to a corner, approximately three-fourths mile;

Thence, following the same double fence in a westerly direction to the northwest corner of the Loma Linda Ranch, approximately seven-eighths mile;

Thence, following the meanderings of the same double fence in a southerly direction to the north fence of the W. D. Ranch, approximately 1-1/2 miles;

Thence, following the same double fence along the north property line of the W. D. Ranch, in a westerly direction to the northwest corner of the same, approximately three-eighths mile;

Thence, following the same double fence along the meanderings of the Rio Grande River in a southeasterly direction to the northwest corner of the El Indio Land Company Ranch, approximately one mile;

Thence, following the meanderings of the same double fence parallel to the Rio Grande River in a southeasterly direction to where it intersects the west fence of the Kiesling Rio Lado Farm, approximately four miles;

Thence, following the same double fence in a southeasterly direction to where it joins the west fence of the Stone Ranch Upper Pasture, approximately 1-1/4 miles;

Thence, following the meanderings of the Stone Ranch Upper Pasture west double fence in a northerly direction to a corner, approximately one-half mile;

Thence, following the same double fence along the north property line of the Stone Ranch Upper Pasture in a north-easterly direction to where it intersects the Maverick County quarantine fence at the El Indio Vat, approximately three-fourths mile;

Thence, following the meanderings of the Maverick County quarantine line in a southerly direction to the northwest corner of the Kiesling Lake Pasture, approximately 10-3/4 miles;

Thence, along the Kiesling Lake Pasture double fence in a southeasterly direction to where it intersects the north fence of the Dick Swartz Mansfield Pasture, approximately 1-3/4 miles;

Thence, following the meanderings of a double fence in a southeasterly direction paralleling the Rio Grande River to

the south fence of the Swartz Ranch Mansfield Pasture, approximately five miles;

Thence, following the meanderings of the south fence of the Swartz Ranch Mansfield Pasture in a northeasterly direction to the Eagle Pass-Laredo River Road which will be called the Mines Road from this point south, approximately four miles;

Thence, following the Mines Road in a southeasterly direction to the Maverick-Webb County line, approximately 14 miles;

(4) Webb County. Beginning at a point where the Maverick-Webb County line intersects the Mines Road and following this road in a southeasterly direction to where it intersects the north double fence of the Las Minas Ranch, approximately 43-1/2 miles;

Thence, following the north double fence of the Las Minas Ranch in a westerly direction to the northwest corner of the same, approximately 1-1/4 miles;

Thence, following the west double fence of the Las Minas Ranch in a southerly direction to the southwest corner of the same, approximately 3-3/4 miles;

Thence, following the south double fence of the Las Minas Ranch in an easterly direction to where it intersects the Mines Road, approximately 2-1/8 miles;

Thence, following the Mines road in a southeasterly direction to its intersection with Del Mar Boulevard in north Laredo Townside, approximately 16-3/10 miles;

Thence, crossing under IH 35 at the underpass on Del Mar Boulevard in an easterly direction to the east access road, approximately 100 yards;

Thence, following the east access road in a southerly direction to its junction with Mann Road, approximately six-tenths mile;

Thence, following the Mann Road in an easterly direction to the northwest corner of the John Jacaman Pasture, approximately one-half mile;

Thence, following the John Jacaman Pasture west fence in a southerly direction to the north fence of the Rash Trap, approximately one-fourth mile;

Thence, following the north fence of the Rash Trap in a northeasterly direction to the northeast corner of the same, approximately six-tenths mile;

Thence, following the east fence of the Rash Trap in a southerly direction to the southwest corner of the Trautman Farm, approximately one-fourth mile;

Thence, following the meanderings of the south property line of the Trautman Farm in a northeasterly direction to where it intersects the south fence of the Alexander property, approximately eight-tenths mile;

Thence, following the south fence of the Alexander Property in an easterly direction crossing McPherson Road to where it intersects the north fence of the J. Jacaman Pasture, approximately one-fourth mile;

Thence, following the north fence of the J. Jacaman Pasture in a westerly direction to a corner, approximately one-fourth mile;

Thence, following the west fence of the J. Jacaman Pasture in a southerly direction to where it intersects the north fence of the Rash Trap, approximately three-eighths mile;

Thence, following the north fence of the Rash Trap in an easterly direction to where it joins the north fence of the Laredo Air Force Base, approximately one-fourth mile;

Thence, following the meanderings of the Laredo Air Force Base north fence in an easterly direction to the northeast corner of the Laredo Air Force Base, approximately 2-1/4 miles;

Thence, following the meanderings of the Laredo Air Force Base east fence in a southerly and westerly direction to the southeast corner of the Laredo Air Force Base at its intersection with U.S. Highway 59, approximately 2-1/4 miles;

Thence, crossing U.S. Highway 59 in a southerly direction to the northwest corner of the Paul Young Pasture;

Thence, following the meanderings of the west fence of the Paul Young Pasture in a southerly direction to the southwest corner of same pasture, approximately one mile;

Thence, following the south fence of the P. Young Ranch in an easterly direction to the west fence of the Ortiz Pasture, approximately four-tenths mile;

Thence, following the meanderings of the west fence of the Ortiz Pasture in a southwesterly direction to the southwest corner of the same, approximately four-tenths mile;

Thence, following the south fence of the Ortiz Pasture in an easterly direction to a corner (not shown on Fever Tick Buffer Zone Map) which is the northwest corner of the Mejia Perez Pasture, approximately two-tenths mile;

Thence, following the west fence of the Mejia Perez Pasture in a southerly direction to the southwest corner of the same at the Tex-Mex Railroad, approximately three-sixteenths mile;

Thence, following the Tex-Mex Railroad in an easterly direction to the northwest corner of the Chavana Ranch, approximately one-half mile;

Thence, following the meanderings of the west fence of the Chavana Property in a southerly direction to where it intersects the Chavana Road, approximately one-half mile;

Thence, following the Chavana Road in a westerly direction to a corner, approximately three-sixteenths mile;

Thence, following the Chavana Road in a southerly direction to where it intersects State Highway 359, approximately three-eighths mile;

Thence, south across State Highway 359 and Loop 20 at the intersection and to the north fence of the Bruni-Summers-Dickenson Property, approximately 100 yards;

Thence, following the north fence of the Bruni-Summers-Dickenson Property in a southwesterly direction to a corner, approximately one-fourth mile;

Thence, south along the west fence of the Bruni-Summers-Dickenson Property to where it intersects the north fence of the S. Vasquez Ranch, approximately three-fourths mile;

Thence, following the north fence of the Salvador Vasquez Ranch in an easterly direction to a corner, approximately four-tenths mile;

Thence, following the east fence of the Salvador Vasquez Ranch in a southerly direction to the north fence of the Dr. Wright Ranch, approximately 1-1/4 miles;

Thence, following the north fence of the Dr. Wright Ranch in a westerly direction to a corner, approximately 1-1/2 miles;

Thence, following the same fence in a southerly direction across the Wormser Road to a corner, approximately one-sixteenth mile;

Thence, west along the same fence to a corner, approximately three-sixteenths mile;

Thence, following same fence in a southerly direction to a corner, approximately three-eighths mile;

Thence, following same fence in a westerly direction to a corner, approximately five-eighths mile;

Thence, south along same fence to a corner, approximately three-sixteenths mile;

Thence, continuing along same fence in a westerly direction to where it intersects U.S. Highway 83, approximately one-eighth mile;

Thence, following U.S. Highway 83 in a southerly direction to where it intersects the north double fence of the A. W. Gates Santa Rita Farm, approximately 1-3/4 miles;

Thence, following the meanderings of the north double fence of the A. W. Gates Santa Rita Farm in a westerly direction to the northwest corner of the same, approximately 1-1/4 miles;

Thence, following the west double fence of the A. W. Gates Santa Rita Farm in a southerly direction to the southwest corner of the same, approximately seven-sixteenths mile;

Thence, following the south double fence of the A. W. Gates Santa Rita Farm in an easterly direction to where it intersects U.S. Highway 83, approximately one mile;

Thence, following U.S. Highway 83 in a southerly direction to where it intersects the south double fence of the Santa Rosa Farm, approximately six miles;

Thence, following the south double fence of the Santa Rosa Farm in a westerly direction to where it intersects a double fence paralleling the Rio Grande River, approximately 2-3/10 miles;

Thence, following the meanderings of this double fence in a southerly direction to where it joins the northwest corner of the H. B. Zachary Ranch double fence, approximately five miles;

Thence, following the meanderings of the H. B. Zachary west double fence in a southeasterly direction to a corner, approximately 4-1/2 miles;

Thence, following same fence in an easterly direction to a corner, approximately three-eighths mile;

Thence, following the same fence in a southerly direction to a corner, approximately three-eighths mile;

Thence, following the H. B. Zachary Ranch south double fence in an easterly direction to where it intersects U.S. Highway 83 at the Webb-Zapata County line, approximately four miles.

(5) Zapata County. Beginning at a point where U.S. Highway 83 intersects the Webb-Zapata County line and

following U.S. Highway 83 in a southerly direction to where it intersects the Martinez Windmill Trap north fence, approximately three-tenths mile;

Thence, east along the north fence of the Martinez Windmill Trap to the northeast corner of same, approximately three-tenths mile;

Thence, following the east fence of the Martinez Windmill Trap in a southerly direction to the southeast corner of same, approximately one-tenth mile;

Thence, along the south fence of the Martinez Windmill Trap in a westerly direction to where it intersects U.S. Highway 83, approximately three-tenths mile;

Thence, following U.S. Highway 83 in a southerly direction to where it intersects the Juan Vidaurri heirs pasture north fence, approximately 2-1/2 miles;

Thence, following the Juan Vidaurri heirs pasture north fence in an easterly direction to the northeast corner of same, approximately 1-1/2 miles;

Thence, following the meanderings of the Juan Vidaurri heirs pasture east fence in a southerly direction to where it intersects the north fence of the Dye Farm, approximately 2-1/2 miles;

Thence, following the north fence of the Dye Farm in a westerly direction to where it intersects U.S. Highway 83, approximately seven-eighths mile;

Thence, following U.S. Highway 83 in a southerly direction to where it intersects the Zapata city limits fence, approximately 25 miles;

Thence, along the Zapata city limits fence in a westerly direction to a corner, approximately one-sixteenth mile;

Thence, following the meanderings of the Zapata city limits fence in a southeasterly direction to the southeast corner of the Eddie Bravo Trap, approximately 2-1/2 miles;

Thence, following the south fence of the Eddie Bravo Trap in a westerly direction to its intersection with the water line of Falcon Lake, approximately three-tenths of a mile;

Thence, following the meanderings of the water line of Falcon Lake in a southeasterly direction to its intersection with U.S. Highway 83, approximately 1-2/10 miles;

Thence, following U.S. Highway 83 in a southerly direction to where it intersects the Zapata-Starr County line, approximately 23-1/8 miles.

(6) Starr County. (No change.)

(7) Hidalgo County. Beginning at a point where U.S. Highway 83 intersects the Starr-Hidalgo County line and following the south side of U.S. Highway 83 right-of-way in an easterly direction to the east fence of the Sam Fordyce Ranch, approximately four miles;

Thence, following the east fence of the Sam Fordyce Ranch in a southerly direction to the Old Military Road, approximately one-half mile;

Thence, crossing the Old Military Road and following the west double fence of the Crow Gravel Pit Pasture in a southerly direction to the southwest corner of this pasture, approximately three-tenths mile;

Thence, following the south double fence of the Crow Gravel Pit Pasture in an easterly direction to the southeast corner of the same, approximately four-tenths mile;

Thence, following the east double fence of the Crow Gravel Pit Pasture in a northerly direction to where it intersects the Old Military Road, approximately four-tenths mile;

Thence, following the Old Military Road in an easterly direction to where it intersects the IBWC Levee, approximately 4-2/10 miles;

Thence, following the IBWC Levee in a southeasterly direction to where it intersects the Old Military Road, approximately 8-1/2 miles;

Thence, following the Old Military Road in an easterly direction to where it joins FM Road No. 1016 at Madero, approximately 1-3/4 miles;

Thence, following FM Road No. 1016 in a southeasterly direction to where it joins the Old Military Road, approximately one mile;

Thence, following the Old Military Road in a southeasterly direction to the North Granjeno Road, approximately 1-3/4 miles;

Thence, following the North Granjeno Road in an easterly direction to where it intersects Shary Road, approximately five-eighths mile;

Thence, south on Shary Road to where it intersects the IBWC Levee, approximately 50 yards;

Thence, following the meanderings of the IBWC Levee in an easterly direction to where it intersects FM Road 1926, approximately three miles;

Thence, following FM 1926 in a southerly direction to where it intersects U.S. Highway 281 Spur, approximately 27 miles;

Thence, following U.S. Highway 281 Spur in an easterly direction to where it becomes U.S. Highway 281, approximately 4-2/10 miles;

Thence, following U.S. Highway 281 in an easterly direction to where it intersects the Hidalgo-Cameron County line, approximately 22 miles.

(8) Cameron County. (No change.)

Doc. No. 788196

## Venezuelan Equine Encephalomyelitis 177.13.00

The Texas Animal Health Commission has adopted the repeal of Rule 177.13.00.007, Evidence of Vaccination of Equines for Venezuelan Equine Encephalomyelitis (VEE). The proposed repeal was published in the November 10, 1978, issue of the *Texas Register* (3 TexReg 3950). The repeal of Rule .007 was proposed because there is no incidence of Venezuelan Equine Encephalomyelitis (VEE) infection in Texas and it does not create a threat to the equine industry.

Pursuant to the authority of Vernon's Texas Civil Statutes, Article 7014f-1, the Texas Animal Health Commission has

repealed Rule .007, Evidence of Vaccination of Equines for Venezuelan Equine Encephalomyelitis (VEE).

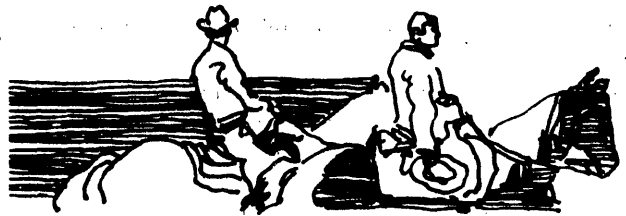
Issued in Austin, Texas, on December 12, 1978.

Doc. No. 788197

H. Q. Sibley, DVM  
Executive Director  
Texas Animal Health Commission

Effective Date: January 2, 1979

For further information, please call (512) 475-4111.



## Texas Department of Human Resources

### Nursing Facility Administration

#### Support Documents 326.33.99.200

The Department of Human Resources adopts the amendments to Rule 326.33.99.200 regarding the cost reimbursement methodology for Intermediate Care Facilities and Skilled Nursing Facilities, as proposed in the November 3, 1978, issue of the *Texas Register* (3 TexReg 3796). This rule includes major changes outlined in the *Federal Register* and Department of Human Resources policy.

Each ICF and SNF in Texas will be reimbursed on the basis of statewide uniform rates by level of care. Before setting rates for the next year's patient-day reimbursement, the historical cost base will be inflated by appropriate national and state economic indices. Each facility's fixed costs will be adjusted if the occupancy rate falls below 85 percent for the reporting year. Projected level of care costs are determined through a cost allocation method which allocates costs to each level of care. Level of care projected costs per patient day will be combined into four cost areas. Cost reimbursement rates are determined by selecting the 60th percentile costs for each cost area for each level of care from the arrays of projected provider costs. Cost area reimbursement rates are summed to determine the level of care reimbursement rate. This reimbursement methodology applies equally to proprietary and nonproprietary institutions.

Numerous comments were received by the department on the proposed rate-setting methodology. These comments were taken into consideration and the methodology was revised to incorporate appropriate changes. Areas revised include:

(1) Rates by HSA: Rates by HSA were considered too complex and discriminatory among closely related homes and do not guarantee/control quality care. Therefore, the department changed the rates to a statewide rate.

(2) Rates by cost area: Rates by cost area were commented on by providers as being "inflationary"; insufficient return allowed. Therefore, the rates were changed to rate-setting based upon allowed costs in each cost area.

(3) Four cost areas: Objection was raised to the consultant expense allocation. Therefore, the allocation was changed to allocate consultant expense to each appropriate cost area.

(4) Sixtieth percentile cost reimbursement for each cost area: Department staff analysis indicated reimbursement level of 60 percent to be more equitable.

Also, the rule title has been expanded to more accurately reflect the facilities affected.

The following amendments are adopted under the authority of Articles 695c and 695j, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.200. Reimbursement Methodology for Rates for Skilled Nursing Facilities and Intermediate Care Facilities.* The Texas Department of Human Resources will reimburse long-term care facilities on a cost-related basis for care rendered to recipients in ICF II, ICF III, and Skilled levels of care. Rates will be determined for the ICF II, ICF III, and Skilled levels of care on a statewide basis. These cost-related rates will be set using financial and statistical information from cost reports which must be completed by each participating provider at least annually.

(1) Geographic class. Vendor reimbursement rates will be determined on a statewide basis.

(2) Level-of-care classes. There will be three level-of-care classes—ICF II, ICF III, and SNF.

(3) Analysis techniques. Cost-finding analyses will be performed upon reported costs for ICF II, ICF III, and SNF levels of care. Rate-setting for ICF II, ICF III, and SNF levels of care will be based upon their allowed costs in each cost area.

(4) Rate determination by cost areas. Level-of-care allowed costs per patient-day will be combined into the four cost areas as shown below:

(A) patient care cost: daily services expense; laundry, linen, and housekeeping expense; activity services expense; training expense; consultant expense;

(B) dietary care cost: food and food service expense; dietary consultant expense;

(C) facility cost: building, equipment, and capital expense; operation and maintenance expense;

(D) administrative cost: Utilization Review Committee expense; administrative expense.

(5) Calculation of cost area reimbursement rates. Cost area reimbursement rates are determined by selecting the 60th percentile costs for each cost area for each level of care from the arrays of projected provider costs.

(6) Calculation of level-of-care reimbursement rates. The patient-day reimbursement rate for each level of care will be calculated by summing the four cost area reimbursement rates.

(7) Appeals procedure. The Department of Human Resources will resolve appeals in accordance with its established administrative procedures.

Doc. No. 788159

### 326.33.99.201-.206

The Department of Human Resources adopts Rules 326.33.99.201-.206, regarding cost-related reimbursement for Intermediate Care Facilities and Skilled Nursing Facilities, as proposed in the November 3, 1978, issue of the *Texas Register* (3 TexReg 3797). These rules include major changes outlined in the *Federal Register* and Department of Human Resources policy. The major areas covered in the proposed rules included:

(1) Accounting requirements: Financial and statistical information must be maintained by each participating provider based on the accrual method of accounting, except governmental institutions operated on the cash method of accounting.

(2) Chart of accounts: Each participating provider must maintain financial and statistical records in accordance with the attached detailed policy.

(3) Allowable and unallowable costs: A list of costs that will be allowed or unallowed on the cost report submitted to the department.

(4) Cost reporting requirements: Each facility will report costs and operating data in accordance with its own fiscal year on the cost report.

(5) Audit and record keeping: Records must be maintained for not less than three years following the date of submission of the costs reports to the department or until audited and all (if any) audit exceptions are resolved.

Numerous comments were received by the department on the proposed rules concerning cost-related reimbursement for Intermediate Care Facilities and Skilled Nursing Facilities. These comments were taken into consideration and the administrative proposals were revised to incorporate appropriate changes. These changes include:

(1) Accounting requirements: No changes were made.

(2) Chart of accounts: Comments indicated that the chart of accounts was too detailed, complicated, and costly to implement. Therefore, substantial revisions were made to accommodate a more reasonable chart.

(3) Allowable and unallowable costs: Comments indicated that the list was much too restrictive and did not consider transportation costs, association dues, or travel to education programs. Changes were incorporated that allowed for a more flexible list.

(4) Cost reporting requirements: Sample comments received indicated that the requirements were too costly and would not produce better data. Therefore, CPA certification was eliminated.

(5) Audit and record keeping: Comments indicated that an individual facility fiscal year reporting system be established. This comment has been incorporated.

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

*.201. Accounting Requirements.* Financial and statistical information must be maintained by each participating pro-

vider based upon the accrual method of accounting except governmental institutions operated on the cash method of accounting. The treatment given any financial or statistical item must reflect the application of generally accepted accounting principles approved by the Institute of Certified Public Accountants. Depreciation and amortization amounts reported must be computed using only the pure straight-line method.

**.202. Chart of Accounts.** A chart of accounts is a listing of account titles indicating the method of classifying financial and statistical transaction data in accounting records. Each participating provider must maintain financial and statistical records in accordance with the department's Chart of Accounts for Long-Term Care Providers. The detailed items are listed below.

- (1) Assets.
  - (A) Current assets.
    - (i) Cash.
    - (ii) Cash, patient trust funds (fiduciary account **not to be added to facility asset total**).
    - (iii) Short-term investments.
    - (iv) Accounts receivable.
    - (v) Notes and other receivables.
    - (vi) Inventory.
    - (vii) Prepaid expenses.
    - (viii) Other current assets.
  - (B) Noncurrent assets.
    - (i) Long-term investments.
    - (ii) Buildings and equipment: buildings, accumulated depreciation—buildings, building equipment, accumulated depreciation—building equipment, departmental equipment, accumulated depreciation—departmental equipment, transportation equipment, accumulated depreciation—transportation equipment.
    - (iii) Land and land improvements: land, land improvements, accumulated depreciation—land improvements.
    - (iv) Other tangible assets.
    - (v) Leasehold improvements: leasehold improvements, accumulated amortization—leasehold improvements.
    - (vi) Other intangible assets: pre-opening and other organizational costs, miscellaneous tangible assets, accumulated amortization—other intangible assets.
    - (vii) Other assets.
- (2) Liabilities and capital.
  - (A) Current liabilities.
    - (i) Accounts payable.
    - (ii) Accounts payable—patient trust fund (fiduciary account—**not to be added to facility liability total**).
    - (iii) Notes payable.
    - (iv) Salaries, wages, and employee benefits payable.
    - (v) Payroll taxes and insurance payable: FICA taxes payable, federal income taxes withheld, payroll insurance payable.
    - (vi) Other taxes payable: Texas ad valorem taxes payable, Texas franchise taxes payable, other taxes payable.
  - (B) Other current liabilities.
  - (C) Long-term liabilities.
    - (i) Long-term mortgages payable.
    - (ii) Long-term notes payable.
    - (iii) Other long-term liabilities.

- (D) Capital.
  - (i) Capital, nonprofit organizations or governmental units: principal fund balance.
  - (ii) Capital, business corporation: capital stock, additional contributed capital, retained earnings, dividends declared, net income (or loss).
  - (iii) Capital, partnership or sole proprietorship: capital, net income (or loss), drawings.
- (3) Revenue accounts.
  - (A) Patient gross revenue, SNF contracted beds.
    - (i) Skilled, Medicare.
    - (ii) Skilled, Medicaid.
    - (iii) ICF III, Medicaid.
    - (iv) ICF II, Medicaid.
    - (v) Other patients.
  - (B) Patient gross revenue, ICF III contracted beds.
    - (i) Skilled, waived Medicaid.
    - (ii) ICF III, Medicaid.
    - (iii) ICF II, Medicaid.
    - (iv) Other patients.
  - (C) Patient gross revenue, ICF II contracted beds.
    - (i) Skilled, waived Medicaid.
    - (ii) ICF III, waived Medicaid.
    - (iii) ICF II, Medicaid.
    - (iv) Other patients.
  - (D) Patient gross revenue, noncontracted non-MR beds (all patients).
  - (E) Resident gross revenue, ICF-MR VI contracted beds.
    - (i) ICF-MR VI residents.
    - (ii) Other residents.
  - (F) Resident gross revenue, ICF-MR V contracted beds.
    - (i) ICF-MR V residents.
    - (ii) Other residents.
  - (G) Resident gross revenue, ICF-MR I contracted beds.
    - (i) ICF-MR I residents.
    - (ii) Other residents.
  - (H) Resident gross revenue, noncontracted MR beds (all residents).
    - (i) Other gross revenue.
    - (ii) Unrestricted gifts, donations, endowments, and trusts.
    - (iii) Restricted gifts, donations, endowments, and trusts.
    - (iv) Grants and appropriations.
    - (v) Room and bed holds and reservations.
    - (vi) Drugs and medications.
    - (vii) Meals—employees and guests.
    - (viii) Rentals—medical and nonmedical.
    - (ix) Interest sources—funded depreciation or qualified pension fund.
    - (x) Interest sources—other.
    - (xi) Barber and beauty shop.
    - (xii) Vending machines.
    - (xiii) Canteen and gift shop.
    - (xiv) Life safety code payments.
    - (xv) Miscellaneous.
    - (xvi) Social services.
    - (xvii) Activity services.
    - (xviii) Other services.



