

Texas Register

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Texas Register

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Information Available: The nine sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations

Attorney General - summaries of requests for opinions, opinions, and open records decisions

Secretary of State - opinions based on the election laws

Emergency Sections - sections adopted by state agencies on an emergency basis

Proposed Sections - sections proposed for adoption

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections - sections adopted following a 30-day public comment period

Open Meetings - notices of open meetings

In Addition - miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 17 (1992) is cited as follows: 17 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3"

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administration Code*, section numbers, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How to Cite: Under the TAC scheme, each agency section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

Texas Register Art Project

This program is sponsored by the *Texas Register* to promote the artistic abilities of Texas students, grades K-12, and to help students gain an insight into Texas government. The artwork is used to fill otherwise blank pages in the *Texas Register*. The blank pages are a result of the production process used to create the *Texas Register*. The artwork does not add additional pages and does not increase the cost of the *Texas Register*.

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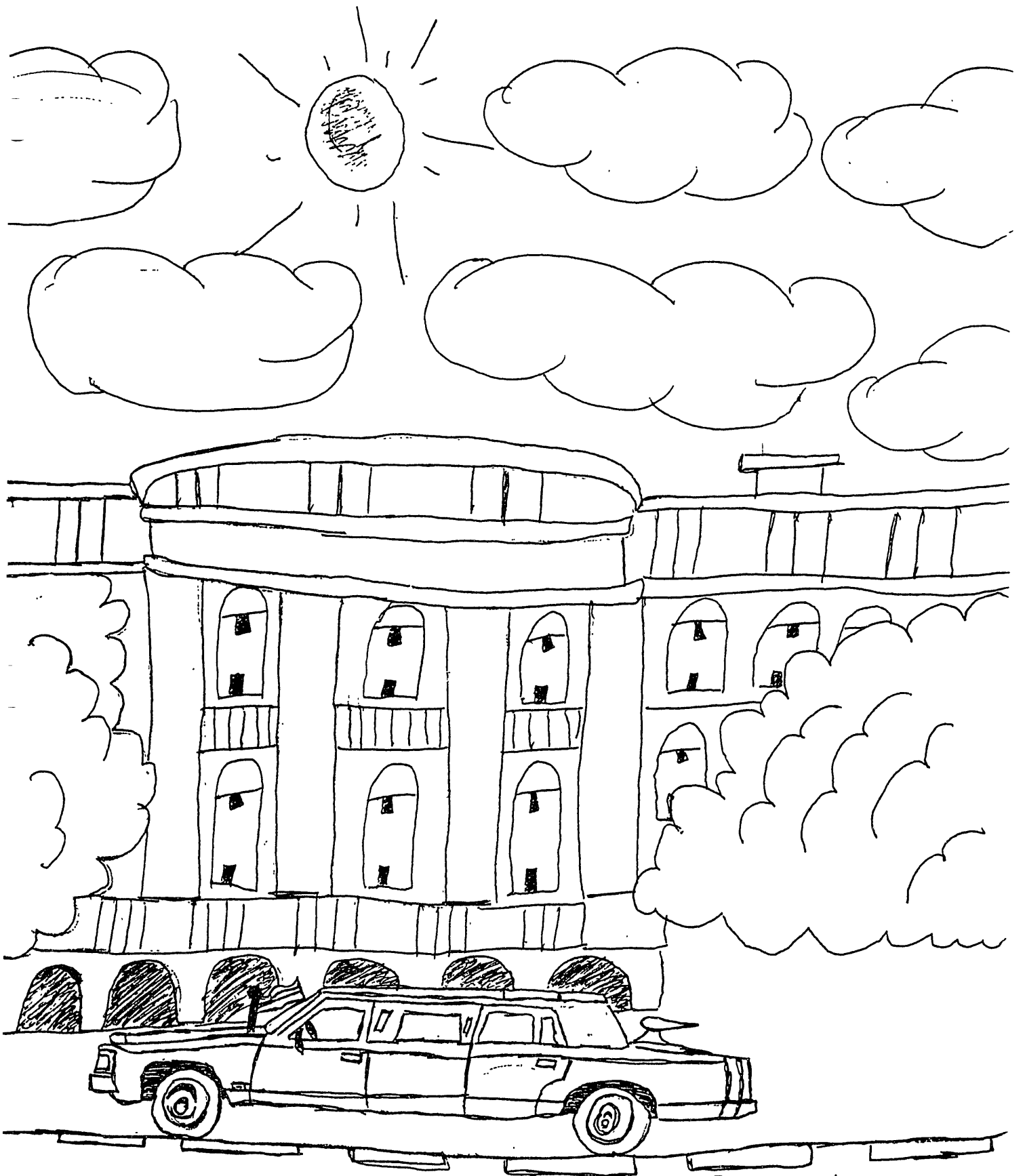
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WE SERVE OUR PRESIDENT
IN LUXURY

Name: Jacob Steger

Grade: 5

School: Forbes Elementary, San Antonio ISD



Name: Marissa Doyle
Grade: 2
School: Ehrhardt Elementary, Klein ISD



Name: Sarah Manitz
Grade: 2
School: Ehrhardt Elementary, Klein ISD

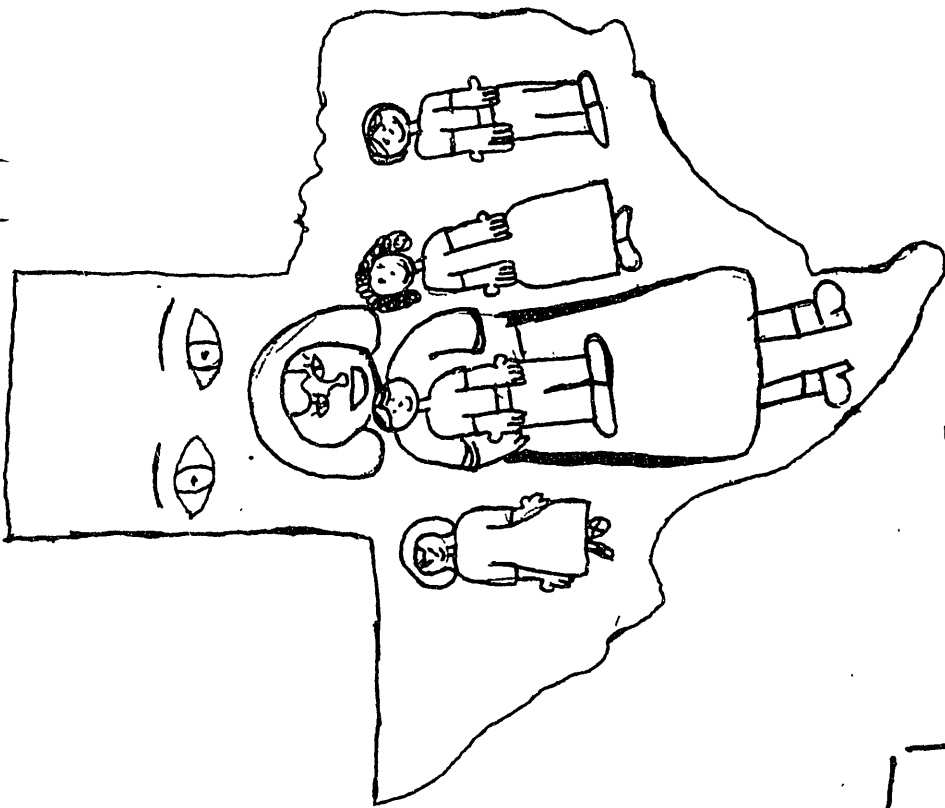
The Constitution Protects Your Basic Rights



Name: April Cordenae

Grade: 5

School: Forbes Elementary, San Antonio



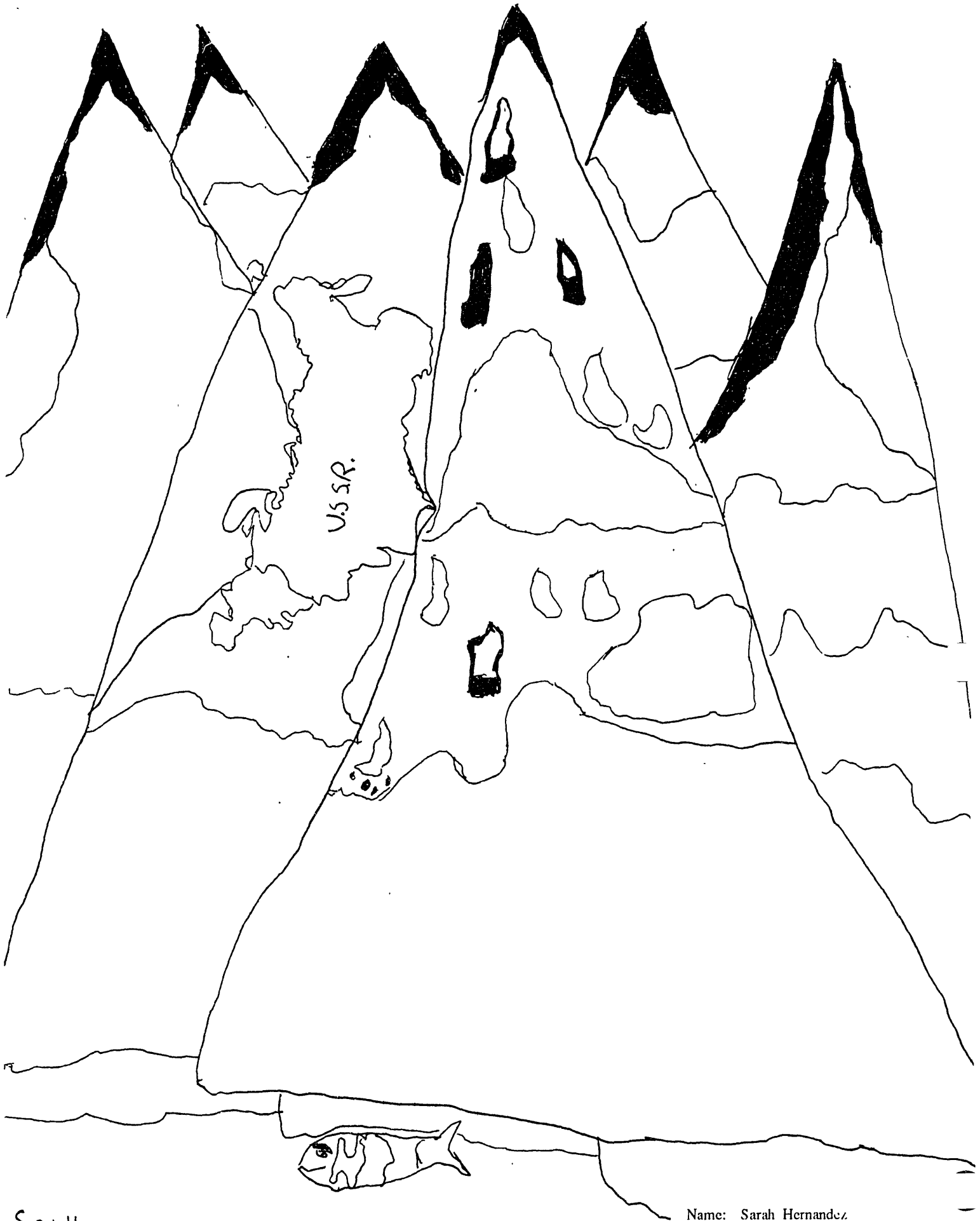
The Eyes of Texas Are
Upon You!

Name: Denise De Leon

Grade: 5

School: Forbes Elementary, San Antonio ISD

Forbes 5th
Denise De Leon



Sarah Hernandez
Forbes Elementary
5th grade

Name: Sarah Hernandez
Grade: 5
School: Forbes Elementary, San Antonio ISD

Texas Ethics Commission

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code; Chapter 305; the Election Code, Title 15; the Penal Code; Chapter 36; and the Penal Code, Chapter 39.

Questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Opinion Requests

AOR-8. An individual has asked the Texas Ethics Commission whether an officeholder may use campaign or officeholder funds to purchase a car to be used for campaign and officeholder purposes. The requestor has also asked whether such funds may be used to purchase the car if the car will be used occasionally for personal use. If such a purchase is appropriate, the requestor would like to know the "appropriate methodology to allocate that part of the purchase price and maintenance" that is attributable to personal use.

AOR-9. The Texas Ethics Commission has been asked to consider whether a general-purpose committee may substitute its own form for a page of the form adopted by the commission for the General-Purpose Committee Sworn Report of Contributions and Expenditures.

AOR-10. The Texas Ethics Commission has been asked to consider a number of questions about the scope and application of Texas Civil Statutes, Article 6252-9d.1, §1.21, which makes certain information about Ethics Commission proceedings confidential. The questions are as follows.

1. Is it legal under the statute for a person intending to file a complaint against a public official to discuss with the public (including the media), before the complaint is filed the substance of the proposed complaint that the person intends to file with the commission?

2. After a complaint is filed, is it permissible for the person filing the complaint to discuss the factual basis for the complaint—for example, why they are upset with the person they've filed the complaint against, what they think that persons did that was unethical or improper, etc.—so long as they do not say exactly what was in the complaint they filed?

3. Are the names and addresses of persons filing complaints ever subject to public disclosure? If so when?

4. Is it permissible for someone who has filed a complaint with the commission to reveal that fact voluntarily to the press?

5. Is it permissible for someone who is the subject of a complaint to talk publicly about it?

6. What sanctions or penalties can be imposed on a person for violating the confidentiality provisions of the statute?

AOR-11. The Texas Ethics Commission has been asked to consider whether a non-profit water supply corporation organized under Texas Civil Statutes, Article 1434a, is a political subdivision for purposes of the Government Code, Chapter 305 and Ethics Commission rules adopted under that chapter.

AOR-12. The Texas Ethics Commission has been asked several questions about the application of Texas Civil Statutes, Article 6252-9b §7A(a). The first question is whether an officer or employee of a regulatory agency may contact a former board member of the agency for advice or information regarding either a matter unrelated to the agency's regulatory authority in regard to the former board member or a matter related to the agency's regulatory authority in regard to the former board member.

The second question is whether a former board member may contact agency officers or employees to provide advice or information in either of the circumstances described in the first question.

The third question is whether discussions between former and current board members would violate Article 6252-9b "if the topic of discussion is agency business that could financially impact" the former board member.

The final question is whether a former board member may communicate with or appear before the regulatory agency "on his or her own behalf with an intent to influence agency action."

AOR-13. The Texas Ethics Commission has been asked to consider four questions about political committees under the Election Code, Title 15. The first question is whether a corporation may "be established just to form a PAC." The second question is whether contributions to a "corporation PAC" may be made only by the directors and employees of the corporation. The third question is whether a political committee may file its campaign treasurer appointment with the Ethics Commission if its "purpose is limited to a local, city issue." The final question is whether an improper filing of a campaign treasurer appointment can be the basis of a sworn complaint to the Ethics Commission.

Issued in Austin, Texas, on March 18, 1992.

TRD-9204042

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: March 20, 1992

For further information, please call: (512) 463-5796

◆ ◆ ◆



Name: David Bovey

Grade: 12

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Emergency Sections

- An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 290. Water Hygiene

Laboratory Analysis

• 31 TAC §290.50

The Texas Water Commission (TWC) adopts on an emergency basis new §290.50, concerning public water supply system laboratory analysis. Section 290.50 states that laboratories providing analytical services for public water supply systems must be approved by the TWC.

Senate Bill 2, First Called Session, 72nd Legislature, transferred all the powers, duties, rights, and obligations of the Texas Department of Health (TDH) pertaining to public water supply systems to the TWC, effective March 1, 1992, and this section is being adopted on an emergency basis to implement that jurisdictional change. The TDH's existing rules pertaining to the previously-referenced program will transfer to the TWC through recodification. However, the TWC has determined that several of TDH's procedural rules should not be recodified as they conflict with the TWC's current procedural regulations. It is the TWC's intention that its existing procedural rules apply to the newly transferred programs.

The new section is adopted on an emergency basis under Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties and the Texas Health and Safety Code, Chapter 341, Subchapter C, which governs sanitary standards of drinking water; protection of public water supplies standards of drinking water; protection of public water supplies and bodies of water.

§290.50. Laboratory Analysis. All samples for chemical, radiological, or bacteriological analysis must be submitted to a laboratory approved by the commission, with the exception of turbidity and any control tests such as chlorine residual, alkalinity, and pH which are not used to determine compliance with the standards delineated in this chapter. Such control tests may be run in the plant laboratory.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204126 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: March 23, 1992

Expiration date: July 21, 1992

For further information, please call: (512) 463-8069

Chapter 330. Municipal Solid Waste

Subchapter Y. Medical Waste Management

• 31 TAC §330.1010

The Texas Water Commission (TWC) adopts on an emergency basis new §330.1010, concerning medical waste management. This section is adopted on an emergency basis to implement the provisions of Senate Bill 2, First Called Session, 72nd Legislature, 1991 (Senate Bill 2), which transferred the authority to regulate medical waste disposal from the Texas Department of Health to the Texas Water Commission, effective March 1, 1992. The TDH rules concerning medical waste management are currently in 25 TAC §§325.1001-325.1009. These rules will be recodified as 31 TAC §§330.1001-330.1009. However, these rules refer to regulations identified in 1 TAC §§1.131-1.137, concerning the "Definition, Treatment, and Disposition of Special Waste from Health-Care Related Facilities." The regulations found in 25 TAC §§1.131-1.137 apply to the medical waste treatment program retained by the TDH, as well as the medical waste disposal program which transferred to the TWC. Therefore, the TWC adopts the following rule on an emergency basis.

The new section is adopted on an emergency basis under the Texas Water Code, §5.103, and §26.011, which gives the Texas Water Commission the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. The section is also adopted under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361 (Vernon), which gives the Texas Water Commission the authority to regulate municipal solid wastes and to adopt rules and promulgate rules consistent with the general intent and purposes of the Act.

§330.1010. *Medical Waste Manage-*

ment. All references by the commission in this subchapter to the regulations contained in 25 TAC §§1.131-1.137 (relating to the Definition, Treatment, and Disposition of Special Waste from Health Care Related Facilities) are adopted by the commission only for the medical waste management program over which TWC has jurisdiction.

Issued in Austin, Texas, on March 20, 1992.

TRD-9204125 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: March 23, 1992

Expiration date: July 21, 1992

For further information, please call: (512) 463-8069

Chapter 336. Radiation Rules Disposal of Radioactive Substances

• 31 TAC §336.1

The Texas Water Commission (TWC) adopts on an emergency basis new §336.1, concerning disposal of radioactive substances. Section 336.1 adopts portions of the Texas Regulations for Control of Radiation (TRCR) by reference which addresses the management of radioactive substances. Senate Bill 2, First Called Session, 72nd Legislature, allocated the jurisdiction of only the disposal of radioactive substances in Texas to the TWC. It appears that all other portions of the radiation program would remain with the Texas Department of Health. The TRCR is formatted in accordance with the state's agreement with the United States Nuclear Regulatory Commission and, at this time, cannot be divided between the agencies. Therefore, §336.1 adopts only those portions of the TRCR concerning the radiation program over which the TWC has jurisdiction. This section is being adopted on an emergency basis in order to implement the provisions of Senate Bill 2, which transferred the jurisdiction over the disposal of radioactive substances to the Texas Water Commission effective March 1, 1992.

The new section is adopted on an emergency basis under the Texas Water Code, §5.103, which gives the commission the authority to adopt any rules necessary to carry out its powers, duties, and policies and Texas Health and Safety Code, §401.412, which gives the Texas Natural Resource Conservation Commission (the successor agency to

Proposed Sections

- Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Rates

• 16 TAC §23.21

The Public Utility Commission of Texas proposes an amendment to §23.21, concerning performance standards for nuclear generating units. The section provides for both positive and negative incentives to encourage the efficient use of nuclear units consistent with their safe and reliable operation. The section sets forth the standard by which the performance of nuclear units will be evaluated.

Russell Trifovesti, assistant general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Trifovesti also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an objective measure of the performance of nuclear units, a reduction in the amount of litigation concerning the efficient operation of nuclear units, and a greater understanding and public acceptance of the commission's rate treatment of nuclear units. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the proposed section is the cost to make the mandated filing. In addition, there could be benefits or costs based on the performance of the individual units. As a result, the actual economic cost, if any, will vary from person to person based on their performance.

Mr. Trifovesti has determined that for each of the first five years the section is in effect, there will be no impact on employment in the geographical areas affected by implementing the requirements of the section.

Comments on the proposal (13 copies) may be submitted to Mary Ross McDonald, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 232S, Austin Texas 78757. Comments should be submitted within 30 days after publication of the proposed section and should refer to Project Number 10120.

The amendment is proposed under the Public Utility Regulatory Act, §§16(a), 17(e), and 37, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; exclusive original jurisdiction over rates, operations, and services not within the incorporated limits of a municipality exercising exclusive original jurisdiction; and all the authority and power of the State of Texas to insure compliance with obligations of public utilities under the Public Utility Regulatory Act.

§23.21. *Cost of Service.*

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

(e) **Performance standards for nuclear powered electric generating units.**

(1) **Application.** This section applies to those investor owned electric utilities that have an ownership interest in a nuclear generating unit. This section establishes an incentive regulation program and provides performance standards for all mature nuclear generating units serving the State of Texas.

(2) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(A) **Design electrical rating (DER)**—The nominal net output rating of a generating unit, as designed, expressed in megawatts (MWs).

(B) **Evaluation period (EP)**—The calendar year under consideration for the evaluation of generating unit performance after the plant is considered mature.

(C) **Mature nuclear unit**—Is defined as one that has been in commercial operation for at least three consecutive years and that has completed at least two refueling outages.

(D) **Net capacity factor (NCF)**—The unit net capacity factor (NCF) is the actual power generation in

megawatt hours (MWHs), less the station loads, divided by the product of the hours available during the period under consideration and the design electrical rating of the unit in MWHs, expressed as a percent, and calculated to the nearest 1/10 of a percentage point.

(E) **Penalty**—The amount of money not recovered by the utility based on the difference between nuclear fuel costs and replacement power fuel costs (displaced fuel cost).

(F) **Performance standards (PS)**—Those levels of desired power plant or system accomplishments established by appropriate authority as measured by specific plant or system indicators or indices.