- (J) Adjustments to gross revenue.
- (i) Allowance for uncollectibles, Medicaid.
- (ii) Other adjustments to gross revenue.
- (4) Expense accounts.
  - (A) SNF contracted beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (B) Routine daily service expense, ICF III contracted beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (C) Routine daily service expense, ICF II contracted beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (D) Routine daily service expense, noncontracted non-MR beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Other expense.
  - (E) Routine daily service expense, ICF-MR VI contracted beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (F) Routine daily service expense, ICF-MR V contracted beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (G) Routine daily service expense, ICF-MR I contracted beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (H) Routine daily service expense, noncontracted MR beds.
    - (i) Salaries and wages, professional staff.
    - (ii) Salaries and wages, other staff.
    - (iii) Medical supplies and nonlegend drugs.
  - (I) Consultant service expense (except dietary).
  - (J) Training expense.
    - (i) Salaries and wages.
    - (ii) Supplies.
    - (iii) Contract or outside services.
    - (iv) Other expense.
  - (K) Social service expense.
    - (i) Salaries and wages.
    - (ii) Supplies.
    - (iii) Contract or outside services.
    - (iv) Other expense.
  - (L) Activity service expense.
    - (i) Salaries and wages.
    - (ii) Supplies.
    - (iii) Contract or outside services.
    - (iv) Other expense.
  - (M) Laundry, linen, and housekeeping expense.
    - (i) Salaries and wages.
    - (ii) Supplies.
    - (iii) Linen and bedding.
    - (iv) Contract or outside services.
    - (v) Other expense.
  - (N) Dietary expense.
    - (i) Salaries and wages, supervisory and professional staff.
    - (ii) Salaries and wages, chefs, cooks, and other food service staff.
    - (iii) Food.
    - (iv) Supplies (dishes, flatware, napkins, utensils).
    - (v) Consultant service—dietician/nutritionist.
    - (vi) Contract or outside services.
    - (vii) Other expense.
  - (O) Operation and maintenance expense.
    - (i) Salaries and wages.
    - (ii) Gas, electricity, water, and wastewater.
    - (iii) Telephone and telegraph.
    - (iv) Garbage disposal.
    - (v) Supplies.
    - (vi) Maintenance and repairs, buildings, building equipment, and grounds.
    - (vii) Maintenance and repairs, departmental equipment.
    - (viii) Maintenance and repairs, transportation equipment.
    - (ix) Gasoline and oil.
    - (x) Pest control service.
    - (xi) Security service.
    - (xii) Contract or outside services.
    - (xiii) Other expense.
  - (P) Buildings, equipment, and other capital expense.
    - (i) Rental or lease expense, buildings and fixed equipment.
    - (ii) Rental or lease expense, transportation equipment.
    - (iii) Rental or lease expense, other equipment.
    - (iv) Depreciation, buildings.
    - (v) Depreciation, building equipment.
    - (vi) Depreciation, departmental equipment.
    - (vii) Depreciation, transportation equipment.
    - (viii) Depreciation, land improvements.
    - (ix) Amortization, leasehold improvements.
    - (x) Amortization, pre-opening and other organization expense.
      - (xi) Amortization, other.
      - (xii) Interest, mortgage loans.
      - (xiii) Interest, other.
      - (xiv) Taxes, ad valorem.
      - (xv) Taxes, Texas corporate franchise.
      - (xvi) Taxes, other.
      - (xvii) Insurance, buildings, contents and grounds.
      - (xviii) Insurance, transportation equipment.

- (xix) Insurance, other.
- (Q) General administrative expense.
  - (i) Salaries and wages, administrator, assistant administrator, owner, partners, stockholders (if not administrator or assistant administrator), professional administrative staff, clerical and secretarial staff.
  - (ii) Employee benefits, administrator, assistant administrator, owner, partners, or stockholders (if not administrator or assistant administrator).
  - (iii) Insurance, professional and facility malpractice, other.
  - (iv) Advertising.
  - (v) Travel and seminars.
  - (vi) Dues, association—Texas Nursing Home Association, Texas Association of Homes for the Aging; other dues.
  - (vii) Fees, professional services; other fees.
  - (viii) Miscellaneous office expense.
  - (ix) Utilization review committee.
  - (x) Central office overhead: salaries and wages, payroll taxes, employee benefits, advertising, travel and seminars, dues—association, dues—other, fees—professional services, fees—other, miscellaneous office expense, rental or lease expense, depreciation and amortization expense, interest expense, taxes—ad valorem, taxes—Texas corporate franchise, taxes—other, insurance expense, operation and maintenance expense, other.
- (5) Facility payroll tax and employee benefit expense.
  - (A) FICA contributions, all facility employees.
  - (B) Unemployment insurance, all facility employees.
  - (C) Worker's compensation insurance, all facility employees.
  - (D) Employee benefits, all facility employees except administrator, assistant administrator, owner, partner, or stockholder (if not administrator or assistant administrator).
- (6) Other services.
- (7) Statistical accounts.
  - (A) Fixed assets: land (number of acres).
  - (B) SNF contracted beds (patient-days of service provided).
    - (i) Skilled, Medicare.
    - (ii) Skilled, Medicaid.
    - (iii) ICF III, Medicaid.
    - (iv) ICF II, Medicaid.
    - (v) Other patients.
  - (C) ICF III contracted beds (patient-days of service provided).
    - (i) Waivered skilled, Medicaid.
    - (ii) ICF III, Medicaid.
    - (iii) ICF II, Medicaid.
    - (iv) Other patients.
  - (D) ICF II contracted beds (patient-days of service provided).
    - (i) Waivered skilled, Medicaid.
    - (ii) Waivered ICF III, Medicaid.
    - (iii) ICF II, Medicaid.
    - (iv) Other patients.
  - (E) Noncontracted non-MR beds (patient or resident-days of service provided).

- (F) ICF-MR VI contracted beds (resident-days of service provided).
  - (i) ICF-MR VI, Medicaid.
  - (ii) Other residents.
- (G) ICF-MR V contracted beds (resident-days of service provided).
  - (i) ICF-MR V, Medicaid.
  - (ii) Other residents.
- (H) ICF-MR I contracted beds (resident-days of service provided).
  - (i) ICF-MR I, Medicaid.
  - (ii) Other residents.
- (I) Noncontracted MR beds (resident-days of service provided).
- (J) Purchases of services, facilities, and supplies from related organizations.
  - (i) Price paid by facility.
  - (ii) Cost to related organization.
- (K) Purchases of personal services from related parties.
  - (i) Price paid by facility.
  - (ii) Prevailing price in area for same service.
- (L) Loans from stockholders and related organizations.
  - (i) Principal payments in reporting period.
  - (ii) Remaining liability at end of reporting period.
  - (iii) Interest expense in reporting period.

**203. Allowable Costs.** The following described items of expense are not intended to be exhaustive of all possible allowable costs. They are intended to serve only as a general guide. Detailed are many types of costs which can reasonably be anticipated to be incurred in a long-term care facility. The absence of a particular type of cost does not necessarily mean that it is not an allowable cost.

(1) Definitions.

(A) Allowable costs are defined as "the types of expenses incurred in and by a long-term care facility which are directly or indirectly related to the provision of patient or resident care." Three tests are applied to determine whether or not an expenditure is an allowable cost. The first test is to determine if any portion of the amount spent was for personal or unrelated business activities of facility employees, owners, partners, officers, or stockholders, etc. If so, that portion of the amount must be removed. The second test is to determine whether the health, safety, and general well-being of the facility's patients or residents would be adversely affected if the expenditure was eliminated. If so, the expenditure is an allowable cost. The third test is whether or not the expenditure is on the list of unallowable costs. Allowable costs determined in this way are used in the cost-finding process to ascertain the costs facilities incur to provide care. This does not mean that the total amount of an allowable cost will be an allowed cost.

(B) Allowed cost is defined as "all or part of an allowable cost which is considered to be reasonable and necessary in the provision of patient or resident care." Allowable costs which are determined to be excessive will be reduced to an amount that is reasonable and necessary. Allowed costs are used in the rate-determination process to set vendor reimbursement rates.

## (2) List of allowable costs.

## (A) Direct labor expenses.

(i) Salaries and wages: director of nursing; registered nurses; licensed vocational nurses; qualified mental retardation professional; other salaried direct care staff professionals; house parents; medical clerks; food service supervisor; aides, orderlies, and technicians; chefs and cooks; other food service staff-kitchen helpers, etc.; laundry staff; housekeeping staff; recreational staff; other salaried patient care staff professionals, such as dietitians/nutritionists, pharmacists, etc.; administrator; assistant administrator; owner, partner, or stockholder (if not administrator or assistant administrator) providing services in the facility; other salaried administrative staff professionals, such as accountants, budget officers, etc.; clerical and secretarial administrative staff; and buildings, furniture, equipment, and grounds maintenance staff.

(ii) Payroll taxes and insurance, Federal Insurance Contributions Act (FICA) taxes; federal and state unemployment compensation insurance; and worker's compensation insurance.

(iii) Employee benefits. Employer-paid health, life, and disability insurance for employees; uniform allowances for employees; contributions to employee retirement fund; and free meals.

(iv) Outside consultants. Medical director; registered nurse; social worker; pharmacist; physician—VA; physician—other; dietician/nutritionist; audiologist; psychologist; recreational therapist; records librarian; and dentist.

(v) Utilization Review Committee. Professional fees.

## (B) Contract or outside services.

(i) Daily direct care services. All or part of the daily direct care staff services provided by an outside vendor.

(ii) Food service. Food and food service provided by an outside vendor.

(iii) Laundry and linen service. Laundry service and/or linen service provided by an outside vendor.

(iv) Housekeeping service. Housekeeping service provided by an outside vendor.

(v) Facility administration service. Administration of the facility provided by an outside vendor.

(vi) Professional services. Accountant or accounting firm maintains the facility's financial records and accounts; attorney or law firm provides required legal services.

(vii) Miscellaneous business services. Printing; freight and cartage; machine accounting; advertising in the yellow pages; and advertising in newspapers for employee recruitment.

(viii) Maintenance and repair services. Painting; building repairs; plumbing; sewer and drain; septic tank pump-out; electrical repairs; pest control; air conditioning; heating and water heating equipment; furniture; medical equipment; kitchen and dining equipment; laundry equipment; housekeeping equipment; recreational equipment; transportation equipment (see limitations under transportation equipment depreciation); other equipment; and grounds, parking lot, etc.

## (C) Supply expense.

(i) Medical supplies. Alcohol; applicators; cotton balls; bandaids; antacids; aspirin; other nonlegend drugs; suppositories; tongue depressors; patient gowns; and minor medical and surgical supplies.

(ii) Fresh, frozen, canned, or dried (as the case may be) meat. Poultry; seafood; eggs; vegetables; vegetable juices; fruits; fruit juices; and soups.

(iii) Dairy products. Milk; yogurt; cheeses; and butter.

(iv) Staples. Flours; corn meal; salts, and sugar.

(v) Bakery goods. Breads; rolls; biscuits; cookies; cakes; and pies.

(vi) Grains, grain products, and legumes. Rice; spaghetti; macaroni; noodles; cereals; dry beans; and dry peas.

(vii) Miscellaneous. Margarine; oils; syrups; salad dressings; mustard; catsup; other condiments; herbs and spices.

(viii) Beverages. Soft drinks and other non-alcoholic beverages.

(ix) Special diet products. Dietary supplements and other products.

(x) Food service supplies. Plastic plates; plastic utensils; paper products; cloth napkins; detergents; and scouring pads.

(xi) Laundry supplies. Detergents; spot remover; bleach; fabric softeners; starch; and water softeners.

(xii) Linen and bedding supplies. Bedspreads; sheets; pillowcases; blankets; quilts; towels; wash cloths; and bath mats.

(xiii) Housekeeping supplies. Polishes; waxes; furniture oils; hand cloths; glass cleaner; brushes and cloths for floor; buffer; brooms; and mops.

(xiv) Social service supplies.

(xv) Activity service supplies.

(xvi) Utilization Review Committee supplies.

(xvii) Administrative supplies. Office supplies and postage.

(xviii) Operation and maintenance supplies. Light bulbs, machine oil; motor oils; gasoline; pesticides; herbicides; fertilizer; paints and paint thinner; paint brushes; plumbing repair parts; nails and screws; small hand tools.

(xix) Utilities. Electricity; natural or LP gas; fuel oil; water; wastewater; garbage pick-up; telephone; and telegraph.

## (D) Real property and personal property expense.

(i) Straight line depreciation and straight line amortization expense. Buildings depreciation; building equipment depreciation, including: air conditioners; air conditioning compressors; air conditioning condensers; central air conditioning and heating fans and motors; central, floor, or wall furnaces; and water heaters. Transportation equipment depreciation: motor vehicles, to the extent of their documented use in transporting patients and facility supplies and in conducting facility business. Transportation expenses which are not documented for uses as stated here are unallowable, including depreciation, interest, taxes, insurance, gasoline, oil, maintenance, and repairs. Furniture and other equipment depreciation, including: beds; night stands; tables; dressers; desks; lamps; chairs; sofas; wheelchairs; traction equipment; grills, griddles; mixers; grinders, blenders; urns, vessels; refrigerators, freezers; dining tables, chairs; washers, dryers, irons; vacuum cleaners, floor buffers, carpet shampoos; recreational furniture and equipment; repairs and maintenance power equipment; lawnmowers; edgers; and trimmers. Tractor mowers used exclusively for the facility grounds; garden tractors used exclusively in the facility garden. Land improvements

depreciation, including: driveways; curbs; fences, landscaping; trees and shrubs; and sidewalks. Leasehold improvements amortization, including: building improvement; building equipment improvements and land improvements. Other amortization such as organization costs.

(ii) Rental or lease expense. Buildings; building equipment; transportation equipment; and furniture and other equipment.

(iii) Interest expense. Mortgage, transportation equipment notes (see limitations under transportation equipment depreciation); furniture and other equipment notes; and working capital notes; except allowable interest must be reduced by interest income except from funded depreciation, and qualified pension funds.

(iv) Tax expense. Real and personal property taxes; motor vehicle sales and use taxes; state and local sales and use tax; and Texas corporate franchise taxes (see limitations under transportation equipment depreciation).

(v) Insurance expense. Facility fire and casualty; transportation equipment.

(E) Miscellaneous expense. In-service training; insurance, including facility malpractice, public liability, and personal liability of administrator; facility licenses; expenses for transportation, meals, lodging, and registration fees to attend seminars in the United States providing curricula related to patient care; moving expenses; chamber of commerce dues; and association dues.

(F) Return on net invested equity of proprietary products.

**.204. Unallowable Costs.** The following described items of expense are not intended to be exhaustive of all possible unallowable costs. Rather, they are intended to be a general guide to various unallowable costs which may be encountered in long-term care facilities. The absence of a particular type of cost does not necessarily mean that it is an allowable cost.

(1) Definitions.

(A) Unallowable costs are defined as "the types of expenses incurred in and by a long-term care facility which are not directly or indirectly related to the provision of patient or resident care." Unallowable costs do not become a part of the cost-finding process to determine the costs facilities incur to provide care.

(B) Unallowed cost is defined as "that part of an allowable cost which is not considered to be reasonable and necessary in the provision of patient or resident care." Unallowed cost will be removed from the costs used to set vendor reimbursement rates.

(2) List of unallowable costs.

(A) Advertising. Advertising expenses except yellow pages advertising; advertising in newspapers for employee recruitment; and advertising required to meet statutory or regulatory requirements.

(B) Allowances. Uncollectible accounts and administrative, courtesy, policy, and charity discounts.

(C) Business expenses not related to the provision of patient or resident care. Farm or ranch operations; business investments, and other business operations.

(D) Contributions. Political contributions, including political action committees.

(E) Depreciation and amortization. For unallowable items of expense; amounts which exceed those using the straight line method; goodwill; and noncompetition agreements and covenants.

(F) Discounts. Cash; trade; quantity; rebates, etc.

(G) Donated items. Drugs and medications; medical supplies; groceries; equipment; and other items.

(H) Dues. Country clubs; private clubs; social clubs; service clubs.

(I) Entertainment expenses. For owners; partners; officers; directors; stockholders; and administrators and other employees; except entertainment expenses which are employee benefits.

(J) Expenses incurred for medical services not provided to Medicaid recipients.

(K) Expenses incurred for services provided not related to patient medical care. Employee and guest meals; nonmedical rentals; barber and beauty shop; vending machines; canteen and gift shop; except free meal fringe benefits for employees.

(L) Fees. Corporation or association board of directors; limited partnership filing fees; corporation filing fees.

(M) Fines and penalties. Traffic fines; other fines for violation of statute or ordinance; penalties for late payment of taxes, utilities, and mortgages; and other penalties.

(N) Fund-raising and promotion expenses. Fund-raising expenses; public relations fees; and other promotional expenses.

(O) Gifts, donations, endowments, and trusts. Expenses for purchases of goods and services from revenues received from restricted or unrestricted gifts, donations, endowments, and trusts.

(P) Insurance. Life insurance premiums for owners, partners, officers, corporation directors, association directors, or any other person not working in the facility as an employee; for any insurance coverage premiums for unallowable items of expense.

(Q) Interest. On loans to purchase unallowable items of expense; on loans from stockholders; on loans from related organizations; on loans to pay penalties or interest; that portion of interest paid which is reduced or offset by interest income except interest income from funded depreciation accounts or qualified pension funds.

(R) Miscellaneous. Amounts paid owners, partners, officers, directors, or stockholders not working in the facility nor providing services; accrued expenses which are not legal obligations of the facility; expenses for purchase of depreciable assets which must be capitalized according to generally accepted accounting principles; kickbacks from suppliers; and research expenses.

(S) Motor vehicles. Motor vehicles which are generally not suitable for transporting both patients and facility supplies, such as aircraft; motor homes; sports automobiles; motorcycles; recreational type vehicles; and tractors used in farming, ranching, or construction. Expenses for motor vehicles such as luxury automobiles and pick-up trucks are allowable to the extent of their documented use in transporting patients and facility supplies and in conducting facility business.

(T) Nonpaid workers and volunteers. The value of services of nonpaid workers and volunteers.

(U) Personal expenses not related to the provision of patient or resident care. Personal residence; recreational property; hunting lease; fishing lease, etc.

(V) Purchase returns, allowances, and refunds.

(W) Purchases of services, facilities, or supplies from related organizations or related parties. Allowable

costs shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere. Allowable costs for personal services purchased from a related party shall not exceed the lower of the reported cost or the price of comparable personal services purchased in the area. Amounts exceeding these limitations are unallowable costs.

(X) Recreational vehicles. House trailers, camper trailers, boats, boat trailers, and other recreational vehicles.

(Y) Rental or lease expense. For unallowable items of expense.

(Z) Residence expenses. For owners, partners, officers, directors, stockholders, and administrators and other employees except houseparents for ICF-MR facilities.

(AA) Taxes. Federal income tax, state and local income tax, and any tax levied upon unallowable items of expense.

(BB) Travel. Out-of-Texas transportation, out-of-Texas meals and lodging, and out-of-Texas seminars except expenses for transportation, meals, lodgings, and registration fees to attend seminars in the United States providing curricula related to patient care.

(CC) Vacation expenses. For owners, partners, officers, directors, stockholders, administrators, and other employees except vacation expenses which are employee benefits.

**205. Cost Reports.** Each participating provider must submit financial and statistical information in a cost report reflecting its activity for the reporting period on forms prescribed by the department. The long-term care provider cost report will contain schedules of revenues; schedules of expenses; an income statement; schedules of depreciation and amortization; balance sheets directly reflecting the assets, liabilities, and capital of the long-term care facility; statistical data; and other information deemed necessary by the department. The cost report must be completed in full as appropriate for the type of facility; must be completed in accordance with the instructions; must be completed in accordance with the department's Chart of Accounts for Long-Term Care Providers; must be completed in accordance with the Lists of Allowable and Unallowable Costs; must be prepared based upon the accrual method of accounting; and must be prepared in accordance with generally accepted accounting principles approved by the American Institute of Certified Public Accountants.

(1) Certification. Cost reports must bear the following certification: "I certify that I have examined the financial and statistical information in the (year of reporting period end) long-term care provider cost report, including balance sheets directly reflecting the assets, liabilities, and capital of the long-term care facility, income statement, depreciation and amortization schedules, and statistical data, for the period (beginning date) through (ending date), which is the reporting period for this facility, and that, to the best of my knowledge and belief, the financial and statistical information is true and correct; is prepared from the books and records of (name of the facility); is completed in full as appropriate for the type of facility; is completed in accordance with instructions; is completed in accordance with the department's Chart of Accounts for Long-Term Care Providers and Lists of Allowable and Unallowable Costs." This certification must be signed by an officer of, the owner of, or a partner in the provider entity and must be notarized.

(2) Reporting period. Cost reports are required for all periods of participation in the plan. The regular reporting period is the provider's fiscal or accounting year. Cost reports for other reporting periods may be required to ensure that all periods of participation in the plan are reported.

(3) Due dates. Cost reports are due no later than three months after the close of the reporting period.

(4) Failure to file acceptable or timely cost report. Failure to file a cost report in accordance with Rule 205(a)-(d) will result in a hold being placed on the provider's vendor payments. The hold action will remain in effect until all deficiencies on the cost report are corrected. An extension of the due date may be granted for good cause upon written request.

**206. Record Keeping.**

(a) Records must be maintained for a period of not less than three years following the date of submission of the cost report to the department and must be accurate and in sufficient detail to support the financial and statistical information reported in cost reports.

(b) Failure to maintain adequate records. A provider not maintaining adequate records to support the financial and statistical information reported in cost reports or not maintaining records in accordance with the department's Chart of Accounts for Long-Term Care Providers will be given 90 days to bring its record keeping into compliance. Failure to correct deficiencies within 90 days from the date of notification of deficiency can result in cancellation of the provider's contract for services under the Texas Medical Assistance Plan.

Doc. No. 788160

## Intermediate Care Facility for Mentally Retarded

### Support Documents 326.35.99.200

The Department of Human Resources adopts the amendments to Rule 326.35.99.200 regarding the cost reimbursement and methodology for Intermediate Care Facilities for Mentally Retarded, as proposed in the November 3, 1978, issue of the *Texas Register* (3 TexReg 3806). This rule includes major changes outlined in the *Federal Register* and Department of Human Resources policy.

Each facility which serves the mentally retarded in Texas will be reimbursed on the basis of that facility's historical allowable cost. Before setting rates for the next year's patient-day reimbursement, the historical cost base will be inflated by appropriate national and state economic indices. Allowable cost ceilings will be set at the 90th percentile ranking by cost area for all similar institutions. Each facility's fixed costs will be adjusted if the occupancy rate falls below 85 percent for the reporting year. A bonus for efficient operation in the amount of six percent of projected cost will be added to the cost areas. Facilities with no prior operating history will be paid a daily rate equal to the sum of applicable 60th percentile projected cost area amounts until a rate based on their first full fiscal year is established. This reimbursement methodology applies equally to state-owned, proprietary, and nonproprietary institutions.

Numerous comments were received by the department on the proposed rate-setting methodology. These comments were taken into consideration and the methodology was revised to incorporate appropriate changes. Areas revised include:

(1) Rates for new facilities: Comments were received which indicated reimbursement for new facilities was "inequitable." Therefore, the department changed this to specify that facilities with less than a full fiscal year historical base will be reimbursed on the basis of the 60th percentile for each cost area.

(2) Facility-by-facility cost reimbursement: Comments were received indicating the method proposed for statewide averaging was inequitable. Therefore, the department will reimburse each facility on the basis of their own historical allowable costs.

(3) Efficiency incentive: Department staff analysis indicated the efficiency incentive should apply to nongovernmental providers only with the incentive amount in any cost area not to exceed the projected 90th percentile cost ceiling in the cost areas. The department chose to place a limit on the efficiency bonus of two dollars per Medicaid patient-day.

(4) Excess reimbursement: Department staff analysis indicated that this should be changed to allow over-reimbursement to be determined from the allowable cost reported in the four cost areas. If the allowable cost reported is less than 90 percent of the reimbursement rate paid, the difference will be reimbursed to the department.

(5) Cost reporting and frequency: Department staff analysis indicated this should be changed to require facilities to submit cost reports within three months of the end of the fiscal year reporting period.

(6) Rate-setting authority: Department staff analysis indicated a statement should be added which gives the deputy commissioner for medical programs the authority to set individual facility rates according to the methodology approved by the Texas Board of Human Resources.

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.200. Reimbursement Methodology for Vendor Rates.* The Texas Department of Human Resources will reimburse ICF-MR long-term care facilities on a cost-related basis for care rendered to recipients. Daily rates will be determined on a facility-by-facility basis at least annually. These cost-related daily rates will be set using financial and statistical information from cost reports which must be completed by each participating provider at least annually.

(1) Introduction.

(A) Under the Texas Medicaid Nursing Facilities Program, the amount paid to any provider of services covered under the state plan to recipients is required by Section 249 of Public Law 92-603 to be cost-related. The principles of reimbursement and related policies described are intended to be in effect for mentally retarded care facilities on and after January 1, 1979.

(B) These principles of reimbursement are to be applied on behalf of the program by the Texas Department of Human Resources. The reimbursement principle which follows will be explained through a discussion of its major characteristics.

(C) Each facility which serves the mentally retarded in Texas will be reimbursed on the basis of that

facility's historical allowable cost. Before setting rates for next year's patient day reimbursement, the historical cost base will be inflated by appropriate national and state economic indices. Allowable cost ceilings will be set at the 90th percentile ranking by cost area for all similar institutions. Each facility's fixed costs will be adjusted if the occupancy rate falls below 85 percent for the reporting year. A bonus will be paid on daily rate for efficient operation. New facilities (facilities which have no prior operating history) will be paid a daily rate equal to the sum of applicable 60th percentile projected cost area amounts until a rate based on their first full fiscal year is established. This reimbursement methodology applies to state-owned, proprietary, and non-proprietary institutions. Governmental providers will not be eligible for the incentive amount. Reimbursement to state institutions will be in accordance with applicable state laws and federal regulations.

(2) Detailed plan characteristics.

(A) Facility-by-facility. This methodology will reimburse each facility on the basis of its own historical allowable costs.

(B) Prospective. Rates will be set on a prospective basis. The costs of each facility will be evaluated and a patient daily rate set for cost-reimbursement purposes for its next fiscal year's operation.

(C) Classes of reimbursement. Payments will be made on reported facility costs irrespective of patient classification or mix.

(D) Inflation methodology. The inflation methodology currently employed in rate setting for geriatric institutions will be applied to the mentally retarded facilities also. Historical allowable costs for each cost center by facility will be inflated according to the most applicable index, such as the consumer price index, wholesale price index, U.S. labor statistics, Texas labor statistics, and U.S. economic statistics.

(E) Cost-containment ceilings. All ICF-MR patient days in the state will be ranked according to cost for each designated cost area: patient care services, dietary services, administrative and facility services. The 90th percentile cost will be considered the maximum allowable cost which the state will reimburse to any facility for cost incurred in the patient care, dietary, and combined administrative and facility cost areas. No cost incurred above the 90th percentile ceiling will be considered as allowable cost when calculating the facility's reimbursement rate.

(F) Efficiency incentive. Applicable for non-government providers only. To encourage efficient operations when reported costs are below the percentile cost caps. In the three cost areas, the state pays an efficiency bonus in the amount of six percent of the project cost for each cost area. The cost-containment incentive amount will be added to the facility's allowable cost area amount in calculating its patient-day reimbursement rate for the next year. For any cost area, the incentive amount may not exceed the projected 90th percentile cost ceilings in the three cost areas. In no case may the total efficiency bonus exceed two dollars per Medicaid patient-day.

(G) Excess reimbursements. Following the review and audit of annual cost reports, each facility must return to the state any over-reimbursements. Over-reimbursement will be determined from the allowable cost reported in the four areas of patient care, dietary care, administrative serv-

ices, and facility cost. If the combined total allowable cost reported is less than 90 percent of the reimbursement rate paid, the difference between the 90 percent amount and the total allowable cost will be the amount of over-reimbursement due for each day of service.

(H) Cost reporting and frequency. The same cost reporting and auditing methodology will be used under the facility-by-facility scheme as is currently practiced under long-term care policy. The frequency of reporting will continue to be annual, tied to the facility's fiscal year, with the exception that facilities may submit a six-month report for adjustment to their daily rate. Cost reports are required to be submitted within three months of the end of the fiscal year reporting period. For fiscal and six-month adjustment cost reports, a facility rate may be established within 90 to 180 days.

(I) Occupancy factor. The facility-by-facility cost-finding methodology will be based on an occupancy rate of 85 percent for the yearly average. This is the same methodology as is currently employed in long-term care cost finding. A facility which reports occupancy below 85 percent will have an occupancy rate adjustment applied to adjust reported fixed real estate costs, rent, amortization of leasehold improvements, ad valorem taxes, mortgage interest, and depreciation.

(J) Allowable costs. Allowable costs will be the same as stated in the Department of Human Resources "List of Allowable and Unallowable Costs" for Title XIX long-term care facilities.

(K) Appeals procedure. The Department of Human Resources will resolve appeals in accordance with its established administrative procedures.

(L) New facility exception. New facilities (facilities which have no prior operating history) will be paid a daily rate equal to the sum of applicable 60th percentile projected cost area amounts until a rate based on their first full fiscal year is established.

(M) Maximum payment. In no case may the payment made to the facility exceed the average daily rate charged to the facility's private patients.

(N) Rate-setting authority. The deputy commissioner for medical programs will have the authority to set individual facility rates according to the methodology approved by the Texas Board of Human Resources.

Doc. No. 788161

### 326.35.99.201 - .206

The Department of Human Resources adopts Rules 326.35.99.201-.206, regarding cost-related reimbursement for Intermediate Care Facilities and Skilled Nursing Facilities, as proposed in the November 3, 1978, issue of the *Texas Register* (3 TexReg 3807). These rules include major changes outlined in the *Federal Register* and Department of Human Resources policy. The major areas covered in the proposed rules included:

(1) Accounting requirements: Financial and statistical information must be maintained by each participating provider based on the accrual method of accounting, except governmental institutions operated on the cash method of accounting.

(2) Chart of accounts: Each participating provider must maintain financial and statistical records in accordance with the attached detailed policy.

(3) Allowable and unallowable costs: A list of costs that will be allowed or unallowed on the cost report submitted to the department.

(4) Cost reporting requirements: Each facility will report costs and operating data in accordance with its own fiscal year on the cost report.

(5) Audit and record keeping: Records must be maintained for not less than three years following the date of submission of the costs reports to the department or until audited and all (if any) audit exceptions are resolved.

Numerous comments were received by the department on the proposed rules concerning cost-related reimbursement for Intermediate Care Facilities and Skilled Nursing Facilities. These comments were taken into consideration and the administrative proposals were revised to incorporate appropriate changes. These changes include:

(1) Accounting requirements: No changes were made.

(2) Chart of accounts: Comments indicated that the chart of accounts was too detailed, complicated, and costly to implement. Therefore, substantial revisions were made to accommodate a more reasonable chart.

(3) Allowable and unallowable costs: Comments indicated that the list was much too restrictive and did not consider transportation costs, association dues, or travel to education programs. Changes were incorporated that allowed for a more flexible list.

(4) Cost reporting requirements: Sample comments received indicated that the requirements were too costly and would not produce better data. Therefore, CPA certification was eliminated.

(5) Audit and record keeping: Comments indicated that an individual facility fiscal year reporting system be established. This comment has been incorporated.

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

**.201. Accounting Requirements.** Financial and statistical information must be maintained by each participating provider based upon the accrual method of accounting except governmental institutions operated on the cash method of accounting. The treatment given any financial or statistical item must reflect the application of generally accepted accounting principles approved by the Institute of Certified Public Accountants. Depreciation and amortization amounts reported must be computed using only the pure straight-line method.

**.202. Chart of Accounts.** A chart of accounts is a listing of account titles indicating the method of classifying financial and statistical transaction data in accounting records. Each participating provider must maintain financial and statistical records in accordance with the department's Chart of Accounts for Long-Term Care Providers. The detailed items are listed below.

- (1) Assets.
- (A) Current assets.
- (i) Cash.
- (ii) Cash, patient trust funds (fiduciary account not to be added to facility asset total).
- (iii) Short-term investments.
- (iv) Accounts receivable.
- (v) Notes and other receivables.
- (vi) Inventory.
- (vii) Prepaid expenses.
- (viii) Other current assets.
- (B) Noncurrent assets.
- (i) Long-term investments.
- (ii) Buildings and equipment: buildings, accumulated depreciation—buildings, building equipment, accumulated depreciation—building equipment, departmental equipment, accumulated depreciation—departmental equipment, transportation equipment, accumulated depreciation—transportation equipment.
- (iii) Land and land improvements: land, land improvements, accumulated depreciation—land improvements.
- (iv) Other tangible assets.
- (v) Leasehold improvements: leasehold improvements, accumulated amortization—leasehold improvements.
- (vi) Other intangible assets: pre-opening and other organizational costs, miscellaneous tangible assets, accumulated amortization—other intangible assets.
- (vii) Other assets.
- (3) Liabilities and capital.
- (A) Current liabilities.
- (i) Accounts payable.
- (ii) Accounts payable—patient trust fund (fiduciary account—not to be added to facility liability total).
- (iii) Notes payable.
- (iv) Salaries, wages, and employee benefits payable.
- (v) Payroll taxes and insurance payable: FICA taxes payable, federal income taxes withheld, payroll insurance payable.
- (vi) Other taxes payable: Texas ad valorem taxes payable, Texas franchise taxes payable, other taxes payable.
- (B) Other current liabilities.
- (C) Long-term liabilities.
- (i) Long-term mortgages payable.
- (ii) Long-term notes payable.
- (iii) Other long-term liabilities.
- (D) Capital.
- (i) Capital, nonprofit organizations or governmental units: principal fund balance.
- (ii) Capital, business corporation: capital stock, additional contributed capital, retained earnings, dividends declared, net income (or loss).
- (iii) Capital, partnership or sole proprietorship: capital, net income (or loss), drawings.
- (3) Revenue accounts.
- (A) Patient gross revenue, SNF contracted beds.
- (i) Skilled, Medicare.
- (ii) Skilled, Medicaid.
- (iii) ICF III, Medicaid.
- (iv) ICF II, Medicaid.
- (v) Other patients.
- (B) Patient gross revenue, ICF III contracted beds.
- (i) Skilled, waived Medicaid.
- (ii) ICF III, Medicaid.
- (iii) ICF II, Medicaid.
- (iv) Other patients.
- (C) Patient gross revenue, ICF II contracted beds.
- (i) Skilled, waived Medicaid.
- (ii) ICF III, waived Medicaid.
- (iii) ICF II, Medicaid.
- (iv) Other patients.
- (D) Patient gross revenue, noncontracted non-MR beds (all patients).
- (E) Resident gross revenue, ICF-MR VI contracted beds.
- (i) ICF-MR VI residents.
- (ii) Other residents.
- (F) Resident gross revenue, ICF-MR V contracted beds.
- (i) ICF-MR V residents.
- (ii) Other residents.
- (G) Resident gross revenue, ICF-MR I contracted beds.
- (i) ICF-MR I residents.
- (ii) Other residents.
- (H) Resident gross revenue, noncontracted MR beds (all residents).
- (I) Other gross revenue.
- (i) Unrestricted gifts, donations, endowments, and trusts.
- (ii) Restricted gifts, donations, endowments, and trusts.
- (iii) Grants and appropriations.
- (iv) Room and bed holds and reservations.
- (v) Drugs and medications.
- (vi) Meals—employees and guests.
- (vii) Rentals—medical and nonmedical.
- (viii) Interest sources—funded depreciation or qualified pension fund.
- (ix) Interest sources—other.
- (x) Barber and beauty shop.
- (xi) Vending machines.
- (xii) Canteen and gift shop.
- (xiii) Life safety code payments.
- (xiv) Miscellaneous.
- (xv) Social services.
- (xvi) Activity services.
- (xvii) Other services.
- (J) Adjustments to gross revenue.
- (i) Allowance for uncollectibles, Medicaid.
- (ii) Other adjustments to gross revenue.
- (4) Expense accounts.
- (A) SNF contracted beds.
- (i) Salaries and wages, professional staff.
- (ii) Salaries and wages, other staff.
- (iii) Medical supplies and nonlegend drugs.
- (iv) Contract or outside services.
- (v) Other expense.
- (B) Routine daily service expense, ICF III contracted beds.
- (i) Salaries and wages, professional staff.
- (ii) Salaries and wages, other staff.
- (iii) Medical supplies and nonlegend drugs.
- (iv) Contract or outside services.
- (v) Other expense.
- (C) Routine daily service expense, ICF II contracted beds.



- (i) Salaries and wages, professional staff.
- (ii) Salaries and wages, other staff.
- (iii) Medical supplies and nonlegend drugs.
- (iv) Contract or outside services.
- (v) Other expense.
- (D) Routine daily service expense, noncontracted non-MR beds.
  - (i) Salaries and wages, professional staff.
  - (ii) Salaries and wages, other staff.
  - (iii) Medical supplies and nonlegend drugs.
  - (iv) Other expense.
- (E) Routine daily service expense, ICF-MR VI contracted beds.
  - (i) Salaries and wages, professional staff.
  - (ii) Salaries and wages, other staff.
  - (iii) Medical supplies and nonlegend drugs.
  - (iv) Contract or outside services.
  - (v) Other expense.
- (F) Routine daily service expense, ICF-MR V contracted beds.
  - (i) Salaries and wages, professional staff.
  - (ii) Salaries and wages, other staff.
  - (iii) Medical supplies and nonlegend drugs.
  - (iv) Contract or outside services.
  - (v) Other expense.
- (G) Routine daily service expense, ICF-MR I contracted beds.
  - (i) Salaries and wages, professional staff.
  - (ii) Salaries and wages, other staff.
  - (iii) Medical supplies and nonlegend drugs.
  - (iv) Contract or outside services.
  - (v) Other expense.
- (H) Routine daily service expense, noncontracted MR beds.
  - (i) Salaries and wages, professional staff.
  - (ii) Salaries and wages, other staff.
  - (iii) Medical supplies and nonlegend drugs.
- (I) Consultant service expense (except dietary).
- (J) Training expense.
  - (i) Salaries and wages.
  - (ii) Supplies.
  - (iii) Contract or outside services.
  - (iv) Other expense.
- (K) Social service expense.
  - (i) Salaries and wages.
  - (ii) Supplies.
  - (iii) Contract or outside services.
  - (iv) Other expense.
- (L) Activity service expense.
  - (i) Salaries and wages.
  - (ii) Supplies.
  - (iii) Contract or outside services.
  - (iv) Other expense.
- (M) Laundry, linen, and housekeeping expense.
  - (i) Salaries and wages.
  - (ii) Supplies.
  - (iii) Linen and bedding.
  - (iv) Contract or outside services.
  - (v) Other expense.
- (N) Dietary expense.
  - (i) Salaries and wages, supervisory and professional staff.
  - (ii) Salaries and wages, chefs, cooks, and other food service staff.
  - (iii) Food.
  - (iv) Supplies (dishes, flatware, napkins, utensils).
  - (v) Consultant service—dietician/nutritionist.
  - (vi) Contract or outside services.
  - (vii) Other expense.
- (O) Operation and maintenance expense.
  - (i) Salaries and wages.
  - (ii) Gas, electricity, water, and wastewater.
  - (iii) Telephone and telegraph.
  - (iv) Garbage disposal.
  - (v) Supplies.
  - (vi) Maintenance and repairs, buildings, building equipment, and grounds.
  - (vii) Maintenance and repairs, departmental equipment.
  - (viii) Maintenance and repairs, transportation equipment.
  - (ix) Gasoline and oil.
  - (x) Pest control service.
  - (xi) Security service.
  - (xii) Contract or outside services.
  - (xiii) Other expense.
- (P) Buildings, equipment, and other capital expense.
  - (i) Rental or lease expense, buildings and fixed equipment.
  - (ii) Rental or lease expense, transportation equipment.
  - (iii) Rental or lease expense, other equipment.
  - (iv) Depreciation, buildings.
  - (v) Depreciation, building equipment.
  - (vi) Depreciation, departmental equipment.
  - (vii) Depreciation, transportation equipment.
  - (viii) Depreciation, land improvements.
  - (ix) Amortization, leasehold improvements.
  - (x) Amortization, pre-opening and other organization expense.
  - (xi) Amortization, other.
  - (xii) Interest, mortgage loans.
  - (xiii) Interest, other.
  - (xiv) Taxes, ad valorem.
  - (xv) Taxes, Texas corporate franchise.
  - (xvi) Taxes, other.
  - (xvii) Insurance, buildings, contents and grounds.
  - (xviii) Insurance, transportation equipment.
  - (xix) Insurance, other.
- (Q) General administrative expense.
  - (i) Salaries and wages, administrator, assistant administrator, owner, partners, stockholders (if not administrator or assistant administrator), professional administrative staff, clerical and secretarial staff.
  - (ii) Employee benefits, administrator, assistant administrator, owner, partners, or stockholders (if not administrator or assistant administrator).
  - (iii) Insurance, professional and facility malpractice, other.
  - (iv) Advertising.
  - (v) Travel and seminars.
  - (vi) Dues, association—Texas Nursing Home Association, Texas Association of Homes for the Aging; other dues.
  - (vii) Fees, professional services; other fees.
  - (viii) Miscellaneous office expense.

(ix) Utilization review committee.

(x) Central office overhead: salaries and wages, payroll taxes, employee benefits, advertising, travel and seminars, dues—association, dues—other, fees—professional services, fees—other, miscellaneous office expense, rental or lease expense, depreciation and amortization expense, interest expense, taxes—ad valorem, taxes—Texas corporate franchise, taxes—other, insurance expense, operation and maintenance expense, other.

(5) Facility payroll tax and employee benefit expense.

(A) FICA contributions, all facility employees.

(B) Unemployment insurance, all facility employees.

(C) Worker's compensation insurance, all facility employees.

(D) Employee benefits, all facility employees except administrator, assistant administrator, owner, partner, or stockholder (if not administrator or assistant administrator).

(6) Other services.

(7) Statistical accounts.

(A) Fixed assets: land (number of acres).

(B) SNF contracted beds (patient-days of service provided).

(i) Skilled, Medicare.

(ii) Skilled, Medicaid.

(iii) ICF III, Medicaid.

(iv) ICF II, Medicaid.

(v) Other patients.

(C) ICF III contracted beds (patient-days of service provided).

(i) Waivered skilled, Medicaid.

(ii) ICF III, Medicaid.

(iii) ICF II, Medicaid.

(iv) Other patients.

(D) ICF II contracted beds (patient-days of service provided).

(i) Waivered skilled, Medicaid.

(ii) Waivered ICF III, Medicaid.

(iii) ICF II, Medicaid.

(iv) Other patients.

(E) Noncontracted non-MR beds (patient or resident-days of service provided).

(F) ICF-MR VI contracted beds (resident-days of service provided).

(i) ICF-MR VI, Medicaid.

(ii) Other residents.

(G) ICF-MR V contracted beds (resident-days of service provided).

(i) ICF-MR V, Medicaid.

(ii) Other residents.

(H) ICF-MR I contracted beds (resident-days of service provided).

(i) ICF-MR I, Medicaid.

(ii) Other residents.

(I) Noncontracted MR beds (resident-days of service provided).

(J) Purchases of services, facilities, and supplies from related organizations.

(i) Price paid by facility.

(ii) Cost to related organization.

(K) Purchases of personal services from related parties.

(i) Price paid by facility.

(ii) Prevailing price in area for same service.

(L) Loans from stockholders and related organizations.

(i) Principal payments in reporting period.

(ii) Remaining liability at end of reporting period.

(iii) Interest expense in reporting period.

**203. Allowable Costs.** The following described items of expense are not intended to be exhaustive of all possible allowable costs. They are intended to serve only as a general guide. Detailed are many types of costs which can reasonably be anticipated to be incurred in a long-term care facility. The absence of a particular type of cost does not necessarily mean that it is not an allowable cost.

(1) Definitions.

(A) Allowable costs are defined as "the types of expenses incurred in and by a long-term care facility which are directly or indirectly related to the provision of patient or resident care." Three tests are applied to determine whether or not an expenditure is an allowable cost. The first test is to determine if any portion of the amount spent was for personal or unrelated business activities of facility employees, owners, partners, officers, or stockholders, etc. If so, that portion of the amount must be removed. The second test is to determine whether the health, safety, and general well-being of the facility's patients or residents would be adversely affected if the expenditure was eliminated. If so, the expenditure is an allowable cost. The third test is whether or not the expenditure is on the list of unallowable costs. Allowable costs determined in this way are used in the cost-finding process to ascertain the costs facilities incur to provide care. This does not mean that the total amount of an allowable cost will be an allowed cost.

(B) Allowed cost is defined as "all or part of an allowable cost which is considered to be reasonable and necessary in the provision of patient or resident care." Allowable costs which are determined to be excessive will be reduced to an amount that is reasonable and necessary. Allowed costs are used in the rate-determination process to set vendor reimbursement rates.

(2) List of allowable costs.

(A) Direct labor expenses.

(i) Salaries and wages: director of nursing; registered nurses; licensed vocational nurses; qualified mental retardation professional; other salaried direct care staff professionals; house parents; medical clerks; food service supervisor; aides, orderlies, and technicians; chefs and cooks; other food service staff-kitchen helpers, etc.; laundry staff; housekeeping staff; recreational staff; other salaried patient care staff professionals, such as dietitians/nutritionists, pharmacists, etc.; administrator; assistant administrator; owner, partner, or stockholder (if not administrator or assistant administrator) providing services in the facility; other salaried administrative staff professionals, such as accountants, budget officers, etc.; clerical and secretarial administrative staff; and buildings, furniture, equipment, and grounds maintenance staff.

(ii) Payroll taxes and insurance, Federal Insurance Contributions Act (FICA) taxes; federal and state unemployment compensation insurance; and worker's compensation insurance.

(iii) Employee benefits. Employer-paid health, life, and disability insurance for employees; uniform allowances for employees; contributions to employee retirement fund; and free meals.

(iv) Outside consultants. Medical director; registered nurse; social worker; pharmacist; physician—VA; physician—other; dietician/nutritionist; audiologist; psychologist; recreational therapist; records librarian; and dentist.

(v) Utilization Review Committee. Professional fees.

(B) Contract or outside services.

(i) Daily direct care services. All or part of the daily direct care staff services provided by an outside vendor.

(ii) Food service. Food and food service provided by an outside vendor.

(iii) Laundry and linen service. Laundry service and/or linen service provided by an outside vendor.

(iv) Housekeeping service. Housekeeping service provided by an outside vendor.

(v) Facility administration service. Administration of the facility provided by an outside vendor.

(vi) Professional services. Accountant or accounting firm maintains the facility's financial records and accounts; attorney or law firm provides required legal services.

(vii) Miscellaneous business services. Printing; freight and cartage; machine accounting; advertising in the yellow pages; and advertising in newspapers for employee recruitment.

(viii) Maintenance and repair services. Painting; building repairs; plumbing; sewer and drain; septic tank pump-out; electrical repairs; pest control; air conditioning; heating and water heating equipment; furniture; medical equipment; kitchen and dining equipment; laundry equipment; housekeeping equipment; recreational equipment; transportation equipment (see limitations under transportation equipment depreciation); other equipment; and grounds, parking lot, etc.

(C) Supply expense.

(i) Medical supplies. Alcohol; applicators; cotton balls; bandaids; antacids; aspirin; other nonlegend drugs; suppositories; tongue depressors; patient gowns; and minor medical and surgical supplies.

(ii) Fresh, frozen, canned, or dried (as the case may be) meat. Poultry; seafood; eggs; vegetables; vegetable juices; fruits; fruit juices; and soups.

(iii) Dairy products. Milk; yogurt; cheeses; and butter.

(iv) Staples. Flours; corn meal; salts, and sugar.

(v) Bakery goods. Breads; rolls; biscuits; cookies; cakes; and pies.

(vi) Grains, grain products, and legumes. Rice; spaghetti; macaroni; noodles; cereals; dry beans; and dry peas.

(vii) Miscellaneous. Margarine; oils; syrups; salad dressings; mustard; catsup; other condiments; herbs and spices.

(viii) Beverages. Soft drinks and other non-alcoholic beverages.

(ix) Special diet products. Dietary supplements and other products.

(x) Food service supplies. Plastic plates; plastic utensils; paper products; cloth napkins; detergents; and scouring pads.

(xi) Laundry supplies. Detergents; spot remover; bleach; fabric softeners; starch; and water softeners.

(xii) Linen and bedding supplies. Bedspreads; sheets; pillowcases; blankets; quilts; towels; wash cloths; and bath mats.

(xiii) Housekeeping supplies. Polishes; waxes; furniture oils; hand cloths; glass cleaner; brushes and cloths for floor; buffer; brooms; and mops.

(xiv) Social service supplies.

(xv) Activity service supplies.

(xvi) Utilization Review Committee supplies.

(xvii) Administrative supplies. Office supplies and postage.

(xviii) Operation and maintenance supplies. Light bulbs, machine oil; motor oils; gasoline; pesticides; herbicides; fertilizer; paints and paint thinner; paint brushes; plumbing repair parts; nails and screws; small hand tools.

(xix) Utilities. Electricity; natural or LP gas; fuel oil; water; wastewater; garbage pick-up; telephone; and telegraph.

(D) Real property and personal property expense.

(i) Straight line depreciation and straight line amortization expense. Buildings depreciation; building equipment depreciation, including: air conditioners; air conditioning compressors; air conditioning condensers; central air conditioning and heating fans and motors; central, floor, or wall furnaces; and water heaters. Transportation equipment depreciation: motor vehicles, to the extent of their documented use in transporting patients and facility supplies and in conducting facility business. Transportation expenses which are not documented for uses as stated here are unallowable, including depreciation, interest, taxes, insurance, gasoline, oil, maintenance, and repairs. Furniture and other equipment depreciation, including: beds; night stands; tables; dressers; desks; lamps; chairs; sofas; wheelchairs; traction equipment; grills, griddles; mixers; grinders, blenders; urns, vessels; refrigerators, freezers; dining tables, chairs; washers, dryers, irons; vacuum cleaners, floor buffers, carpet shampooers; recreational furniture and equipment; repairs and maintenance power equipment; lawnmowers; edgers; and trimmers. Tractor mowers used exclusively for the facility grounds; garden tractors used exclusively in the facility garden. Land improvements depreciation, including: driveways; curbs; fences, landscaping; trees and shrubs; and sidewalks. Leasehold improvements amortization, including: building improvement; building equipment improvements and land improvements. Other amortization such as organization costs.

(ii) Rental or lease expense. Buildings; building equipment; transportation equipment; and furniture and other equipment.

(iii) Interest expense. Mortgage, transportation equipment notes (see limitations under transportation equipment depreciation); furniture and other equipment notes; and working capital notes; except allowable interest must be reduced by interest income except from funded depreciation, and qualified pension funds.

(iv) Tax expense. Real and personal property taxes; motor vehicle sales and use taxes; state and local sales and use tax; and Texas corporate franchise taxes (see limitations under transportation equipment depreciation).

(v) Insurance expense. Facility fire and casualty transportation equipment.

(E) Miscellaneous expense. In-service training; insurance, including facility malpractice, public liability, and personal liability of administrator; facility licenses; expenses for transportation, meals, lodging, and registration fees to attend seminars in the United States providing curricula related to patient care; moving expenses; chamber of commerce dues; and association dues.

(F) Return on net invested equity of proprietary products.

**.204. Unallowable Costs.** The following described items of expense are not intended to be exhaustive of all possible unallowable costs. Rather, they are intended to be a general guide to various unallowable costs which may be encountered in long-term care facilities. The absence of a particular type of cost does not necessarily mean that it is an allowable cost.