(G) **Reward**—The amount of money retained by the utility based on the difference between nuclear fuel costs and replacement power fuel costs (displaced fuel cost).

(H) **Target capacity factor (TCF)**—The capacity factor that determines the mid-point of performance bands as established by the rolling average capacity factor of the designated comparative units over a three-year period, expressed as a percent and calculated to the nearest 1/10 of a percentage point.

(3) **Objective.** The objective of this rule is to promote and encourage electrical generating unit efficiency and productivity of nuclear generating units, consistent with their safe and reliable operation, through a monetary reward or penalty. The ultimate goal is to reduce the price of electricity to Texas consumers. Safety of operation of nuclear powered electric generating units is the first priority of the Texas Public Utility Commission. Nothing in this section shall be construed as promoting unsafe power unit operations in order to reach or exceed the performance standards established under this section.

(4) Effective date of performance standards. The provisions of this section shall be prospective only and shall commence with the calendar year following adoption of this rule by the commission. The application of this section shall supersede all other nuclear performance standards previously ordered by the commission.

(5) Target capacity factors (TCF). The commission shall set the target capacity factors for the calendar year for those nuclear units subject to this section by April 15 of each year. The target capacity factor shall be the average capacity factor of comparable units whose capacity factor (CF) is 50% or

greater for each of the three calendar years prior to the current calendar year. The comparative units for each plant subject to this section shall be determined using the comparison factors set forth following as reported in the Nuclear Regulatory Commission data base, NUREG 0020.

Plants

Comparison Factors

South Texas Project

Reactor Type: PWR

and

Reactor Supplier: Westinghouse

Comanche Peak

Commercial Operating Date: On

or after 01/01/73

Design Electrical Rating \geq 800 MW

Palo Verde

Reactor Type: PWR

Reactor Supplier: Combustion

Engineering

Commercial Operating Date: On

or after 01/01/71

Design Electrical Rating \geq 400 MW

River Bend

Reactor Type: BWR

Reactor Supplier: General Electric

Commercial Operating Date: On

or after 01/01/75

Design Electrical Rating \geq 600 MW

(6) Performance bands. Five performance bands are established: a

deadband, two reward performance bands above the deadband, and two penalty performance bands below the

deadband. Specific performance bands are as follows.

<u>Band</u>	<u>NCF (%)</u>
<u>100 % Reward</u>	<u>> 17.5% above the TCF.</u>
<u>50 % Reward</u>	<u>> 7.5% above the TCF but</u> <u>≤ 17.5% above the TCF.</u>
<u>Deadband</u>	<u>≤ 7.5% above the TCF but ≥</u> <u>7.5% below the TCF.</u>
<u>50 % Penalty</u>	<u>< 7.5% below the TCF but</u> <u>≥ 17.5% below the TCF.</u>
<u>100 % Penalty</u>	<u>< 17.5% below the TCF.</u>

(7) Reports. Nuclear generating units shall be evaluated annually. Operating utilities and non-operating owners shall file annual reports on their designated nuclear generating units showing the calculated capacity factor and resulting reward/penalty using the commission prescribed forms. The annual report shall be filed within 60 days after the end of the evaluation period. The annual report shall include workpapers supporting all calculations. The reports will be used in the utility's next fuel reconciliation proceeding following the filing of the report.

(8) Challenge to annual report. An annual report may be contested by the general counsel or other interested person within 120 days from the date the report is filed. The utility shall provide relevant information about the report to any requesting person. Persons wishing to contest a utilities' report shall file a request with the commission that the matter be added to the commission's docket and serve the request on all parties of record in the utility's most recent rate case. Any challenge shall be based on substantive disagreements with the calculations and shall not be made to obtain additional time to review the report. If no person contests a utility's annual report as provided for herein, the report shall not be subject to challenge in any subsequent reconciliation proceeding.

(9) Booking of rewards or penalties. All operating utilities and non-operating owners shall book the reward/penalty for each nuclear unit as a reconcilable fuel expense with interest accruing at the overall cost of capital determined by the commission in the utility's most recent rate case.

(10) PUC staff review. The staff of the PUC shall conduct a comprehensive review of operations of any nuclear unit subject to these rules whose annual CF is equal to or less than 50% for any evaluation period. This level of CF is not to be confused with the rolling average CF used to determine a reward or penalty for the year.

(11) Automatic reconsideration provision. In the event any unit's annual CF is less than or below 35% for any evaluation period, the general counsel shall initiate an inquiry into the rate base treatment for that unit. The utility will have the burden to establish the reasonableness of continued rate base treatment for that unit and show what measures, if any, that have been taken to improve that unit's performance.

(12) Force majeure. The application of this section shall be suspended during outage periods which are the result of unforeseen and unforeseeable events which are beyond the control of the operating utility. Any utility claiming a force majeure event must file a notice with the commission within three working days of the beginning of the outage.

Persons wishing to contest a utility's claim of a force majeure event must request, within 23 working days of the beginning of the outage that the matter be added to the commission's docket and serve the request on all parties of record in the utility's most recent rate case.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 19, 1992.

TRD-9204031

Mary Ross McDonald
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: April 27, 1992

For further information, please call: (512) 458-0100

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Part III. Texas Alcoholic Beverage Commission

Chapter 31. Administration

Powers Delegated to the Administrator

• 16 TAC §31.1

The Texas Alcoholic Beverage Commission proposes an amendment to §31.1, concerning powers delegated to the administrator. The amendment allows the commission to retain certain controls over the activities and identity of the internal auditor and such other

major positions, if any, which the commission may add to this amendment upon final consideration.

Joe Damall, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Damall also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be closer control of one or more key employees regulating an industry affecting the public. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the proposed amended section.

Comments on the proposal may be submitted to Jeannene Fox, Acting Administrator, P.O. Box 13127, Austin, Texas, 78711, (512) 458-2500.

The amendment is proposed under the Texas Alcoholic Beverage Code, §5.12, which provides that the Commission may by rule determine the degree to which concurrent duties will be shared between the commission and administrator.

§31.1. Powers Delegated to the Administrator.

(a) (No change.)

(b) **Notwithstanding any provision in subsection (a) of this section, the commission reserves unto itself the following authority specified in this subsection: the administrator must obtain advance approval from the commission in order to appoint, employ, terminate, discipline, transfer, reclassify, or change the powers, duties, or responsibilities of the internal auditor.**

(c) The administrator is hereby given the power and it is hereby made his duty to make and execute the affidavits required by the provisions of an act of the legislature making appropriations for the support and maintenance of the administrative departments and agencies of the state government, which act requires that every month the head of each department shall attach to the payroll of his department an affidavit to the payroll of such department, stating that the persons listed on said payroll actually performed the duties for which they are being paid.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204120 Joe Damall
General Counsel
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: April 27, 1992

For further information, please call: (512) 465-4904

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 145. Long Term Care

Subchapter H. Long Term Care Services For the Elderly

• 25 TAC §145.121

The Texas Department of Health (department) proposes new §145.121 concerning the coordination of long-term care services for the elderly. Section 145.121 will adopt by reference a Texas Department on Aging rule in 40 TAC §251.13, concerning the Memorandum of Understanding (MOU) between the department, the Texas Department of Human Services (TDHS), the Texas Department on Aging (TDoA), and the Texas Mental Health and Mental Retardation (TMHMR). The new section will implement Senate Bill 377, 72nd Legislature, 1991, which requires that the four agencies develop and adopt by rule an MOU which clearly outlines each agency's responsibilities in the development, coordination, and implementation of long-term care services for the elderly and the revision of the Texas Long-Term Care State Plan for Elderly.

Stephen Seale, Chief Accountant III, has determined that for the first five-year period the section is in effect there will be no fiscal implication for state or local government as a result of enforcing or administering the section.

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated will be the clarification of the responsibilities of each agency in executing the MOU. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed and there will be no impact on local employment.

Comments on the proposed rules may be submitted to Janice M. Caldwell, Dr.P.H., Chief, Bureau of Long Term Care, 1100 West 49th Street, Austin, Texas 78756-3185 for 30 days after publication.

The new section is proposed under the Human Resources Code, §101.031 (Senate Bill 377, §1, 72nd Legislative, 1991), which provides the Texas Department on Aging, the Texas Department of Human Services, the Texas Department of Health, and the Texas Mental Health and Mental Retardation with the authority to develop and adopt a Memorandum of Understanding concerning each agency's responsibilities biennially revising and updating the Texas Long-Term Care State Plan for the Elderly; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty

imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

§145.121. Memorandum of Understanding Between Texas Department on Aging, the Texas Department of Human Services, the Texas Department of Health, and the Texas Mental Health and Mental Retardation concerning Long-Term Care Services for the Elderly.

(a) The Texas Department of Health adopts by reference the Texas Department on Aging rule in 40 Texas Administrative Code, §251.13, concerning the coordination of Long-Term Care Services for the Elderly as proposed February 7, 1992.

(b) Copies of the adopted by reference material may be obtained from the Bureau of Long Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3185.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 18, 1992.

TRD-9203959 Robert A. MacLean, M.D.
Deputy Commissioner for
Professional Services
Texas Department of
Health

Proposed date of adoption: June 27, 1992

For further information, please call: (512) 458-7709

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TITLE 28. INSURANCE

Part II. Texas Workers' Compensation Commission

Chapter 134.

Benefits-Guidelines for Medical Services, Charges, and Payments

Subchapter C. Medical Fee Guidelines

• 28 TAC §134.400

The Texas Workers' Compensation Commission proposes new §134.400, concerning acute care inpatient hospital fee guideline. The new section is proposed to establish the maximum amount payable for hospital services rendered after the effective date of this rule to injured workers subject to the Workers' Compensation Act.

Andrew Thigpen, associate director, Financial Management, has determined that there will be fiscal implications as a result of administering or enforcing the new section. Since the Acute Care Inpatient Hospital Fee Guideline

will be reevaluated and revised every two years, as required by the Act, §8.24, this analysis is for the first two rather than the first five years this section is in effect.

Assumptions: The total cost for workers' compensation benefits will be approximately the same in the next two years as they were in 1990. That was \$3.8 billion according to a February 1992 report produced by the State Auditor. The proportion of total costs to medical costs and the proportion of medical to hospital costs will remain the same as in 1990. Medical represented 40% of total costs and hospitals accounted for 40% of that amount. Implementation of the cost containment provisions of the Act will reduce payments to hospitals by 8.5%. The rule will be in effect for eight months or less in 1992. There will be minimal administrative costs for hospitals to comply with this payment method. There will be a minimal cost to the public for reproduction and postage to purchase the new fee guidelines for their use. Data is not currently available to permit a more exact apportionment of savings or costs among the government and private entities mentioned in this note. Fiscal implications to:

State government: No additional costs to administer. As a self-insured employer, the state will pay less for workers' compensation claims. Current data does not allow a precise determination, but the reduced cost to the entire workers' compensation system is expected to be \$29.5 million in 1992 and \$42.2 million in 1993. There will not be additional revenue to state government.

Local government: Again, the current data does not allow a precise determination but, as self-insured employers, local governments will share in the projected \$29.5 million cost reduction in 1992 and \$42.2 million in 1993. Local governments who operate hospitals may incur minimal costs to program billing systems and to train staff to use this per diem payment system. To the extent that they provide acute care inpatient services to injured workers, these hospitals will lose income. Precise amounts are unknown, but they will lose some portion of \$29.5 million in 1992 and \$42.2 million in 1993.

Small Businesses: The smallest hospitals, with fewer than 100 beds, have been exempted from this proposed rule. No other small businesses are affected, so there should be no cost of compliance for small businesses; for that reason, there can be no comparison with the largest businesses who have to comply with this section.

Mr. Thigpen also has determined that for the first two years the section as proposed will be in effect, the public benefit and/or cost will be as follows. Projected \$29.5 million in 1992 and \$42.2 million in 1993 which will be savings for insurance carriers, the state and self-insured political subdivisions; and losses for hospitals, both public and private. Implementation of Workers' Compensation Act as adopted by the legislature in 1989. Insurance premiums may decline as costs come down and consequently, more employers may choose to carry compensation insurance. Lower administrative costs should result from a simplified reimbursement system. There should be no impact on local employment.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Articles 8308-8.01(a), which mandates the commission to establish by rule medical policies and fee guidelines governing the provision and payment of medical services; §308-8.21(a) and (b)(1) which requires the commission to adopt rules establishing guidelines relating to the fees charged or paid for medical services rendered to injured workers; 8308-10.08 which establishes that overcharging by the health care provider can be an administrative as well as a criminal violation, and 8308-2.09(a), which authorizes the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§134.400. Acute Care Inpatient Hospital Fee Guideline.

(a) The maximum allowable payment under the "Acute Care Inpatient Hospital Fee Guideline for services rendered under the Texas Workers' Compensation Act" is lesser of:

(1) the provider's usual fees and charges; or

(2) the fees and charges established by use of a prospective payment system adopted under subsection (b) of this section.

(b) The commission will publish and adopt by reference herein a per diem based prospective payment system as the "Acute Care Inpatient Hospital Fee Guideline for services rendered under the Texas Workers' Compensation Act." The guideline is published as the 1992 Texas Workers' Compensation Commission Acute Care Inpatient Hospital Fee Guideline, which is incorporated herein by reference. The guideline shall be effective for all medical services rendered after May 1, 1992. Copies of the guideline may be obtained from the Reprographics Department of the Texas Workers' Compensation Commission, 4000 South IH-35, Southfield Building, Austin, Texas 78704.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 19, 1992.

TRD-9204037

Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: April 27, 1992

For further information, please call: (512) 440-3972

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 10. Exploration and Development of State Minerals Other than Oil and Gas

• 31 TAC §§10.2, 10.3, 10.5, 10.8, 10.9

The General Land Office proposes amendments to §§10.2, 10.3, 10.5, 10.8, and 10.9, concerning prospect permits on state lands, mining leases on properties subject to prospect, mining leases on Relinquishment Act lands, assignments, release, reports, royalty payments, inspections, forfeitures, and reinstatements, and mineral awards and patents. The amendments will correct references to the current fee schedule.

Stroud Kelley, acting general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Kelley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that references to the fee schedule are correct. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Stroud Kelley, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendments are proposed under the Natural Resources Code, §31.051 and §32.062, which authorizes the commissioner to make and enforce rules consistent with the law.

§10.2. Prospect Permits on State Lands.

(a) (No change.)

(b) Application requirements and procedures.

(1)-(3) (No change.)

(4) The application to prospect shall be accompanied by the filing fee prescribed by §1.3 [1.9] of this title (relating to Fees) and, except as otherwise provided in §10.5(g)(7) of this title (relating to Mining Leases on Relinquishment Act Lands) the first year's rental payment of \$.50 per acre.

(5)-(9) (No change.)

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

(e) Assignments and releases. Prospect permits may be assigned or released in accordance with §10.8 of this title (relating to Assignments, Releases, Reports, Royalty Payments, Inspection, Forfeitures, and Reinstatements). The assignment or release must be filed with the GLO and must be accompanied by the filing fee prescribed by §1.3 [1.91] of this title (relating to Fees).

(f) (No change.)

§10.3. Mining Leases on Properties Subject to Prospect.

(a) (No change.)

(b) Lease application requirements and procedures.

(1)-(4) (No change.)

(5) The application to lease shall be accompanied by a filing fee prescribed by §1.3 [1.91] of this title (relating to Fees) and the proposed lease payment which shall not be less than \$2.00 per acre.

(6)-(8) (No change.)

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

§10.5. Mining Leases on Relinquishment Act Lands.

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

(d) Approval and filing of lease.

(1)-(3) (No change.)

(4) The state's share of the approved bonus payment and the filing fee prescribed by §1.3 [1.91] of this title (relating to Fees) shall be submitted along with the certified copy of the lease. Any lease is void unless it recites the actual consideration paid or promised for the lease.

(5) (No change.)

(e)-(i) (No change.)

§10.8. Assignments, Releases, Reports, Royalty Payments, Inspections, Forfeitures, and Reinstatements.

(a) Assignments and releases.

(1) (No change.)

(2) After recordation, lessee or permittee shall obtain a certified copy from the county clerk of each recorded assignment covering the state lease or permit. Lessee or permittee shall send such certified copies to the GLO within 90 days of the date of recordation, accompanied by the filing fee prescribed in §1.3 [1.91] of this title (relating to Fees).

(3) (No change.)

(4) The lessee or permittee may release the lease or permit back to the state at any time. To release a lease or permit, a

lessee or permittee must record the release in each county where the state tract is located and mail a certified copy of each recorded release to the GLO accompanied by the filing fee prescribed in §1.3 [1.91] of this title (relating to Fees).

(5) (No change.)

(b)-(d) (No change.)

§10.9. Mineral Awards and Patents.

(a)-(g) (No change.)

(h) Patenting a mineral award.

(1) (No change.)

(2) The owner of the mineral award shall make written request that the award be patented. The request shall be accompanied by three separate remittances: the balance of the purchase price, a patenting fee, and a recording fee. The appropriate patenting and recording fees are found in §1.3 [1.91] of this title (relating to Fees).

(3) (No change.)

(i) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 12, 1992.

TRD-9204101

Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: April 27, 1992

For further information, please call: (512) 463-5394

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Chapter 13. Land Resources

**Rules, Practices and Procedure
for Land Leases and Trades**

• **31 TAC §13.1**

The General Land Office proposes an amendment to §13.1, concerning leases. The amendment will increase readability and correct references to the current fee schedule.

Stroud Kelley, acting general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Kelley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased readability and correct references to the fee schedule. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Stroud Kelley, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Natural Resources Code, §51.121 and §51.130, which authorizes the commissioner to make and enforce rules consistent with the law.

§13.1. Leases.

(a) (No change.)

(b) Competitive bids. Competitive bids may be received by the commissioner. Anyone who notified the General Land Office, in writing, of a desire [desiring] to lease a particular tract of land [who notifies the General Land Office in writing of his desire], will be furnished an application at least 30 days prior to the awarding of the lease. Each applicant will have 30 days from the date the application was forwarded in which to submit his bid [from the date the application was forwarded].

(c) Application and delivery. Applications [to the commissioner] for lease must [will] specify and describe the particular lands desired and to purpose for which the lease is intended, and must be submitted [together] with the applicant's offer for the first year's rental and a filing fee. Applications shall be signed by the applicant and made a part of any lease awarded.

(d) Lease fee. The appropriate filing fee will be determined by §1.3 [1.91] of this title (relating to Fees), except for commercial leases. The General Land Office will charge commercial lease applicants a fee to offset the costs of evaluating the lease proposals. The fee shall be 1 1/2% of the fair market value of the property being leased, determined at the time the lease is executed. The commissioner may waive all or a part of this fee.

(e)-(h) (No change.)

(i) Improvements. The lessee may place or construct improvements on the lease. The lessee may bear the cost of a improvement or may apply to receive a grant or credit for an improvement on permanent free school land under §13.3 of this title (relating to Grants and Credits).

(1) (No change.)

(2) Improvements, for which no grant or credit is extended, made by the lessee during the lease term [for which no grant or credit is extended] are the property of the lessee. The lessee may remove the improvements or the lessee's personal property within a reasonable time after expiration of the lease, provided the lessee gives prior written notice to the commissioner and owes the state no rent or other sums or obligations. The commissioner may retain the improvements or any personal property on the land as an offset against such debts.

If they are retained as an offset or not removed in a reasonable time, they become the property of the state. If the commissioner determines that any improvements cannot be removed without harming the land, they may not be removed until satisfactory provisions are made for mitigation or compensation for the damage caused by removal.

(3) (No change.)

(j)-(o) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 12, 1992.

TRD-9204099 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: April 27, 1992

For further information, please call: (512) 463-5394

Part IX. Texas Water Commission

Chapter 331. Underground Injection Control

Subchapter I. Financial Responsibility

• 31 TAC §§331.141-331.146

The Texas Water Commission (TWC) proposes new §§331.141-331.146, concerning underground injection control. The new section is proposed in order to incorporate rules promulgated by the Environmental Protection Agency pursuant to their authority under the federal Solid Waste Disposal Act; as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 United States Code, §§6901 et seq., as amended. This new section is proposed to provide both consistency with existing Texas Administrative Code (TAC) regulations and clarification of the TWC's regulatory intent.

A new §331.141 is proposed which defines specific terms used in subchapter I.

A new §331.142 is proposed which delineates acceptable forms of financial assurance.

A new §331.143, regarding plugging and abandonment cost estimate requirements for owners and operators of UIC wells, is proposed.

A new §331.144, concerning plugging and abandonment financial assurance requirements for owners and operators of UIC wells, is proposed.

A new §331.145 is proposed which delineates the requirements for those owners or operators and guarantors who are incapable of fulfilling the financial assurance require-

ments. This section also addresses the requirements for owners or operators whose financial institution issuing the financial assurance becomes either bankrupt, insolvent, or has had its license or charter revoked or suspended.

A new §331.146 is proposed which sets forth requirements for owners and operators if the state assumes responsibility for the plugging and abandonment requirements or assures that funds will be available from state sources to cover the plugging and abandonment requirements.

Ms. Norma Nance, Director of Budget and Planning, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. The purpose of the amendments and new sections is to incorporate current federal requirements into state regulations to establish consistency. There are no additional fiscal impacts or incremental costs attributable to the adoption of the regulations that do not accrue to an affected party currently in compliance with existing federal requirements.

Ms. Nance also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced enforcement of the provisions of the Texas Solid Waste Disposal Act and the rules of the commission regarding the regulation of hazardous waste and the protection of the quality of the water resources of the state. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Samita Melhta, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Comments will be accepted until 5 p.m., 30 days after the date of this publication.

The new sections are proposed under the Texas Water Code, §5.103 and §5.105, which provides the TWC with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019 authorizes the TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. The TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§331.141. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless

the context clearly indicates otherwise and are also used in the specifications for the financial test for plugging and abandonment. The definitions are intended to represent the common meanings of the terms as they are generally used by the business community.

Current closure cost estimate—The dollar amount of financial assurance currently approved by the commission to ensure the proper closing, plugging, and abandoning of injection operations.