(1) Definitions.

(A) Unallowable costs are defined as "the types of expenses incurred in and by a long-term care facility which are not directly or indirectly related to the provision of patient or resident care." Unallowable costs do not become a part of the cost-finding process to determine the costs facilities incur to provide care.

(B) Unallowed cost is defined as "that part of an allowable cost which is not considered to be reasonable and necessary in the provision of patient or resident care." Unallowed cost will be removed from the costs used to set vendor reimbursement rates.

(2) List of unallowable costs.

(A) Advertising. Advertising expenses except yellow pages advertising; advertising in newspapers for employee recruitment; and advertising required to meet statutory or regulatory requirements.

(B) Allowances. Uncollectible accounts and administrative, courtesy, policy, and charity discounts.

(C) Business expenses not related to the provision of patient or resident care. Farm or ranch operations; business investments, and other business operations.

(D) Contributions. Political contributions, including political action committees.

(E) Depreciation and amortization. For unallowable items of expense; amounts which exceed those using the straight line method; goodwill; and noncompetition agreements and covenants.

(F) Discounts. Cash; trade; quantity; rebates, etc.

(G) Donated items. Drugs and medications; medical supplies; groceries; equipment; and other items.

(H) Dues. Country clubs; private clubs; social clubs; service clubs.

(I) Entertainment expenses. For owners; partners; officers; directors; stockholders; and administrators and other employees; except entertainment expenses which are employee benefits.

(J) Expenses incurred for medical services not provided to Medicaid recipients.

(K) Expenses incurred for services provided not related to patient medical care. Employee and guest meals; nonmedical rentals; barber and beauty shop; vending machines; canteen and gift shop; except free meal fringe benefits for employees.

(L) Fees. Corporation or association board of directors; limited partnership filing fees; corporation filing fees.

(M) Fines and penalties. Traffic fines; other fines for violation of statute or ordinance; penalties for late payment of taxes, utilities, and mortgages; and other penalties.

(N) Fund-raising and promotion expenses. Fund-raising expenses; public relations fees; and other promotional expenses.

(O) Gifts, donations, endowments, and trusts. Expenses for purchases of goods and services from revenues received from restricted or unrestricted gifts, donations, endowments, and trusts.

(P) Insurance. Life insurance premiums for owners, partners, officers, corporation directors, association directors, or any other person not working in the facility as an employee; for any insurance coverage premiums for unallowable items of expense.

(Q) Interest. On loans to purchase unallowable items of expense; on loans from stockholders; on loans from related organizations; on loans to pay penalties or interest; that portion of interest paid which is reduced or offset by interest income except interest income from funded depreciation accounts or qualified pension funds.

(R) Miscellaneous. Amounts paid owners, partners, officers, directors, or stockholders not working in the facility nor providing services; accrued expenses which are not legal obligations of the facility; expenses for purchase of depreciable assets which must be capitalized according to generally accepted accounting principles; kickbacks from suppliers; and research expenses.

(S) Motor vehicles. Motor vehicles which are generally not suitable for transporting both patients and facility supplies, such as aircraft; motor homes; sports automobiles; motorcycles; recreational type vehicles; and tractors used in farming, ranching, or construction. Expenses for motor vehicles such as luxury automobiles and pick-up trucks are allowable to the extent of their documented use in transporting patients and facility supplies and in conducting facility business.

(T) Nonpaid workers and volunteers. The value of services of nonpaid workers and volunteers.

(U) Personal expenses not related to the provision of patient or resident care. Personal residence; recreational property; hunting lease; fishing lease, etc.

(V) Purchase returns, allowances, and refunds.

(W) Purchases of services, facilities, or supplies from related organizations or related parties. Allowable costs shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere. Allowable costs for personal services purchased from a related party shall not exceed the lower of the reported cost or the price of comparable personal services purchased in the area. Amounts exceeding these limitations are unallowable costs.

(X) Recreational vehicles. House trailers, camper trailers, boats, boat trailers, and other recreational vehicles.

(Y) Rental or lease expense. For unallowable items of expense.

(Z) Residence expenses. For owners, partners, officers, directors, stockholders, and administrators and other employees except houseparents for ICF-MR facilities.

(AA) Taxes. Federal income tax, state and local income tax, and any tax levied upon unallowable items of expense.

(BB) Travel. Out-of-Texas transportation, out-of-Texas meals and lodging, and out-of-Texas seminars except

expenses for transportation, meals, lodgings, and registration fees to attend seminars in the United States providing curricula related to patient care.

(CC) Vacation expenses. For owners, partners, officers, directors, stockholders, administrators, and other employees except vacation expenses which are employee benefits.

**.205. Cost Reports.** Each participating provider must submit financial and statistical information in a cost report reflecting its activity for the reporting period on forms prescribed by the department. The long-term care provider cost report will contain schedules of revenues; schedules of expenses; an income statement; schedules of depreciation and amortization; balance sheets directly reflecting the assets, liabilities, and capital of the long-term care facility; statistical data; and other information deemed necessary by the department. The cost report must be completed in full as appropriate for the type of facility; must be completed in accordance with the instructions; must be completed in accordance with the department's Chart of Accounts for Long-Term Care Providers; must be completed in accordance with the Lists of Allowable and Unallowable Costs; must be prepared based upon the accrual method of accounting; and must be prepared in accordance with generally accepted accounting principles approved by the American Institute of Certified Public Accountants.

(1) Certification. Cost reports must bear the following certification: "I certify that I have examined the financial and statistical information in the (year of reporting period end) long-term care provider cost report, including balance sheets directly reflecting the assets, liabilities, and capital of the long-term care facility, income statement, depreciation and amortization schedules, and statistical data, for the period (beginning date) through (ending date), which is the reporting period for this facility, and that, to the best of my knowledge and belief, the financial and statistical information is true and correct; is prepared from the books and records of (name of the facility); is completed in full as appropriate for the type of facility; is completed in accordance with instructions; is completed in accordance with the department's Chart of Accounts for Long-Term Care Providers and Lists of Allowable and Unallowable Costs." This certification must be signed by an officer of, the owner of, or a partner in the provider entity and must be notarized.

(2) Reporting period. Cost reports are required for all periods of participation in the plan. The regular reporting period is the provider's fiscal or accounting year. Cost reports for other reporting periods may be required to ensure that all periods of participation in the plan are reported.

(3) Due dates. Cost reports are due no later than three months after the close of the reporting period.

(4) Failure to file acceptable or timely cost report. Failure to file a cost report in accordance with Rule .205(a)-(d) will result in a hold being placed on the provider's vendor payments. The hold action will remain in effect until all deficiencies on the cost report are corrected. An extension of the due date may be granted for good cause upon written request.

**.206. Record Keeping.**

(a) Records must be maintained for a period of not less than three years following the date of submission of the cost report to the department and must be accurate and in suffi-

cient detail to support the financial and statistical information reported in cost reports.

(b) Failure to maintain adequate records. A provider not maintaining adequate records to support the financial and statistical information reported in cost reports or not maintaining records in accordance with the department's Chart of Accounts for Long-Term Care Providers will be given 90 days to bring its record keeping into compliance. Failure to correct deficiencies within 90 days from the date of notification of deficiency can result in cancellation of the provider's contract for services under the Texas Medical Assistance Plan.

Doc. No. 788162

## Early and Periodic Screening, Diagnosis, and Treatment

The Department of Human Resources adopts the additions and amendments to various rules in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program related to dental services. The new rules and amendments were proposed in the August 18, 1978, issue of the *Texas Register* (3 TexReg 2896). The rules and amendments were proposed because of the recent revision of the EPSDT Dental Program Manual for Providers of Services. The EPSDT Dental Program covers oral examination for oral pathological conditions, dental preventative and corrective treatment services, and suggested dental services needed at future appointments. These services are available to individuals under age 21 who are determined eligible for medical assistance.

The majority of amendments concern minor language changes and clarification of the rules. Examples of substantive changes include expansion of the utilization review procedures by providers, inclusion of a requirement that dental providers must comply with Section 504 of the Rehabilitation Act of 1973, and expansion of certain allowable recipient services with appropriate limitations. New rules provide for a denture repair plan, use of a Medicaid eligibility letter as proof of current eligibility, criteria for termination of provider participation, and utilization of peer review or grievance committees.

Comments were received from two dentists and although no changes were made to the rules, the comments have been forwarded to the Texas Department of Health, where individual responses have been made to the questions raised.

## Operating Policies 326.39.17.007-.008

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

**.007. Civil Rights.**

(a) Participating providers of services under a Title XIX program are subject to all applicable federal, state, and local laws with respect to civil rights, including Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 as amended, which require that: no person in the United States shall, on the ground of race, color, national origin, and no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subject

to discrimination under any program or activity receiving federal financial assistance.

(b) The Department of Human Resources and the Texas Department of Health are responsible for assuring compliance with the requirements of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 as amended.

(c) Written complaints of noncompliance should be made to the commissioner of Human Resources, John H. Reagan State Office Building, Austin, Texas 78701, or the EPSDT Dental Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, or the Secretary of HEW, Washington, D.C.

*.008. Secondary Liability of the Medicaid Program.*

(a) The federal law provides that Title XIX programs have secondary liability for medical costs. This means that if a recipient has private insurance, veterans, Champus, or any other third-party coverage for dental expenses, including workman's compensation, the third party is the primary resource for payment of services, as the Title XIX program is the secondary resource. In the event a recipient has such coverage, the provider must first request reimbursement from the third-party group.

(b) If Title XIX payment has already been received by a provider and it is learned that the recipient has a third-party resource, then payment must be sought by the provider from that source and the appropriate refund made to the Title XIX program.

Doc. No. 788163

### 326.39.17.009

The following rule is adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.009. Texas Medical Assistance Record Book.*

(a) Purpose:

(1) to provide a health record for each individual who has been certified as an eligible Title XIX Medicaid recipient by DHR;

(2) to inform the provider of the recipient's status reporting medical services received under the Title XIX program, particularly as pertains to those services in which utilization is limited, such as dentures;

(3) to provide DHR with a detailed record of Medicaid services rendered to recipients under the Title XIX program for audit purposes.

(b) A Medical Assistance Record Book is issued to each Title XIX Medicaid recipient. The recipient must present his or her Texas Medical Assistance Record Book and latest Medical Care Identification Card or Medicaid Eligibility Letter to each provider of services each time he or she receives a service.

(c) It is imperative that each provider of services makes the appropriate entry for each recipient each time a service is rendered. This entry will inform subsequent providers of services that the recipient has previously received these services.

(d) Before the provider of services makes an entry in the Texas Medical Assistance Record Book, the name on the back of the cover should be checked with the Medical Care Identification Card or Medicaid Eligibility Letter to ascertain

that the person who presented the book is the person who is eligible to receive services.

(e) The Texas Medical Assistance Record Book and the current Medical Care Identification Card or Medicaid Eligibility Letter must always be returned to the recipient.

(f) When a recipient has lost his or her Texas Medical Assistance Record Book or latest Medical Care Identification Card, he or she should be instructed to report the loss to the local DHR office immediately since medical services cannot be provided without having a Medicaid Eligibility Letter.

(g) When the Texas Medical Assistance Record Book is full, the recipient is to return it to the local DHR office and a new one will be issued. If a recipient has more than one Medical Assistance Record Book, the book issued last should be used and the older book returned to the local DHR office by the recipient.

Doc. No. 788164

### Eligibility for Dental Services 326.39.42.001, .003

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.001. Eligibility Requirements.* Medicaid recipients under 21 years of age who hold a current Medical Care Identification Card or a Medicaid Eligibility Letter and have obtained an approved Request for Dental Services are eligible for routine dental services.

*.003. Medical Care Identification Card.*

(a) Medicaid recipients receive a new ID card each month from the Department of Human Resources. It is the responsibility of the provider to verify that the card is a current one, the name of the person requesting services is listed as an eligible recipient on the card, and that the recipient's date of birth verifies his or her age as under 21 years of age.

(b) It is important to see the ID card each time a service is rendered even though prior approval has been obtained. The card must be checked each month to verify eligibility for that month.

(c) Providers are cautioned to verify that the person to whom they are rendering services is the person so identified by the Medical Care Identification Card. If a provider discovers a person ineligible for Title XIX services who presents another person's Medical Care ID Card, he or she should advise the local DHR office of the case. (Do not render services to ineligible persons or those suspected of being ineligible.)

Doc. No. 788165

### 326.39.42.002

The Department of Human Resources adopts the repeal of Rule 326.39.42.002 in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program related to dental services. Notice of the repeal was published in the August 18, 1978, issue of the *Texas Register* (3 TexReg 2897). The EPSDT Dental Program Manual for Providers of Services has been recently revised, necessitating the deletion of several department rules. Material concerning a new recipient without an identification card was deleted, and therefore the rule

has been repealed. The EPSDT Dental Program covers oral examination for oral pathological conditions, dental preventative and corrective treatment services, and suggested dental services needed at future appointments. These services are available to individuals under age 21 who are determined eligible for medical assistance.

Comments were received from two dentists, and although no changes were made to the rules, the comments have been forwarded to the Texas Department of Health, where individual responses have been made to the questions raised.

The repeal of Rule .002 is adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

Doc. No. 788166

### 326.39.42.004

The following rule is adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.004. Medicaid Eligibility Letter.* The Medicaid Eligibility Letter covers benefits for eligible recipients when the Medical Care Identification Card is lost or in the process of being issued. When the recipient has this letter in his or her possession, it serves the same purpose as the Medical Care ID Card.

Doc. No. 788167

### Dental Providers 326.39.43.003-.004

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

#### *.003. Qualifications to Be a Participating Provider.*

(a) Dentists who are duly licensed and authorized by the Texas State Board of Dental Examiners to practice dentistry in Texas, who reside and practice in the U.S.A., and who are without peer restriction imposed by the State Board of Dental Examiners or a court of competent jurisdiction are eligible to apply for participation in the program. Private and public nonprofit agencies that employ dentists may also apply to become providers for EPSDT Dental Program services in their community.

(b) Requirements for program participation are stated in the agreement signed between the provider and the Texas Department of Health. See Rule 326.39.99.400.

(c) Dentists or private and public nonprofit agencies wishing to participate in the program should notify the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Dental Program, 1100 West 49th Street, Austin, Texas 78756.

#### *.004. Professional Advisory and Review Committee.*

(a) Duties of committee. Review program and provider activities and make recommendations to the director, Title XIX Dental Programs. Items considered useable will be referred through channels to the deputy commissioner for health maintenance, TDH, to DHR before any policy change is accomplished.

(b) Open hearing meetings. Bimonthly meetings are held by the committee under the direction of the committee chairperson.

(c) Membership is limited to:

- (1) Gulf State Dental Association—one member;
- (2) Texas Academy of General Dentistry—one member;
- (3) Texas Dental Association—two members;
- (4) Texas Society of Dentistry for Children—one member;
- (5) Texas State Board of Dental Examiners—one member;
- (6) ad hoc persons appointed by DHR and TDH.

Doc. No. 788168

### 326.39.43.005

The following rule is adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.005. Termination of Provider Participation.* Providers participating in the EPSDT Dental Program may be terminated for one of the following reasons:

- (1) voluntary withdrawal by the provider;
- (2) conviction of fraud;
- (3) abuse of the program.

Doc. No. 788169

### Dental Program Benefits 326.39.44

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

#### *.004. Denture Service.*

(a) Requirement for commercial or dental office laboratory. All dentures must be newly fabricated in a dental laboratory registered with the Texas State Board of Dental Examiners, or in the provider's own office facilities by dental laboratory technicians duly registered with the Texas State Board of Dental Examiners, neither being under restriction imposed by the State Board of Dental Examiners or a court of competent jurisdiction. All dentures must meet the standards established by DHR and TDH.

(b) The denture services allowed under the program include all necessary adjustments and corrections which the provider feels are required to make the appliance(s) functional.

(c) Terms. The following terms are agreed upon by DHR and TDH regarding eligibility and payment for such services rendered by the providers:

(1) TDH will authorize proposed denture claims if the recipient is eligible at the time the claim invoice is processed for eligibility verification via the remote terminal connected to DHR data processing system.

(2) The provider will be paid cumulatively for each stage of the fabrication of a denture in which the recipient's eligibility was confirmed by the provider checking for the recipient's current Medical Care Identification Card or Medicaid Eligibility Letter. If the recipient discontinues appointments or dies, the program will negotiate payment if the case has reached the dental laboratory stage.

(3) It will be the provider's responsibility to stop services to a recipient who is found to be ineligible. No fabrication procedure will be paid for by the EPSDT Dental Program if rendered when the recipient has become ineligible, except in subsection (4). However, in the event that the recipient becomes ineligible, the provider and the recipient may work out a mutual agreement for continuing until completion of the denture case according to the provider's usual fee. Payment to the provider will then become the recipient's responsibility.

(4) In cases where the recipient's eligibility ends on the last day of the current month, the provider will be paid if the following provisions are met:

(A) the final processing of new denture units, relines, or repairs must be started prior to or on the last day of the month in which the recipient becomes ineligible;

(B) services must be delivered within the next calendar month.

(d) Denture services include partial dentures, full dentures, repairs, and relines, all of which must meet the minimum standards of procedure and material established by DHR and TDH.

(e) Relines or repairs are not allowable as intermediate procedures until new denture units are authorized by Title XIX. If the recipient desires this, he or she must pay for this service. A reline or repair is offered as allowable service only if it makes the denture units fully serviceable and removes the necessity for new denture units. Exception: A repair is allowable in conjunction with a reline for the same recipient provided it makes the denture unit fully serviceable. However, if these services are submitted on the same claim, then the claim will require prior authorization since relines require prior authorization.

**.008. Categories of Emergency Care.**

(a) (No change.)

(b) The authorization of claims relating to the two categories above is:

(1) Category 1—generally, recipients are in need of oral rehabilitation as this condition would not exist if recent (12 months) treatment services were rendered;

(2) Category 2—events occurred which were beyond the control of either the recipient or the provider of previous services.

(c)-(d) (No change.)

Doc. No. 788170

## Dental Office Practices 326.39.46

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

**.001. Dental Appointments.**

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

(c) Contact the local Department of Human Resources office for their assistance and suggestions if in doubt as to the validity of the information offered by the recipient.

(d) (No change.)

(e) Keep a list of local DHR office telephone numbers for ready reference.

(f) (No change.)

**.002. Personal Contacts with Recipients.**

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

(c) Direct any "drop-in" to the local DHR office for assistance in applying for program benefits.

(d) Providers can help by making appointments within a reasonable period and completing the authorized treatment services or refer the recipient if vacation or illness prevents provider from rendering said services.

**.003. Transportation of Recipients.**

(a) Refer recipients who are unable to provide or arrange for needed transportation to the local Department of Human Resources for assistance.

(b) Assist the recipients and local DHR officials by cooperating in any way possible in scheduling of appointments.

(c) (No change.)

**.004. Recipient Records.**

(a) Maintain a pending file of all claims submitted to Title XIX for prior authorization.

(b) Maintain a pending file of all claims submitted to Title XIX for payment.

(c) Provider should check on outstanding claims over 60 days old by letter to EPSDT Dental Program. State recipient's name and number, invoice number, and provider license number in the letter to expedite action.

(d) (No change.)

Doc. No. 788171

## Fee Schedule 326.39.47

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

**.001. Maximum Fee.** A maximum fee has been computed for each dentist using guidelines published by the Department of Health, Education, and Welfare. The provider will be paid either this maximum fee or his usual fee for each service, whichever is less.

**.002. Determination of Fee Schedule.** The fee schedule is based upon data secured from the program's computer file for services rendered during the calendar year preceding the start of the fiscal year in which a new fee schedule is approved. Upper limits at the 50th and 75th percentiles are placed upon these schedules according to the criteria in (1) and (2) of this rule

(1) If a provider delivered services prior to October 1 of the calendar year preceding the start of the fiscal year in which a new fee schedule is approved, then the amount appearing on the fee schedule for that service will be the customary fee or the adjusted statewide 75th percentile as limited by the cost of living index (whichever is less). A provider who did not render a particular allowable service will have that "gap" filled with the adjusted statewide 50th percentile.

(2) A provider that joined the program and rendered services after October 1 of the calendar year preceding the start of the fiscal year and did not render a specific service 25 times or more will have a fee schedule limited to the statewide prevailing 50th percentile. This fee schedule will prevail until a new fee schedule is approved by the program.



**(3) Definition of terms pertaining to fees.**

(A) **Prevailing fee.** This limit is calculated taking the 75th and 50th percentiles of the array of the weighted customary charges.

(B) **Customary fee.** This is the median charge for a particular service during the base year.

(C) **Usual fee.** The fee the provider is charging for the service.

(D) **Percentile.** Percentile is not the same as percent. Percentile is calculated in the following way: if 100 different providers rendered a single service and these fees were arranged in order from lowest to highest, the 50th fee from the bottom would be the 50th percentile, the 60th fee from the bottom would be the 60th percentile, the 75th fee from the bottom would be the 75th percentile, etc.

(4) **Providers returning to participate.** The fees for providers who have withdrawn from participation and who later re-enter the program under a new agreement will be the same as fees received from the program at the time of withdrawal. If a new fee schedule has been approved in the interim, the provider will be re-entered and his fees computed in accordance with the appropriate federal guidelines.

**.003. Importance of Reporting Usual Fee.** The EPSDT Dental Program has the responsibility of computing data based upon the factual information as supplied from claim invoices. Therefore, it is important that the provider record his actual charge for the services. Federal guidelines will always take precedence in computing fee schedules.

Doc. No. 788172

## Dental Provider Claims 326.39.48.001, .003-.013

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

**.001. Requests for Prior Authorization and Billing (for Other than Emergency Care and Denture Repairs).** Each provider will be supplied with an invoice claim form. For routine care, the only procedures that will not require prior authorization are exam, x-rays, prophylaxis, topical fluoride, and oral hygiene instruction. No prior authorization will be given over the telephone.

### **.003. Emergency Treatment Claim.**

(a) The invoice claim form will be used for emergency treatment. The provider will be responsible for printing "Emergency" at the top of the claim form.

(b) A maximum of \$40 can be paid for any emergency work done without any prior authorization and only one emergency invoice can be submitted on any one day on each recipient.

(c) Emergency treatment is intended for the relief of pain due to any facial injuries or acute conditions. Very often \$40 will only pay for temporary treatment. If more extensive work will be required, submit an Emergency Follow-up Treatment Plan for authorization. However, an exam visit can be rendered on the same date as an emergency treatment visit if the reason for this is documented by calling the EPSDT Dental Program.

### **.004. Treatment Plan Invoice.**

(a) The provider should not do any routine work before the invoice is returned with an authorization. As the program is now established, recipients are eligible for only one routine comprehensive treatment plan before the 12th month following the date of last service, with exceptions provided in Rule 326.39.62.007.

(b) The provider signing the claim must be the provider who rendered the service. Exceptions are private or public agencies who have a contract with TDH. Only the provider's own signature is acceptable.

### **.005. Emergency Follow-up Treatment Plan.**

(a) At the top of the invoice claim form, the provider should write "Refer to emergency claim invoice No. \_\_\_\_\_" to identify the emergency claim that preceded this treatment plan. This treatment plan should relate only to the specific teeth that were indicated on the emergency claim.

(b) This emergency follow-up invoice cannot be used for routine work that for some reason was not included on the routine treatment plan.

(c) The provider should not do any of this requested work until the invoice is returned with an authorization.

(d) The provider signing the claim must be the provider who rendered the service. Exceptions are private or public agencies who have a contract with TDH. Only the provider's own signature is acceptable.

### **.006. Changes to Original Treatment Plan.**

(a) If, when treating a tooth, the provider finds that his original choice of treatment needs to be changed, the dentist may relist this tooth and its new service. Examples of acceptable changes:

(1)-(5) (No change.)

(b) (No change.)

(c) Any change in procedure must comply with limitations outlined in Rule 326.39.99.601. In some instances, the program will allow a provider to report an unrelated service after the treatment plan has been approved. The provider will be required to submit a statement with the claim explaining the reason this was not requested on the original treatment plan. This may be paid but only if the fee for the service does not increase the encumbrance that was made on the original treatment plan.

### **.007. Referrals.**

(a) Recipients may need to be referred to another provider for one or more of the following reasons:

(1) treatment by specialist is indicated; i.e., periodontist, pedodontist, oral surgeon, endodontist, etc.;

(2) recipient prefers a provider nearer to his home or place of employment;

(3) provider does not want to continue treatment with this particular recipient because of "no-shows," personality conflict, no appointment time available, etc.;

(4) recipient does not want to continue treatment with provider because of conflicts with provider office.

(b) Referrals must be initiated by the referring provider for cases pertaining to (1) and (3) above. If arrangements have been made with another provider or a specific specialist, the referring provider notes on his initial exam invoice the name of the provider and a brief reason for the referral, such as mental retardation, severe physical problems, or unmanageable behavior.

(c) The second provider or specialist receiving the referral makes his exam and completes an initial invoice, sending it in along with the treatment plan listing the approved procedures he feels should be completed. The provider that receives the referral should also write "Referral made from Dr. \_\_\_\_\_" on his initial exam and treatment plan invoices. When the approved treatment plan is returned, he completes the work after rechecking the recipient's eligibility and submits the completed treatment plan for payment. In each case above, the provider must have a signed agreement with the program.

.008. *Claims Returned for Additional Information.* In the event any errors are found, the EPSDT Dental Program, TDH, will send the provider the original invoice with a memo explaining what corrections are necessary. The dentist will make the necessary corrections and initial them. He will then send the invoice back to the Central Control Office. Each invoice will be replaced by the Central Control Office on a one-to-one basis as they are received for prior authorization.

.009. *Inquiries.* Questions regarding program coverage or payment of invoices may be submitted to the director, Title XIX EPSDT Dental Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. When making an inquiry on a particular claim, be prepared to furnish the invoice claim number.

.010. *Void Claim Forms.* Each provider is responsible for instructing his office staff to not destroy claim forms. All mutilated, voided, etc., claim forms not used should be batched and returned to Title XIX for cancellation. Please mark these invoices as "Void." Erasures, mark-throughs, whiteouts, or changes of any kind on the invoice must be initialed by the provider.

.011. *Claim Denials.* Claims may be denied on the basis of:

- (1) ineligible recipients who have received previous services from EPSDT Dental Program or recipients eligible under another third-party program;
- (2) services not specifically covered by benefits of EPSDT Dental Program;
- (3) residents in a state-maintained institution;
- (4) services rendered by a nonparticipating provider or suspended provider;
- (5) "no-shows"—no service rendered;
- (6) duplicate claims or claims for dental work previously paid for under the program;
- (7) dental practice procedures which are contrary to rules and regulations relating to the practice of dentistry as set forth by the State Board of Dental Examiners.

.012. *Withholding of Payment on Claims Filed.*

(a) The State Comptroller's Office requires all claims adjustments (over-payments, etc.) to be settled between the state and the provider before any additional claims can be paid.

(b) The Texas Department of Health has an obligation to withhold payment from a provider when services were not rendered (false items on a claim). False claims certified by the review dentist must be paid by the provider. Large discrepancies by a provider may precipitate further legal action. In cases of possible fraud, such referrals will be submitted through DHR to law enforcement officers.

(c) Payment may be withheld by TDH on any claim submitted by a provider who has been suspended from the program.

.013. *Method of Payment.* Checks are issued approximately every two weeks. These checks usually represent claims submitted 20-30 days prior. If payment for a claim has not been received within 60 days, the provider should notify the EPSDT Dental Program, Texas Department of Health, in Austin by letter in regard to the claim status. He or she should give name of recipient, recipient's number, invoice claim number, provider's permanent license number, and date invoice was sent.

Doc. No. 788173

## 326.39.48.002

The Department of Human Resources adopts the repeal of Rule 326.39.48.002 in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program related to dental services. Notice of the repeal was published in the August 18, 1978, issue of the *Texas Register* (3 TexReg 2902). The EPSDT Dental Program Manual for Providers of Services has been recently revised, necessitating the deletion of several department rules. Material concerning the initial visit exam was included elsewhere, and therefore the rule has been repealed. The EPSDT Dental Program covers oral examination for oral pathological conditions, dental preventative and corrective treatment services, and suggested dental services needed at future appointments. These services are available to individuals under age 21 who are determined eligible for medical assistance.

Comments were received from two dentists, and although no changes were made to the rules, the comments have been forwarded to the Texas Department of Health, where individual responses have been made to the questions raised.

The repeal of Rule .002 is adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

Doc. No. 788174

## 326.39.48.014-.015

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

.014. *Reimbursement.*

(a) The EPSDT Dental Program enforces a six-month limitation for completion of invoice treatment plans for submission for payment.

(b) The six-month limitation is applied from the first day of the month in which the invoice is authorized. For example: If an invoice treatment plan were encumbered during the month of November 1977, it must be received by Title XIX for payment on or before April 30, 1978.

(c) Each invoice treatment plan will show a date to indicate the expiration date for payment. This will appear in the lower right third of the invoice claim.

(d) The limitation has been enforced for the purpose of removing the obligation to authorize treatment plans that

are not being utilized. Also, the longer a treatment plan is kept inactive, the more apt the recipient is to become ineligible.

(e) If a treatment plan was required, payment on first visit exam will not be made until the services authorized on a treatment plan have been rendered and claim is submitted for payment. If, for some reason, all the services authorized on the treatment plan cannot be rendered, then payment will be made when the claim is submitted for partial payment.

#### .015. Denture Repair Plan.

(a) A denture repair is classified as an emergency procedure and does not require prior authorization. The provider should type or print in ink "Emergency" on the top of the invoice claim form.

(b) Procedures other than those pertaining to the repair(s) will not be honored for payment except for exam.

(c) The provider signing the claim must be the provider who rendered the service. Exceptions are private or public agencies who have a contract with TDH. Only the provider's own signature is acceptable.

Doc. No. 788175

### Dental Utilization Review 326.39.62.001, .004-.005, .007

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

#### .001. Purpose.

(a) Federal regulations and state laws provide that a single state agency administering Title XIX Dental Programs will establish and implement a statewide surveillance and utilization control program that:

- (1) safeguards against unnecessary or inappropriate utilization of care and services;
- (2) reviews services rendered to determine if excess payments were made; and
- (3) assesses the quality of such services.

(b) Additionally, the single state agency must establish a mechanism to review the need for services provided to eligible recipients.

#### .004. Method of Review.

(a) Post-payment reviews of paid invoice claims are conducted by TDH using the following two methods:

(1) Desk audits. Title XIX administration (TDH) conducts routine desk audits for the purpose of reviewing possible duplication of service.

(2) Utilization review of providers. EPSDT Dental Program (TDH) conducts utilization reviews of providers through the use of a review team which is headed by a dentist licensed in the State of Texas. The review dentist is assisted by a qualified dental assistant.

(b) Maintaining office records of recipients. Because routine utilization reviews are required by federal regulations, it is essential that accurate office records be maintained of services under EPSDT Dental Program. Federal regulations prescribe that a provider maintain a permanent file on invoice claims for a period of at least three years. Office records include x rays and if new denture units, relines, repairs, or space maintainers are involved, dental laboratory work orders (prescriptions) and dental laboratory billings.

#### .005. Coordination.

(a) Schedules. Scheduling of review is the responsibility of the director, Title XIX Dental Programs (TDH). Schedules and lists of recipients to be examined are provided to DHR approximately 45 days in advance.

(b) Selection of providers for utilization review. Providers are selected at random or if a special review is required, as directed by the director, Title XIX Dental Programs.

(c) Selection of recipients to be examined. Recipients are selected from the paid invoice claims of the providers to be reviewed.

(d) Site location. Location of reviews is coordinated between TDH and DHR well in advance of the review.

(e) Notification of review to provider:

- (1) review date—one month in advance;
- (2) site location—two weeks in advance;
- (3) list of names of recipients to be reviewed—one

day in advance.

(f) Scope of reviews. The reviewing dentist renders an oral examination to verify that dental services were rendered as claimed by the providers on paid invoice claims (treatment plans). The provider is invited to attend the review or to have his office representative attend and bring his own office records, including x rays, for each recipient to be reviewed, and to make them available to the reviewing dentist.

(g) Validity of reviews. In order to make reviews valid, it is essential that the provider adhere to Article 9 of the signed agreement between the provider and TDH. Non-compliance to Article 9 only raises questions and may precipitate an unannounced review.

(h) Report of findings. The provider will receive a report of findings of the review within a reasonable time, usually not more than 30 days after the review.

(i) Plan of operation for professional reviews. This plan outlines the method by which EPSDT Dental Program decides whether a utilization review is acceptable, questionable, or unacceptable. The plan is provided to each provider. If for some reason the plan has not been provided, a written request should be sent to the director, EPSDT Dental Program, 1100 West 49th Street, Austin, Texas 78756.

#### .007. Special Cases.

(a) An interrupted/incomplete treatment plan is treatment that was not completed as reflected on an approved initial treatment plan which was submitted by the initial provider. Treatment was interrupted because of various reasons on the part of the recipient or provider. Payment of claim covered a portion of services rendered. Procedures for handling interrupted/incomplete treatment plans and absences found during utilization reviews are outlined below.

(1) To be eligible for subsequent treatment, the recipient in all cases must be holding a current Medical Care Identification Card or a Medicaid Eligibility Letter.

(2) (No change.)

(3) If the recipient goes to a different provider, the DHR worker initiates a separate Request for Dental Services form for the recipient. A special notice will be printed or typed on the left edge of the bottom third of the form, "treatment incomplete" or "treatment interrupted." The EPSDT Dental Program will give this card special handling and, if the recipient is still eligible, may give special approval. A notice is printed at the bottom of each card: "Approved. Due

to prior service, please attach this card to invoice when submitting for payment."

(b) The director, Title XIX Dental Programs, has the authority to permit the initial provider to complete service involving the absence of service if the review dentist indicates that it appears the procedure in question is really required and if the results of the review were acceptable or questionable. After the initial provider makes an overpayment settlement covering discrepancies, he or she can submit a new supplemental treatment plan for authorization, and after completion of treatment, for payment.

(c)-(e) (No change.)

Doc. No. 788176

## 326.39.62.008-.009

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

*.008. Utilization of Peer Review or Grievance Committees.* The EPSDT Dental Program is mandated to utilize peer review or grievance committees in disputes (complaints/questions on poor quality service) in behalf of the recipients, providers, and the program by law enacted by the Legislature of the State of Texas. Any one of these parties can utilize either of these committees to try to settle a dispute by contacting the president of the local dental society or peer review committee in the local area.

*.009. Utilization of State Board of Dental Examiners.* Dental services under the EPSDT Dental Program are required to be performed by the provider except for that work expected to be done by a dental hygienist, a dental assistant, and by the commercial or office dental laboratory if denture service is involved. Section V, Rules and Regulations, State Board of Dental Examiners, outlines the scope of work that dental auxiliary personnel can perform. Article 4551f, Laws Relating to the Practice of Dentistry, State Board of Dental Examiners, outlines the scope of work that can be performed by dental technicians. Any suspected or reported deviations from these practices will be reported to the State Board of Dental Examiners by the EPSDT Dental Program.

Doc. No. 788177

## Requests for Dental Services 326.39.65

The following amendment is adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.001. Request Card Procedures.*

(a) An eligible recipient who desires services from the program must first go to the local DHR caseworker to complete a Request for Dental Services Card. The caseworker is responsible to assist the recipient in completing all items prescribed on this card and ready it for mailing to EPSDT Dental Program, 1100 West 49th Street, Austin, Texas 78756.

(b) The program will return the card to the sender with the following action:

(1) Denied services. Examples of reasons for denial are:

(A) Age of the recipient is not within the age limits authorized by the program.

(B) Recipient has already received routine services from the program within the last 12 calendar months. Exceptions are referrals, interrupted/incomplete treatment plans, absence of service found on utilization reviews, dental problems discovered by utilization review dentist, and dental problems discovered on medical screening.

(C) Person does not hold a current Medical Care Identification Card or Medicaid Eligibility Letter.

(2) Approval of services. If the person is approved to receive services (an eligible recipient), he or she can either go through the local caseworker or go directly to a provider of his or her choice to make an appointment to begin dental services. The provider, however, must have signed an agreement with TDH to participate in the program. There is no check for eligibility or age of recipient when the Request for Dental Services Card is submitted to the EPSDT Dental Program, Texas Department of Health.

Doc. No. 788178

## Support Documents 326.39.99

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, with the approval of the Texas Board of Human Resources.

*.601. Limitation of Allowable Services.* The Texas Board of Human Resources has approved the following limitations of allowable services.

(Editor's note: See charts, pages 4427-4434.)

Doc. No. 788179

## Pharmacy Services

### Administration 326.40.01

The Department of Human Resources repeals Rule 326.40.01.002 about the Kidney Health Care Program in its Pharmacy Services rules, as proposed in the October 10, 1978, issue of the *Texas Register* (3 TexReg 3556). The Kidney Health Care Program has been terminated because appropriated funds have been exhausted. The program was administered by the Texas Department of Health; the Vendor Drug Program was reimbursed by the Health Department for prescriptions delivered to recipients participating in the Kidney Health Care Program. No comments were received on the proposed repeal of Rule .002.

Rule .002 is repealed under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, and with the approval of the Texas Board of Human Resources.

Doc. No. 788180

### Audits 326.40.06

The Department of Human Resources adopts the amendments to Rule 326.40.06.007 about replacement of the Texas Medical Assistance Record Book in the Pharmacy Services

**Program.** The amendments were proposed in the October 10, 1978, issue of the *Texas Register* (3 TexReg 3556). The Pharmacy Services (Vendor Drug) Program provides, by reimbursement to vendors, for prescribed medications appropriate to the needs of those eligible for medical assistance.

The rule has been amended to remove reference to the medical assistance unit pharmacist. The department no longer administers medical assistance units; a regional pharmacist will now perform the duties described in Rule .007. Also included in the adopted amendments is the department name change. No comments were received on the amendments; therefore, they are adopted without changes to the proposed text.

The following amendments are adopted under the authority of Articles 695c and 695j-1, Texas Revised Civil Statutes, and with the approval of the Texas Board of Human Resources.

*.007. Replacement of Record Book.* When it is necessary to audit a provider of pharmaceutical services, the regional pharmacist is to replace any Texas Medical Assistance Record Booklets that are being retained in the pharmacy. The original books are to be retained in Department of Human Resources files for use by the auditors either at the audit site or when they return to the State Office.

Issued in Austin, Texas, on December 11, 1978.

Doc. No. 788181 Jerome Chapman  
Commissioner  
Texas Department of Human Resources.

Effective Date: January 1, 1979

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



#### Limitation of Allowable Services

Description	Age (yrs)	Limitations
First Visit Examination	0-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service. Exceptions: emergencies, referrals, findings by medical screening process, interrupted/incomplete treatment plans, absence of service found on utilization review, and problems discovered by UR dentist.
Emergency Limited Examination	0-20	None. An emergency exam and a first visit exam can be rendered the same day if documentation can be supplied to justify this occurrence.

Intraoral Full Mouth plus BW X-Rays	0-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service. Exceptions: See first visit exam.
Intraoral Periapical X-Ray. (Each) Film	0-20	None
Intraoral Occlusal X-Ray (Each) Film	0-20	One per arch per patient.
Intraoral BW X-Ray (2 Films)	0-20	None
Intraoral BW X-Ray (4 Films)	0-20	None
Extraoral Panoramic plus BW X-Ray	0-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service. Exceptions: See first visit exam.
Oral Prophylaxis (Mixed or Permanent)	5-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service. Prophylaxis includes subgingival scaling. Exception: Acute gingivitis cases. May be used in conjunction with periodontal prophylaxis procedures.
Oral Prophylaxis (Mixed or Primary)	1-14	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service. Exception: Acute gingivitis cases. May be used in conjunction with periodontal prophylaxis procedure.
Topical Fluoride Stan. (All Quad)	1-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service.
Topical Fluoride Acid Phos. (All Quad)	1-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service.

Oral Hygiene Instruction (Per Pt.)	6-20	Subject to non-payment if the procedure was rendered to the same recipient before the twelfth calendar month from the date of last service.
Fixed Unilateral Band Space Maintainer	2-12	Limited to posterior primary teeth - maximum of two per arch per recipient. non-payment for replacement if previously paid for by Title XIX.
Fixed Lingual or Palatal Arch Band Space Maintainer	2-12	Limited to posterior primary teeth - Maximum of one per arch per recipient. Non-payment for replacement if previously paid for by Title XIX. Additional requirements outlined in the EPSDT Dental Program Manual for Providers of Services.
Fixed Distal Shoe Type Unilateral Space Maintainer	2-12	Limited to posterior primary teeth - Maximum of two per arch per recipient. Non-payment for replacement if previously paid for by Title XIX.
Fixed Stainless Steel Crown Unilateral Space Maintainer	2-12	Limited to posterior primary teeth - Maximum of two per arch per recipient. Non-payment for replacement if previously paid for by Title XIX. Fee for space maintainers includes maintenance and repairs.
Pit Amalgam Primary	0-20	None
One Surface Amalgam Primary	0-20	None
Two Surface Amalgam Primary	0-20	None
Three Surface Amalgam Primary	0-20	None
Four Surface Amalgam Primary	0-20	None
Pit Amalgam Permanent	0-20	None
One Surface Amalgam Permanent	0-20	None
Two Surface Amalgam Permanent	0-20	None

Three Surface Amalgam Permanent	0-20	None
Four Surface Amalgam Permanent	0-20	None
Five Surface Amalgam Permanent	0-20	None
Pin for Retention	6-20	No more than four pins per permanent tooth.
Esthetic-Class V (Includes Cingulum)	0-20	No more than two per tooth located in facial and limited to the following teeth: Upper -No.16 through No.26; No.55 through No.65; Lower-No.36 through No.46; No.75 through No.85.
Esthetic - Class IV	0-20	No more than two per tooth and authorized for anterior teeth only: Upper-No.13 through No.23; No.53 through No.63; Lower-No.33 through No.43; No.73 through No.83.
Esthetic - Class III	0-20	No more than two per tooth and authorized for anterior teeth only: Upper-No.13 through No.23; No.53 through No.63; Lower-No.33 through No.43; No.73 through No.83.
Acid Etch — Class V	6-20	No more than two per tooth and limited to the following permanent teeth: Upper-No.16 through No.26; Lower-No.36 through No.46.
Acid Etch - Class IV	0-20	No more than two per tooth and authorized for anterior teeth only: Upper - No.13 through No.23; No.53 through No.63; Lower-No.33 through No.43; No.73 through No.83.
Acid Etch - Class III	6-20	No more than two per tooth and limited to the following permanent teeth: Upper—No.13 through No.23; Lower—No.33 through No.43.



Cast (with porcelain) Crown Restoration	6-20	No more than two permanent teeth per claim and on anterior teeth only.
Cast (full) Crown Restoration	6-20	No more than two permanent teeth per claim.
Full Stainless Steel Crown	0-20	None. The fee for any crown includes build-up that is done.
Plastic Form Cold Cure Crown (Office)	0-20	Authorized for anterior teeth only.
Recement Crowns/ Space Maintainer	0-20	None
Temporary Filling	0-20	None
Pulp Cap	0-20	None
Base, Filling	0-20	None
Pulpotomy	0-20	Cannot be used in conjunction with a pulp cap or a base filling.
One Canal Root Therapy	6-20	Maximum of 4 per recipient and limited to permanent teeth.
Three Canals Root Therapy	6-20	
Two Canals Root Therapy	6-20	Maximum of 4 per recipient and limited to permanent teeth.
Four Canals Root Therapy	6-20	
Periodontal Prophylaxis (Scaling & Polishing)	10-20	Subject to non-payment if the procedure was redendered to the same recipient before the twelfth calendar month from the date of last service. Exceptions: Emergencies, and may be used in conjunction with oral prophylaxis.
Complete Upper Full Denture	2-20	Non-payment for replacements previously paid by Title XIX. Exception: Anodontia cases.
Complete Lower Full Denture	2-20	Non-payment for replacements previously paid by Title XIX. Exception: Anodontia cases.

Upper Partial Acrylic Denture (No Clasps)	9-20	Non-payment for replacement if previously paid for by Title XIX. Exception: Cleft palate and partial anodontia cases.
Lower Partial Acrylic Denture (No Clasps)	9-20	Non-payment for replacement IF previously paid for by Title XIX. Exception: Cleft palate and partial anodontia cases.
Upper Partial Acrylic Denture (Clasps)	9-20	Non-payment for replacement if previously paid for by Title XIX. Exception: Cleft palate and partial anodontia.
Lower Partial Acrylic Denture (Clasps)	9-20	Non-payment for replacement if previously paid for by Title XIX. Exception: Cleft palate and partial anodontia.
Lower Partial Metal Denture (Clasps)	9-20	Non-payment for replacement if previously paid for by Title XIX
Upper Partial Metal Denture (Clasps)	9-20	Non-payment for replacement if previously paid for by Title XIX.
Repair Broken Complete Upper Denture, No Teeth Damaged	9-20	None
Repair Broken Complete Lower Denture, No Teeth Damaged	9-20	None
Repair Broken Upper Partial Denture, No Teeth Damaged	9-20	None
Repair Broken Lower Partial Denture, No Teeth Damaged	9-20	None
Repair Broken Complete Upper Denture and Replace Tooth or Teeth Damaged (in Combination with Lost or Damaged Teeth)	9-20	None.

Repair Broken Complete Lower Denture and Replace Tooth or Teeth Damaged (in Combination with Lost or Damaged Teeth)	9-20	None
Repair Broken Upper Partial Denture and Replace Tooth or Teeth Damaged (in Combination with Lost or Damaged Teeth)	9-20	None
Repair Broken Lower Partial Denture and Replace Tooth or Teeth Damaged (in Combination with Lost or Damaged Teeth)	9-20	None
Replace Teeth, Lost or Damaged	9-20	None
Reline Complete Upper Denture (Laboratory)	9-20	Allowed whether or not the denture was obtained through Title XIX EPSDT Dental Program provided such relining would make the denture serviceable. However, for dentures received through the Title XIX EPSDT Dental Program, relining may not occur sooner than 12 months after the delivery to the recipient. Second and subsequent relines, regardless of source of the denture, may not be provided more often than every 36 months.
Reline Complete Lower Denture (Laboratory)	9-20	
Reline Upper Partial Denture (Laboratory)	9-20	
Reline Lower Partial Denture (Laboratory)	9-20	
Extraction Erupted	0-20	None

Extraction Primary Roots Present	0-20	None
Soft Tissue Impacted Tooth Extraction	0-20	None
Partial Bony Impacted Extraction	0-20	None
Bony Impacted Tooth Extraction	0-20	None
Residual Root Tip Recovery (Primary & Permanent)	0-20	None
Drainage of Abscess	0-20	None
Surgical Removal of Foreign Body	0-20	None
Frenulectomy-Labial	0-20	One per recipient
Frenulectomy-Lingual	0-20	One per recipient
Palliative (Emergency) Treatment of Pain	0-20	None.
Analgesia Nitrous Oxide Inhalant	0-20	Maximum - \$30.00 per recipient and only four per invoice claim. Subject to review by Title XIX dental staff.
IV Sedation	0-20	If more than two per invoice claim, subject to review by Title XIX dental staff.
Hospital Call	0-20	One charge per hospital case.
Therapeutic Drug Injection	0-20	IM injection and subject to review by Title XIX dental staff.
Complications, Post-Operative or Post-Surgical	0-20	None
Splint, Acid Etch	0-20	One per arch, for primary and permanent teeth, for trauma cases only. Non-payment by Title XIX for replacement.
Splint, Stainless Steel Arch Wire and Ligature Wires	6-20	One per arch, for permanent teeth, for trauma cases only.

## Board of Vocational Nurse Examiners

### Licensing

#### Issuance of Licenses 390.03.04

The Board of Vocational Nurse Examiners has adopted the proposed amendment to Rule 390.03.04.007. The rule is amended under the authority of Vernon's Civil Statutes, Article 4528c, to read as follows:

.007. *Denial, Revocation, or Suspension of License.* The board may deny, revoke, or suspend any license to practice vocational nursing or otherwise discipline a licensee upon proof that the person:

- (1)-(7) (No change.)
- (8) is guilty of any other reason which shall be deemed just cause for revocation. Such acts shall include but are not limited to:
  - (A) misdemeanor involving the use or possession of alcohol or prohibited drugs;
  - (B) misdemeanors involving moral turpitude;
  - (C) willful alteration of hospital/nursing home records;
  - (D) willful misrepresentation of facts recorded in hospital/nursing home records; and
  - (E) to have had his or her license to practice nursing denied, suspended, or revoked in another jurisdiction and not reinstated.

Issued in Austin, Texas, on December 12, 1978.

Doc. No. 788205      Waldeen D. Wilson, R.N.  
 Executive Secretary  
 Board of Vocational Nurse Examiners

Effective Date: January 3, 1979

For further information, please call (512) 458-1203.

## Texas Optometry Board

### Filing of Charges 392.01.00

The Texas Optometry Board has adopted amended Rule 392.01.00.001, under the authority of Article 4552, Texas Civil Statutes.

#### .001. *Filing of Charges.*

(a) Any person or persons may file with the board a complaint or formal charges of violation of any of the optometry laws of this state against any licensed optometrist or other person, firm, or corporation. Formal charges must be in writing, under oath, and set forth the following information:

- (1) the name and office address of the person or entity charged;
- (2) the nature of the acts charged;
- (3) the time and place where such acts are alleged to have occurred;
- (4) a list of persons, if any, who witnessed such acts;
- (5) the charges should be set out in sufficient detail as to enable the person or entity charged to properly meet the same;

(6) any photographs, letters, advertisements, or other documents used as a basis for the charges should be attached thereto.

(b) Investigation-Enforcement Committee.

(1) The chairman of the board shall appoint a committee to consider all complaints and formal charges filed with the board. Such committee may be known as "Investigation-Enforcement Committee" and shall be composed of six board members, one of whom to be designated as chairman. Except as provided in subsection (2) below, when a complaint or formal charge is filed with the board against a licensed optometrist or other person, firm, or corporation, the chairman of the Investigation-Enforcement Committee shall designate one member of the board as a subcommittee of one for the purpose of investigating such complaint or formal charge. Such board member shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, and documents; to administer oaths; and to take testimony concerning the matter under investigation. If, upon review of the complaint or formal charges and the evidence with respect to such charges, such board member shall determine that sufficient legal evidence does exist that a violation of the optometry laws of the State of Texas may have occurred, such board member shall forward such determination in writing to the chairman of the board, whereupon the chairman of the board shall fix a time and place for a hearing and shall cause a copy of the formal charges (including complaints which have been redrafted to meet the requirements of a formal charge), together with a notice of the time and place fixed for hearing, to be served on the person or entity charged or his counsel. The board member who investigated the charges shall be responsible for the prosecution of the case before the board. However, the board member who handled the investigation and prosecution of the person or entity charged shall excuse himself from any vote or other determination with respect to the action, if any, to be taken by the board.