Current liabilities—Obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

Current plugging cost estimate—The most recent of the estimates prepared in accordance with §331.143(a), (b), and (c) of this title (relating to Cost Estimate for Plugging and Abandonment).

Parent corporation—A corporation which directly owns at least 50% of the voting stock of the corporation which is the injection well owner or operator; the latter corporation is deemed a subsidiary of the parent corporation.

Permittee—The owner and/or operator of injection well facilities authorized by rule or authorized by a valid commission permit.

Plugging and abandonment plan—The plan for plugging and abandonment prepared in accordance with the requirements of §331.46 of this title (relating to Wording of the Instruments).

Assets—All existing and all probable future economic benefits obtained or controlled by a particular entity.

Current assets—Cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

Independently audited—An audit performed by an independent certified public accountant in accordance with generally accepted accounting principals.

Liabilities—Probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

Net working capital—Current assets minus current liabilities.

Net worth—Total assets minus total liabilities and is equivalent to owner's equity.

Tangible net worth—The tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

§331.142. Financial responsibility.

(a) The permittee shall secure and maintain a performance bond or other

equivalent form of financial assurance or guarantee approved by the commission to ensure the closing, plugging, abandonment, and post-closure care of the injection operation in the manner prescribed by the commission. The assurance may cover more than one well or operation. For new hazardous waste disposal wells, financial security shall be obtained at least 60 days prior to the commencement of drilling operations for the well. For other injection wells, financial security shall be obtained prior to the injection of fluids.

(b) The requirement to maintain financial responsibility is enforceable regardless of whether the requirement is a condition of the permit.

§331.143. Cost Estimate for Plugging and Abandonment.

(a) The owner or operator must prepare a written estimate, in current dollars, of the cost of plugging the injection well in accordance with the plugging and abandonment plan as specified in §331.146 of this title (relating to Plugging and Abandonment Standards). The plugging and abandonment cost estimate must equal the cost of plugging and abandonment at the point in the facility's operating life when the extent and manner of its operation would make plugging and abandonment the most expensive, as indicated by its plugging and abandonment plan.

(b) The owner or operator must adjust the plugging and abandonment cost estimate for inflation within 30 days after each anniversary of the date on which the first plugging and abandonment cost estimate was prepared. The adjustment must be made as specified in paragraphs (1) and (2) of this section, using an inflation factor derived from the annual Oil and Gas Field Equipment Cost Index. The inflation factor is the result of dividing the latest published annual Index by the Index for the previous year.

(1) The first adjustment is made by multiplying the plugging and abandonment cost estimate by the inflation factor.

The result is the adjusted plugging and abandonment cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted plugging and abandonment cost estimate by the latest inflation factor.

(c) The owner or operator must revise the plugging and abandonment cost estimate whenever a change in the plugging and abandonment plan increases the cost of plugging and abandonment. The revised plugging and abandonment cost estimate must be adjusted for inflation as specified in subsection (b) of this section.

(d) The owner or operator must keep the following at the facility during the operating life of the facility during the operating life of the facility: the latest plugging and abandonment cost estimate prepared in accordance with subsections (a) and (c) of this section and, when this estimate has been adjusted in accordance with subsection (b) of this section, the latest adjusted plugging and abandonment cost estimate.

(e) All financial assurance documents shall be filed with the executive director.

§331.144. Financial Assurance for Plugging and Abandonment. An owner or operator of each facility must establish financial assurance for the plugging and abandonment of each existing and new Class I, III, IV, and/or V well(s) hazardous waste injection well. For new wells, financial security shall be obtained at least 60 days prior to the commencement of drilling operations for the well. For the other injection wells, financial security shall be obtained at least 60 days prior to the injection of fluids. He must choose from the options as specified in paragraphs (1)-(6) of this section.

(1) Plugging and abandonment trust fund.

(A) An owner or operator may satisfy the requirements of this section by establishing a plugging and abandon-

ment trust fund which conforms to the requirements of this paragraph and by submitting an originally signed duplicate of the trust agreement to the executive director. An owner or operator of a Class I well injecting hazardous waste must submit the originally signed duplicate of the trust agreement to the executive director with the permit application or for approval to operate under rule. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(B) The wording of the trust agreement must be identical to the wording specified in §331.147(a)(1) of this title (relating to Wording of the Instruments), and the trust agreement must be accompanied by a formal certification of acknowledgment (for example, see §331.147(a)(2) of this title (relating to Wording of the Instruments)). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current plugging and abandonment cost estimate covered by the agreement.

(C) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the injection well as estimated in the plugging and abandonment plan, whichever period is shorter. This period is hereafter referred to as the "pay-in period. The payments into the plugging and abandonment trust fund must be made as follows.

(i) For a new well, the first payment must be made before the initial injection of waste(s). A receipt from the trustee for this payment must be submitted by the owner or operator to the executive director 60 days before this initial injection of waste(s). The first payment must be at least equal to the current plugging and abandonment cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula.

$$\frac{PE - CV}{Y}$$

$$\text{Next payment} = \frac{PE - CV}{Y}$$

where PE is the current plugging and abandon-

ment cost estimate, CV is the current value of the trust fund, and Y is the number

of years remaining in the pay-in period.

(ii) If an owner or opera-

tor establishes a trust fund as specified in paragraph (1) of this section, and the value of that trust fund is less than the current plugging and abandonment cost estimate when a permit is awarded for the injection well, the amount of the current

plugging and abandonment cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in paragraph (1)(C) of this section. Payment must continue to be

made no later than 30 days after each anniversary date of the first payment made pursuant to Part 331 of this chapter. The amount of each payment must be determined by this formula:

PE-CV

$$\text{Next payment} = Y$$

where PE is the current plugging and abandonment cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(D) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current plugging and abandonment cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (1)(C) of this section.

(E) If the owner or operator establishes a plugging and abandonment trust fund after having used one or more alternate mechanisms specified in this section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this paragraph.

(F) After the pay-in period is completed, whenever the current plugging and abandonment cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current plugging and abandonment cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(G) If the value of the trust fund is greater than the total amount of the current plugging and abandonment cost estimate, the owner or operator may submit a written request to the executive director for release of the amount in excess of the cur-

rent plugging and abandonment cost estimate.

(H) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the executive director for release of the amount in excess of the current plugging and abandonment cost estimate covered by the trust fund.

(I) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraph (1)(G) or (H) of this section, the executive director may instruct the trustee to release to the owner or operator such funds as the executive director specifies in writing.

(J) After beginning final plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the executive director. Within 60 days after receiving bills for plugging and abandonment activities, the executive director will determine whether the plugging and abandonment expenditures are in accordance with the plugging and abandonment plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the executive director specifies in writing. If the executive director has reason to believe that the cost of plugging and abandonment will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with paragraph (9) of this section, that the owner or operator is no longer required to maintain financial assurance for plugging and abandonment.

(K) The executive director

will agree to termination of the trust when:

(i) an owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) the executive director releases the owner or operator from the requirements of this section in accordance with paragraph (9) of this section.

(2) Surety bond guaranteeing payment into a plugging and abandonment trust fund.

(A) An owner or operator must satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the executive director with the application for a permit or for approval to operate under rule. The bond must be effective at least 60 days before the initial injection of hazardous waste. The bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of Treasury.

(B) The wording of the surety bond must be identical to the wording in §331.147(b) of this title (relating to Wording of the Instruments).

(C) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the executive director. This standby trust fund must meet the requirements specified in paragraph (1) of this section, except that:

(i) an originally signed duplicate of the trust agreement must be submitted to the executive director with the surety bond; and

(ii) until the standby trust

fund is funded pursuant to the requirements of this section, the following are not required by these requirements:

(I) payments into the trust fund as specified in paragraph (1) of this section;

(II) updating of Schedule A of the trust agreement (see §331.147(a) of this title (relating to Wording of the Instruments)) to show current plugging and abandonment cost estimates;

(III) annual valuations as required by the trust agreement; and

(IV) notices of non-payment as required by the trust agreement.

(D) The bond must guarantee that the owner or operator will:

(i) fund the standby trust fund in an amount equal to the penal sum of the bond before beginning of plugging and abandonment of the injection well; or

(ii) fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin plugging and abandonment is issued by the executive director or a United States district court or other court of competent jurisdiction; or

(iii) provide alternate financial assurance as specified in this section, and obtain the executive director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the executive director of a notice of cancellation of the bond from the surety.

(E) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(F) The penal sum of the bond must be in amount at least equal to the current plugging and abandonment cost estimate, except as provided in paragraph (7) of this section.

(G) Whenever the current plugging and abandonment cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current plugging and abandonment cost estimate and submit evidence of such increase to the executive director, or obtain other financial assurance

as specified in this section to cover the increase. Whenever the current plugging and abandonment cost estimate decreases, the penal sum may be reduced to the amount of the current plugging and abandonment cost estimate following written approval by the executive director.

(H) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the executive director. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the executive director as evidenced by the returned receipts.

(I) The owner or operator may cancel the bond if the executive director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this section.

(3) Surety bond guaranteeing performance of plugging and abandonment.

(A) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and by submitting the bond to the executive director. An owner or operator of a new facility must submit the bond to the executive director with the permit application or for approval to operate under rule. The bond must be effective before injection of waste(s) is started. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

(B) The wording of the surety bond must be identical to the wording specified in §331.147(d) of this title (relating to Wording of the Instruments).

(C) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the executive director. The standby trust must meet the requirements specified in paragraph (1) of this section, except that:

(i) an original signed duplicate of the trust agreement must be submitted to the executive director with the surety bond; and

(ii) unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(I) payments into the trust fund as specified in paragraph (1) of this section;

(II) updating of Schedule A of the trust agreement (see §331.147(a) if this title (relating to Wording of the Instruments)) to show current plugging and abandonment cost estimates;

(III) annual valuations as required by the trust agreement; and

(IV) notices of non-payment as required by the trust agreement.

(D) The bond must guarantee that the owner or operator will:

(i) perform plugging and abandonment in accordance with the plugging and abandonment plan and other requirements of the permit for the injection well whenever required to do so; or

(ii) provide alternate financial assurance as specified in this section, and obtain the executive director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the executive director of a notice of cancellation of the bond from the surety.

(E) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination that the owner or operator has failed to perform plugging and abandonment in accordance with the plugging and abandonment plan and other permit requirements when required to do so, under terms of the bond the surety will perform plugging and abandonment as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

(F) The penal sum of the bond must be in an amount at least equal to the current plugging and abandonment cost estimate.

(G) Whenever the current plugging and abandonment cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current plugging and abandonment cost estimate and submit evidence of such increase to the executive director, or obtain other financial assurance as specified in this section. Whenever the

plugging and abandonment cost estimate decreases, the penal sum may be reduced to the amount of the current plugging and abandonment cost estimate following written approval by the executive director.

(H) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the executive director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the executive director, as evidenced by the return receipts.

(I) The owner or operator may cancel the bond if the executive director has given prior written consent. The executive director will provide such written consent when:

(i) an owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) the executive director releases the owner or operator from the requirements of this section in accordance with paragraph (9) of this section.

(J) The surety will not be liable for deficiencies in the performance of plugging and abandonment by the owner or operator after the executive director releases the owner or operator from the requirements of this section in accordance with paragraph (9) of this section.

(4) Plugging and abandonment letter of credit.

(A) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and by submitting the letter to the executive director. An owner or operator of an injection well must submit the letter of credit to the executive director during submission of the permit application or for approval to operate under rule. The letter of credit must be effective before initial injection of waste(s). The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(B) The wording of the letter of credit must be identical to the wording specified in §331.147(d) of this title (relating to Wording of the Instruments).

(C) An owner or operator who uses a letter of credit to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid

pursuant to a draft by the executive director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the executive director. This standby trust fund must meet the requirements of the trust fund specified in §331.144(1) of this section, except that:

(i) an originally signed duplicate of the trust agreement must be submitted to the executive director with the letter of credit; and

(ii) unless the standby trust fund is funded pursuant to the requirements of this sections, the following are not required by these regulations:

(I) payments into the trust fund as specified in paragraph (1) of this section;

(II) updating of Schedule A of the trust agreement (see §331.147(a) of this title (relating to Wording of the Instruments)) to show current plugging and abandonment cost estimates;

(III) annual valuations as required by the trust agreement; and

(IV) notices of non-payment as required by the trust agreement.

(D) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for plugging and abandonment of the well by the letter of credit.

(E) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the executive director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the executive director have received the notice, as evidenced by the return receipts.

(F) The letter of credit must be issued in an amount at least equal to the current plugging and abandonment cost estimate, except as provided in paragraph (7) of this section.

(G) Whenever the current plugging and abandonment cost estimate in-

creases to an amount greater than the amount of credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current plugging and abandonment cost estimate and submit evidence of such increase to the executive director, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current plugging and abandonment cost estimate decreases, the amount of the credit may be reduced to the amount of the current plugging and abandonment cost estimate following written approval by the executive director.

(H) Following a determination that the owner or operator has failed to perform final plugging and abandonment in accordance with the plugging and abandonment plan and other permit requirements when required to do so, the executive director may draw on the letter of credit.

(I) If the owner or operator does not establish alternate financial assurance as specified in this section and obtain written approval of such alternate assurance from the executive director within 90 days after receipt by both the owner or operator and the executive director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the executive director will draw on the letter of credit. The executive director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension, the executive director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of such assurance from the executive director.

(J) The executive director will return the letter of credit to the issuing institution for termination when:

(i) an owner or operator substitutes and receives approval from the executive director of the TWC for alternate financial assurance as specified in this section; or

(ii) the executive director releases the owner or operator from the requirements of this section in accordance with §331.144(9) of this section.

(5) Plugging and abandonment insurance.

(A) An owner or operator may satisfy the requirements of this section by obtaining plugging and abandonment insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the executive director. An owner or operator of a new

injection well must submit the certificate of insurance to the executive director with the permit application or for approval to operate under rule. The insurance must be effective at least 60 days before injection starts. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(B) The wording of the certificate of insurance must be identical to the wording specified in §331.147(e) of this title (relating to Wording of the Instruments).

(C) The plugging and abandonment insurance policy must be issued for a face amount at least equal to the current plugging and abandonment estimate, except as provided in paragraph (7) of this section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(D) The plugging and abandonment insurance policy must guarantee that funds will be available whenever final plugging and abandonment occurs. The policy must also guarantee that once plugging and abandonment begins, the issuer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the executive director, to such party or parties as the executive director specifies.

(E) After beginning plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the executive director. Within 60 days after receiving bills for plugging and abandonment activities, the executive director will determine whether the plugging and abandonment expenditures are in accordance with the plugging and abandonment plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the executive director specifies in writing. If the executive director has reason to believe that the cost of plugging and abandonment will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with paragraph (9) of this section, that the owner or operator is no longer required to maintain financial assurance for plugging and abandonment of the injection well.

(F) The owner or operator must maintain the policy in full force and

effect until the executive director consents to termination of the policy by the owner or operator as specified in paragraph (5)(J) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these regulations, warranting such remedy as the executive director deems necessary. Such violation will be deemed to begin upon receipt by the executive director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(G) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(H) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the executive director. Cancellation, termination, or failure to renew may not occur, however, during 120 days beginning with date of receipt of the notice by both the executive director and the owner or operator, as evidenced by the return of receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) the executive director deems the injection well abandoned; or

(ii) the permit is terminated or revoked or a new permit is denied; or

(iii) plugging and abandonment is ordered by the executive director or a United States district court or other court of competent jurisdiction; or

(iv) the owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code; or

(v) the premium due is paid.

(I) Whenever the current plugging and abandonment cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current

plugging and abandonment estimate and submit evidence of such increase to the executive director, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current plugging and abandonment cost estimate decreases, the face amount may be reduced to the amount of the current plugging and abandonment cost estimate following written approval by the executive director.

(J) The executive director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) an owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) the executive director releases the owner or operator from the requirements of this section in accordance with paragraph (9) of this section.

(6) Financial test and corporate guarantee for plugging and abandonment.

(A) An owner or operator may satisfy the requirements of this section by demonstrating that he passes a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of either paragraph (6)(A)(i) or (ii) of this section.

(i) The owner or operator must have:

(I) two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(II) net working capital and tangible net worth each at least six times the sum of the current plugging and abandonment cost estimate; and

(III) tangible net worth of at least 10 million; and

(IV) assets in the United States amounting to at least 90% of his total assets or at least six times the sum of the current plugging and abandonment cost estimate.

(ii) The owner or operator must have:

(I) a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(II) tangible net worth at least six times the sum of the current plugging and abandonment cost estimate; and

(III) tangible net worth of at least \$10 million; and

(IV) assets located in the United States amounting to at least 90% of his total assets or at least six times the sum of the current plugging and abandonment cost estimates.

(B) The phrase "current plugging and abandonment cost estimate" as used in paragraph (6)(A) of this section refers to the cost estimate required to be shown in paragraph 1-4 of the letter from the owner's or operator's chief financial officer §331.147(f) of this title (relating to Wording of the Instruments).

(C) To demonstrate that he meets this test, the owner or operator must submit the following items to the executive director:

(i) a letter signed by the owner's or operator's chief financial officer and worded as specified in §331.147(f) of this title (relating to Wording of the Instruments); and

(ii) a copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) a special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(I) he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(II) in connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(D) An owner or operator of a new injection well must submit the items specified in paragraph (6)(C) of this section to the executive director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in paragraph (6)(C) of this section.

(E) After the initial submission of items specified in paragraph (6)(C) of this section, the owner or operator must send updated information to the executive director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in paragraph (6)(C) of this section.

(F) If the owner or operator no longer meets the requirements of paragraph (6)(A) of this section, he must send notice to the executive director of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(G) The executive director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (6)(A) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in paragraph (6)(C) of this section. If the executive director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of paragraph (6)(A) of this section, the owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of such a finding.

(H) The executive director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (6)(C)(ii) of this section). An adverse opinion or disclaimer of opinion will be cause for disallowance. The executive director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of the disallowance.

(I) The owner or operator is no longer required to submit the items specified in paragraph (6)(C) of this section when:

(i) an owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) the executive director releases the owner or operator from the requirements of this section in accordance with §331.144(9) of this section.

(J) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantee must be the parent corporation of the owner or operator. The guarantee must meet the requirements for owners or operators in paragraphs (6)(A)-(H) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in §331.147(g) of this title (relating to Wording of the Instruments). The corporate guarantee must accompany the items sent to the executive director as specified in paragraph (6)(C) of this section. The terms of the corporate guarantee must provide the following.

(i) If the owner or operator fails to perform plugging and abandonment of the injection well covered by the corporate guarantee in accordance with the plugging and abandonment plan and other permit requirements whenever required to do so, the guarantee will do so or establish a trust fund as specified in §331.144(1) of this section in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the executive director, as evidenced by the return receipts. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the executive director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the executive director within 90 days after receipt by both the owner or operator and the executive director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the owner or operator.

(7) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism per injection well. These mechanisms are limited to trust funds, surety bonds, guaranteeing payment into a trust fund, letters of credit, and insurance. The mechanisms must be as specified in paragraphs (1), (2), (4), and (5), respectively, of this section, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the adjusted plugging and abandonment cost. If an owner or operator uses a trust fund in combination with a surety bond or letter of

credit, he may use that trust fund as the standby trust fund for the other mechanisms. A single standby trust may be established for two or more mechanisms. The executive director may invoke any or all of the mechanisms to provide for plugging and abandonment of the injection well.

(8) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one injection well. Evidence of financial assurance submitted to the executive director must include showing, for each injection well, the EPA Identification Number, name, address, and the amount of funds for plugging and abandonment assured by the mechanism. If the injection wells covered by the mechanism are in more than once EPA region, identical evidence of financial assurance must be submitted to the executive director. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each injection well. In directing funds available through the mechanism for plugging and abandonment of any of the injection wells covered by the mechanism, the executive director may direct only the amount of funds designated for that injection well, unless the owner or operator agrees to use additional funds available under the mechanism.

(9) Release of the owner or operator from the requirements of this section. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that plugging and abandonment has been accomplished in accordance with the plugging and abandonment plan, the executive director will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for plugging and abandonment of the injection well, unless the executive director has reason to believe that plugging and abandonment has not been in accordance with the plugging and abandonment plan.

§331.145. Incapacity of Owners or Operators, Guarantors, or Financial Institutions.

(a) An owner or operator must notify the executive director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within 10 business days after the commencement of the proceeding. A guarantor of a corporate guarantee as specified in §331.147(g) of this title (relating to Financial Assurance for Plugging and Abandonment) must make such a notification if he is named as debtor,

as required under the terms of the guarantee (see §331.147(g) of this title (relating to Wording of the Instruments)).

(b) An owner or operator who fulfills the requirements of §331.144 of this title (relating to Financial Assurance for Plugging and Abandonment) by obtaining a letter of credit, surety bond, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy, insolvency, or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

§331.146. State Assumption of Responsibility.

(a) If the state either assumes legal responsibility for an owners or operators compliance with the plugging and abandonment requirements of these regulations or assures that funds will be available from state sources to cover these requirements, the owner or operator will be in compliance with the requirements of this section if the executive director determines that the state's assumption of responsibility is at least equivalent to the mechanisms specified in this section. The executive director will evaluate the equivalency of state guarantees mainly in terms of: certainty of the availability of funds for the required plugging and abandonment coverage; and the amount of funds that will be made available. The executive director may also consider other factors. The owner or operator must submit to the executive director a letter from the state describing the nature of the state's assumption of responsibility together with a letter from the owner or operator requesting that the state's assumption of responsibility be considered acceptable for meeting the requirements of this section. The letter from the state must include, or have attached to it, the following information: the facility's EPA Identification Number, name and address, and the amounts of funds for plugging and abandonment coverage that are guaranteed by the state. The executive director will notify the owner or operator of his determination regarding the acceptability of the states guarantee in lieu of mechanisms specified in this section. The executive director may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with §331.144 (relating to Financial Assurance for Plugging and Abandonment).