(2) With a view to the enforcement of the Texas Optometry Act, the chairman of the Investigation-Enforcement Committee shall divide the state into three primary geographic areas, with each member of the Investigation-Enforcement Committee being assigned areas of responsibility within one or more of the three primary geographic areas. Within the areas assigned, such member shall be charged with the responsibility of ascertaining that the provisions of the Texas Optometry Act are complied with. If, as a result of an investigation initiated by an investigator hired by any board member, a complaint or formal charge is filed against a licensed optometrist or other person, firm, or corporation by such investigator, the board member from whose area the charge originated shall be the member designated to handle the further investigation and prosecution of such charge, if any, without the necessity of being formally so designated by the chairman of such committee. The members of the Investigation-Enforcement Committee shall at all times be accountable for their actions to the chairman of the board.

(c)-(f) (No change.)

Doc. No. 788182

## Guidelines 392.02.00

The Texas Optometry Board has adopted amended Rule 392.02.00.003, under the authority of Article 4552, Texas Civil Statutes.

### .003. Guidelines Regarding Filing of Charges.

(a) All charges received by any board member shall be sent to the board secretary in Austin. The secretary, after checking with the chairman of the Investigation-Enforcement Committee, shall forward the complaint to the appropriate Investigation-Enforcement Committee member. Unless some unusual circumstance exists, complaints or formal charges shall be forwarded to the board member in charge of enforcement in the area of the complaint.

(b) In addition to its subpoena power, each member of the committee may either investigate an alleged violation in person or use an investigator or investigators for that purpose.

(c) On receipt of a written complaint, whether or not in the form prescribed in Rule 392.01.00.001, Section (a), including but not limited to a written complaint by a board investigator, the board member in charge shall determine:

(1) whether to drop the matter and take no further action;

(2) whether to send a letter to the person charged reciting that a complaint has been received and that, while the investigating board member cannot determine or pass on the merits of the complaint without conducting an investigational hearing, the person charged be asked to review his practice to ensure that the act is being complied with and, that if the allegations are true, to cease and desist from the alleged violations;

(3) whether to conduct further investigations, including conducting investigational hearings to allow the person or persons investigated to appear;

(4) whether, after conducting an investigational hearing to send the person charged: (a) a letter of reprimand or (b) a letter requesting that the person charged cease and desist from the alleged violation or violations;

(5) whether to forward to the chairman of the board in writing the board member's determination that a violation of the optometry laws of this state may have occurred;

(6) whether to forward to the board the board member's determination that some person, firm, or corporation is practicing optometry without a license, along with the board member's recommendation that the board notify the attorney general and appropriate district attorney of the board member's findings, and request that action be taken in accordance with the law.

(d) As regards Article 5, Section 5.12 (Basic Competence), the following combination of omissions shall determine the seriousness of the alleged violation. The alleged omission of the following combinations shall be reason for an investigational hearing:

- (1) No. 4 and No. 5, plus one other finding;
- (2) No. 4 and No. 6, near and far, plus one other finding;
- (3) No. 5 and No. 6, near and far, plus two other findings;
- (4) No. 4 and three other findings;
- (5) No. 5 and three other findings;
- (6) No. 6 and three other findings;
- (7) omission of a total of five findings.

(e) Basic Competence includes the following findings (Article 5, Section 5.12):

- (1) case history (ocular, physical, occupational, and other pertinent information);
- (2) far point acuity, O.D., O.S., O.U., unaided; with old glasses, if available, and with new glasses, if any;
- (3) external examination (lids, cornea, sclera, etc.);
- (4) internal ophthalmoscopic examination (media, fundus, etc.);
- (5) static retinoscopy, O.D., O.S.;
- (6) subjective findings, far point and near point;
- (7) phorias or ductions, far and near, lateral and vertical;
- (8) amplitude or range of accommodation;
- (9) amplitude or range of convergence;
- (10) angle of vision, to right and left.

(f) All other omissions or combination of omissions of findings shall be reason to send letters pursuant to Section (c)(2) above. Pupillary distance, lens prescription right and left, color and tint, segment type size or position, and the optometrist's signature shall be considered as omissions of findings when not properly done and recorded.

(g) When a previous letter pursuant to Section (c)(2) above has been sent to a licensee for alleged violation of Article 5, Section 5.12, and a subsequent complaint is received against the same optometrist for alleged violation of Article 5, Section 5.12, an investigational hearing is required with respect to the second alleged violation. Likewise, if a licensee has had a previous investigational or formal hearing for alleged violation of Article 5, Section 5.12, and a subsequent complaint for alleged violation of Article 5, Section 5.12, is received, a formal hearing is required.

(h) When the willful or repeated failure or refusal of an optometrist to comply with Article 5, Section 5.12, occurs, the board member in charge shall forward to the chairman of the board in writing a formal determination that a violation of Article 4, Section 4.04(a)(3) of the act may have occurred by virtue of the willful or repeated failure or refusal of an optometrist to comply with Article 5, Section 5.12.

(i) Similarly, when the board member in charge determines that a violation has occurred under Article 4, Section 4.04 of the act, he shall forward to the chairman of the board in writing a formal determination that a violation of the optometry laws of this state may have occurred, stating in the letter the specific parts of Article 4, Section 4.04, that the board member in charge thinks the person charged may have violated.

(j) When willful or repeated violations have occurred under Article 5, Section 5.10, the board member in charge shall request from the chairman of the board proceedings in accordance with Article 5, Section 5.10(k).

(k) At any hearing conducted pursuant to Article 5, Section 5.10(k), the person charged shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his behalf, to cross-examine witnesses, and to have subpoenas issued by the board. The board shall thereupon determine the matter upon the merits.

(l) When violations have occurred under Article 5, Section 5.13, the board member in charge shall request from the chairman of the board proceedings in accordance with Article 5, Section 5.13(j).

(m) Nothing in these guidelines or in the board rules regarding filing of charges shall be construed to prohibit the

Investigation-Enforcement Committee from initiating investigations as provided by the act.

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

Doc. No. 788183      Lois Ewald  
Executive Secretary  
Texas Optometry Board

Effective Date: January 2, 1978

For further information, please call (512) 458-2141.

## Texas State Board of Examiners of Psychologists

### General Rulings 400.01.00.023

The Texas State Board of Examiners of Psychologists has adopted Rule 400.01.00.023, which deals with the grandfather clause certification of psychologists.

The amendment to Rule .023 is adopted under the authority of Article 4512c, Texas Civil Statutes.

.023. "Grandfather Clause" Certification. A psychologist certified by this board under the "grandfather clause" without examination may take the examination at a regularly scheduled examination session by paying the proper fee.

Doc. No. 788206

### 400.01.00.027

The Texas State Board of Examiners of Psychologists has adopted a new general ruling, Rule 400.01.00.027, which deals with errors of the board. It was decided to clearly state the board's policy concerning applications, examinations, and other activities of the board.

The new rule is adopted under the authority of Article 4512c, Texas Civil Statutes.

.027. Errors. If the board discovers an error was made in processing an application, in examining an applicant, or in any of its other activities, the board has the authority to correct this error.

Doc. No. 788207

### Applications 400.02.00

The Texas State Board of Examiners of Psychologists has adopted Rule 400.02.00.010, which deals with the requirements for psychological associate certification (master's level). The number of semester hours and the number of clock hours of practicum have been increased to ensure that applicants have an understanding of the fundamental conceptual and empirical foundations of psychology, a command of the substantive areas relevant to the technological speciality offered in degree programs, and sufficient supervised practicum/experience to assure the public that applicants can perform competently within the circumscribed speciality area.

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

.010. Subdoctoral Certification. For a degree conferred after August 31, 1980, the board requires a master's degree of at least 42 semester credit hours for subdoctoral certification, at least 27 graduate level semester credit hours of which (exclusive of practicum) must have been in psychology. Six semester credit hours of thesis credit in a department of psychology may be counted toward these 27 semester credit hours. No hours obtained after the master's degree was conferred may be counted. Four hundred and fifty clock hours of practicum or experience in psychology, supervised by a licensed psychologist, or, in the case of exempt agencies, by a supervisor who is eligible for licensure, must be completed before the written examination may be taken.

Issued in Austin, Texas, on December 12, 1978.

Doc. No. 788208      Patti Smith Bizzell  
Executive Secretary  
Texas State Board of Examiners of  
Psychologists

Effective Date: January 3, 1979

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

## Texas Department of Public Safety

### Organization and Administration

#### Personnel and Employment Policies

##### 201.01.03

Pursuant to the authority of Vernon's Civil Statutes, Article 4413(4), the Texas Department of Public Safety is adopting Rule 201.01.03.001 with no changes from the text proposed in the November 7, 1978, issue of the *Texas Register* (3 TexReg 3888) to read as follows:

##### .001. General Employment Policy.

(a) It is the policy of the Texas Department of Public Safety to make all appointments on the basis of merit and in the best interest of the department in accordance with the rules and regulations of the Public Safety Commission and applicable statutes. Applicants must be of good moral character and habits. A conviction for any felony disqualifies. A probated or suspended sentence shall be considered a conviction. Applicants will be investigated as to the truth of the statements made in their applications or during their oral interview, and any misstatement of fact will be sufficient grounds for rejection of the applicant. All persons, upon filing an application for employment, thereby consent to an investigation of their character, habits, previous employment, and physical condition. Applications for all positions will be considered irrespective of sex, race, color, religion, national origin, or age. Age requirements for employment will only be applied to those positions so specified.

(b) Applicants for trooper-trainee and certain other selected positions are required to execute an Assumption of Risks, Covenant Not to Sue, and Authorization for Release of Personal Information waiver form, thereby assuming risks and liabilities of agility testing and consenting to an investigation of their records.

Doc. No. 788203

## Vehicle Inspection

### Vehicle Inspection Station Operations

201.12.06

The Texas Department of Public Safety adopts the amendments to Rule 201.12.06.008, which adopts by reference the manual of Rules and Regulations for Official Vehicle Inspection Stations and Certified Inspectors as amended in August 1977, with no changes from the text proposed in the November 7, 1978, issue of the *Texas Register* (3 TexReg 3891).

The amendment is adopted pursuant to the authority of Vernon's Civil Statutes, 6701d, Article XV, Section 141, and Vernon's Civil Statutes, 6701d-2.

#### .008. Instructions and Guidelines.

(a) The Rules and Regulations Manual for Official Vehicle Inspection Stations and Certified Inspectors will be the instruction manual and guidelines for the operation of all vehicle inspection stations and certified inspectors.

(b) The attached manual, Rules and Regulations for Official Vehicle Inspection Stations and Certified Inspectors, as amended in August 1977, is adopted by reference and contains the revised rules and regulations for official vehicle inspection stations and certified inspectors. This manual has been filed, as required by Article 6701d-2, in the county clerk's office of every county in the state.

(c) The rules and regulations established and published and filed with the county clerk in every county in the state as the Rules and Regulations Manual for Official Vehicle Inspection Stations and Certified Inspectors will serve as procedure for all vehicle inspection station operations and inspections performed.

(d) Any violation of these rules and regulations may result in the suspension of the certificate of appointment of the vehicle inspection station or certificate of the certified inspector.

Issued in Austin, Texas, on December 11, 1978.

Doc. No. 788204      Wilson E. Speir  
Director  
Texas Department of Public Safety

Effective Date: January 2, 1979

For further information, please call (512) 452-0331.



TEXAS  
DEPARTMENT  
PUBLIC SAFETY

## Office of the Secretary of State

### Elections

#### Time and Place of Election 004.30.02

The secretary of state has adopted Rule .004.30.02.101 under the authority of Article 1.03, Vernon's Texas Election Code.

.101. *Elections Prohibited on General Election Date.* No election of any type other than the election of state and county officers, the election of officers of a general-law city wherein the governing body of said city finds that the religious tenets of more than 50 percent of the registered voters of said city prohibit the adherents from voting in an election held on a Saturday, and constitutional amendments submitted to the people by the legislature can legally be held on the first Tuesday after the first Monday in November in even-numbered years.

Doc. No. 788118

#### Suffrage 004.30.05.240

Under the authority of Vernon's Texas Election Code, Article 1.03, the secretary of state has adopted Rule .004.30.05.240 in the following form:

.240. *Disabled Voter Voting Absentee in Person at Entrance to the Absentee Polling Place.*

(a) Article 8.28, Vernon's Texas Election Code, which allows two election officials to deliver a ballot to a person who is physically unable to enter the polling place, shall be applied to absentee voting by personal appearance. The ballot may be taken to the voter at or near the entrance to the polling place.

(b) Procedure for voting. The election officials, after being requested to so deliver a ballot, may delay the delivery temporarily if, because of a large number of persons waiting to vote absentee, immediate delivery would impede the overall progress of the voting.

(1) Political subdivisions using a special canvassing board to count absentee ballots. The election officials shall take with them to the disabled voter such papers as are necessary to qualify to voter for voting, to wit: an application for an absentee ballot to be voted by personal appearance, list of registered voters, list of cancelled voter registrations (if applicable), poll list, voted stamp, party stamp (if applicable), affidavit forms, voter registration application (if applicable), and a ballot. The officials shall then follow the procedure for accepting the person to vote as outlined in Article 5.05, Subdivision 3a, Vernon's Texas Election Code. If the officials are satisfied as to the voter's right to vote and to vote in this manner, the voter is then given the ballot and allowed to vote in private. After executing the ballot, the voter folds the ballot and gives it to the officials along with the completed application. The officials deposit the ballot in the ballot box for absentee ballots and add the voter's name to the poll list of absentee voters.

(2) Political subdivisions not using a special canvassing board to count absentee ballots. The election officials shall take with them to the voter such papers as are necessary to allow the voter to vote, to wit: an application for an



absentee ballot to be voted by personal appearance, the list of registered voters, the list of cancelled voter registrations (if applicable), affidavits, a voter registration application (if applicable), a ballot envelope, a carrier envelope, and a ballot. If the officials are satisfied that the voter should be allowed to vote in this manner, the officials shall then follow the procedure for allowing a person to vote as outlined in Article 5.05, Subdivision 3b, Vernon's Texas Election Code. The voter is then given the ballot and allowed to vote in private. After executing the ballot, the voter folds the ballot and places it in the envelope marked "ballot envelope" and seals it. The voter then places the ballot envelope in the carrier envelope, seals it, and signs the certificate on the envelope. The voter delivers the envelope and the completed application to the election officials who then take them back to the absentee polling place. The carrier envelope and the application are placed in the jacket envelope and stored in a safe place with the other voted ballots. The voter's name is added to the poll list of absentee voters.

(c) Poll watchers. Poll watchers shall be permitted to accompany the election officials to where the disabled voter is waiting and to observe the process except for the actual marking of the ballot.

(d) Assistance to voters. Article 5.05, Subdivision 15, Vernon's Texas Election Code, allows a voter to receive assistance in marking his absentee ballot if the voter is unable to prepare it himself because of bodily infirmity or inability to read the language in which the ballot is printed. The voter may have either an election official or another registered voter assist him in marking his ballot when voting under the provisions of this rule. The assistant shall be subject to the duties and responsibilities stated in Article 5.05, Subdivision 15, Vernon's Texas Election Code. Any watcher shall be permitted to observe when an election official provides the assistance.

Doc. No. 788125

### 004.30.05.319

The Office of the Secretary of State has withdrawn from consideration proposed Rule 004.30.05.319, Amendment to 1978-79 Voter Registration Certificate.

Doc. No. 788126

### Nominations 004.30.13

The secretary of state has adopted the repeal of Rule .004.30.13.112, Primary Financing Rules. The repeal was proposed because the election to which it pertained has now passed. Notice of the repeal was published in the August 1, 1978, issue of the *Texas Register* (3 TexReg 2612).

This rule is repealed under the authority of Article 1.03, Vernon's Texas Election Code.

.112. *Index to Primary Financing Rules.*

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

Doc. No. 788119 Steven C. Oaks  
Secretary of State

Effective Date: January 1, 1979

For further information, please call (512) 475-3091.

## Teacher Retirement System of Texas

### Membership Credit

#### Service Eligible for Membership 334.03.01

Under the authority of Sections 3.21(a) and 3.59(i) of the Texas Education Code, the Teacher Retirement System of Texas has amended Rule 334.03.01.004 to read as follows:

.004. *Employee Substitutes.* Employees who substitute in a position otherwise eligible for membership may qualify for membership provided that they are employed for at least 90 days in the school year. Such service shall be considered the equivalent of at least 4-1/2 months of service. Members claiming credit for such service will be assessed a fee for delinquent deposits, if applicable, as provided in Rule 334.03.04.003.

Doc. No. 788143

### Benefits

#### Disability Retirement 334.05.02

The Teacher Retirement System of Texas has adopted Rule 334.05.02.005, concerning the reporting of earnings of its disability retirees with one change in the text proposed. The rule as adopted moves the deadline date for submission of earnings statement by disability retirees to February 15 rather than January 31 as originally proposed. This change allows time for the person affected to obtain their W-2 forms from their employers for use in completing the report of earnings.

This rule is promulgated under the authority of Section 3.32(f), Texas Education Code.

.005. *Reduction of Disability Benefits for Excess Earnings.* All persons retired on a TRS disability must file by February 15 of each year a report of earnings received from gainful employment for the previous calendar year on a form provided by TRS. If the total of a person's annual earnings plus his or her total disability benefits for the same calendar year exceeds the annual rate of his or her salary during his last school year of creditable service, monthly disability benefits will be reduced by the amount of the excess prorated over the remaining months of the calendar year in which the report is filed. If the amount of the excess is less than 50 percent of his or her monthly benefit, the retirement system may alternatively deduct this amount in a lump sum from the next monthly disability benefit payment.

Issued in Austin, Texas, on December 11, 1978.

Doc. No. 788144 Leonard Prewitt  
Executive Secretary  
Teacher Retirement System of Texas

Effective Date: January 1, 1979

For further information, please call (512) 477-9711, ext. 213.

# 4440 OPEN MEETINGS

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

## Texas Air Control Board

**Friday, January 19, 1978, 7 p.m.** The Texas Air Control Board will meet in the main ballroom, Holiday Inn, Bay Street and 9th Avenue N, Texas City, to conduct a public hearing. The board will discuss a request by Union Carbide Corporation to amend Board Order 74-3, which would allow an alternative method for removal of potential hydrogen sulfide emissions from the company's waste water lagoons in Texas City, Galveston County.

Additional information may be obtained from Lucinda Schumm, 8520 Shoal Creek Boulevard, Austin, Texas 78758, telephone (512) 451-5711, extension 353.

Filed: December 11, 1978, 3:21 p.m.  
Doc. No. 788140

## Coordinating Board, Texas College and University System

**Monday, December 18, 1978, 1:30 p.m.** The Project First Advisory Committee of the Coordinating Board, Texas College and University System, met in emergency session in Room F, John H. Reagan Building, Austin, to consider the following items, as summarized: brief report on progress; brief report on SSET meeting in Annapolis, Maryland; review of recommendations for policy and procedures; and review of budget recommendations for the remainder of the project.

Additional information may be obtained from Tom Bond, Room 207-B, State Capitol, Austin, Texas 78701, telephone (512) 475-4626.

Filed: December 11, 1978, 3:51 p.m.  
Doc. No. 788142

## Texas Cosmetology Commission

**Sunday, January 7, 1979, 10 a.m.** The Texas Cosmetology Commission will meet at the Sheraton Inn, Oak Cliff, Interstate Highway 35 at Keist Exit, Dallas, to conduct a show cause hearing on Edward Torres and to consider pending legislation.

Additional information may be obtained from Ron Resech, 1111 Rio Grande, Austin, Texas 78701, telephone (512) 475-3304.

Filed: December 13, 1978, 10:22 a.m.  
Doc. No. 788230

## Texas Energy Advisory Council

**Friday, December 15, 1978, 9:30 a.m.** The Texas Energy Advisory Council changed the time for a meeting held in the Senate Chamber, State Capitol, Austin. The meeting time was changed from 9 a.m. to 9:30 a.m.

Additional information may be obtained from Sheila B. Moritz, 7703 North Lamar, Austin, Texas 78752, telephone (512) 475-5588.

Filed: December 13, 1978, 9:41 a.m.  
Doc. No. 788228

## State Department of Highways and Public Transportation

**Tuesday, December 19, 1978, 9 a.m.** The State Highway and Public Transportation Commission has made an emergency addition to the agenda of a meeting to be held in Room 207, State Highway Building, 11th and Brazos Streets, Austin. As summarized, the revised agenda items include: consideration of change in designated recipient to receive Public Transportation Funds from the City of Houston to Houston Metropolitan Transit Authority; and consideration of Midland County, Loop 250, hearing matter. The complete revised agenda is available in the second floor office of the minute clerk in the State Highway Building.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: December 13, 1978, 8:27 a.m.  
Doc. No. 788195

## State Board of Insurance

**Wednesday, December 20, 1978, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 350, 1110 San Jacinto, Austin, to consider release from supervision for David Ted Ferguson (doing business as Ted Ferguson Agency and the Ted Ferguson Group Agency).

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

Filed: December 12, 1978, 4:48 p.m.  
Doc. No. 788194

**Wednesday, December 20, 1978, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider the application by American Trustee Life Corporation (Oklahoma City, Oklahoma) for admission to Texas.

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

Filed: December 12, 1978, 9:45 a.m.  
Doc. No. 788157

**Wednesday, December 20, 1978, 3 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider the application by American Life and Casualty Insurance Company (Fargo, North Dakota) for admission to Texas.

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

Filed: December 12, 1978, 9:45 a.m.  
Doc. No. 788156

**Thursday, December 21, 1978, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider the application by Central National Life Insurance Company (Jacksonville, Illinois) for admission to Texas.

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

Filed: December 12, 1978, 9:45 a.m.  
Doc. No. 788155

**Thursday, December 21, 1978, 10:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider the application by Life of Mid-America Insurance Company (Dubuque, Iowa) for admission to Texas.

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

Filed: December 12, 1978, 9:45 a.m.  
Doc. No. 788154

**Thursday, December 21, 1978, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider whether the Group I license of Ollie B. Harris, Jr. (Houston) should be suspended or revoked.

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

Filed: December 12, 1978, 9:45 a.m.  
Doc. No. 788153

## Texas Commission on Jail Standards

**Thursday, December 14, 1978, 9:30 a.m.** The Subcommittee on Variance Requests of the Texas Commission on Jail Standards met in emergency session in Room 101, Texas Law Center, 1414 Colorado, Austin, to consider application for variances for the following counties, as summarized: Bee, Calhoun, Delta, El Paso, Erath, Guadalupe, Foard, Harris, Lamar, Leon, Madison, Reagan, Stephens, and Waller.

Notice was originally posted for a meeting of the commission with a full agenda and with the expectation that quorum (five members) would be present. Unknown to the commission, a meeting was scheduled for December 14 at 9 a.m. with Senator Peyton McKnight, and commission members Andy J. McMullen, Robert J. Uhr, James Goode, and Judge Fidencio Garza had been asked to attend. The lack of a quorum was not foreseen when the meeting was called and when the notice was given. Four commissioners (Chairman Steve Suttle, Sheriff T. L. Baker, Dr. Hanes H. Brindley, and Sheriff Jack Heard) composed a subcommittee to hear the variance requests and make recommendations thereon to the full commission. When a quorum of the Jail Commission is obtained, the originally scheduled commission meeting will be convened and the published agenda will be executed.

Additional information may be obtained from Guy Van Cleave, Suite 500, 1414 Colorado, Austin, Texas 78711, telephone (512) 475-2716.

Filed: December 12, 1978, 12:33 p.m.  
Doc. No. 788188

**Thursday, December 14, 1978, 9:30 a.m.** The Subcommittee on Variance Requests of the Texas Commission on Jail Standards made an emergency addition to the agenda of a meeting held in Room 101, Texas Law Center, 1414 Colorado, Austin. As summarized, the commission considered requests for variances by El Paso County regarding the following: Rule 217.07.01.049, Emergency Operation Doors, Remote Unlocking; and Rule 217.07.01.053, Holding Rooms.

Additional information may be obtained from Guy Van Cleave, Suite 500, 1414 Colorado, Austin, Texas 78701, telephone (512) 475-2716.

Filed: December 13, 1978, 4:39 p.m.  
Doc. No. 788224

## Lamar University

**Thursday, December 14, 1978, 9:30 a.m.** The Board of Regents of Lamar University made an emergency addition to the agenda of a meeting held in the board room, Plummer Building, Lamar University campus, Beaumont, to consider the following items, as summarized: increasing the revolving fund; bids for Energy Management System-Phase I; budget and personnel changes (September and October); academic goals statement for 1978-1979; development leave reports (summary); financial reports for September and October; building and grounds bids; and personnel matters (executive session).

Additional information may be obtained from Andrew J. Johnson, P.O. Box 10014, L.U.S., Beaumont, Texas 77710, telephone (713) 838-7533.

Filed: December 11, 1978, 2:42 p.m.  
Doc. No. 788136

## State Board of Morticians

**Wednesday, December 13, 1978, 9 a.m.** The State Board of Morticians made an emergency addition to the agenda of a meeting held at 1513 South Interstate Highway 35, Austin. As summarized, the agenda included an appearance by William Moyer regarding his application for reciprocity from the state of Arkansas and a report by M. Watson Frazier on his appearance before the West Texas Chamber of Commerce meeting concerning pending legislation.

Additional information may be obtained from Ann Lloyd, 1513 South Interstate Highway 35, Austin, Texas 78741, telephone (512) 442-6721.