(b) If the state's assumption of responsibility is found acceptable as specified in subsection (a) of this section except for the amount of funds available, the owner or

operator may satisfy the requirements of this section by use of both the state's assurance and additional financial mechanisms as specified in this section. The amount of funds available through the state and federal mechanisms must at least equal the amount required by this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204128

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: April 27, 1992

For further information, please call: (512) 463-8069

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 79. Legal Services

Subchapter U. Fraud Involving Recipients

• 40 TAC §§79. 2001, 79.2003, 79.2009, 79.2011

The Texas Department of Human Services (DHS) proposes amendments to §§79.2001, 79.2003, 79.2009, and 79.2011, concerning definitions, determination, and disposition of intentional program violations, referral of food stamp and Aid to Families with Dependent Children (AFDC) Program violation claims to administrative disqualification hearing officer, and collection action on food stamp and AFDC intentional program violation claims. The purpose of the amendments is to make DHS's investigation and disposition of AFDC fraud cases consistent with its established procedure for processing Food Stamp Program violations. The amendments will enable DHS to conduct administrative disqualification hearings in cases of AFDC program violations the same as it currently does in food stamp cases.

Burton F. Raiford, interim commissioner, has determined that for the first five-year period the proposed amendments are in effect there will fiscal implications for state government as a result of enforcing or administering the amendments. The effect on state government for the first five-year period the proposed amendments are in effect is an estimated additional cost of \$5,024 for fiscal year 1992; \$21,362 for fiscal year 1993; \$22,729 for fiscal year 1994; \$24,138 for fiscal year 1995; and \$25,104 for fiscal year 1996. The estimated additional costs represent the cost to DHS of conducting AFDC administrative disqualification hearings. Also, the effect on state government for the first five-year period

the amendments are in effect is an estimated reduction in cost of \$94,045 for fiscal year 1992; \$376,179 for fiscal year 1993; \$376,179 for fiscal year 1994; \$376,179 for fiscal year 1995; and \$376,179 for fiscal year 1996. The reduction in costs represents the savings in AFDC grants and Medicaid costs resulting from terminating benefits to disqualified recipients. There will be no fiscal implications for local government as a result of enforcing or administering the amendments.

Mr. Raiford also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be a net savings in tax dollars resulting from disqualification of persons found guilty of committing intentional program violations. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

Questions about the content of the proposal may be directed to Bill Dobbs at (512) 450-4209 in DHS's Office of the Inspector General. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-076, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§79.2001. Definitions.

(a) [Definition of assistance.] Food stamp, medical assistance, and financial assistance are indicated when the term "assistance" is used in this subchapter. Medical assistance, **Aid to Families with Dependent Children (AFDC)**, and food stamp intentional program violations are not given special treatment except if specific procedural distinctions are noted.

(b) Definition of food stamp intentional program violation.

[(1)] A household member has committed an intentional program violation if he has intentionally:

(1)[(A)] made a false and misleading statement;

(2)[(B)] misrepresented, concealed, or withheld facts; or

(3)[(C)] violated any provision of the Food Stamp Act, the Food Stamp Program regulations, or related state statutes in order to use, present, transfer, acquire, receive, or possess food stamp coupons or **food stamp authorizations to participate (ATP) [ATPs]**.

[(2)] A household member may be charged with an intentional program violation even if he has not actually received

benefits to which he is not entitled.

[(3)] DHS does not include as part of a claim any overissuance prior to six years before the overissuance is discovered.]

(c) Definition of aid to families with dependent children (AFDC) intentional program violation. An intentional program violation has occurred if a recipient has [purposely] **intentionally, for the purpose of establishing or maintaining the family's eligibility for AFDC or for increasing or preventing a reduction in the amount of the grant:**

(1) (No change.)

(2) misrepresented, concealed, or withheld facts, or represented a falsehood to be a fact; or

(3) (No change.)

(d) A household member may be charged with an intentional program violation even if he has not actually received benefits to which he is not entitled.

(e) DHS does not include as part of a claim any overissuance made prior to six years before the overissuance is discovered; or, for AFDC cases, in a month prior to November 1, 1988.

(f) In food stamp and AFDC intentional violation proceedings against individuals, actions under either the Food Stamp or AFDC Programs will be coordinated with the actions under the other, to the extent possible.

§79.2003. Determination and Disposition of Intentional Program Violations.

(a) **The Texas Department of Human Services (DHS)** [DHS] determines the existence of intentional program violations; refers cases for investigation, administrative hearings, and prosecution; takes collection action, and ensures clients' rights according to applicable Texas criminal statutes and the following:

(1) **Aid to Families with Dependent Children (AFDC)** [AFDC] Program—45 Code of Federal Regulations, §233.20(a)(13)(B), [and] §235.110, §235.112, and §235.113.

(2)-(3) (No change.)

(b) **Individuals found to have committed an intentional program violation in the Food Stamp and/or AFDC Programs either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed a waiver of right to an administrative disqualification hearing, or on the basis of a plea of guilty or nolo contendere or otherwise in cases referred for prosecution in a state or federal court are ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation. In**

AFDC cases, DHS does not take the needs of the disqualified individual into account during the period he is disqualified when determining the assistance unit's need and amount of assistance. DHS considers any resources and income of the disqualified individual as available to the assistance unit. [DHS applies the following disqualification penalties in the AFDC program for a person found guilty of an intentional program violation by a federal or state court:

[(1)] six months for the first offense;

[(2)] twelve months for the second offense;

[(3)] permanent for the third offense.]

(c) **Disqualified individuals are ineligible for AFDC Medicaid benefits during the disqualification period. However, they may qualify for and receive benefits under provisions of Chapter 2 of this title (relating to Medically Needy Program) or under provisions of Chapter 4 of this title (relating to Medical Programs for Children and Pregnant Women).**

(d) [(c)] A household member may be charged with an intentional program violation even if he has not actually received benefits to which he is not entitled.

(e)[(d)] The amount of the intentional program violation claim must be calculated back to the month the act of intentional program violation occurred, regardless of the length of time that elapsed until the determination of intentional program violation was made. However, **DHS** [the department] must not include in its calculation any amount of the overissuance which occurred in a month more than six years from the date the overissuance was discovered for food stamp cases, or, for AFDC cases, in a month prior to November 1, 1988.

§79.2009. Referral of Food Stamp and Aid to Families with Dependent Children (AFDC) Intentional Program Violation Claims to Administrative Disqualification Hearing Officer.

(a) If the investigator has documented evidence to substantiate that an individual in a food stamp or AFDC household has committed an intentional program violation, an administrative disqualification hearing may be held.

(b) **The Texas Department of Human Services (DHS)** [The department] may refer to the hearing officer only three types of cases that have first been referred to the prosecutor:

(1) (No change.)

(2) cases that were forwarded to the prosecutor in which no action was taken

within a reasonable amount of time and the cases were formally withdrawn by DHS [the department]; or

(3) (No change.)

(c) DHS [The department] may not refer the following cases to the hearing officer:

(1)-(3) (No change.)

(d) (No change.)

§79.2011. Collection Action on Food Stamp and Aid to Families with Dependent Children (AFDC) Intentional Program Violation Claims.

(a) (No change.)

(b) **The Texas Department of Human Services (DHS)** [DHS] must begin collection action on intentional program violation claims, unless:

(1)-(2) (No change.)

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

(e) If the household against which collection action has been initiated for repayment of an intentional program violation claim is currently participating in the pro-

gram and does not respond to the written demand letter within **10** [30] days of the date the notice is mailed, DHS will reduce the household's food stamp allotment **and/or AFDC grant**. If a nonparticipating household against which collection action has been initiated fails to respond to the first demand letter, DHS sends additional demand letters at reasonable intervals, until:

(1)-(3) (No change.)

(f)-(h) (No change.)

(i) If the investigator interviews the person suspected of committing an intentional program violation and the person expresses that he does not want to have an administrative disqualification hearing and is willing to repay the overissuance, the following policies and procedures apply.

(1) (No change.)

(2) By signing the waiver of hearing and repayment agreement forms, the recipient agrees that he does not want a hearing, that he will repay the overissuance, and that he understands that he will be disqualified from receiving food stamps **and/or AFDC** for a period of time deter-

mined by whether it is the first, second, or third offense. If there is no face-to-face contact between the investigator and the client, the client may be given an opportunity to waive his right to a hearing through direct mail contact.

(3)-(4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 23, 1992.

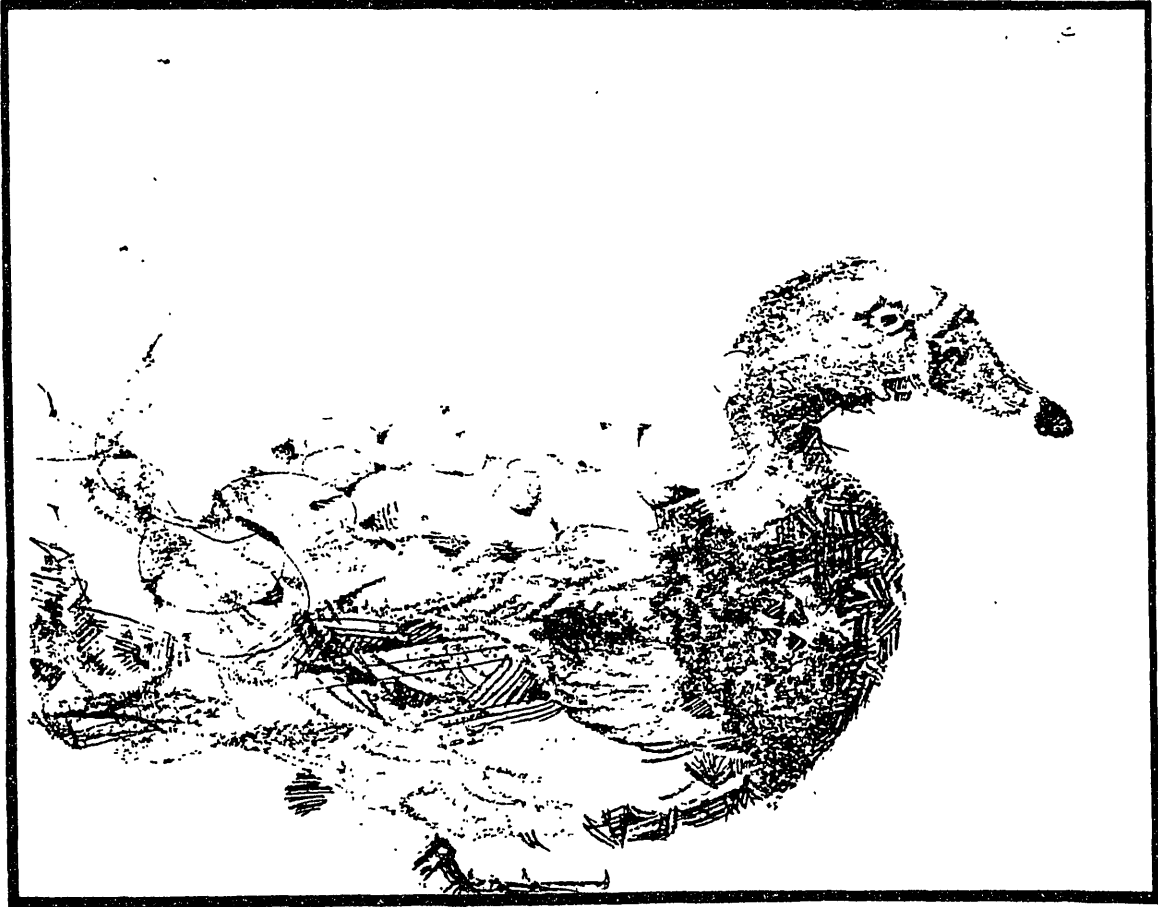
TRD-9204121

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: July 1, 1992

For further information, please call: (512) 450-3765

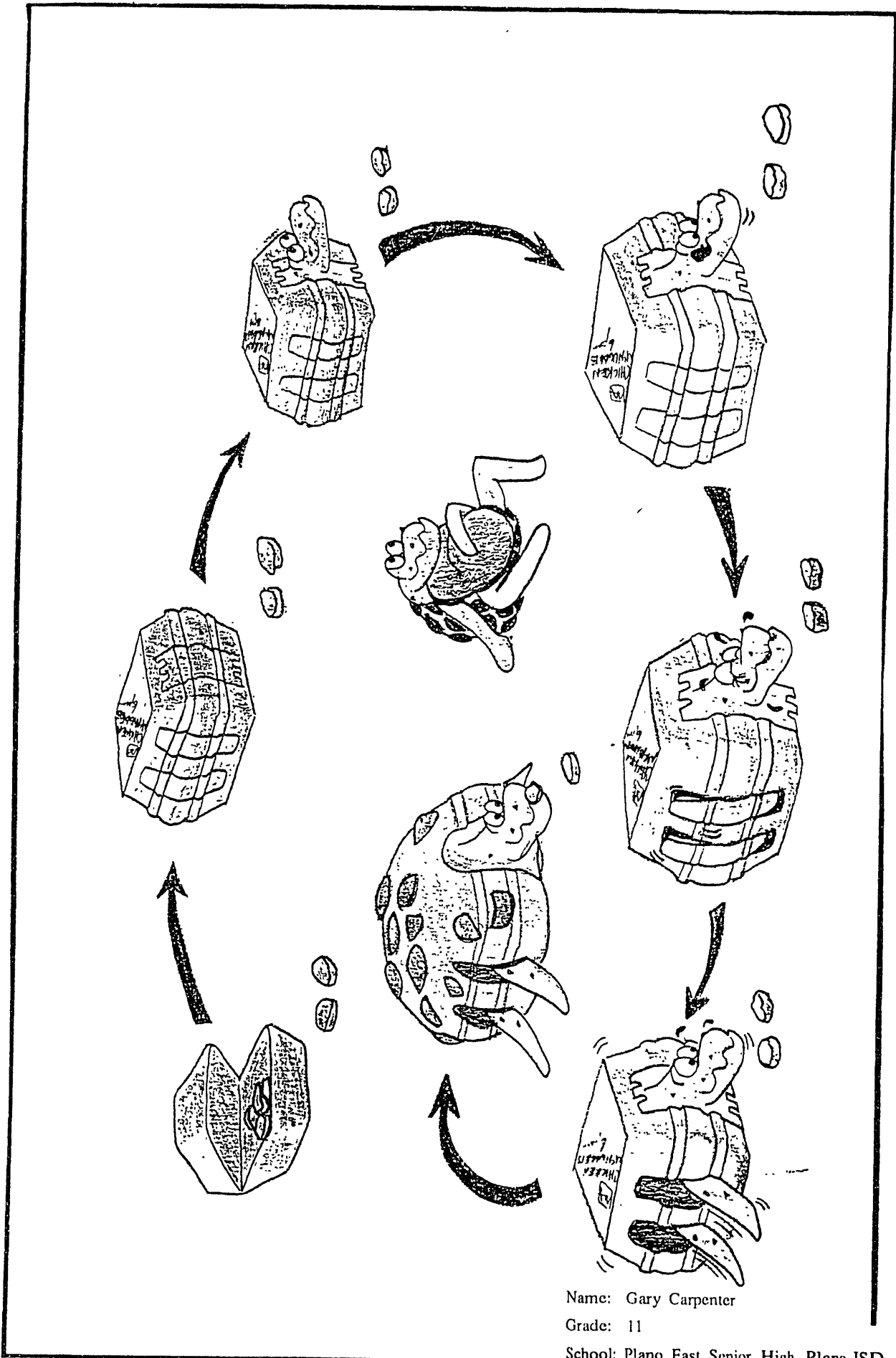
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Name: Ian Syyp

Grade: 12

School: Plano East Senior High, Plano ISD



Name: Gary Carpenter

Grade: 11

School: Plano East Senior High, Plano ISD

Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 61. School Districts

Subchapter B. Waivers and Exemptions

• 19 TAC §61.30

The Texas Education Agency adopts an amendment to §61.30, concerning waivers and exemptions, without changes to the proposed text as published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 780). Senate Bill 351, 72nd Legislature, moved the authority for general waivers from the State Board of Education (SBOE) to the commissioner of education. The legislation, however, continued to place the authority to adopt rules concerning textbook waivers with the SBOE. Therefore, §61.30 must be amended to include these new statutory requirements.

Justification for the amendment will be to implement changes in statutory requirements regarding the textbook waiver procedure, to give structure to the application review process, and to ensure that the existing textbook adoption process is not compromised.

The amendment will function by changing the procedures for receiving a waiver by designating the commissioner of education as the party to whom applications will be submitted and giving the commissioner authority to grant all waivers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §11.273, which provides the SBOE with the authority to adopt rules relating to the granting of textbook waivers to school districts.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 19, 1992.

TRD-9204112 Criss Cloudt
Coordinator, Policy
Planning and
Evaluation
Texas Education Agency

Effective date: April 13, 1992

Proposal publication date: January 31, 1992

For further information, please call: (512) 463-9701

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 145. Long Term Care

Subchapter G. Licensing and Medical Certification Stan- dards for Nursing Homes.

• 25 TAC §145.111

The Texas Department of Health (department) adopts under federal mandate an amendment to §145.111 concerning standards for nursing homes jointly developed by the department and the Texas Department of Human Services (TDHS) that apply to licensure and to medicaid certification. Specifically, §145.111 adopts by reference TDHS rules in 40 TAC §§19.1-19.2107 concerning long term care nursing facility requirements for licensure and medicaid certification. The amendment to §145.111 incorporates amendments to TDHS rules in §§19.1-19.2107 published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1915). The amendments provide for conformity to federally mandated changes based on final rules published in the *Federal Register*, including minor related editorial changes for clarification.

The amendment is adopted under federal mandate for the following reason. On November 5, 1991, the Omnibus Budget Reconciliation Act, Public Law 101-508, became law. It requires the United States Department of Health and Human Services (DHHS) to adopt regulations to implement certain provisions of the new law covering certification of nursing homes participating in the federal medicaid program. In response to the law, DHHS has adopted regulations in the *Federal Register*, Vol. 56, No. 187, p. 48826, to become effective on April 1, 1992. Long term care facilities (nursing homes) that participate in the medicaid are required by federal law to comply with the regulations. Since TDHS is the state medicaid agency for nursing homes and since the department is the state certifying agency for the medicaid program for nursing homes, both the TDHS and the department are required to adopt rules to implement the federal regulations by April 1, 1992. TDHS has already adopted its rules in the March 13, 1992, issue of the *Texas Register*. The department now needs to adopt the TDHS rules by reference since the rules are the same; and in order to have the rules in effect by the federally mandated date of April 1, 1992, the

department is adopting the rules under federal mandate effective on that date.

The amendment is adopted under the *Federal Register*, Vol. 56, No. 187, p. 48826, which establishes new federal medicaid regulations that the state medicaid agency (TDHS) and the state certifying agency (department) have to implement; the Human Resources Code, Chapter 32, which provides TDHS with authority to adopt rules to implement federal medicaid requirements; Human Resources Code, §222.0255, which provides the TDHS and the department with authority to jointly develop one set of standards for nursing homes that applies to licensure and certification for participation in the medical assistance program under the Human Resources Code, Chapter 32, and to adopt by rule the standards and any amendments to them; the Health and Safety Code, §242.037, which provides the Board of Health with authority to adopt rules concerning the licensing of long term care facilities; and Health and Safety Code, §12.001, which provides the Board of Health with authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health.

§145.111. Standards for Nursing Homes Jointly Developed by the Texas Department of Health and the Texas Department of Human Services that Apply to Licensure and to Medicaid Certification.

(a) The Texas Department of Health adopts by reference the Texas Department of Human Services rules in 40 TAC, §§19.1-19.2107, concerning long term care nursing facility requirements for licensure and certification as amended April, 1992.

(b) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 18, 1992

TRD-9203960 Robert A. MacLean, M.D.
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: April 1, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 458-7709

Chapter 151. Nurse Aides

The Texas Department of Health (department) adopts under federal mandate amendment to existing §151.2, the repeal of existing §§151.3-151.12, and new §§151.3-151.12, concerning nurse aides. The amendment, repeals, and new sections were proposed for public comment in the January 31, 1992, issue of the *Texas Register* (16 TexReg 816).

The amendment to existing §151.2, the repeal of existing §§151.3-151.12, and new §§151.3-151.12 are adopted under federal mandate for the following reasons. The Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, §§4201-4214, as amended and new federal regulations published at 56 *Federal Register* 48880 (September 26, 1991) require the state to implement state rules in accordance with the federal law and regulations. The new federal regulations become effective April 1, 1992. Normally a final rule is effective twenty days after it is filed with the Secretary of State; however, in order to comply with the deadlines and effective dates in the federal law and regulations, the department's revised rules also need to be adopted effective on April 1, 1992. This date can only be met if the rules are adopted under federal mandate.

The following comments were received during the comment period concerning the proposed sections. Although the final rules are being adopted under federal mandate and a response to comments is not required, the department desires to address/explain the comments that were received.

COMMENT: Concerning §151.2, a commenter requested that the definition of a facility-based program be re-worded for uniformity with the definition of a non-facility-based program.

RESPONSE: The department agrees and has added a new definition.

COMMENT: Concerning §151.2, a commenter requested that the words "or a registered dietitian, or" be added to the definition of a nurse aide, as they were included in the original definition.

RESPONSE: The department agrees and has added the language.

COMMENT: Concerning §151.3(g), a commenter suggested that the definition of neglect needs to encompass the use of scope and severity, as a nurse aide can lose his/her job over an isolated, minor incident under the current definition.

RESPONSE: After extensive discussion, the department revised the definition of neglect in September 1991, and feels no further change is needed at this time.

COMMENT: Concerning §151.4(e), a commenter requested that currently enrolled trainees be allowed to complete their training and testing, if the department withdraws approval of the program.

RESPONSE: Section 151.9(f) provides for this request; therefore, no change has been made.

COMMENT: Concerning §151.4(e)(1)(B), a commenter requested clarification of the ex-

tended and partially extended survey.

RESPONSE: This language is taken from the Omnibus Budget Reconciliation Act, and the department has no authority to change the language in the Act. The definition of the extended and partially extended survey will be determined by the department's Bureau of Long-Term Care and the United States Health Care Financing Administration.

COMMENT: Concerning §151.4(e)(2)(C), a commenter asked if the \$5,000 civil money penalty is based on an aggregate or individual fine.

RESPONSE: This section of the rules is based on the federal act (Omnibus Budget Reconciliation Act) and regulations and cannot be revised by the department. It is the department's understanding that the Health Care Financing Administration has defined the \$5,000 penalty as a single penalty of not less than \$5,000.