Filed: December 12, 1978, 2:31 p.m.  
Doc. No. 788190

## Board of Nurse Examiners

**Saturday, December 16, 1978, 10 a.m.** The Board of Nurse Examiners met in emergency session in Suite 502, Chevy Chase II Building, 7600 Chevy Chase Drive, Austin, to consider the following items: report from the survey visit to Del Mar College Associate Degree Nursing Program; report of hearing on rural health services; and personnel matters.

Additional information may be obtained from Margaret L. Rowland, R.N., Suite 502, 7600 Chevy Chase Drive, Austin, Texas 78752, telephone (512) 451-0201.

Filed: December 12, 1978, 11:10 a.m.  
Doc. No. 788186

## Board of Pardons and Paroles

**Wednesday through Friday, December 27-29, 1978, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. As summarized, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole and procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives.

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

Filed: December 12, 1978, 9:32 a.m.  
Doc. No. 788152

## Texas Parks and Wildlife Department

**Tuesday, January 9, 1979, 2 p.m. and 3 p.m.** The Fisheries Division/Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin, to consider the following items, as summarized: 2 p.m., application of Nick Rispoli, Jr., for a permit to remove approximately 4,500 cubic yards of marl (total) from the Laguna Madre, Cameron County; and 3 p.m., application of John Kilheffer for a permit to remove approximately 150 cubic yards of marl (total) from the Laguna Madre, Cameron County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788213

## Board of Polygraph Examiners

**Thursday through Saturday, January 18-20, 1978, 9 a.m. until 4 p.m. daily.** The Board of Polygraph Examiners will meet in the conference room, First City National Bank Building, 300 East Main Street, El Paso, to consider the following items, as summarized: evaluation of licensing exams; approval of intern, reinstatement, and reciprocity applications; review of board investigations; election of 1979 officers; proposed rules relative to examiner conduct and procedures; review of status of PSE operations in the state; and other business authorized for presentation by the chairman.

Additional information may be obtained from Henry L. Canty, Suite 502, 7701 North Lamar, Austin, Texas 78752, telephone (512) 454-3593.

Filed: December 11, 1978, 3:22 p.m.  
Doc. No. 788139

## Public Utility Commission of Texas

**Tuesday, January 16, 1978, 1:30 p.m.** The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an inquiry by the Public Utility Commission of Texas into the legality of rates charged by Wixon Water Supply Corporation within Brazos County (Docket No. 2199), as summarized in the agenda.

Additional information may be obtained from Philip F. Ricketts, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-0100.

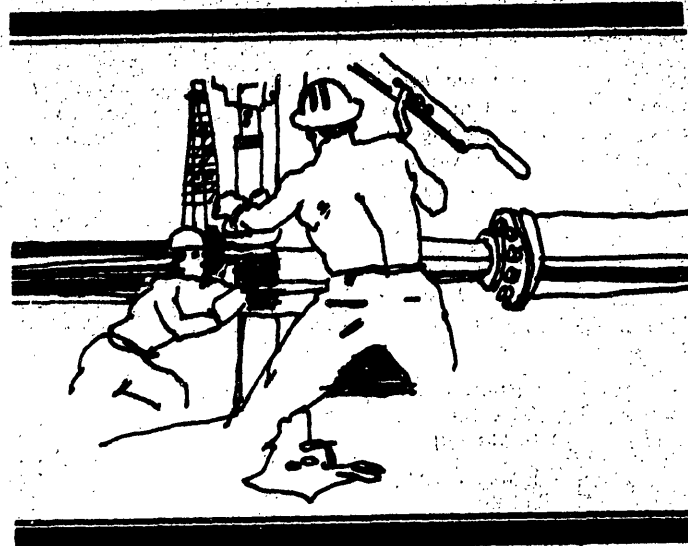
Filed: December 13, 1978, 9:39 a.m.  
Doc. No. 788227

## Texas Private Employment Agency Regulatory Board

**Friday, February 2, 1978, 10 a.m.** The Texas Private Employment Agency Regulatory Board has rescheduled a hearing to be held at the Jungman Branch of the Houston Public Library, 5830 Westheimer, Houston. As summarized, the board will determine whether the Private Employment Agency license of Oliver Bright Personnel Consultants, Inc., of Houston, and the Operator's License of Oliver Bright, Jr., should be revoked or subject to other sanctions by the board.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: December 12, 1978, 11:28 a.m.  
Doc. No. 788187



## Texas State Board of Public Accountancy

**Friday, December 15, 1978, 2 p.m., and Saturday, December 16, 1978, 9 a.m.** The Texas State Board of Public Accountancy made an emergency addition to the agenda of a meeting held at 940 American Bank Tower, 221 West 6th Street, Austin. Item III of the agenda was amended to read "Adoption and Promulgation of Rules of Professional Conduct to become effective January 10, 1979; subject to an affirmative vote of permit holders and repeal of current Rules of Professional Conduct to become effective January 10, 1979, subject to an affirmative vote of permit holders on the new Rule of Professional Conduct."

Additional information may be obtained from Bob E. Bradley, 940 American Bank Tower, 221 West 6th Street, Austin, Texas 78701, telephone (512) 476-6971.

Filed: December 13, 1978, 11:33 a.m.  
Doc. No. 788210

## Railroad Commission of Texas

**Monday, December 11, 1978, 2:30 p.m.** The Gas Utilities Division of the Railroad Commission of Texas met in emergency session in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider Gas Utilities Docket 1858, application of Intratex Gas Company for a determination of surplus natural gas supply. The commission considered a motion of applicant for hearing by full commission and as an emergency matter. Usual notice would have required a delay which applicant alleged would cause waste of natural gas, thus creating an urgent public necessity.

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

Filed: December 11, 1978, 12:01 p.m.  
Doc. No. 788134

**Friday, December 22, 1978, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission considered Gas Utilities Dockets 1222, 1858, 1864, 1817, 1818, 1819, 1820, 1822, and 1644; word processing matters; director's report; and litigation and personnel matters (executive session).

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

Filed: December 14, 1978, 11:25 a.m.

Doc. No. 788231

**Friday, December 22, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission will consider the following items: exception to SWR 69, establishment of a pooled unit, review waterflooding operations, Rule 37 cases, proper pluggings, responsibility for plugging certain wells, exception to SWR 14(B)(2), adoption of net gas-oil ratio rule, gas field rules, consolidation and adoption of rules, determination of effectiveness of temporary field rules, temporary gas rules; suspend allocation formula, new oil and gas discoveries, exception to SWR 14(B)(2); and director's report. An executive session will also be conducted.

Additional information may be obtained from Jan Burris, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: December 14, 1978, 11:25 a.m.

Doc. No. 788232

**Friday, December 22, 1978, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in the 10th floor conference room, Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission will consider applications as summarized: to amend authority, for bus rate, for motor brokers license, for new authority, for rail rate, for requested authority cancellation, for reinstatement, to sell authority, for bus schedule change, for truck rate, and for voluntary suspension.

Additional information may be obtained from John G. Soule, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: December 14, 1978, 11:25 a.m.

Doc. No. 788233

## School Land Board

**Tuesday, December 19, 1978, 10 a.m.** The School Land Board of the General Land Office will meet in Conference Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider the following items, as summarized: coastal public lands, five easement applications; coastal public lands report, fifteen permit renewals; and renewal of coastal public lands easement.

Additional information may be obtained from Linda Fisher, Room 835, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701.

Filed: December 11, 1978, 3 p.m.

Doc. No. 788138

## Texas Senate

**Monday, December 18, 1978, 10 a.m.** The Interim Committee on a Student Loan Guarantee Authority of the Senate Education Committee will meet in the Lieutenant Governor's Committee Room, State Capitol, Austin, to hear the final Touche Ross and Company report on alternatives for a student loan guarantee program in Texas and related business.

Additional information may be obtained from Ruth-Ellen Gura, Room 413, Archives Building, Austin, Texas 78701, telephone (512) 475-2020.

Filed: December 12, 1978, 4:30 p.m.

Doc. No. 788193

**Monday, December 18, 1978, 2 p.m.** The Joint Legislative Committee on Faculty Workload Requirements of the Senate Education Committee will meet in the Lieutenant Governor's Committee Room, State Capitol, Austin, to hear comments by the Coordinating Board staff, the Legislative Budget Board staff, representatives of the institutions of higher education, and other interested parties regarding faculty workload rules and regulations and other related business.

Additional information may be obtained from Ruth-Ellen Gura, Room 413, Archives Building, Austin, Texas 78701, telephone (512) 475-2020.

Filed: December 12, 1978, 4:30 p.m.

Doc. No. 788192

## Texas Water Commission

**Tuesday, January 9, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding a petition for organization of Montgomery County Municipal Utility District No. 40, which will contain 969.9519 acres of land, as summarized in the agenda.

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

Filed: December 12, 1978, 2:23 p.m.  
Doc. No. 788189

**Wednesday, January 17, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding Application No. 3949 by Castle Land and Livestock Company. As summarized, the applicant seeks a permit to maintain an existing 33 acre-foot reservoir located on Bear Creek, tributary Medina River, tributary San Antonio River, San Antonio River Basin, for recreational purposes in Bandera County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788215

**Wednesday, January 17, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding Application No. 3948 of Lawrence L. Knibbe. As summarized, the applicant seeks a permit to directly divert and use not to exceed 100 acre-feet of water per annum from Spring Branch, tributary Guadalupe River, Guadalupe River Basin, to irrigate 49 acres of land in Comal County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788217

**Wednesday, January 17, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application by Carl E. Rhodes. As summarized, the applicant seeks a permit to directly divert and use not to exceed 114 acre-feet of water per annum from the Guadalupe River, Guadalupe River Basin, for irrigation purposes in Kerr County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788218

**Wednesday, January 17, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding Application No. 3947 by H. G. Caldwell. As summarized, the applicant seeks a permit to directly divert and use not to exceed 40 acre-feet of water per annum from Harris Creek, tributary South Bosque River, tributary Bosque River, tributary Brazos River, Brazos River Basin, for irrigation purposes in McLennan County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788219

**Thursday, January 18, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding Application No. 3934 of Wiggins Land Company of Texas, Inc. As summarized, the applicant seeks a permit to maintain six existing dams and reservoirs on Spring Branch, tributary Chotates Creek, tributary Long King Creek, tributary Trinity River, Trinity River Basin; and impound and use water for recreational purposes in Polk County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788214

**Friday, January 26, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding Application No. 3916 of Stewart D. Hervey, Jr. As summarized, the applicant seeks a permit to directly divert and use not to exceed 50 acre-feet of water per annum from the San Marcos River, tributary Guadalupe River, Guadalupe River Basin, for irrigation purposes in Gonzales County.

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

Filed: December 13, 1978, 3:07 p.m.  
Doc. No. 788216

## Texas Water Development Board

**Tuesday, December 19, 1978, 8:30 a.m.** The Texas Water Development Board will meet in Room 117, Sam Houston Building, 201 East 14th Street, Austin, to consider the following items, as summarized: status of the Development Fund; financial assistance for the City of Friendswood, Harris

County FWSD No. 27, City of Ennis; final adoption of amendments to the board's Chapter 6 rules relating to the filing of documents with appropriate department district offices; Rule 156.01.01.014 relating to the certification of copies of department information and records; Rule 156.01.20.030 relating to the definition of the term "certification of adjudication"; Rules 156.04.16.001-.002 relating to the dismissal of certain claims of water rights; adoption of Emergency Rules 156.18.05.001-.004 relating to domestic wastewater treatment plants; status of Federal Construction Grant Program; approval regarding certification of Volume II Plan Summary Reports to the Canadian, Nueces, Red, Sabine, San Antonio, and Trinity River Basins; designation of the SJRA as a waste treatment management agency in Houston Designated 208 Planning Area; feasibility of the COE Dickinson Bayou project; public hearing concerning feasibility of COE Lake Wichita, Holiday Creek project; amending 1974 research contract with Burèc; contracts with Colorado RMWD; Texas A&M; Texas Tech and competitively selected firm; and an assessment of the need for a perpetual care fund.

Additional information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: December 11, 1978, 2:57 p.m.  
Doc. No. 788137

## Regional Agencies

### Meetings Filed December 11, 1978

**The Brazos River Authority**, Water Utilization Committee of the Board of Directors, met at 4400 Cobbs Drive, Waco, on December 15, 1978, at 9 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

**The Camino Real Health Systems Agency, Inc.**, Board of Directors, met in emergency session in the third floor conference room, 1017 North Main Avenue, San Antonio, on December 12, 1978, at 7 p.m. Further information may be obtained from Jose A. Contreras, 1017 North Main, Suite 310, San Antonio, Texas 78212, telephone (512) 225-4426.

**The Central Counties Center for MH/MR Services**, Board of Trustees, will meet at 302 South 22nd, Temple, on December 19, 1978, at 7 p.m. Further information may be obtained from Dr. Steven B. Schne, P.O. Box 1025, Temple, Texas 76501, telephone (817) 778-4841.

**The Central Plains MH/MR Center**, Board of Trustees, met in emergency session at 2601 Dimmitt Road, Plainview, on December 12, 1978, at 7 p.m. Further information may be obtained from J. C. Thomas, 2700 Yonkers, Plainview, Texas 79072.

**The Education Service Center, Region X**, Board of Directors, will meet in the board room, 400 East Spring Valley, Richardson, on December 20, 1978, at 1:15 p.m. Further information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas, telephone (214) 231-6301.

**The Education Service Center, Region XVI**, Board of Directors, will meet at 1601 South Cleveland, Amarillo, on December 19, 1978, at 11:30 a.m. Further information may be obtained from Dr. Kenneth Laycock, Box 30600, Amarillo, Texas 79120, telephone (806) 376-5521.

**The Lower Neches Valley Authority**, Board of Directors, will meet in the conference room, LNVA Office Building, 7850 Eastex Freeway, Beaumont, on December 19, 1978, at 4 p.m. Further information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704.

**The Middle Rio Grande Development Council**, Regional Manpower Advisory Committee, met in emergency session at the Civic Center, Uvalde, on December 20, 1978, at 2:30 p.m. The Board of Directors will meet at the Civic Center, Uvalde, on December 20 at 3:30 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1416, Del Rio, Texas 78840, telephone (512) 775-1581.

**The North Texas Municipal Water District**, Board of Directors, will meet at the administrative offices, NTMWD Central Plant, Highway 78 East, Wylie, on December 28, 1978, at 4 p.m. Further information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, telephone (214) 442-2217, extension 26.

**The Sabine Valley Regional MH/MR Center**, Board of Trustees, met at 1501 East Marshall, Longview, on December 18, 1978, at noon. Further information may be obtained from Frances H. Willis, P.O. Box 1128, Longview, Texas 75601, telephone (214) 758-8243.

**The San Antonio River Authority**, Board of Directors, will meet in the conference room, 100 East Guenther, San Antonio, on December 20, 1978, at 2 p.m. Further information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, Guilbeau Station, San Antonio, Texas 78204, telephone (512) 227-1373.

**The South Texas Health Systems Agency**, Coastal Bend Subarea Health Advisory Council Nominating Committee, will meet at All Saints' Episcopal Church, 3026 South Staples, Corpus Christi, on December 20, 1978, at 1 p.m. Further information may be obtained from Douglas Wilkey, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

**The Trinity River Authority of Texas**, Executive Committee, conducted an emergency conference call meeting in the general manager's office, 2723 Avenue E East, Arlington, on December 13, 1978, at 10 a.m. Further information may be obtained from Geri Elliott, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

Doc. No. 788135

### Meetings Filed December 12, 1978

**The Deep East Texas Council of Governments**, Board of Directors, will meet at the First United Methodist Church, 329 North Bowie, Jasper, on December 21, 1978, at 2:30 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.



**The Houston-Galveston Area Council, Area-wide Planning Advisory Committee**, will meet at 3701 West Alabama, Houston, on December 19, 1978, at 2 p.m. Further information may be obtained from Doris Ebner, P.O. Box 22777, Houston, Texas 77027, telephone (713) 627-3200.

**The West Central Texas Council of Governments, Executive Committee**, will meet at 1025 East North 10th, Abilene, on December 20, 1978, at 1 p.m. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 788158

## Meetings Filed December 13, 1978

**The Ark-Tex Council of Governments, Regional Manpower Advisory Council**, will meet at the First National Bank, Mount Pleasant, on December 21, 1978, at 11 a.m. Further information may be obtained from Laura Jacobus, P.O. Box 5307, Texarkana, Texas 75501, telephone (214) 794-3481.

**The Central Texas Council of Governments, Human Resources Advisory Committee**, will meet at 302 East Central Avenue, Belton, on December 19, 1978, at 1:30 p.m. Further information may be obtained from Jack Knox or Dan Mizell, 302 East Central Avenue, Belton, Texas 76513, telephone (817) 939-1801.

**The Central Texas MHMR Center, Board of Trustees**, will meet in the board room, 308 Lakeway Drive, Brownwood, on December 19, 1978, at 3 p.m. Further information may be obtained from Roy A. Cronenberg, 308 Lakeway Drive, Brownwood, Texas 76801, telephone (915) 646-9574.

**The Golden Crescent Council of Governments, Executive Committee**, will meet in the Stephen F. Austin Room, Victoria Bank and Trust, Victoria, on December 20, 1978, at 5 p.m. Further information may be obtained from Robert W. Burr, P.O. Box 2028, Victoria, Texas 77901, telephone (512) 578-1587, extension 30.

**The Guadalupe-Blanco River Authority, Board of Directors**, will meet at 933 East Court Street, Seguin, on December 21, 1978, at 10 a.m. Further information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, telephone (512) 379-5822.

Doc. No. 788209

## Meetings Filed December 14, 1978

**The Houston-Galveston Area Council, Executive Committee**, will meet at 3701 West Alabama, Houston, on December 19, 1978, at 9:30 a.m. Further information may be obtained from Stevie Walters, P.O. Box 22777, Houston, Texas 77027, telephone (713) 627-3200.

**The Lower Colorado River Authority** will meet at 3700 Lake Austin Boulevard, Austin, on December 21, 1978, at 9:30 a.m. Further information may be obtained from Charles Herring, P.O. Box 220, Austin, Texas 78767, telephone (512) 474-5931, extension 330.

**The Lubbock Regional MHMR Center**, will meet at 1210 Texas Avenue, Lubbock, on December 19, 1978, at 4:30 p.m. Further information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, telephone (806) 763-4213.

**The Texas Municipal Power Agency, Board of Directors**, met in emergency session at 600 Arlington Downs Tower, Arlington, on December 14, 1978, at 1 p.m. Further information may be obtained from Joel T. Rodgers, 600 Arlington Downs Tower, Arlington, Texas 76011, telephone (817) 461-4400.

**The Pecan Valley Mental Health/Mental Retardation Region, Board of Trustees**, will meet at the Community Center, 701 Narrow Street, Weatherford, on December 19, 1978, at 7:30 p.m. Further information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, telephone (817) 968-4181.

Doc. No. 788225

## 66th Legislature

### Legislative Report

The Texas House of Representatives and Senate began prefiling bills on November 13, 1978, for introduction in the 66th Legislative Session. These proposals will be referred to committees after the session convenes on January 9, 1979.

This report will focus on prefiled bills and resolutions which, if passed, will have an major impact on issues of concern to citizens on a statewide basis. The legislation is organized into groups according to content, including energy, environment, education, human services (health and welfare), insurance, economic development, taxes, criminal justice, state and local government, elections, constitutional revision, and consumer affairs.

#### Energy

In an effort to encourage use of alternative fuels, HB 142 exempts from the motor fuel tax the sale and consumption of certain motor fuel containing alcohol.

#### Environment

HB 143 prohibits permanent disposal of radioactive waste from nuclear reactors within Texas unless authorized by a concurrent resolution adopted by the legislature.

#### Education

Addressing the issue of tenure for faculty members at institutions of higher learning, HB 145 requires renewable employment contracts for such employees with terms of either five, six, or seven years.

Regarding public education, HB 140 removes the present prohibition against compensation for trustees of independent school districts.

#### Human Services

HB 120, HB 122, HB 123, and HB 137 relate to the prevention of discrimination against persons because of race, color, religion, sex, age, or national origin. Two of the bills provide for new divisions in existing agencies, such as an Equal Employment Opportunity Division in the Department of Labor and Standards (HB 120) and a Human Relations Division in the Texas Employment Commission (HB 123). HB 121 creates a new agency, the Texas Equal Employment Opportunity Commission, and HB 122 establishes the Texas Human Relations Commission.

#### Economic Development

Regarding the state's economic development, bills have been filed dealing with foreign investment in Texas and with small businesses owned by minorities. HB 146 places certain disclosure requirements on foreign investors in agricultural

land in Texas. HB 141 promotes assistance for small businesses owned by minority group members, by requiring the Industrial Commission to conduct research on minority-owned businesses and by increasing the amount of purchases and contract awards by the state to such businesses.

#### Criminal Justice

Several bills regarding criminal justice have been prefiled. HB 136 regulates handgun transactions, by requiring certain information about the purchaser and enacting a 48-hour waiting period for delivery. HB 127 makes employment of an illegal alien a Class B misdemeanor. HB 168 increases the penalty for injury to a child.

Dealing with issues mentioned in the previous report, additional bills have been filed regarding jail standards and jury selection. Two bills (HB 10 and HB 170) have been filed that assign enforcement responsibilities to the Commission on Jail Standards for maintaining minimum jail standards which would be established by statute. HB 47 revises the method of selection of jurors. Rather than selecting jurors only from a list of registered voters, the juror pool would include all persons who pay property taxes and own motor vehicles.

#### State and Local Government

SB 38 (similar to SB 4) reduces the assessment imposed on public utilities to cover expenses of administering the Public Utilities Regulatory Act by the Public Utility Commission.

#### Elections

SJR 10, similar to HJR 15, would place selection of certain judges and justices in nonpartisan elections held in odd-numbered years.

Four bills have been introduced regarding primary elections held by political parties. SB 30 and HB 114 make certain changes in the dates and procedures for primary elections. SB 20 and SB 37 provide for presidential primary elections in Texas and prescribe the method of selecting delegates to national nominating conventions of political parties.

#### Constitutional Revision

SJR 9 proposes a constitutional amendment to grant initiative, referendum, and recall powers to the electorate. While similar to HJR 3, HJR 9, and SJR 5, SJR 9 differs in the additional provision regarding the power to remove an elected official from office by a recall election.

#### Senate

##### Meetings Filed December 12, 1978

*Senate Interim Committee to Study Texas Beaches*, Thursday, December 14, 1978, 1 p.m., in the Senate Finance Committee Room, State Capitol, Austin. (New time)

## Legislative Information System of Texas

The Texas Senate and House of Representatives are providing information on the activities of the 66th Legislature through a toll-free statewide WATS line to the Legislative Information System of Texas (LIST).

Information available includes bill status, schedules and agendas of committee meetings and hearings, and lists of bills by author, committee, and subject.

The LIST statewide toll-free telephone number is **1-800-252-9693** for calls from outside the Austin area. For calls originating in Austin, the telephone number is (512) 475-3026.



## Texas Air Control Board Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of December 4-8, 1978.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

### Week Ending December 8, 1978

Sabine Pass Terminal, Sabine Pass; LPG import terminal; C-7190; new source

Accorn Chemical Distributors of Dallas/Fort Worth, Fort Worth; chlorinated solvent repack facility; 7144 Burns Street; C-5407A

NOWSCO Services, Odessa; storage and transfer of HCL for oil well stimulation; 1100 West County Road South; C-7189; new source

Sabine Pass Terminal, Hamshire; brine water degasser and flare; Big Hill Storage Terminal; C-7188; new source

E. L. Company, Seminole; cotton ginning facility; Highway 180; C-7194; new source

Zack Burkett Co., Graham; rock crusher; Perry Pit; C-29F; new source

Gifford-Hill and Co., Inc., Houston; ready-mix concrete plant; 6810 Irvington Boulevard; C-7193; new source

Perry Gas Processors, Inc., El Dorado; gas sweetening with amine-H<sub>2</sub>S/CO<sub>2</sub> removal; El Dorado Treatment Plant; C-7192; new source

Cliff's E Z Kart Concrete, Tyler; central mix concrete plant; Highway 155 South; C-7191; new source

Milano Marble Co., Inc., Garland; binks gel-coat spray booth; 2525 National Drive; C-5853A; new source

Valcar Enterprises of Texas, Inc., Dallas; melting restaurant grease facility; 1240 Sargent Road; C-4081A; modification

Louisiana Pacific Corp., Lufkin; veneer dryer; Loop 36; C-7201; new source

Lasco Industries-Division of Philips Industries, Inc., Lancaster; bathtubs manufacturing; Lancaster-Hutchins Road and Industrial Street; C-7200; new source

Texaco Inc., Sundown; crude oil storage tank battery; H. C. Gracey Tank Battery; C-7199; new source

Merichem Co., Houston; distillation unit expansion; 1914 Haden Road; C-7198; new source

Texas Pacific Oil Co., Inc., Seminole; oil, water, and gas separation, storage, and transfer; Hahn Deep No. 1; C-7197; new source

Amoco Chemicals Corp., Alvin; fluidized bed cleaner; Chocolate Bayou Plant; C-7196; new source

Petraco-Valley Oil and Refining Co., Brownsville; tankage for crude topping plant; C-7195; new source

Issued in Austin, Texas, on December 11, 1978.

Doc. No. 788191      John B. Turney  
   Legal Division  
   Texas Air Control Board

Filed: December 12, 1978, 3:35 p.m.

For further information, please call (512) 451-5711.