COMMENT: Concerning §151.5(c)(2), a commenter requested that the department clarify that the facility or NATCEP used for testing be one which has "volunteered to serve as an examination site."

RESPONSE: The department agrees and has added the new language.

COMMENT: Concerning §151.6(a), a commenter suggested that the words "during the time training is occurring" be added to clarify when a program must have an approved program director.

RESPONSE: The department agrees and has added the new language at §151.4(h) and at §151.6(a).

COMMENT: Concerning §151.7(e)-(h), a commenter requested that the hearings procedure for proposed disapproval of a program director and skills examiner be revised to reference the Administrative Procedure and the Texas Register Act, Texas Civil Statutes, Article 6252-13a.

RESPONSE: The department agrees and has made the necessary changes.

COMMENT: Concerning §151.9(e)-(j), a commenter requested that the hearings procedure for proposed withdrawal of approval of a program director or skills examiner be revised to reference the Administrative Procedure and the Texas Register Act.

RESPONSE: The department agrees and has made the necessary changes by revising the language and reformatting the subsections.

COMMENT: Concerning §151.10(b)(1), a commenter requested that the department delete the words "NATCEP for training and competency evaluation of nurse aides" for clarity.

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning §151.10(c), a commenter requested that this subsection be deleted, as it is addressed in §151.3(a), (c) and (e).

RESPONSE: The department agrees and has deleted the subsection.

COMMENT: Concerning §151.11(c), a commenter recommended that the hearing procedure for nurse aides be revised to reference the Administrative Procedure and the Texas Register

Act.

RESPONSE: The department agrees and has made the necessary changes, including reformatting.

COMMENT: Concerning §151.11(c)(1) a commenter suggested that the "department's Professional Licensing and Certification Division" be changed to the "department."

RESPONSE: The department agrees and has made the change.

In addition to changes made as a result of comments received, the department also made minor editorial changes throughout all sections to ensure uniformity of terms and to clarify certain provisions.

The department's Ad hoc Committee on nurse aides in long term care facilities and the Texas Health Care Association generally supported the rules but offered comments and made recommendations for change.

• 25 TAC §151.2

The amendment is adopted under the Omnibus Budget Reconciliation Act, Public Law 100-203, §§4201-4214, as amended, which requires the Texas Board of Health through an agreement with the Texas Department of Human Services to adopt rules implementing a nurse aide registry and a training and competency evaluation program for nurse aides; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health, and the commissioner of health.

§151.2. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Act—The Omnibus Budget Reconciliation Act of 1987, (Act) Public Law 100-203, §§4201-4214, December 22, 1987 (amending the Social Security Act, §1819 and §1919), as amended and the federal regulations promulgated under Public Law 100-203, in Title 42, Code of Federal Regulations, Part 483 (Act).

Competency evaluation program (CEP)—A skills examination and a written or oral examination approved by the department.

Curriculum—The publication titled "Texas Curriculum for Nurse Aides in Long-Term Care Facilities" developed by the department.

Direct supervision—Actual observation of students performing tasks in a nurse aide training and competency evaluation program (NATCEP).

Examination—A competency evaluation program or the competency evaluation portion of a training and competency evaluation program.

Facility-based program—A NATCEP offered by or in a facility.

General supervision—The provision of necessary guidance and maintenance of ultimate responsibility for the NATCEP.

Licensed health professional—A physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed vocational nurse; or certified social worker.

Non-facility-based program—A NATCEP not offered by or in a facility.

Nurse aide—An individual providing nursing or nursing-related services to residents in a facility under the supervision of a licensed nurse. This definition does not include an individual who is a licensed health professional or a registered dietitian or who volunteers such services without monetary compensation. A nurse aide is not authorized to provide nursing and/or nursing-related services for which a license, certification, or registration is required under state or federal law.

Nurse aide training and competency evaluation program (NATCEP)—A program approved by the department to train and evaluate individuals to act as nurse aides.

Program—A nurse aide training and competency evaluation program.

Program director—An individual approved by the department in accordance with §151.6 of this title (relating to Program Director and Skills Examiner Requirements).

Registry—A listing of all individuals who have satisfactorily completed a NATCEP or a CEP approved by the department or qualified by waiver or reciprocity.

Skills examiner—An individual approved by the department in accordance with §151.6 of this title.

Supplemental trainers—Qualified personnel who may participate in teaching a program in accordance with §151.6 of this title.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 19, 1992.

TRD-9204019 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: April 1, 1992

Proposal publication date: January 31, 1992

For further information, please call: (512) 834-6628

• 25 TAC §§151.3-151.12

The repeals are adopted under the and the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, §§4201-4214, as

amended, which requires the Texas Board of Health through an agreement with the Texas Department of Human Services to adopt rules implementing a nurse aide registry and training and competency evaluation program for nurse aides; and Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health, and the commissioner of health.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 19, 1992.

TRD-9204020 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: April 1, 1992

Proposal publication date: January 31, 1992

For further information, please call: (512) 834-6628

The new sections are adopted under the and the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, §§4201-4214, as amended, which requires the Texas Board of Health through an agreement with the Texas Department of Human Services to adopt rules implementing a nurse aide registry and training and competency evaluation program for nurse aides; and Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health, and the commissioner of health.

§151.3. Facility Requirements.

(a) A facility must not use on a full-time basis any individual as a nurse aide in the facility for more than four months unless the individual:

(1) is competent to provide nursing or nursing-related services; and

(2) has met the following:

(A) successfully completed a nurse aide training and competency evaluation program (NATCEP) or a competency evaluation program (CEP); or

(B) been deemed or determined competent as provided in §151.10 of this title (relating to Waiver and Reciprocity Requirements).

(b) A facility must not use on a temporary, per diem, leased, or any basis other than as a permanent employee any individual as a nurse aide in the facility unless the individual meets the requirements in subsection (a) of this section.

(c) A facility must not use an individual who has worked less than four months as a nurse aide in the facility unless the individual:

(1) is a full-time employee and is in a NATCEP;

(2) has successfully completed a NATCEP or CEP; or

(3) has been deemed or determined competent as provided in §151.10 of this title.

(d) Private duty aides and sitters hired by residents or their families do not have to meet the requirements of this chapter or the Omnibus Budget Reconciliation Act of 1987 (Act). Facilities are encouraged to develop their own policies regarding private duty aides and sitters.

(e) Before allowing an individual to serve as a nurse aide, a facility must request and receive verification that the individual is on the registry unless the individual:

(1) is a full-time employee and is in a NATCEP; or

(2) can prove that he or she has recently successfully completed a NATCEP or a CEP and has not yet been included on the registry. Facilities must follow up to ensure such an individual actually is placed on the registry.

(f) Before allowing an individual to serve as a nurse aide, a facility must seek information from each state registry established under the Act which the facility believes will include information on the individual.

(g) A facility must not employ individuals who have had a finding entered into the registry concerning abuse, neglect, mistreatment of a resident, or misappropriation of a resident's property.

§151.4. Nurse Aide Training and Competency Evaluation Program Requirements.

(a) To train individuals who are not on the registry, a facility may offer a nurse aide training and competency evaluation program (NATCEP) or contract with another NATCEP.

(b) A person or entity which desires to offer a NATCEP shall file an application for approval on official forms prescribed by the Texas Department of Health (department) which shall include, but not be limited to:

(1) the name, phone number, location, and mailing address of the school or facility;

(2) the category of the NATCEP designated as facility-based or non-facility-based;

(3) the type of NATCEP designated as open or closed to public enrollment;

(4) the name of the program director;

(5) the total number of classroom and clinical hours and a schedule of the daily hours of the initial classroom and clinical program;

(6) a list of facilities to be used for clinical training and letter(s) of agreement from the facilities signed by the chief executive officer or administrator of the facilities, if cooperative agreements are made between the NATCEP and the facility;

(7) the location of the classroom course and a description of the classroom and skills training room(s) including adequate space, cleanliness, safety, lighting, and temperature controls;

(8) a list of textbook(s), audiovisual materials, and other equipment to be used;

(9) verification that the NATCEP shall follow the rules and the curriculum established by the department and shall agree to permit unannounced visits by the department or its designee; and

(10) additional information and supporting documentation requested by the department.

(c) If an entity or person desires to offer more than one NATCEP for which the required number of classroom hours or the location of the classroom course differs, the entity or person shall file a separate application for each of these separate NATCEPs.

(d) A course which exceeds both the curriculum content and hours required by the department must:

(1) teach the NATCEP curriculum in one distinct and separate segment of the longer course; and

(2) submit a course outline which shows the placement of the NATCEP curriculum in the total course and provides the total weeks and hours of the NATCEP and of the total course.

(e) A NATCEP offered by or in a facility shall not be approved by the department if:

(1) within the previous two years, the facility:

(A) has operated under a waiver under 42 United States Code (USC), §1395i-3(b)(4)(C)(ii)(II) or §1396r(b)(4)(C)(ii) relating to the services of a registered nurse;

(B) has been subject to an extended (or partial extended) survey under 42 USC, §1395i-3(g) or §1396r(g);

(C) has been assessed a civil money penalty described in 42 United States Code, §1395i-3(h) or §1396r(h) of not less than \$5,000; or

(D) has been subject to:

(i) denial of payment under 42 United States Code, §1395i-3(h) or §1396r(h);

(ii) appointment of temporary management under 42 United States Code, §1395i-3(h) or §1396r(h);

(iii) termination of participation under 42 United States Code, §1395i-3(h)(4) or §1396r(h)(1)(B)(i); or

(iv) closure of the facility under 42 United States Code, §1396r(h)(2); or

(2) pursuant to state or federal law, one of the following prohibitions occurred within the period from October 1, 1988, to September 30, 1990, and it is within two years of the action or assessment:

(A) the facility had its participation terminated under the Social Security Act, Title XVIII, or under the state plan under the Social Security Act, Title XIX;

(B) the facility was subject to a denial of payment under either title mentioned in subparagraph (A) of this paragraph;

(C) the facility was assessed a civil money penalty not less than \$5,000 for deficiencies in facility standards;

(D) the facility operated under a temporary management appointed to oversee the operation of the facility and to ensure the health and safety of the facility's residents; or

(E) pursuant to state action, the facility was closed or had its residents transferred.

(f) Each NATCEP must teach a minimum of 75 clock hours of training, including at least:

(1) 51 clock hours of classroom training defined as classroom and skills training which does not involve direct care of residents by trainees; and

(2) 24 clock hours of clinical training defined as hands on care of resi-

dents by trainees under the direct supervision of a licensed nurse.

(g) Each NATCEP must teach the curriculum established by the department including:

(1) at least 16 introductory hours of training in the following areas prior to any direct contact with a resident:

(A) communication and interpersonal skills;

(B) infection control;

(C) safety/emergency procedures including the Heimlich maneuver;

(D) promoting residents' independence; and

(E) respecting residents' rights;

(2) personal care skills;

(3) basic nursing skills;

(4) mental health and social service needs;

(5) care of cognitively impaired residents;

(6) basic restorative services; and

(7) residents' rights.

(h) A NATCEP must have an approved program director who meets the requirements of §151.6(a) of this title (relating to Program Director and Skills Examiner Requirements) during the time training is occurring.

(i) A NATCEP must ensure that trainees:

(1) complete at least the first 16 hours of training (Section I of the curriculum) prior to any direct contact with a resident;

(2) perform only those services for which they have been trained and found to be proficient by an instructor;

(3) who are performing skills on individuals as part of a NATCEP are under the direct supervision of a licensed nurse; and

(4) who are providing services to a resident are under the general supervision of a licensed nurse.

(j) A NATCEP must notify the department of any substantive change in any information presented in an approved application including, but not limited to ownership, classroom location, clinical training site, program director, course content, or

scheduled number of clock hours of the course. Such changes shall be approved by the department prior to the NATCEP's effective date of the change. If, due to special circumstances, a NATCEP cannot notify the department of a change prior to the effective date of the change, the department shall be notified immediately and shall approve the change if the change complies with the Act and this chapter.

(k) Each NATCEP shall use a performance record developed by the department of major duties/skills taught. The record shall consist of, at a minimum, a listing of the duties/skills expected to be learned in the NATCEP, space to record when the trainee performs this duty/skill, spaces to note satisfactory or unsatisfactory performance, and the name of the instructor supervising the performance. At the completion of the NATCEP, the trainee and his/her employer (if applicable) will receive a copy of the record.

(l) The NATCEP shall maintain records which shall be available to the department or its designees at any reasonable time and which shall include for each new session of the NATCEP at least the:

- (1) dates and times of all classroom and clinical hours;
- (2) full name and social security number of each trainee;
- (3) attendance record of each trainee; and
- (4) final course grade for the training portion of the NATCEP indicating pass or fail for each trainee.

(m) At the request of an eligible trainee, the NATCEP shall issue a certificate of completion or a letter on letterhead stationery stating that the trainee has successfully completed the training portion of the NATCEP. The document shall include at least the date of completion, the total hours of training, the official NATCEP name and number on file with the department, and the signature of the program director.

(n) Each NATCEP must meet the requirements of this chapter and include the competency evaluation program specified in §151.5(b) and (d)-(o) of this title (relating to Competency Evaluation Program Requirements).

(o) A nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the nurse aide begins a NATCEP may not be charged for any portion of the NATCEP (including any fees for textbooks or other required course materials).

(p) If an individual does not fall under subsection (o) of this section, but becomes employed as a nurse aide by, or

receives an offer of employment as a nurse aide from a facility not later than 12 months after completing a NATCEP, the state must provide for the reimbursement of costs incurred in completing the NATCEP on a pro rata basis during the period in which the individual is employed as a nurse aide.

(q) Each trainee shall be clearly identified as a trainee during the clinical training.

(r) The ratio of instructors to trainees in skills and clinical training must ensure that each trainee is provided safe and effective assistance and supervision.

(s) Each NATCEP shall primarily provide educational and training opportunities for the trainee(s) rather than primarily provide nursing or nursing-related services to the facility, its residents, or clients.

(t) The graduates' success rate on the examination will be monitored by the department and may be utilized as a criteria for withdrawing NATCEP approval.

(u) No NATCEP shall be operated and no trainee shall be solicited or enrolled until the department has approved the NATCEP.

(v) Approval of a NATCEP by the department is granted to cover only approval of the required curriculum and hours and should not be considered approval of additional content or hours.

(w) An orientation required under federal or state law, other than the Act, given by a facility to a nurse aide employed in the facility shall be separate from and shall not constitute a part of a NATCEP.

§151.5. Competency Evaluation Program Requirements.

(a) All examinations shall be administered by the Texas Department of Health (department) or its designee to individuals who have successfully completed the training portion of a nurse aide training and competency evaluation program (NATCEP) or are eligible to take a free-standing competency evaluation program (CEP) under subsection (c)(1) of this section.

(b) Requirements for the competency evaluation portion of a NATCEP are as follows.

(1) A trainee is eligible to take the competency evaluation portion of a NATCEP if he or she has successfully completed the training portion of a NATCEP as determined by the program director.

(2) An eligible trainee shall take the examination as part of the same NATCEP. If it is not possible to test with the same NATCEP, a nurse aide may take the examination at another approved facility

or NATCEP which has volunteered to serve as an examination site.

(3) An eligible trainee who does not test with the same NATCEP must obtain from the program director an original certificate or letter described in §151.4(m) of this title (relating to NATCEP Requirements) to present to the skills examiner prior to taking the examination.

(c) Requirements for the free-standing CEP are as follows.

(1) An individual is eligible to take a CEP if he or she completes the documentation required by the department and:

(A) falls under §151.12 of this title (relating to Requirements for Re-training) ;

(B) successfully completes the training portion of a NATCEP approved under the Act by or in another state;

(C) successfully completes military training of 100 hours or more on or after July 1, 1989, equivalent to civilian nurse aide training;

(D) successfully completes a state accredited registered nurse (RN) or licensed vocational nurse (LVN) program on or after July 1, 1989, and:

(i) is not licensed as a RN or LVN; and

(ii) has not held a license as a RN or LVN which has been revoked;

(E) is currently enrolled in a state accredited school of nursing and has demonstrated competency in providing basic nursing skills in accordance with the school's curriculum; or

(F) successfully completes a home health aide training and competency evaluation program in accordance with federal law and approved by the state.

(2) An eligible individual shall take the CEP at an approved facility or NATCEP which has volunteered to serve as an examination site.

(3) An eligible individual shall receive an original letter of approval to take a CEP signed by the department. This letter must be presented to the skills examiner prior to the examination.

(d) The responsibilities of an approved facility or NATCEP serving as an examination site are to:

(1) provide the facility where the skills examination and the location where the written or oral examination will be given;

(2) offer the examination to its own trainees promptly after successful completion of the training portion if a NATCEP;

(3) offer the examination to an eligible examinee who is employed by or has received an offer of employment from the facility, if the individual desires to be examined at the facility;

(4) offer the examination to other eligible examinees whom the facility or NATCEP has voluntarily accepted for the examination;

(5) schedule examinations and retests with the department's designee; and

(6) assure that applications for examination are completed accurately.

(c) The responsibilities of the examinee are to:

(1) take the examination:

(A) with the NATCEP where the examinee was trained;

(B) at an approved facility from which the individual has received an offer of employment or is employed; or

(C) at an approved facility or NATCEP which has volunteered to accept the examinee for examination;

(2) verify the arrangements for examination with the examination site;

(3) present the completed application for examination and documentation required under subsection (b)(3) or (c)(3) of this section to the skills examiner prior to the examination;

(4) request a retest if the examinee fails the examination; and

(5) meet other procedural requirements specified by the department or its designee.

(f) The responsibilities of the department or its designees are to:

(1) provide instructions and eligibility forms to applicants for a CEP and provide a letter of approval under subsection (c)(3) of this section;

(2) assist an eligible examinee to find an approved facility or NATCEP to serve as an examination site;

(3) schedule examinations and retests for the requesting approved facility or NATCEP; and

(4) conduct and administer examinations and report results of examinations as required by the department.

(g) The examination shall consist of:

(1) the skills examination which includes a demonstration by the trainee of a minimum of five randomly selected skills drawn from a pool of skills which are generally performed by nurse aides and are listed on the performance record. This pool of skills includes all of the personal care skills listed in the curriculum; and

(2) the written or oral examination which includes 50 multiple choice questions selected from a pool of test items which address each course requirement in the curriculum. The written examination questions are printed in a test booklet with a separate answer sheet. The oral examination is a tape-recorded presentation read from a prepared text in a neutral manner which includes additional questions to test reading comprehension.

(h) At the nurse aide's option, the nurse aide may establish competency under this section by successful completion of:

(1) a skills examination or an examination for a handicapped or disabled individual equivalent to the skills examination; and

(2) a written examination in English, an oral examination in English or Spanish, or an examination for a handicapped or disabled individual equivalent to the written or oral examination.

(i) Successful completion of the examination consists of:

(1) achieving a passing grade on the skills examination as determined by the department; and

(2) achieving a passing grade on the written or oral examination as determined by the department.

(j) A person who fails the skills examination or the written or oral examination may retest twice on the failed examination.

(1) The person shall be advised of the areas which he or she did not pass.

(2) The person must request re-examination through the approved facility, NATCEP, or the department's designee.

(3) The department is not required to set special re-examination schedules.

(4) After failing the examination three times, the individual must complete the training portion of a NATCEP prior to retesting.

(k) The state must advise in advance any individual who takes the exami-

nation that a record of the successful completion of the examination will be included on the nurse aide registry.

(l) A record of successful completion of the examination must be included on the registry within 30 days of the date the examination was passed.

(m) An examination shall not be offered by or in a facility if the facility falls within any of the provisions of §151.4(e) of this title.

(n) A nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the nurse aide begins a CEP may not be charged for any portion of the CEP.

(o) If an individual does not fall under subsection (n) of this section, but becomes employed as a nurse aide by, or receives an offer of employment as a nurse aide from a facility not later than 12 months after completing a CEP, the state must provide for the reimbursement of costs incurred in completing the CEP on a pro rata basis during the period in which the individual is employed as a nurse aide.

§151.6. Program Director and Skills Examiner Requirements.

(a) Program director. The training of nurse aides must be performed by or under the general supervision of an approved program director. Each approved nurse aide training and competency evaluation program (NATCEP) must have an approved program director during the time training is occurring.

(1) The program director must:

(A) be licensed as a registered nurse in the State of Texas;

(B) have a minimum of two years of nursing experience, at least one year of which must be in the provision of long-term care facility services; and

(C) have completed a course in teaching adults or have experience in teaching adults or supervising nurse aides.

(2) In a facility-based program, the director of nursing for the facility may be approved as the program director but is prohibited from performing the actual training.

(3) A program director may supervise more than one NATCEP.

(4) The responsibilities of the program director shall include, but not be limited to:

(A) directing the NATCEP in compliance with the Act and this chapter;

(B) teaching the NATCEP and/or supervising supplemental trainers;

(C) assuring that NATCEP records are maintained;

(D) determining if trainees have met the NATCEP requirements;

(E) signing an application for examination for each trainee who has passed the training portion of the NATCEP and has completed the department's application; and

(F) notifying the department of the date the program director ceases to be a program director for a specific NATCEP and the date the program director starts as a program director for another NATCEP.

(5) A program director shall complete an application for approval. An applicant who meets the requirements of this subsection shall be approved as a program director.

(b) Supplemental trainers. Other personnel from the health professions may supplement the training, including, but not limited to, registered nurses, licensed vocational nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech-language pathologists, audiologists, and resident rights experts.

(1) A supplemental trainer must have at least one year of experience in his or her field of instruction.

(2) A supplemental trainer may be listed on the NATCEP application but does not need approval from the department in order to instruct.

(3) Each supplemental trainer shall be selected and supervised by the program director.

(c) Skills examiner. The competency evaluation of a nurse aide must be conducted by an approved skills examiner.

(1) A skills examiner must:

(A) be licensed as a registered nurse in the State of Texas;

(B) have completed a minimum of one year of professional experience in providing care for the elderly or chronically ill of any age;

(C) have completed a skills training seminar conducted by the department or its designee; and

(D) not be an employee of:

(i) the facility where an examination is given by the skills examiner;

(ii) the facility which gave the NATCEP to the person being examined by the skills examiner; or

(iii) a facility with a contractual or corporate relationship to a facility described in clauses (i) or (ii) of this subparagraph.

(2) A skills examiner shall be responsible for:

(A) adhering to the department's standards for each skill examined;

(B) conducting the examination in an objective manner according to the criteria established by the department;

(C) validating the examination results on form(s) prescribed by the department; and

(D) submitting prescribed forms and reports to the department or its designee.

(3) A skills examiner shall complete an application for approval. An applicant who meets the requirements of this subsection shall be approved as a skills examiner.

§151.7. Filing and Processing an Application for a Nurse Aide Training and Competency Evaluation Program, Program Director, or Skills Examiner.

(a) An applicant must submit a request for approval on official forms prescribed by the department which:

(1) are original documents signed by the applicant or authorized representative;

(2) are typed or printed in ink with all pages clearly legible; and

(3) are notarized as requested by the department.

(b) The Texas Department of Health (department) shall consider whether the applicant complies with the Act and this chapter.

(c) Incomplete or deficient applications may cause delays in the date of approval.

(1) A notice of deficiency in the application will be mailed to an applicant

within 15 days of the date of filing.

(2) The applicant will be given an opportunity to correct any deficiencies.

(d) Notice of approval or proposed disapproval of the application will be given to the applicant within 30 days of the receipt of a complete application. If the application is proposed to be disapproved due to noncompliance with the requirements of the Act or this chapter, the reason for disapproval shall be given in the notice.

(e) An applicant for approval of a nurse aide training and competency evaluation program (NATCEP) or as a program director or skills examiner may request a hearing on a proposed disapproval in writing within 20 days of the date the notice is mailed or personally delivered to the applicant. The hearing shall be scheduled to commence within 30 days of the department's receipt of the applicant's request for a hearing and shall be in accordance with Chapter 1 of this title (relating to Texas Board of Health) and the Administrative Procedure and the Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(1) If no timely request for a hearing is made by an applicant, the applicant is deemed to have waived the opportunity for a hearing and the proposed action may be taken.

(2) If an applicant who has requested a hearing fails to appear or be represented at the scheduled hearing, the applicant is deemed to have waived the opportunity for a hearing and the proposed action may be taken.

§151.8. Approval, Reapproval, and Inspection of a Nurse Aide Training and Competency Evaluation Program.

(a) Initial approval of a nurse aide training and competency evaluation program (NATCEP) shall be made on the basis of the application submitted to the Texas Department of Health (department).

(b) Approval of a NATCEP is granted for a period of two years.

(c) If substantive changes described in §151.4(j) of this title (relating to Nurse Aide Training and Competency Evaluation Program Requirements) are made within the two-year period, the NATCEP must notify the department and the department must review the NATCEP. An on-site review by the department may be necessary.

(d) The department shall send a notice of renewal and a renewal application form to a NATCEP at least 60 days prior to the expiration date of the approval.

(e) A NATCEP must file the renewal application form before the expiration date of the approval. A NATCEP

which makes timely application for renewal may continue to train. A NATCEP which files the renewal application form after the expiration date may not train until the renewal application form is approved by the department.

(f) After receipt of the completed renewal application form, the department shall schedule and conduct an on-site review of the NATCEP to determine if it is in compliance with the requirements of the Act and this chapter.

(g) The department may conduct an on-site review of a NATCEP at any reasonable time.

(h) The department shall present to a NATCEP a written report of the results of any on-site review summarizing any violations of or noncompliance with the Act or this chapter.

(1) The NATCEP must submit a written response to the department which includes a plan of action to correct all violations or noncompliance and the results of such action.

(2) The department may direct a NATCEP to comply with the requirements of the Act and this chapter.

(3) A NATCEP not meeting the requirements of the Act and this chapter may be subject to further on-site reviews or proposed disapproval or withdrawal of approval.

§151.9. Withdrawal of Approval of a Nurse Aide Training and Competency Evaluation Program, Program Director, and Skills Examiner.

(a) Approval of a nurse aide training and competency evaluation program (NATCEP), program director, or skills examiner may be withdrawn for any violation of or noncompliance with the Act or this chapter.

(b) The department shall withdraw approval of a NATCEP that refuses to permit unannounced visits by the state.

(c) The department shall withdraw approval of a NATCEP offered by or in a facility which falls within a prohibition in §151.4(e) of this title (relating to Nurse Aide Training and Competency Evaluation Program Requirements).

(d) If the department proposes to withdraw approval of a NATCEP, program director, or skills examiner, the department shall notify the NATCEP, program director, or skills examiner by mail at the last known address as shown in the department's records or by personal delivery. The notice must state the facts or conduct alleged to warrant the action and state that the individual has an opportunity to request in writing a hearing.

(e) The NATCEP or individual notified may request a hearing within 20 days of the date the notice is mailed or personally delivered to the NATCEP or individual. This request shall be in writing and submitted to the program administrator, Nurse Aide Training Program at the department.

(1) A hearing shall be scheduled to commence within 30 days from the department's receipt of the request for a hearing and shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and Chapter 1 of this title (relating to Texas Board of Health).

(2) If the NATCEP or individual does not request a hearing in writing, the NATCEP or individual is deemed to have waived the opportunity for a hearing, and the proposed action may be taken.

(3) If the NATCEP or individual fails to appear or be represented at the scheduled hearing, the NATCEP or individual is deemed to have waived the opportunity for a hearing and the action may be taken.

(f) Students who have started a NATCEP from which approval is proposed to be or has been withdrawn shall be allowed to complete the NATCEP.

§151.10. Waiver and Reciprocity Requirements.

(a) A nurse aide shall be deemed to be competent and shall be placed on the registry by waiver of the requirements if the individual:

(1) was found to be competent (whether or not by the State of Texas) before July 1, 1989, after completion of a nurse aide training course of at least 100 hours duration; and

(2) has completed the documentation required by the department.

(b) A nurse aide who is on a registry in another state shall be placed on the registry by reciprocity if the individual:

(1) is currently on the nurse aide registry in another state which has a program which is in compliance with the Act; and

(2) has completed the documentation required by the department.

§151.11. Registry; Findings; Inquiries.

(a) The Texas Department of Health (department) shall establish and maintain a registry of all individuals who qualify under §151.3(a)(2) of this title (relating to Facility Requirements). Each individual listed on the registry shall keep the department informed of his or her current address and telephone number.

(b) A nurse aide shall provide documentation to the department every 24 months using a form provided by the department that the nurse aide has performed nursing or nursing-related services or acted as a nurse aide for monetary compensation for any period of time within the previous 24 months. The department shall remove a registry entry for an individual who does not provide such documentation, unless a finding of abuse, neglect, or misappropriation of resident property is on the registry for that individual.

(c) The department shall review and investigate allegations of abuse, neglect, or misappropriation of resident property by a nurse aide. A nurse aide shall be given written notice by the department of a proposed finding on an allegation and must request, in writing, a hearing within 20 days of the date the notice is mailed or personally delivered to the nurse aide or the right to a hearing shall be waived, and the department may reach a finding on the allegation without a hearing.

(1) When a timely written request for a hearing is received by the department, the department shall request the department's office of general counsel to appoint a hearing examiner to conduct the hearing.

(2) Any hearing shall be in accordance with the department's formal hearing procedures in Chapter 1 of this title and the Administrative Procedure and Texas Register Act, Texas Civil Statutes Article 6252-13a.

(3) The department shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

(4) If the nurse aide fails to appear or be represented at the scheduled hearing, the department may reach a finding on the allegation without a hearing.

(5) The registry, the nurse aide, and the administrator of the facility where the event occurred shall be notified of the findings.

(6) The registry shall include the documented findings involving an individual listed on the registry, as well as any brief statement of the individual disputing the findings.

(d) The information on the registry shall be made available to the public.

(e) The department, in the case of inquiries to the registry, shall verify if the individual is listed on the registry and shall disclose any information concerning a finding of abuse, neglect, or misappropriation of resident property involving an individual listed on the registry. It shall also disclose

any statement by the individual related to the finding or a clear and accurate summary of such a statement.

§151.12. Requirements for Retraining. If there has been a continuous period of 24 consecutive months after completion of a nurse aide training and competency evaluation program (NATCEP) during none of which a person performed nursing or nursing-related services or acted as a nurse aide for monetary compensation, the person shall complete a new NATCEP or a new competency evaluation program (CEP).

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 19, 1992.

TRD-9204021 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: April 1, 1992

Proposal publication date: January 31, 1992

For further information, please call: (512) 834-6628

TITLE 28. INSURANCE

Part I. Texas Department of Insurance Chapter 1. General Administration

Subchapter C. Assessment of Maintenance Taxes, 1992

• 28 TAC §1.410

The State Board of Insurance of the Texas Department of Insurance adopts new §1.410, concerning assessment of maintenance taxes for payment for 1992, with changes to the proposed text as published in the January 14, 1992, issue of the *Texas Register* (17 TexReg 296).

The new section is necessary to provide a method and rate of assessment for maintenance taxes for 1992. The maintenance tax rates vary from year to year since the rate is based on the actual funding needs of the agency by line of insurance after taking into account any unexpended funds. The new section is changed in subsections (d) and (e) to reflect a change in the due date of the payments from March 1, 1992 to April 15, 1992. This change is necessary to allow the department sufficient time to finally adopt the rates in this section. In addition, two commas were added in the second sentence of subsection (d) to clarify the meaning of the sentence.

Section 1.410 provides the method and the rates of assessment for maintenance taxes for 1992. It sets the rates of assessment and applies those rates to life, accident, and health insurance; motor vehicle insurance; casualty and fidelity insurance and guaranty

and surety bonds; fire and allied lines insurance, including inland marine; workers' compensation insurance; title insurance; health maintenance organizations; third party administrators; and corporations issuing prepaid legal services contracts.

The department received one comment regarding an inconsistency in terminology in the preamble and text of the new section. The phrases "gross premium receipts" and "gross premiums" are used in the preamble and the text respectively to describe the basis for assessing the maintenance tax. The commentor points out that insurance companies do not always receive total premiums at the time the policy is written. In other words, there may be a timing difference between the time the policy is written and the premiums are actually received. The department recognizes the inconsistency in the terms. However, because the inconsistency was located in the preamble's introductory paragraph rather than the text of the section, no change has been made to the text of the section based on this comment.

The only comment received was from the New Hampshire Insurance Company. The comment did not favor the usage of a term in the introductory paragraph which it interpreted as inconsistent with the text of the new section.

The new section is adopted under the Texas Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-6 §§21, and 23.08; and the Texas Health Maintenance Organization Act, Article 20A.33, which provide authorization for the Texas Department of Insurance to assess maintenance taxes for the lines of insurance and related activities specified in new §1.410.

§1.410. Assessment of Maintenance Tax, 1992.

(a) The following rates for maintenance taxes are assessed on gross premiums of insurers as delineated in this section for the calendar year 1991 for the lines of insurance specified:

(1) for motor vehicle insurance, pursuant to the Texas Insurance Code, Article 5.12, the rate is .070 of 1.0%;

(2) for casualty and fidelity insurance and guaranty and surety bonds, pursuant to the Texas Insurance Code, Article 5.24, the rate is .210 of 1.0%;

(3) for fire insurance and allied lines, including inland marine, pursuant to the Texas Insurance Code, Article 5.49, the rate is .574 of 1.0%;

(4) for workers' compensation insurance, pursuant to the Texas Insurance Code, Article 5.68, the rate is .217 of 1.0%;

(5) for title insurance, pursuant to the Texas Insurance Code, Article 9.46, the rate is .178 of 1.0%.

(b) The rate for the maintenance tax to be assessed on gross premiums for the

calendar year 1991 for life, accident, and health insurance, pursuant to the Texas Insurance Code, Article 4.17, is .040 of 1.0%.

(c) The following rates for maintenance taxes are assessed for the calendar year 1991 for the entities specified:

(1) for health maintenance organizations, pursuant to the Texas Health Maintenance Organization Act, Article 20A.33, the rate is \$.62 per enrollee for single service health maintenance organizations and \$1.25 per enrollee for multi-service health maintenance organizations;

(2) for third party administrators, pursuant to the Texas Insurance Code, Article 21.07-6, §21, the rate is .800 of 1.0% of the correctly reported gross amount of administrative or service fees;

(3) for corporations issuing prepaid legal service contracts, pursuant to the Texas Insurance Code, Article 23.08, the rate is 1.0% of correctly reported gross revenues.

(d) The taxes assessed under subsections (a), (b), (c)(1), and (c)(3) of this section shall be due and payable to the Texas Department of Insurance as follows: 50% on April 15, 1992, or on the date upon which the annual statement for such insurer is required to be filed during 1992; and 50% on September 15, 1992. Insurers, whose maintenance tax liability for the previous tax year was less than \$2,000 on each of the lines of insurance specified in the Texas Insurance Code, Articles 5.12, 5.24, 5.49, 5.68, 4.17, 9.46, 20A.33, and 23.08, shall remit 100% of such taxes on April 15, 1992, or on the date upon which the annual statement for such insurer is required to be filed during 1992.

(e) Taxes assessed under subsection (c)(2) of this section shall be due and payable to the Texas Department of Insurance as follows: 50% on April 15, 1992, or the date upon which the annual statement for such insurer is required to be filed during 1992; and 50% on September 15, 1992.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 23, 1992

TRD-9204115 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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Proposal publication date: January 14, 1992

For further information, please call. (512) 463-6327

Chapter 5. Property and Casualty Insurance

Subchapter K. Commercial Multi-Peril Policies

• 28 TAC §5.9101

The State Board of Insurance of the Texas Department of Insurance adopts new §5.9101, concerning identifying the lines of insurances that may be included in the commercial multi-peril policy, and establishing procedures for the filing of rates and policy forms for the commercial multi-peril policy with the Texas Department of Insurance, with changes to the proposed text as published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 823).

The State Board of Insurance of the Texas Department of Insurance adopts this section under the Texas Insurance Code, Article 5.81. Article 5.81 provides the Texas Department of Insurance with the authority to approve policy forms and rates for multi-peril policies of insurance and to make rules as are necessary and desirable to carry out the purposes of Article 5.81. The adopted section is necessary to carry out the purposes of Article 5.81.

The section sets out the lines of insurance which may be included in the commercial multi-peril policy and provides for the filing of rates and policy forms with the Texas Department of Insurance. The definitions subsection of the section provides definitions of words used in the section. The commercial multi-peril package policy subsection sets out the types of coverages which may be included in a commercial multi-peril package policy. The rate standards subsection establishes the factors which an insurer may consider in setting rates. The rate filings subsection sets out the information to be filed with the State Board of Insurance and the procedures to be followed if the State Board of Insurance determines an insurer's rates require supervision or if an insured is aggrieved with respect to any filing in effect. The disapproval subsection provides the procedure to be used if the State Board of Insurance disapproves a rate filing. The forms subsection provides that a commercial multi-peril package policy or printed endorsement may not be used unless such form has been filed with and approved by the State Board of Insurance. Additionally, the forms subsection establishes the procedure to be used for filing the form for approval and the procedure to be followed by the State Board of Insurance if the form is disapproved. The additional lines of insurance subsection establishes that in addition to lines of insurance enumerated in subsection (b) of this section, professional liability and/or commercial automobile, other than garage insurance as described in subsection (b)(7), may also be included in a multi-peril package policy provided that the rates and policy forms for these lines of insurance are the rates and forms approved in the manner provided by Texas Insurance Code, Article 5.15 for professional liability and Articles 5.101 and 5.06 for commercial automobile.

The Texas Department of Insurance received comments regarding the proposed section during the public comment period. One

commenter suggested that the commercial automobile and professional liability lines of insurance be subject to the rate and form approval subsection of this section rather than be approved separately under Texas Insurance Code, Article 5.15, for professional liability, and Articles 5.101 and 5.06, for commercial automobile. The same commenter also suggested that insurance coverage of certain types of businesses be considered to be incidental to the general liability and commercial property coverages and, therefore, fall within the provisions of this section. This commenter provided a similar comment relating to incidental commercial auto coverages. The second commenter suggested that insurance including all coverages and endorsements currently included in the Texas Garage Policy be added to the list of lines of insurance which may be included in a commercial multi-peril package policy, with rates filed and forms approved pursuant to the provisions of this section.

Vinson & Elkins L.L.P. Long, Burner, Parks & Sealy.

The agency believes that adoption of the suggestion by Vinson & Elkins to consider the "miscellaneous professional liability" lines as incidental to the general liability and commercial property coverages would circumvent the legislative intent of Texas Insurance Code, Article 5.13-2. The agency believes the legislature intended to create a narrow pilot for the general liability and commercial property coverages. Therefore, the agency does not agree with this suggestion. For the same reason, the agency rejects Vinson & Elkins' suggestion to treat the incidental commercial auto coverages as coverages incidental to general liability and commercial property coverages. The agency agrees with the suggestion proposed by Long, Burner, Parks & Sealy to add insurance currently included in the Texas Garage Policy to the list of lines of insurance which may be included in a commercial multi-peril package policy with rates filed and forms approved pursuant to the provisions of this section. The agency believes the insurance currently included in the Texas Garage Policy is more akin to general liability insurance than automobile insurance. For this reason, the agency amends the section to include the insurance currently included in the Texas Garage Policy to the list of lines of insurance which may be included in a Commercial Multi-Peril Package Policy with rates filed and forms approved pursuant to provisions of this section.

The new section is adopted under the Texas Insurance Code, Article 5.81, which provides the Texas Department of Insurance with the authority to approve policy form and rates for multi-peril policies of insurance and to make rules as are necessary and desirable to carry out the purposes of Article 5.81.

§5.9101. Multi-Peril Policies.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Filer—An insurer that files rates, prospective loss costs, or supplementary rating information under this section.

(2) Insurer—Every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyds, or other organization or insurer writing any of the characters of insurance business herein set forth in this section, but does not include the Texas Catastrophe Property Insurance Association or any county or farm mutual insurance company or association as regulated under the Texas Insurance Code, Chapters 16 and 17. However, the provisions of subsections (c), (d), and (e) of this section shall not apply to Lloyds.

(3) Prospective loss costs—That portion of a rate that does not include provisions for profit or expenses, other than loss adjustment expenses, that is based on historical aggregate losses and loss adjustment expenses projected by development to their ultimate value and through trending to a future point in time.

(4) Rate—The cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, before any application of individual risk variations based on loss or expense considerations. The term does not include a minimum premium.

(5) Supplementary rating information—Any manual, rating schedule, plan of rules, rating rules, classification systems, territory codes and descriptions, rating plans, and other similar information required by the State Board of Insurance to determine the applicable premium for an insured. For the multi-peril package policy with a divisible premium, the supplementary rating information must be submitted for each line of insurance included. The term includes factors and relativities, such as increased limits factors, classification relativities, deductible relativities, or other similar factors.

(6) Supporting information—

(A) the experience and judgment of the filer and the experience or information of other insurers or advisory organizations relied on by the filer;

(B) the interpretation of any other information relied on by the filer;

(C) descriptions of methods used in making the rates; and

(D) any other information required by the State Board of Insurance to be filed.

(b) Commercial multi-peril package policy. Insurers which write lines of insurance covered by the Texas Insurance Code, Chapter 5, may include coverage for any two or more of the following lines of insurance in a commercial multi-peril package policy with rates filed and forms approved pursuant to the provisions of this section:

- (1) general liability;
- (2) commercial property;
- (3) boiler and machinery;
- (4) commercial crime;
- (5) commercial glass;
- (6) inland marine; and

(7) garage insurance including all coverages and endorsements included in the Texas Garage Policy, except for those coverages specifically rated on the basis of the risk characteristics of the automobile or the person driving.

(c) Rate standards.

(1) Rates for commercial multi-peril package policies under this section shall be made in accordance with the provisions of this subsection.

(2) In setting rates, an insurer shall consider:

(A) past and prospective loss experience inside and outside this state;

(B) any applicable catastrophe hazards;

(C) operation expenses;

(D) investment income;

(E) a reasonable margin for profit and contingencies; and

(F) any other relevant factors inside and outside this state.

(3) An insurer may group risks by classifications for the establishment of rates and minimum premiums and may modify classification rates to produce rates for individual risks in accordance with rating plans that establish standards for measuring variations in those risks on the basis of any factor listed in paragraph (2) of this subsection.

(4) Rates may not be excessive, inadequate, or unfairly discriminatory and may not be unreasonable.

(5) In setting rates applicable solely to policyholders in this state, an insurer shall use available premium, loss, claim, and exposure information from this

state to the full extent of the actuarial credibility of that information. The insurer may use experience from outside this state as necessary to supplement information from this state that is not actuarially credible.

(d) Rate filings.

(1) For each line of insurance included in a commercial multi-peril package policy with a divisible premium, each insurer shall file with the State Board of Insurance all rates, supplementary rating information, and reasonable and pertinent supporting information for risks written in this state. For each commercial multi-peril package policy with an indivisible premium based on the loss experience under such package policy as a whole, each insurer shall file with the State Board of Insurance all rates, supplementary rating information, and reasonable and pertinent supporting information for risks written in this state.

(2) If the State Board of Insurance determines after a hearing that an insurer's rates require supervision because of the insurer's financial condition or the insurer's rating practices, the State Board of Insurance may require the insurer to file with the State Board of Insurance all rates, supplementary rate information, and any supporting information prescribed by the State Board of Insurance.

(3) An insured that is aggrieved with respect to any filing in effect, or the public insurance counsel, may make a written application to the State Board of Insurance for a hearing on the filing. The application must specify the grounds on which the applicant bases the grievance. If the State Board of Insurance finds that the application is made in good faith, that the applicant would be so aggrieved if the grounds in the application are established, and that those grounds otherwise justify holding the hearing, the State Board of Insurance shall hold a hearing not later than the 30th day after the date of receipt of the application. The State Board of Insurance shall give at least 10 days' written notice to the applicant and to each insurer that made the filing in question.

(4) If, after the hearing, the State Board of Insurance finds that the filing does not meet the requirements of this section, the State Board of Insurance shall issue an order specifying how the filing fails to meet the requirements of this section and stating the date on which, within a reasonable period after the order date, the filing is no longer in effect. The State Board of Insurance shall send copies of the order to the applicant and to each affected insurer.