## Department of Banking Notice of Applications

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 December 11, 1978, the banking commissioner received an application to acquire control of First State Bank, Milford, by James Carter, Italy, and H. L. Southard, Avalon. The banking commissioner also received an application to acquire control of Frontier State Bank, Eagle Pass, by V. F. Knickerbocker, Kathy Knickerbocker, Sidney W. Cowan, Jr., and Jerald L. Abrams, all of Eagle Pass, and Jeffery L. Lagow, Temple.

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

Issued in Austin, Texas, on December 11, 1978.

Doc. No. 788150 &      Daniel A. Flynn  
   788151      Deputy Banking Commissioner

Filed: December 12, 1978, 9:32 a.m.

For further information, please call (512) 475-4451.

## Texas Department of Community Affairs

### Request for Proposal

The Texas Department of Community Affairs is requesting proposals for conducting a household survey for approximately 1,000 Texas families with children less than six. The contractor will be required to: (1) refine present survey instrument; (2) prepare and pretest sample design; (3) plan and conduct field work; and (4) deliver completed questionnaires to the Texas Department of Community Affairs, Early Childhood Development Division. The contract will begin on or about February 1, 1979, and will terminate on or about May 31, 1979.

Offers should be made in the form of a proposal. Copies of the request for proposals and other information can be obtained by contacting Diann Cowling, Early Childhood Development Division, Texas Department of Community Affairs, 210 Barton Springs Road, Austin, Texas 78704, telephone (512) 475-6118. The contract may be awarded to a public or private institution or agency engaged in survey research. The contract will not be made to an individual or group of individuals who are not representing an institution or agency. Closing date for receipt of proposals is 4 p.m. Friday, January 5, 1979.

The proposals will be reviewed by a staff team within the Texas Department of Community Affairs and selection will be made based on criteria outlined in the request for proposal. The Texas Department of Community Affairs reserves the right to accept or reject all bids.

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

Doc. No. 788116      Tom A. Laramey, Jr.  
General Counsel  
Texas Department of Community Affairs

Filed: December 8, 1978, 4:42 p.m.

For further information, please call (512) 475-6118.

## Employees Retirement System of Texas

### Correction of Error

A meeting of the Board of Trustees of the Employees Retirement System of Texas, published in the December 12, 1978, issue of the *Texas Register* (3 TexReg 4335), should have read: Monday, December 18, 1978, 9 a.m.

## Texas Department of Health

### Correction of Error

Texas Department of Health Rule 301.83.12.007, published in the August 15, 1978, issue of the *Texas Register* (3 TexReg 2859), contained two errors. Paragraph (c)(1)(A) should have read "less than 150 persons per day served." Paragraph (c)(1)(B) should have read "One hundred fifty or more persons per day served."



## Texas Department of Human Resources

### Food Stamp Program

#### Summary of Changes and Department Options

The Texas Department of Human Resources will soon be adopting final rules in the Food Stamp Program to implement the changes resulting from the Food Stamp Act of 1977. The new Food Stamp Act, signed into law on September 29, 1977, is responsible for the most comprehensive and detailed revision since the beginning of the Food Stamp Program. The four major objectives of the Food Stamp Act are:

- (1) to simplify and tighten program administration;
- (2) to facilitate access to the program for eligible and potentially eligible households;
- (3) to eliminate households with high gross incomes; and
- (4) to reduce the potential for errors and program fraud or abuse.

The United States Department of Agriculture (USDA) is responsible for writing federal regulations that describe in detail how the Food Stamp Program will operate in response to the mandates of the Food Stamp Act. In preparing the proposed federal regulations to implement the act, USDA actively sought advice and assistance from other federal agencies, state agencies, food advocacy groups, public interest organizations, and the general public. In addition, numerous public hearings were held across the nation to further ensure public participation in the rulemaking process. Two such hearings were held in Texas last fall.

The federal regulations to implement the new act were proposed in the May 2, 1978, issue of the *Federal Register*. Approximately 19,400 pages of comments were received on the proposed regulations, from 7,828 organizations or persons, raising 38,783 specific points. USDA considered these public comments in preparing the final rules, which were published on October 17, 1978, in the *Federal Register*.

The final regulations to implement the Food Stamp Act are very lengthy and detailed. As a result, there are few areas where the Department of Human Resources, who administers the program in Texas, has options or choices in policy, administration, or implementation of the new Food Stamp Program. The federal regulations have a mandated effective date of March 1, 1979.

In July 1978, the Department of Human Resources established an ad hoc citizens Food Stamp Implementation Advisory Committee to assist the department in making the transition to the new program. The committee members represent various and diverse groups and organizations with an interest in improving Food Stamp Program operations. Examples of groups represented include the League of Women Voters in Texas, the Community Nutrition Institute, the Texas Retailers Association, the Texas Farm Workers Union, the Governor's Committee on Aging, and Texas Rural Legal Aid.

The department presented issue papers to the committee which were based on the federal regulations and which described policy options available to the department. The issue papers also summarized various aspects of program implementation and stated the department's recommendations and the reasons for those choices. The committee discussed these issues thoroughly and, in its advisory capacity, submitted recommendations to the department. The department then considered these recommendations in making final decisions in those areas where the regulations provide for option of the department. A summary of the major changes in the Food Stamp Program and a discussion of the options available to the department is included below.

As a result of the short time frame between publication of final regulations from USDA and the mandatory implementation on March 1, 1979, the Texas Department of Human Resources will adopt the food stamp rules as filed without prior proposal. The rules are scheduled to be published in the February 20, 1979, issue of the *Texas Register*, to be effective March 1, 1979. The department does, however, solicit public comment on the optional areas outlined below for consideration as future program revisions. Written comments are invited and may be sent to Susan L. Johnson, Systems and Procedures Bureau—559, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

### Summary of Major Food Stamp Program Changes

One of the most significant changes in the Food Stamp Program is the elimination of the purchase requirement (EPR). As explained in the November 17, 1978, issue of the *Texas Register*, effective December 1, 1978, food stamp recipients will no longer have to pay a purchase price for food stamps. Previously, households had to pay for an allotment of stamps. The value of the stamps was greater than the amount of cash paid, and the difference between the two amounts was called the "bonus." Under EPR, households will receive only the bonus amount. It is hoped that persons who were eligible for the program, but who could not afford the purchase requirement, will now participate. EPR is the first stage in implementation of the new program. All other changes discussed below will be effective March 1, 1979.

Under the new program, all households whose net income is below the poverty level, as set by the federal government, will be eligible for food stamps. No one will be automatically or categorically eligible. In the past, certain households, such as Aid to Families with Dependent Children (AFDC) or supplemental security income (SSI) recipients, qualified automatically for food stamps. Eligibility will continue to be based on income expected to be received during the certification period, but income from a new source will not be counted if the amount or date expected is uncertain. Payments made on behalf of the household by a third party, called vendor payments, will no longer be counted as income.

In an effort to simplify program administration and facilitate client service, the old system of itemized deductions from income will be replaced with a series of standard deductions. All households will receive a standard deduction from the total monthly income. This deduction is currently \$65 and will be adjusted semi-annually. In addition, a deduction of 20 percent of the household's total monthly earned income is allowed for those who work. Finally, up to \$80 a month can be deducted for combined dependent care and excess shelter costs. The maximum allowable shelter deduction will be adjusted annually.

Under the old program, a household could have resources or assets worth up to \$1,500. Now the resource maximum amount is increased to \$1,750. Households of two or more persons with at least one person over 60 years old can have resources worth \$3,000 and still be eligible. In addition, the value of a car or licensed vehicle over \$4,500 will be counted as a resource, under certain circumstances. Vehicles used to produce earned income, such as taxicabs or trucks, are exempt as resources. Also exempt are a household's home and surrounding property. A new provision of the program prohibits households from transferring assets for the purpose of qualifying or attempting to qualify for food stamp benefits.

Under the new program, applicants are no longer required to have cooking facilities in order to be eligible. Also, the new regulations do away with the present concept of economic units and place new emphasis on food units in determining household composition. Households will be composed of individuals or groups of individuals who customarily purchase food and prepare meals together.

The work registration requirements are also changed by the new regulations. Able-bodied persons age 18 to 60, instead of to age 65, must register for work. Student work registration requirements are also more restrictive than under the current program. Under certain circumstances, students will be required to register for 20 hours of work per week. There is a 60-day disqualification period for failure to comply with work registration requirements. The new regulations also provide that if a household's primary wage earner quits a job of 20 hours or more a week, without good cause, the household will be ineligible for program participation for 60 days. This is called the voluntary quit provision of the new regulations.

The requirements for application processing contain numerous new provisions to make the program more accessible to eligible households. Applicants have the right to file an application the same day they contact the food stamp office and to have a decision made and benefits provided, if eligible, within 30 days of filing. The application form has been modified to facilitate filing without delay, and emergency

authorized representatives may be designated to assist household participation. Recertifications will continue to be processed to prevent an interruption of benefits. Households with no income and those who are destitute when they apply may qualify for expedited benefits. Students may no longer receive food stamps if they are or could be claimed as tax dependents of an ineligible household.

A number of new provisions are aimed at reducing illegal and unauthorized activities associated with the Food Stamp Program. Under the new program, individuals found, at an administrative fraud hearing, to be guilty of fraud must be disqualified from the program for three months. If such individuals are found guilty by a court, the court may order them disqualified for six to 24 months.

This concludes the review of significant changes in the Food Stamp Program. The following items include a discussion of options chosen by the department and the reasons for those choices.

#### Summary of Department Options

**Bilingual Requirements (7 CFR 272.4(c)).** The regulations contain requirements for providing bilingual outreach materials, certification materials, and staff based on specific percentages of the population that are of a single language minority. The department has the option of contacting local census bureaus and other community service agencies or of conducting a six-month survey beginning on or before March 1, 1979, to determine the number of languages in which these services must be provided.

It is recommended that a six-month survey be conducted in order to obtain the most valid data for assessing current language needs. The influx of Indo-Chinese to the United States occurred after the last official census was taken, and these households currently populate some of the state's project areas. Service to Spanish-speaking households, as is currently provided, will be continued.

**Training (7 CFR 272.4(e)).** The regulations contain numerous new training requirements; therefore, as a result, the department will need to continue operation of a comprehensive training program. Among the new requirements is a provision allowing for public attendance at formal training sessions. The role of the public at these sessions may be restricted by the department to that of observation only.

It is recommended that a list of priority agencies prepared by the Food Stamp Ad Hoc Advisory Committee be used by each region as a basis for notifying interested individuals when training slots are available. The list may be updated and revised as needed with attendance allowed on a first-come first-serve basis. This method allows for public input into the selection process by utilizing Ad Hoc Committee member's expertise and knowledge of public service groups and advocates and provides a guide for the department's regions to use in determining what agencies to contact.

It is also recommended that the public's role at training sessions be one of active participation, with the department maintaining the ability to impose restrictions if necessary. Active participation is desired by the department to promote a mutual learning environment for both department personnel and public participants. The department, however, reserves the right to impose restrictions where active participation becomes counterproductive to the session.

**Nondiscrimination Compliance (7 CFR 272.7).** Among the numerous requirements for nondiscrimination compliance contained in the regulations is the provision that the department must publicize its own and USDA's complaint procedures and advise individuals interested in filing a complaint of their right to file in either or both systems.

Because the department's Office of Civil Rights already has established procedures for investigating and handling discrimination complaints, it is recommended that those procedures be maintained in addition to establishing the mandated procedures for forwarding such complaints to USDA. Use of the department's established procedures will help to ensure timely resolution of problems, as currently USDA may take up to six months to process a complaint.

**Household Concept (7 CFR 273.1).** The final regulations place new emphasis on using food units (persons who customarily purchase and prepare meals together) in determining household composition. The department is permitted to designate the individual to be classified as the head of the household or the household may be allowed to make the designation.

It is recommended that the household maintain the right to designate its head of household; however, the department reserves the right to suggest the designation of a particular individual in instances where the individual is participating as a payee in AFDC. This flexibility will facilitate the department's computer system in tracking individuals who are participating in more than one program.

**Application Form (7 CFR 273.2(b)).** The regulations require that state agencies use an application designed by USDA; however, deviations are permitted for special computer needs and to allow for use of a combined AFDC/food stamp application form. The household's application must be filed in the appropriate food stamp office in their county of residence. The department is responsible for designating the appropriate office.

A simplified bilingual form that can be used for AFDC/food stamp applications has been designed by the department and its use is recommended in the interest of efficient service to the client. Use of a bilingual form as opposed to a monolingual form is recommended based on comments from the Food Stamp Ad Hoc Advisory Committee and a survey of the department's regional staff. The department's form also allows the household to begin the application process on the same day it contacts the appropriate office by filing a tear-off sheet attached to the front of the form. The remainder of the application may be completed later.

The department recommends receiving and processing applications only in the correct office with provisions made for immediate transfer of incorrectly filed applications to the correct office. This recommendation allows for maximum flexibility for client service without disrupting established workload patterns and also helps prevent confusion on the client's part as to which office will handle his case on an ongoing basis.

**Applications for AFDC and Food Stamps (7 CFR 273.2(j)).** The final regulations specify that households in which all members are applying for public assistance shall be allowed to apply for food stamp benefits in one single interview. The department may also use the joint application pro-

cessing procedures for mixed food stamp households (those households in which some, but not all, members are filing for AFDC benefits).

It is recommended that mixed households be allowed (on a project area basis) to file joint applications for AFDC and food stamps at the AFDC office. Once an eligibility determination is made, the case will be forwarded to the nonpublic assistance office for ongoing processing and future redeterminations of eligibility. It is also recommended that some AFDC offices (on a demonstration basis with approval from the department's State Office) be allowed to retain mixed cases for ongoing processing and redetermination of eligibility rather than sending them to the nonpublic assistance office. As a result of changes made by the final regulations, the requirements for public assistance and nonpublic assistance food stamps are the same; therefore eligibility determinations are similar and could be made by the same certification office. This recommendation will allow for increased client service and give each project area the flexibility to consider their resource and client population needs.

**Certification Periods (7 CFR 273.10(f)).** The length of time the household may be certified to receive food stamps is determined by the caseworker and is based on the household's circumstances in relation to the probability of change. A normal certification period is three months; however the regulations allow the states more flexibility in setting certification periods for public assistance households, strikers, and households certified pending verification of their circumstances.

The department recommends that the food stamp certification period for public assistance households be set to expire one month after the public assistance redetermination. The food stamp review would be held simultaneously with the public assistance review and would allow for smooth transition from one certification/redetermination period to another without requiring the caseworker to notify the client that his certification period is expiring. Current practice requires the use of notices of expiration in such cases—a situation which confuses clientele and imposes excessive paperwork on the state.

In setting certification periods for strikers, the department recommends certification periods of up to three months with use of a waiver allowing the department to adjust or terminate the certification period, as appropriate, when the striker's income resumes. This recommendation allows for timely processing of services to these households when their situations are unchanging. It also allows for elimination of the burden of excess processing time and additional workloads on field staff.

The department recommends that households whose verification was pending in order to provide them with expedited service be certified for the month of application only. The unstable circumstances of many households qualifying for expedited service would not warrant a normal certification period. Since benefits may not be continued past the month of application until verification is completed, a complex system would be required to prevent an erroneous overissuance of food stamps to the household. The department's computer system does not allow a case to be certified for the initial month and held for the subsequent month simultaneously.

**Resources (7 CFR 273.8).** The regulations redefine resources, exclusions from resources, and establish uniform resource limits for all households. Items included as resources are basically the same as those we have currently. Exclusions from resources are redefined to include, among others: (1) a home and surrounding property which is not separated from the home by intervening property owned by others, and (2) a lot upon which the household intends to build. The home may retain its exempt status during temporary periods of unoccupancy if the household intends to return.

The value of resources, except for licensed vehicles, is determined as the fair market value less any encumbrances. The regulations prohibit households from transferring nonexempt resources for the purpose of qualifying or attempting to qualify for program benefits.

The department recommends, when establishing a resource exclusion, acceptance of the client's statement that the household intends to return to a temporarily unoccupied home or intends to use a lot for a future homesite. Acceptance of the client's statement is also recommended in determining whether resources were transferred knowingly for the purposes of qualifying for food stamp benefits. These recommendations are made in the interest of administrative simplification and client service. Verification would only be required if the information provided were questionable.

When verification of the fair market value of real property is required, the use of the most current assessed tax values multiplied by the appropriate reciprocal value or the use of standardized appraisals is recommended. This recommendation was made by the Food Stamp Ad Hoc Advisory Committee. The department agrees with the recommendation to the extent that any costs resulting from the request for an appraisal are the responsibility of the applicant. Use of the committee's recommendation is also contingent upon approval from USDA. This approach allows the client an opportunity to refute the caseworker's determination if he so desires and appears to be the most reliable and equitable manner of resolving the issue from both the agency's and client's viewpoint.

**Fair Hearings (7 CFR 273.15).** The regulations require that, at the time of application, each household must be informed of its right to a fair hearing and of the availability of free legal services, if any. Also, when a hearing is requested, households are again advised of any legal services that can provide representation at the hearing.

The department recommends printing a general notice on client forms that advises that legal services may be available. In addition, the appointment letter sent to the appellant by the hearing officer will contain notice of the availability of local legal aid services. As a further means of providing such notice, the department will display in certification offices notices, posters, or handouts, provided by local service organizations.

This general approach is necessary because of the many variations in numbers and types of legal services available across the state. In addition, this approach enables the department to meet the intent of the regulations in the most cost effective manner.



**Delays in Processing Applications (7 CFR 273.2(h)).** The regulations provide specific guidelines for defining what constitutes a delay in processing a household's application and for determining whether the delay was the fault of the household or the state agency. If the delay was the fault of the household, the state has the option of denying or pending the application. Procedures for providing retroactive benefits resulting from delays are also outlined.

The department recommends denying the application 30 days after the application date as long as 10 days have been allowed for any requested verification to be provided. Denial of application on the 30th day will provide the applicant with a timely determination of eligibility, yet will allow for a "no harm" provision if verification is subsequently provided. The regulations allow for reopening of denied applications if verification is provided within 60 days of the file date. The number of pending cases in each certification office will be reduced, thus allowing the office to maintain an even workflow and respond promptly to those households wishing to reactivate their original application.

**Fraud Disqualification (7 CFR 273.16(d)(1)).** The regulations provide that the department's administrative fraud hearings may be combined with fair hearings if the factual issues arise out of related circumstances. The department has elected, however, not to combine these two procedures but rather to keep them as separate functions within the program.

The time standards for conducting fraud and fair hearings are different. Also, since the purpose of a fraud hearing is to determine if facts support a conclusion that an individual committed fraud while a fair hearing examines application of program policy, separate hearings are necessary to avoid confusion of the issues.

**Validity Periods of ATPs (7 CFR 274.2(e)(3)).** The regulations state that ATPs issued by the state agency must be clearly marked with an expiration date unless issued after the 25th of the month. For ATPs issued after the 25th, the regulations give state agencies several options for providing the household with a valid ATP.

The department recommends that ATPs issued after the 25th of the month maintain their validity until the end of the subsequent month after issuance. This recommendation allows maximum convenience for the client and is the most desirable from a program administration standpoint.

**Income (7 CFR 273.9).** The final regulations redefine income and exclusions from income. Income deductions have been restructured and the itemized deductions currently used have been eliminated. Deductions will now include 20 percent of gross earned income, a standard deduction of \$65, and a combined dependent care/excess shelter deduction not to exceed \$80. The shelter deduction must include, within six months of implementation, a utility standard which the household has the option of using in lieu of actual utility costs. The household may switch between the utility standard and actual costs at least once during a certification period if they desire to do so. The utility standard must be updated by the department each year. The department may also develop a telephone standard.

Income, with some exceptions, is that which is anticipated to be received during the certification period. Households may

elect to average their income and expenses over the certification period or receive a variable basis of issuance if averaging is not desired.

A single annual statewide figure for the utility standard is recommended by the department. It is believed that a single figure will simplify the use of a utility standard from an administrative standpoint and be less costly. The department plans to implement the utility standard on July 1, 1979. In the interim period before the standard is implemented, the department will continue to use actual billed costs to establish the utility allowance and require verification of only those costs claimed which are questionable or inconsistent.

In conjunction with use of the utility standard, the department recommends use of a statewide mandated telephone standard. Since basic service fees are similar in most areas of the state, adopting a standard allowance will be more convenient for applicants by reducing their verification requirements and will be simpler to administer for the department.

It is recommended that the utility and telephone standards be updated annually each July 1 to coincide with the annual change in social security and SSI benefits. The increase in the utility standard may tend to offset the usual decrease in food stamp benefits because of the raise in social security/SSI amounts. Annual adjustment will also be administratively simpler and less costly than more frequent adjustments.

The department recommends that households certified for three months or less be allowed to switch between actual utility costs and the utility standard once during the certification period. It is also recommended that households certified for more than three months be allowed to switch between actual costs and the utility standard once within a three-month period. It is believed that this recommendation allows for fair treatment of households with longer certifications whose utility bills fluctuate due to seasonal changes.

**ATP Issuance (7 CFR 274.2(e)(2)).** The regulations provide that the state agency may stagger the issuance of ATPs to certified households through the 15th day of the month provided that each household receives its ATP at the same time every month and has an opportunity to obtain its coupons prior to the end of the month.

The department recommends maintaining its current practice of mailing ATPs over a 10-day period. This recommendation exceeds the requirements of the regulations and is made in an effort to provide food stamps to all households as early in the month as possible.

**Designation of Emergency Authorized Representative (7 CFR 274.2(e)(7)).** The regulations require the state agency to develop a method by which households may designate an emergency authorized representative to obtain the household's food stamp allotment with a particular ATP. A separate written designation is required each time an emergency authorized representative is used. The household cannot be required to travel to a food stamp office to make the designation.

The department recommends that a tear-off portion of the food stamp ID card be used to designate the emergency authorized representative. A new ID card complete with a designation portion would be issued to the household upon advising the worker that an emergency authorized representative had been used with the previously issued ID card. This

recommendation is made in the interest of client convenience. No additional forms besides the ID card would have to be handled by the client.

Issued in Austin, Texas, on December 12, 1978.

Doc. No. 788198 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Filed: December 12, 1978, 4:57 p.m.

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

## Texas Legislative Council Property Tax Advisory Committee Public Meeting

The Property Tax Advisory Committee of the Texas Legislative Council will meet December 18 and 19, 1978, in Conference Room E of the John H. Reagan State Office Building in Austin. This meeting, third in a series on the implementation of the "Tax Relief Amendment," will begin at 9 a.m. on December 18.

The advisory committee will continue a general discussion of property tax recodification and reform and will take up the issues of homestead exemptions for elderly and disabled persons and reimbursement to school districts for revenue loss due to certain provisions of the "Tax Relief Amendment."

Issued in Austin, Texas, on December 11, 1978.

Doc. No. 788141 Robert Taylor  
Research Associate  
Texas Legislative Council

Filed: December 11, 1978, 3:46 p.m.

For further information, please call (512) 475-2736.

## Public Utility Commission of Texas

### Notice of Intent to Contract for Consulting Services

The Public Utility Commission (PUC) is seeking a contractor to carry out one of its 1979 energy conservation projects funded under the Texas State Energy Conservation Plan. As part of this project, the PUC will:

- (1) prepare a localized loan officer's desk book concerning the costs and benefits of energy conservation measures;
- (2) sponsor five regional conferences for realtors and appraisers covering methods for assigning value to energy conserving measures and techniques for marketing energy-efficient homes;

- (3) provide on-site assistance to 20 lending institutions in 10 locations throughout the state to enable these institutions to develop marketing campaigns for energy conservation home loans; provide employee training in energy-conserving concepts and measures and in making needed adjustments in current lending practices and procedures.

The contract will begin on January 15, 1979, and end on December 31, 1979. The contract amount is \$147,450.

The Public Utility Commission has determined that Planergy, Inc., with principal offices in Austin, is presently under contract to provide SECP program support and is suited to act as contractor for this project. This determination was based on the following criteria:

- (1) general knowledge of and experience in the field of home energy conservation;
- (2) specific knowledge and experience in the field of financing, evaluating, and marketing energy-conserving home improvements,
- (3) familiarity with the home energy conservation programs of Texas electric and gas utilities;
- (4) experience in the development and provision of workshops, seminars, and conferences in the field of home energy conservation;
- (5) ability to fully perform the contract for available funds; and, because of
- (6) the need to work closely with the PUC staff, offices in Austin are desirable;
- (7) demonstrated ability to work with state and local associations representing lending institutions and utility companies.

The PUC recognizes that there may be firms with which it is unfamiliar which may be qualified to carry out the project. The PUC invites interested firms to submit a statement of qualifications addressing these criteria to the PUC. Statements of qualification may be filed until 5 p.m. January 2, 1979.

For further information, contact Paul Smolen, project manager, PUC, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0207.

Issued in Austin, Texas, on December 12, 1978.

Doc. No. 788199 Philip F. Ricketts  
Commission Secretary  
Public Utility Commission of Texas

Filed: December 13, 1978, 8:41 a.m.

For further information, please call (512) 458-0207.

## Texas Register Correction of Error

Section 13(K) of *Texas Department of Health* proposed Rule 301.01.03.002, published in the December 12, 1978, issue of the *Texas Register* (3 *TexReg* 4295), should have read: "Thoracostomy with drainage."

## 1979 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the 1979 issues of the *Texas Register*. For your reference, monthly deadline schedules will also be published during the year. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Friday of the preceding week and Monday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. Please note that issues published on January 30, April 27, July 31, and October 30 will be indexes; no other material will be published in these issues. The *Texas Register* will not be published on March 9, June 1, November 27, and December 28.

Since holidays for the 1980-81 biennium have not yet been designated, schedule variations for the period September through December are tentative at this time.

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