(5) Each insurer subject to this section shall file with the State Board of Insurance, on a quarterly basis, information relating to changes in losses, premiums, and market share since January 1, 1993.

(6) Each filing and any supporting information filed under this section, is open to public inspection as of the date of the filing.

(e) Disapproval.

(1) The State Board of Insurance shall disapprove a rate if the State Board of Insurance determines that the rate filing made under this section does not meet the standard established under this section.

(2) If the State Board of Insurance disapproves a filing, the board shall issue an order specifying in what respects the filing fails to meet the requirements of this section. Upon written request made to the State Board of Insurance, the filer is entitled to a hearing not later than the 30th day after the effective date of the disapproval order.

(3) If the State Board of Insurance disapproves a rate that is in effect, the board may issue a disapproval order only after a hearing held after at least 20 days' written notice to the insurer that made the filing. The disapproval order shall be issued not later than the 15th day after the close of the hearing and shall specify how the rate fails to meet the requirements of this section. The disapproval order shall state the date on which the further use of that rate is prohibited. The board shall set the date not earlier than the 45th day after the date on which the hearing closes.

(f) Forms.

(1) A commercial multi-peril package policy or printed endorsement for use in connection with a commercial multi-peril package policy described in subsection (b) of this section may not be delivered or issued for delivery in this state unless the form has been filed with and approved by the State Board of Insurance.

(2) Each filing shall be made not later than the 60th day before the date of any use or delivery for use. At the expiration of the 60-day period a filed form is approved unless, before the expiration of the 60 days, the State Board of Insurance approves or disapproves the form by order. Approval of a form by the State Board of Insurance constitutes a waiver of any unexpired portion of the 60-day period. The State Board of Insurance may extend by not more than an additional 60 days the period during which it may approve or disapprove a form by giving notice to the filer of the extension before the expiration of the initial period. At the expiration of any extension and in the absence of any earlier approval or disapproval, the form shall be considered approved. For good cause shown, the State Board of Insurance may withdraw its approval at any time after notice and a hearing.

(3) An order of the State Board of Insurance disapproving any form or any notice of the State Board of Insurance's intention to withdraw a previous approval shall state the grounds for the disapproval in enough detail to reasonably inform the filer of the grounds. An order of withdrawal of a previously approved form takes effect on the expiration of the prescribed period, but not sooner than the 30th day after the effective date of the withdrawal order, as prescribed by the State Board of Insurance.

(4) An insurer may not use in this state any form after disapproval of the form or withdrawal of approval by the State Board of Insurance.

(5) If the State Board of Insurance promulgates standard commercial multi-peril insurance forms, endorsements, and other related forms, an insurer, at its discretion may use these forms instead of the insurer's own forms for writing commercial multi-peril insurance. Forms submitted by insurers for approval under this subsection must provide coverage equivalent to that provided in the policy and endorsement forms used for these lines of coverages on the effective date of this section. An endorsement may not reduce coverage provided under the approved policy form.

(g) Additional lines of insurance.

(1) In addition to the lines of insurance enumerated in subsection (a) of this section, one or more of the following lines of insurance may also be included in a multi-peril package policy:

(A) professional liability;

(B) commercial automobile, other than garage insurance as described in subsection (b) (7) of this section.

(2) The rates and policy forms for the lines of insurance enumerated in paragraph (1) of this subsection shall be those rates and forms approved in the manner provided by the Texas Insurance Code, Article 5.15 for professional liability and Articles 5.101 and 5.06 for commercial automobile. Policy forms and endorsements for these lines of insurance shall be self-contained and severed from all other coverages under the multi-peril policy.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 23, 1992

TRD-9204117

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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For further information, please call (512) 463-6327

Subchapter M. Filing Requirement

• 28 TAC §5.9302

The State Board of Insurance of the Texas Department of Insurance adopts new 28 TAC §5.9302 establishing the definition of the term "equivalent coverage" as such term is used in Article 5.13-2, §8(e) of the Texas Insurance Code for policy forms filed by individual insurers for commercial property and general liability insurance, and, as such term is used in 28 TAC §5.9101 for policy forms filed by individual insurers for commercial multi-peril insurance, with changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 460)

The State Board of Insurance of the Texas Department of Insurance adopts this section because it is necessary to establish, by defining the term "equivalent coverage", the acceptable coverage that must be provided in policy forms filed by individual insurers for commercial property, general liability, and commercial multi-peril insurance. The term "equivalent coverage" is used in the Texas Insurance Code, Article 5.13-2, §8(e) and in 28 TAC §5.9101(g)(5) but is undefined. This section provides the definition of "equivalent coverage" to be used in conjunction with the Texas Insurance Code, Article 5.13-2, §8(e) and 28 TAC §5.9101(g)(5)

The section provides a definition of the term "equivalent coverage" to be used in conjunction with the provisions contained in the Texas Insurance Code, Article 5.13-2, §8(e) and in 28 TAC §5.9101(g)(5). Both the Texas Insurance Code, Article 5.13-2, §8(e) and 28 TAC §5.9101(g)(5) require that policy forms filed by individual insurers for commercial property, general liability insurance, and commercial multi-peril insurance provide equivalent coverage to the policy forms for those same coverages that were in effect on or before October 1, 1991. The section requires an insurer who is submitting policy forms for approval to submit a comparative evaluation of the filed policy forms to similar approved policy forms that were in effect on October 1, 1991. The section also requires a disclosure form to be signed by the policyholder to accompany the policy form if a designated limit for a specific coverage is less than the limit for a similar coverage in the approved policy form in effect on October 1, 1991. Additionally, the section contains an exception to the "equivalent coverage" definition for policy forms containing exclusions and/or limitations previously approved by the State Board of Insurance for use on an individual basis if such policy forms are accompanied by explanation for such exclusion and/or limitation and a disclosure and election form to be signed by the policyholder. The section also contains an exception for "large risk" policy forms. The term "large risk" is defined in the section.

The Texas Department of Insurance received comments from the law firm of Vinson & Elkins. Vinson & Elkins submitted such com-

ments on behalf of State Farm Insurance Company. The comments generally favor the proposed section. However, there are two subsections in the section in which State Farm recommends a change from the proposed language. State Farm wants subsection (e)(3) to define "equivalent coverage" for certain enumerated coverages to state "Coverage equal in value, taken as a whole" instead of the language, "substantially the same coverage". The second proposed change would be to eliminate the requirement that an insurer submit with the policy forms a disclosure form to be signed by the policyholder if a designated limit applying to a specific type of coverage is less than the limit for the same coverage in an approved policy form in effect on October 1, 1991.

Vinson & Elkins, on behalf of State Farm Insurance Company commented against the adoption.

The agency disagrees with the comments submitted by Vinson & Elkins on behalf of State Farm. The agency believes the language proposed by State Farm relating to subsection (e)(3) acts to weaken the effect of the term "equivalent coverage". The agency is concerned that the phrase "coverage equal in value, taken as whole" would allow for a give-and-take approach to the specific coverage. Such a give-and-take application may actually act to provide less coverage than the coverage contained in an approved policy form in effect on October 1, 1991. The agency wants the coverage to be substantially the same coverage in every aspect. The agency's approach eliminates the give-and-take approach.

State Farm's second comment relates to the requirement that an insurer submit a disclosure form to be signed by the policyholder if a designated limit applying to a specific type of coverage within the policy form is less than the limit for similar coverages contained in an approved policy form in effect on October 1, 1991. State Farm suggests that this requirement be eliminated. The agency disagrees with this suggestion because it believes that some evidence should exist to indicate that the policyholder was aware that a designated limit in policy form is less than the limit in an approved policy form in effect on October 1, 1991.

The new section is adopted under the Texas Insurance Code, Article 1.04(b), which authorizes the State Board of Insurance to adopt rules; Article 5.13-2, which requires that policy forms submitted by insurers for approval in general liability lines and commercial property lines must provide coverage equivalent to that provided in the policy forms used for those lines on the effective date of Article 5.13-2, Article 5.81, which authorizes the State Board of Insurance to approve forms for multi-peril policies of insurance and to adopt rules to carry out the purposes of that article; and, Article 5.98, which authorizes the State Board of Insurance to adopt rules to accomplish the purposes of Subchapter L, Chapter 5, Texas Insurance Code.

§5.9302. Equivalent Coverage.

(a) The term "equivalent coverage" as provided in the Insurance Code, Article 5.13-2, §8(e), for policy forms filed by indi-

vidual insurers for commercial property and general liability insurance and as provided in 28 TAC §5.9101(g)(5) of this title (relating to Multi-Peril Policies) for commercial multi-peril policy forms for commercial property, general liability, boiler and machinery, commercial crime, commercial glass, commercial inland marine, and garage liability insurance shall be subject to the standards set forth in subsections (b)-(h) of this section.

(b) The term "policy form(s)" in these rules shall include printed endorsements and other related forms as set forth in the Insurance Code, Article 5.13-2.

(c) Whether coverage is deemed to be equivalent by the Texas Department of Insurance shall be based on comparisons of like or similar policy forms that were approved by the State Board of Insurance prior to and in effect on October 1, 1991, to those policy forms filed by individual companies under this rule. For example, named peril policy will be compared to named peril policy, all risk policy will be compared to all risk policy, commercial liability policy will be compared to commercial liability policy.

(d) All filings of policy forms submitted to the State Board of Insurance must contain a statement signed by an officer of the company attesting in a good faith belief that the filed policy forms provide equivalent coverage, as defined in subsection (e) of this section, to those policy forms approved by the State Board of Insurance prior to and in effect on October 1, 1991.

(e) Equivalent coverage shall mean the following.

(1) Policy forms filed for approval must, taken as a whole, provide coverage that is at least equal in value to coverage provided under policy forms approved by the State Board of Insurance prior to and in effect on October 1, 1991. The insurer submitting such policy forms for approval shall submit:

(A) a comparative evaluation of the filed policy forms to like or similar policy forms that were approved by the State Board of Insurance prior to and in effect on October 1, 1991; and

(B) an express disclosure form to be signed by the policyholder and attached to the initial policy if a designated limit applying to a specific type of property or to a specific coverage within the filed policy form is less than the limit for the same or similar coverage in the comparable policy form approved by the State Board of Insurance prior to and in effect on October 1, 1991.

(2) Policy forms filed for approval must include all provisions and con-

ditions required by the Texas Insurance Code, including any specific notices to a policyholder.

(3) Except as provided in subsections (f) and (g) of this section, policy forms filed for approval must contain substantially the same coverage provided under policy forms approved by the State Board of Insurance prior to and in effect on October 1, 1991, for:

- (A) debris removal;
- (B) pollution (all lines of insurance);
- (C) defense costs;
- (D) punitive damages;
- (E) liquor liability;
- (F) collapse of building peril;
- (G) any other coverage the State Board of Insurance, by rule, may determine to be necessary as a matter of public policy.

(f) Policy forms filed for approval may contain exclusions and/or limitations which have previously been approved by the State Board of Insurance for use on an individual basis, and must be accompanied by:

- (1) an explanatory memorandum setting forth the proposed application of and the reasons for the exclusion and/or limitation;
- (2) a disclosure and election form to be signed by the policyholder and attached to a policy indicating the policyholder and the insurer have negotiated and agreed to the coverage to be provided in the policy.

(g) Policy forms filed for approval and designated as policy forms for use with "large risks" shall not be subject to the requirements for equivalent coverage set out in this rule except subsections (e)(2) and (h) of this section. Such filed policy forms shall be considered to provide equivalent coverage if the coverage is negotiated between the insurer and policyholder. The filing of policy forms for "large risks" must be accompanied by:

- (1) an explanatory memorandum;
- (2) a disclosure and election form to be signed by the policyholder and attached to a policy indicating the policyholder and the insurer have negotiated and agreed to the coverage to be provided in the

policy.

(h) The term "large risk" means any of the following:

(1) an insured that has total insured property values of \$10,000,000 or more;

(2) an insured that has been provided an engineering and/or inspection service that meets standards approved by the Texas Department of Insurance;

(3) an insured that has total annual gross revenues of \$20,000,000 or more; or

(4) an insured that has a total premium of \$25,000 or more for property insurance or \$50,000 or more for general liability insurance, or \$75,000 or more for multi-peril insurance.

(i) The negotiation of the coverage to be provided a policyholder, including the consenting of a policyholder to exclusions of coverage shall be fair and reasonable and subject to the applicable provisions of the Texas Insurance Code.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on March 23, 1992.

TRD-9204118

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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For further information, please call: (512) 463-6327

Chapter 7. Corporate and Financial

Subchapter B. Insurance Holding Company System Regulatory Act

• 28 TAC §§7.201-7.205, 7.209-7.213

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§7.201-7.205 and 7.209-7.213, concerning administrative regulation under the Insurance Holding Company System Regulatory Act (the Insurance Code, Article 21.49-1). Sections 7.202, 7.204, and 7.213 are adopted with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 381). Sections 7.201, 7.203, and 7.205, 7.209-7.212 are adopted without changes and will not be republished.

The amendments are necessary to provide editorial changes and clarifications and to reflect statutory amendments to Article

21.49-1 enacted by passage of House Bill 2, 72nd Legislature, 1991. The adoption makes editorial changes in §7.202(a)(2) and in §7.202(a)(5) based on comments received. The adoption changes §7.204(a)(2)(F) to exclude fully insured deposits rather than fully insured demand deposits due to comments received. The adoption changes §7.204(b) by moving the new text regarding indemnification under a consolidated federal income tax agreement to §7.204(a)(2)(E), at the suggestion of commenters. Section 7.204(d)(2)(B) was changed, based on comments, by moving the language regarding pro rata distributions of any class of an insurer's own securities to a separate subparagraph, §7.204(d)(2)(C), and, changing the next subparagraph to §7.204(d)(2)(D). The adoption corrects an omission of language from the proposed text as published so that the first sentence of §7.213(h)(2) reads: "The financial statements shall include the annual financial statements of the persons identified in subsection (c)(1) of this section for the preceding fiscal year, and similar unaudited financial information as of a date not earlier than 120 days prior to the filing of the statement, accompanied by affidavit or certification of the chief financial officer of the applicant that such unaudited financial statement is true and correct, as of its date, and that there has been no material change in financial condition, as defined by the Act, §3, from the date of the financial statement to the date of the affidavit or certification." The HC Dividend form, adopted by reference under §7.203, was not published but is on file with the Secretary of State's Office, Texas Register Section, and may be obtained from the Holding Company Division, Mail Code 304-2A, Texas Department of Insurance, P.O. Box 149104, 333 Guadalupe, Austin, Texas 78714-9104.

The amendments to §7.201 remove the ability to incorporate by reference on the completely restated registration statement required by §7.203(g), and remove the availability of an extension of time to provide information which is available but impractical to furnish at the time required to be filed. The amendments to §7.202 expand the definition of "affiliate," "commissioner," "control," and "insurer" and provide a definition for "immediate family." The amendments to §7.203 remove the exemption provided in the total reinsurance of a mutual assessment company by a stipulated premium insurance company; provide that a disclaimer may be filed provided the person filing is in compliance with the Act, §5(a)-(c); require dividends and distributions to shareholders to be noticed, utilizing Form HC Dividend as adopted by reference; and, make dividends to shareholders subject to applicable provisions of the Insurance Code. The amendments to §7.204 broaden the scope for certain transactions requiring notice or approval and provide that the calculation of extraordinary dividends or distributions shall be based on the declaration date(s) of such dividends or distributions. The amendments to §7.205 provide that a change or substitution of an attorney-in-fact of a Lloyd's or reciprocal or interinsurance exchange is subject to the Act, §5; provide for the docketing of a contested case for the purpose of pre-hearing matters and motions;

provide that mergers contemplated by the Insurance Code, Article 21.28-A, §1, are subject to the Act, §5(c); and set forth additional violations and sanctions. The amendment to §7.209 deletes a previous exemption. The amendments to §7.210 require disclosure of certain additional transactions and remove a previous exemption. The amendments to §7.211 and §7.212 are editorial changes. The amendment to §7.213 deletes a previous exemption. Copies of Form HC Dividend may be obtained from the Holding Company Division, Mail Code 304-2A, Texas Department of Insurance, P.O. Box 149104, 333 Guadalupe, Austin, Texas 78714-9104. They are also on file with the Secretary of State.

The Texas Legal Reserve Officials Association, the law firm of Thompson, Coe, Cousins & Irons, and Government Personnel Mutual Life Insurance Company submitted comments generally for the proposed sections; however, the commenters suggested minor modifications of the sections as proposed.

A commenter suggested editorial changes to some of the subsections of §7.204. The following changes were suggested: deletion of the word "demand" from §7.204(a)(2)(F); transfer of the sentence regarding consolidated federal income tax indemnification contained in §7.204(b) to either a subparagraph or to §7.204(a)(2)(E); and, transfer of the language concerning pro rata distributions with respect to extraordinary dividends contained in §7.204(d)(2)(B) to a separate subparagraph. The agency has incorporated the changes as suggested.

A commenter expressed concern over the duplication of having to file some items with the agency more than once by eliminating the right to incorporate by reference in regard to Forms A, B, and E in §7.201(b)(2). The agency does not intend for companies to make unnecessary filings. This change only pertains to a completely restated up-to-date registration statement and states incorporation by reference is not permitted for registration statements filed for years ending in a five or a zero.

A commenter suggested a change to the definition of affiliate in §7.202(a)(2) to read as follows: "If a controlling person is an individual who has an immediate family member who is also a shareholder, such immediate family member shall be deemed to be an affiliate of such controlling person." The agency disagrees with the comment and believes that the suggested change would make the definition too restrictive.

A commenter suggested that the word "provide" be changed to the word "send" in §7.203(n). The commenter believes that the word "send" would clarify that the notice of dividend payment is to be "sent" rather than "received" within two business days and that "receipt" within two days is not practical. The agency does not agree with the commenter and does not believe that the existing language "provide notice" means receipt of the notice within two business days following the declaration of the dividend.

Commenters suggested consolidation of the sentence relating to consolidated federal income tax agreements in §7.204(b) with the

language in §7.204(a)(2)(E), since subsection (a)(2)(E) specifically references consolidated federal income tax returns. The agency agrees and has deleted the language from §7.204(b) and moved it to §7.204(a)(2)(E) so that it now reads: agreements to consolidate federal income tax returns, which agreements shall provide that a domestic insurer will be adequately indemnified in the event the Internal Revenue Service levies upon the insurance company's assets for unpaid taxes in excess of the amount paid under the agreement."

A commenter suggested that language specifically excluding mutual company dividends to policyholders be included in §7.204(d) which concerns extraordinary dividends, based on concerns that it might be construed that notice and approval of the commissioner would be required for declaration and payment of mutual company dividends to policyholders. The agency does not agree that additional language should be added regarding mutual company dividends to policyholders since it is clear that §7.204(d) applies to extraordinary dividends and distributions to shareholders.

The amendments are adopted under the Insurance Code, Article 21.49-1, §11, which authorizes the Texas Department of Insurance to issue such rules, regulations, and orders as shall be consistent with and shall carry out the provisions of the Insurance Holding Company System Regulatory Act and to govern the conduct of its business and proceedings under the Insurance Code, Article 21.49-1.

§7.202. Definitions.

(a) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) (No change.)
- (2) Affiliate-An affiliate of, or person affiliated with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. If such controlling person includes a member of the immediate family of a person, any other person that is an affiliate of such family member shall be deemed to be an affiliate of such controlling person.
- (3) (No change.)
- (4) Commissioner-The commissioner of insurance of the State of Texas, the commissioner's deputies, or the State Board of Insurance, as appropriate.
- (5) Control-The term "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a

commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, or with members of the person's immediate family, owns, controls, or holds with the power to vote, or if any person other than a corporate officer or director of a person holds proxies representing, 10% or more of the voting securities or authority of any other person, or if any person by contract or agreement is designated as an attorney-in-fact for a Lloyd's plan insurer under the Insurance Code, Article 18.02, or for a reciprocal or interinsurance exchange under the Insurance Code, Articles 19.02 and 19.10. This presumption may be rebutted by a showing made in the manner provided by the Act, §3(j), that control does not exist in fact and that the person rebutting the presumption is in compliance with the Act, §5(a)-(c). The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect, where a person exercises directly or indirectly either alone or pursuant to an agreement with one or more other persons such a controlling influence over the management or policies of an authorized insurer as to make it necessary or appropriate in the public interest or for the protection of the policyholders of the insurer that the person be deemed to control the insurer.

(6)-(11) (No change.)

(12) Immediate family-A person's spouse, father, mother, children, brothers, sisters, and grandchildren, the father, mother, brothers, and sisters of the person's spouse, and the spouse of the person's child, brother or sister, mother, father, or grandparent.

(13) Insurance holding company system-Consists of two or more affiliated persons, one or more of which is an insurer.

(14) Insurer-Includes all insurance companies organized or chartered under the laws of this state, or licensed to do business in this state, including capital stock companies, mutual companies, farm mutual insurance companies, title insurance companies, fraternal benefit societies, local mutual aid associations, local mutual burial associations, statewide mutual assessment companies, county mutual insurance companies, Lloyds' plan companies, reciprocal or interinsurance exchanges, stipulated premium insurance companies and group hospital service companies, and any other entity which is made subject to the Insurance Code, Article 21.49-1, by applicable law, except that it shall not include agencies, authorities, or instrumentalities of the

United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(15) Person-An individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

(16) Security holder-Of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing. The term "debt obligation" shall not include trade, commercial, or open accounts, matured claims, or agents' commissions.

(17) Subsidiary-Of a specified person is an affiliate controlled by such person directly or indirectly through one or more intermediaries.

(18) Ultimate controlling person-That person which is not controlled by another person (as defined in this subsection).

(19) Voting security-Any security or other instrument giving or granting to the holder the power to vote at a meeting of shareholders of a person for or against the election of directors or any other matter involving the direction of the management and policies of such person, or any other security or instrument which the Texas Department of Insurance deems to be of similar nature including, but not limited to, those described in such rules and regulations as the Texas Department of Insurance may prescribe in the public interest as a voting security.

(b) (No change.)

§7.204. Commissioner's Approval Required.

(a) Prior approval and notice.

(1) (No change.)

(2) The following transactions between a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into any such transaction at least 30 days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period:

(A) (No change.)

(B) reinsurance treaties or agreements or modifications to those treat-

ties or agreements, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(C) (No change.)

(D) management or service agreements, cost sharing agreements, rental or leasing agreements;

(E) agreements to consolidate federal income tax returns, which agreements shall provide that a domestic insurer will be adequately indemnified in the event the Internal Revenue Service levies upon the insurance company's assets for unpaid taxes in excess of the amount paid under the agreement;

(F) transactions with affiliated financial institutions, other than fully insured deposits; and

(G) any material transactions which the commissioner has determined after notice may adversely affect the interest of the insurer's policyholders or of the public.

(3) A domestic insurer may not enter into transactions that are part of a plan or series of similar transactions with persons within the holding company system to avoid the statutory threshold amount and thus avoid review. If the commissioner determines that the transactions were entered into over any 12-month period for that purpose, the commissioner may consider the series of transactions with regard to their cumulative effect and may apply the applicable statutory thresholds or the commissioner may apply sanctions under the Code.

(4) Nothing herein contained shall be deemed to authorize or permit any transactions which, in the case of a noncontrolled insurer, would be otherwise contrary to law.

(5) The commissioner, in reviewing transactions hereunder, shall consider whether the transactions comply with the standards set forth in subsection (c) of this section and whether they may adversely affect the interest of policyholders. Any disapproval by the commissioner of any such transactions shall set forth the specific reasons for such disapproval.

(6) The approval of any transaction under this subsection shall be deemed an amendment under §7.203(e) of this title (relating to Registration of Insurers) to an

insurer's registration statement without further filing.

(b) Transactions. Requests for approval of transactions pursuant to subsection (a)(1) of this section and notices of proposed transactions pursuant to subsection (a)(2) of this section, shall be accompanied by descriptions of the essential features of such transactions which are reasonably adequate to permit proper evaluation thereof by the commissioner. Such descriptions shall in all cases include at least the following: the nature and purpose of the transaction; the nature and amounts of any payments or transfers of assets between the parties; the identities of all parties to such transactions; whether any officers or directors of a party are pecuniarily interested therein, and copies of any proposed contracts, agreements, or memoranda of understanding between the parties relating to the transaction along with sufficient competent documentation evidencing compliance with the standards specified in the Act, §4(a), and evidencing that the transaction will not adversely affect the interest of policyholders. No such request or notice shall be deemed filed with the commissioner until the date all such material has been provided.

(c) (No change.)

(d) Extraordinary dividends and other distributions.

(1) (No change.)

(2) For purposes of these sections, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of:

(A) 10% (20% if such insurer is a title insurer) of such insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(B) the net gain from operations of such insurer, if such insurer is a life or title insurer, or the net investment income, if such insurer is not a life or title insurer, for the 12-month period ending the 31st day of December next preceding;

(C) an extraordinary dividend or distribution shall not include pro rata distributions of any class of an insurer's own securities.

(D) in determining the 12-month cumulative amount for dividends or distributions, the calculation shall be based on the declaration date(s) of such dividends or distributions.

(3) (No change.)

(e) (No change.)

§7.213. Form E.

(a) Statement regarding the exemption from approval of the acquisition of control of a domestic insurer. Name of domestic insurer: _____ Name of acquiring person (applicant): _____ Filed with the Texas Department of Insurance, date: _____, 19___. Name, title, address, and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

(b)-(g) (No change.)

(h) Financial statements and exhibits.

(1) (No change.)

(2) The financial statements shall include the annual financial statements of the persons identified in subsection (c)(1) of this section for the preceding fiscal year, and similar unaudited financial information as of a date not earlier than 120 days prior to the filing of the statement, accompanied by affidavit or certification of the chief financial officer of the applicant that such unaudited financial statement is true and correct, as of its date, and that there has been no material change in financial condition, as defined by the Act, §3, from the date of the financial statement to the date of the affidavit or certification. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business. Unless exempted by the commissioner, the annual financial statement of the applicant shall be made in accordance with generally accepted auditing standards and accompanied by the certificate of an independent certified public accountant to the effect that such statement presents fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If such certificate is not available, then such financial statement shall be sworn to by the applicant as correctly reflecting its financial condition, and in such case, the commissioner of insurance at the

commissioner's discretion may require such financial statement to be certified by an independent public accountant. If the applicant is an insurer which is actively engaged in the business of insurance and licensed to do business in this state, it may provide financial statements which conform to the annual statement of the insurer filed with the insurance department of the insurer's domiciliary state and which are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of the domiciliary state. If the applicant is an individual person, such person shall provide for the preceding fiscal year a reviewed financial statement accompanied by the certificate of an independent public accountant that he is not aware of any material modifications that should be made to the accompanying financial statement in order for it to be in conformity with generally accepted accounting principles and a balance sheet as of a date not earlier than 120 days prior to the filing of the statement accompanied by affidavit or certification that the balance sheet is true and correct as of its date. Any financial information required by this subsection may be waived by the commissioner if such information is not deemed material.

(3) (No change.)

(i) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204116 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: April 13, 1992

Proposal publication date: January 17, 1992

For further information, please call. (512) 463-6327

◆ ◆ ◆
Chapter 19. Agent's Licensing
Subchapter O. Procedures and
Requirements for Reinsurance
Intermediaries (Brokers
and Managers)

• 28 TAC §§19.1401-19.1407

The State Board of Insurance of the Texas Department of Insurance adopts new §§19.1401-19.1407. Section 19.1403(1) and §19.1407(b) and (c) are adopted with changes from the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7161) Sections 19.1401, 19.1402, 19.1404, 19.1405, and 19.1406, are adopted without changes and will not be republished.

The new sections govern the licensure and activities of brokers and managers who are licensed under the Reinsurance Intermediary Act, Texas Insurance Code, Article 21.07-7. The sections are necessary to implement the provisions of Article 21.07-7 and to provide effective regulation of reinsurance intermediaries.

Section 19.1401 sets out the purpose and scope of these rules. Section 19.1402 defines the terms used in these rules. Section 19.1403 contains the requirements for bonds or errors and omissions policies filed in compliance with these rules and Texas Insurance Code, Article 21.07-7. Section 19.1404 contains the requirements for interim profit-sharing by a manager and §19.1405 contains the requirements for the form of Audited Statements. Section 19.1406 describes the fees for the examinations required by Texas Insurance Code, Article 21.07-7, §9. Section 19.1407 describes the contract which must be entered into as required by Article 21.07-7. Among other things, that section requires that a copy of the contract and the approval of the insurer's board of directors or attorney-in-fact be filed with the commissioner for approval at least 30 days before the insurer assumes or cedes any business through the manager. Section 19.1407 also requires that the contract must meet the minimum requirements specified in the Texas Insurance Code, Article 21.07-7, §6, and provides that failure to file complete and accurate information is grounds for disapproval of the contract by the commissioner. That section also provides that any disapproval by the commissioner of any contract shall set forth the specific reasons for such disapproval. Section 19.1407 provides that any amended contract containing material changes in the provisions of a contract filed with the commissioner, must be filed with the commissioner for approval as though it were a new contract. That section also describes the manner in which the contract must be filed with the department, describes the proper mailing code for such filing, and describes the time limit for approval or disapproval.

Two individuals commenting requested changes in two difference aspects of the rules. An attorney representing six reinsurance intermediaries requested changes in the rule.

An individual commented that the phrase "eligible to do business in this state" in §19.1403 discussing surplus lines insurers, was technically incorrect as surplus lines insurers do not technically "do business" in the state. The commenter suggested that the regulation would be technically more accurate if the words "to do business" were deleted so that the phrase in §19.1403(1) would read "surplus line insurer eligible in this state." An individual commented that his business differed from the way in which the "classic" reinsurance intermediary would function and requested that he be relieved of the obligation for financial reporting and bonding requirements based upon the way in which he did business as an independent reinsurance sales representative. The attorney representing six reinsurance intermediaries requested that the contracts be approved or disapproved

within 30 days of filing and requested that the errors and omissions policies provision be changed so that the insured, not the insurer, would notify the department of termination or cancellation of the policy because requiring the insurer to list the department as a certificate holder and notify the department of termination or cancellation would reduce the number of insurers willing to write those policies. The board agrees with the comment suggesting the deletion of the phrase "to do business" with respect to surplus lines insurers found in §19.1403(1) and that section has been changed accordingly. The board is unable to relieve the other individual commenter from the proposals for financial reporting and bonding requirements. The definition of reinsurance intermediary, broker and manager contained in these rules are taken directly from the statute. The legislature of necessity must enact statutes with broad coverage in order to afford protection for policyholders and neither the legislature nor the board can take all of the various permutations of the ways in which individuals may choose to do business into account in writing such definitions. While the statute does allow some discretion to the commissioner with respect to the requirements for filing of bonds or errors and omissions policies, the board is of the opinion that these requirements should be placed on any person who acts as a broker or manager, regardless of the way in which the individual chooses to conduct the business of a reinsurance intermediary. A person who is licensed as a reinsurance intermediary is licensed to perform all of those acts set forth in the definitions in the statute and, therefore, the financial protections afforded to policyholders for the actions of reinsurance intermediaries, must be set forth in terms commensurate with the duties which the reinsurance intermediary is licensed to perform rather than those duties which the individual actually chooses to perform. The board is of the opinion that the rules should be changed in §19.1407(b) and (c) to provide that the contracts must be approved or disapproved within 30 days of filing. The board is of the opinion that the insurer should notify the department of termination or cancellation and show the department as a certificate holder in order to protect the consumer in the event of claims covered by the policy. Notification to the department by the insurer will allow the department to better monitor the situation to ensure the intermediaries continue to maintain policies.

The new sections are adopted under the Texas Insurance Code, Article 1.04 which provides general rulemaking authority for the Texas Department of Insurance and under the Texas Insurance Code, Article 21.07-7, §11, which provides that the board may adopt reasonable rules necessary to implement Article 21.07-7.

§19.1403. Requirements for Bond or Errors and Omissions Policy. Any reinsurance intermediary must file and maintain a bond with the commissioner for the protection of all insurers represented or file and maintain an errors and omissions policy, meeting the following criteria.

(1) The bond must be executed by the reinsurance intermediary as principal and by a surety company authorized to do business in this state, as surety, or surplus lines insurer eligible in this state, in the principal sum of \$100,000 for a broker and in the principal sum of \$250,000 for a manager, payable to the Texas Department of Insurance for the use and benefit of all insurers represented. The bond must provide that a copy of any cancellation or nonrenewal notice, shall be mailed to the Deputy Commissioner for Licensing, Texas Department of Insurance, Mail Code 105-5A, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104. The executed bond must be furnished to the Texas Department of Insurance.

(2) The errors and omissions policy shall be in a form acceptable to the Texas Department of Insurance, and shall be filed with the deputy commissioner for licensing of the department at the address listed in paragraph (1) of this section. The policy must provide that the Texas Department of Insurance shall be a certificate holder and shall receive a copy of any cancellation or nonrenewal notice, which shall be mailed to the deputy commissioner for licensing at the address listed in paragraph (1) of this section. The errors and omissions policy shall cover all negligent acts or omissions of the reinsurance intermediary and any person acting on its behalf and shall provide coverage of at least \$100,000 for each occurrence for brokers and shall provide coverage of at least \$250,000 for each occurrence for managers.

(3) The commissioner may determine that special circumstances require an additional amount of coverage for the bond or policy.

§19.1407. Approval of Reinsurance Intermediary Manager's Contracts.

(a) A written contract, which specifies the responsibilities of each party, shall be approved by the insurer's board of directors or attorney in fact and executed by a responsible officer of an insurer and a manager prior to entering into any transactions between the manager and the insurer.

(b) A copy of the executed contract and the approval of the insurer's board of directors or attorney in fact shall be filed by the manager with the commissioner for approval at least 30 days before the insurer assumes or cedes any business through the manager.

(c) The contract shall include the minimum requirements specified in the Texas Insurance Code, Article 21.07-7, §6. A contract which does not comply with the minimum requirements of the Texas Insurance Code or this section shall not be considered to have been filed with the

commissioner for approval. The contract shall be approved or disapproved within 30 days of its filing.

(d) A failure to file complete and accurate information in all material respects is grounds for disapproval of the contract by the commissioner under the Texas Insurance Code, Article 21.07-7, §6.

(e) Any disapproval by the commissioner of any contract filed under this section shall set forth the specific reasons for such disapproval.

(f) If any material changes occur in the provisions set forth in the contract filed with the commissioner, an amended contract setting forth such changes shall be filed with the commissioner for approval as if it were a new contract.

(g) Contracts subject to this section and the Insurance Code, Article 21.07-7, §6, shall be filed with the Reinsurance Activity Mail Code 303-2A, Texas Department Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104, for the purpose of determining compliance with this section. Telephonic or fax transmissions shall not constitute proper filing under this section.

(h) This section shall be cumulative of and in addition to the requirements of Article 21.07-3, Article 21.07-7, and Article 21.49-1, Texas Insurance Code, and related regulations. Nothing contained in this section is intended to exempt an insurer or its reinsurance intermediary manager from other provisions of the Insurance Code.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on March 23, 1992.

TRD-9204113 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: April 13, 1992

Proposal publication date: December 13, 1991

For further information, please call: (512) 463-6327

◆ ◆ ◆
Chapter 25. Insurance Premium Finance

Subchapter H. Annual Reports, Examinations, and Assessments

• **28 TAC §25.716**

The State Board of Insurance of the Texas Department of Insurance adopts new §25.716, concerning the general administrative expense assessment of insurance pre-

mium finance companies in fiscal year 1992, with one change to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 389).

The new section is necessary to provide a rate of assessment sufficient to meet the expenses of performing the department's statutory duties to examine, investigate, and regulate insurance premium finance companies. The mail code in the text was changed because the mail code for the premium finance section changed after the section was proposed.

The new section provides a rate of assessment sufficient to meet the expenses of performing the department's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies. Under the new section, the department levies a rate of assessment to cover fiscal year 1992's general administrative expense and collects the assessment from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1991 calendar year.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Insurance Code, Articles 24.06(c) and 24.09. Article 24.06(c) provides that each insurance premium finance company licensed by the department shall pay an amount assessed by the department to cover the direct and indirect cost of examinations and investigations and a proportionate share of general administrative expense attributable to regulation of insurance premium finance companies. Article 24.09 authorizes the department to adopt and enforce rules necessary to carry out provisions of the Texas Insurance Code concerning the regulation of insurance premium finance companies.

§25.716. General Administrative Expense Assessment, Fiscal Year 1992. On or before April 1, 1992, each insurance premium finance company holding a license issued by the Texas Department of Insurance under the Texas Insurance Code, Chapter 24, shall pay to the department an assessment made by the department to cover the general administrative expenses attributable to the regulation of insurance premium finance companies. Payment shall be made to the Texas Department of Insurance, 333 Guadalupe Street, Mail Code #106-4A, Austin, Texas 78701-3938. The assessment to cover general administrative expenses shall be computed and paid as follows.

(1) The amount of the assessment shall be computed as 0.01012 of 1.0% of the total loan dollar volume of the company for the calendar year 1991.

(2) If the amount of assessment computed under paragraph (1) of this section is less than \$250, a minimum assessment of \$250 shall be levied and collected.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204114 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: April 13, 1992

Proposal publication date: January 17, 1992

For further information, please call: (512) 463-6327

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IV. School Land Board

Chapter 155. Land Resources

Coastal Public Lands

• **31 TAC §155.10**

The School Land Board adopts the repeal of §155.10, concerning coastal land fees, without changes to the proposed text as published in the February 14, 1992, issue of the *Texas Register* (17 TexReg 1267).

The section is repealed to avoid conflict with §1.3 of this title (relating to Fees).

The subject matter of this section has been included in §1.3.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Natural Resources Code, §31.051 and §33.064, which authorizes the School Land Board to make and enforce suitable procedural and substantive rules consistent with the law.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 17, 1992.

TRD-9204100 Garry Mauro
Chairman
School Land Board

Effective date: April 13, 1992

Proposal publication date: February 14, 1992

For further information, please call: (512) 463-5394

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 85. Admission and Placement

Commitment and Reception

• 37 TAC §85.3, §85.5

The Texas Youth Commission (TYC) adopts amendments to §85.3 and §85.5, concerning commitment and reception, with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 392).

The amendments will bring about more efficient evaluation of each youth's needs and risk upon admission. Changes to §85.3 clarify the admission process, adding the statement that parents are notified of TYC's medical consent authority, and that a body identification form is completed. Changes to §85.5 clarify the wording of subsection (b)(7) on psychological evaluations.

The amendments reflect changes in procedure for making placement assignments of youth committed to the agency. The south region placement function is being discontinued. All youth will be evaluated at the statewide reception center in Brownwood.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.071, which provides the Texas Youth Commission with the authority to examine and make a study of each child and to establish rules for governing the study.

§85.3. Admission Process.

(a) Policy. Intake activities, including receipt of the youth from the committing county and orienting the youth to new surroundings, are performed by Texas Youth Commission (TYC) statewide reception center.

(b) Rules.

(1) The statewide reception center in Brownwood receives youth committed to TYC five days per week, between 8 a.m. and 5 p.m. Youth may be received after 5 p.m. only if prior arrangements are made.

(2) Youth are allowed to have a limited number of personal possessions while at the reception center. Personal items beyond basic necessities are inventoried and returned to the county transporter. The transporter is asked to sign a receipt for items returned to his care. Items a youth is allowed to keep are inventoried and a receipt issued to the transporter.

(3) Parents are notified of youth's admission and TYC's medical consent authority, and advised of procedures for mail and visits.

(4) Each youth is assigned an official TYC registration number.

(5) Staff completes personal data and commitment information.

(6) A youth is assigned to a dormitory and caseworker.

(7) Orientation to the admissions process and the TYC system is provided and documented as required in General Operating Policy (GOP) 53.05 §87.55 of this title (relating to Youth Orientation).

(8) Routine admission procedures include, but are not limited to, the following.

(A) Each youth and his possessions are searched.

(B) Youth property including clothing is inventoried.

(C) A body identification form (CCF-006) is completed, each youth showers, is screened for pediculosis, and receives treatment if indicated.

(D) Initial health screening is performed for each youth.

(E) Clothing is laundered if necessary. Clothing is issued as necessary.

(F) Personal hygiene articles are made available as needed.

(9) In addition to assessment and placement activities, the statewide reception center provides a program including recreation, education, and counseling.

(10) Reception staff identifies the home parole officer according to the agency assignment system based on zip code area and county. The staff forwards to the home parole officer, within five working days of admission, the following:

(A) copy of the court order;

(B) copy of the Common Application (CCF-002);

(C) county social summary; and

(D) immediate notification when a youth is stating that he or she

refuses to live at home when residential placement is complete.

(11) Reception staff transports youth to their initial placements and notifies the families, the region parole officer, judge, prosecuting attorney, chief probation officer, and others as needed of the placement location.

§85.5. Assessment/Evaluation.

(a) Policy. The Texas Youth Commission (TYC) youth assessment process includes summarizing admission information, conducting diagnostic evaluations, identifying classification, and developing an initial placement category recommendation by the classification panel at the statewide reception center. The youth assessment process is completed within two weeks of receipt of the youth by TYC.

(b) Rules. Staff at the statewide reception center conduct the following routine evaluations.

(1) completion of the Common Application (CCF-002);

(2) social summary;

(3) risk/needs assessment;

(4) family involvement assessment;

(5) religious preference assessment;

(6) recreation interest;

(7) psychological evaluation (if one has not been completed within the last year). Residential treatment centers require an updated clinical interview for current status within six months prior to placement.

(8) physical and dental examinations (within six months prior to placement in a halfway house);

(9) educational assessment;

(10) substance abuse screening and assessment;

(11) vocational interests and experience;

(12) psychiatric interview of youth sentenced or committed for murder, capital murder, and voluntary manslaughter (Type A violent offenses) and other youth as referred by the professional staff; and

(13) assessment of behavior while at the reception center.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 16, 1992.

TRD-9203975

Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 17, 1992
For further information, please call: (512)
483-5244

Placement Planning

• 37 TAC §85.37

The Texas Youth Commission (TYC) adopts an amendment to §85.37, concerning discharge, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 465).

The amendment to the section will bring about a system to ensure that appropriate information is provided, regarding youth discharge.

The amendment provides for informing youth as discharged of instructions for sealing their records.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075, which provide the Texas Youth Commission with the authority to discharge committed youth.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on March 16, 1992.

TRD-9203978 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 17, 1992

For further information, please call: (512)
483-5244

Chapter 87. Treatment

Program Planning

• 37 TAC §87.1

The Texas Youth Commission (TYC) adopts amendment to §87.1, concerning case planning, without changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 465).

The amendment will provide additional information regarding numbers of youth on caseloads.

The amendment will add instructions to include a projected discharge date to each youth's case plan.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to determine a youth's treatment.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 16, 1992.

TRD-9203976 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 17, 1992

For further information, please call: (512)
483-5244

Chapter 91. Discipline and Control

Disciplinary Practices

• 37 TAC §§91.7, 91.9, 91.11

The Texas Youth Commission (TYC) adopts amendments to §§91.7, 91.9, 91.11, and 91.69, concerning disciplinary practices, without changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 394).

The amendments to the sections will bring about more consistent, effective evaluation of each youth's needs and risk.

The amendments add one possible exception to the statement that TYC will not hold a revocation hearing on a youth so long as criminal charges are pending. The amendments also reflect changes in procedure for making placement assignments of youth committed to agency. The south region placement function is being discontinued. All youth will be evaluated at the statewide reception center in Brownwood.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.071, which provide the Texas Youth Commission with the authority to examine and make a study of each child and to establish rules for governing the study.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 16, 1992.

TRD-9203979 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 17, 1992

For further information, please call: (512)
483-5244

Control

• 37 TAC §91.69

The amendment is adopted under the Human Resources Code, §61.071, which provide the Texas Youth Commission with the authority to examine and make a study of each child and to establish rules for governing the study.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 16, 1992.

TRD-9203980 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 17, 1992

For further information, please call: (512)
483-5244

Chapter 93. General Provisions

Records, Reports, Forms

• 37 TAC §§93.57, §93.59

The Texas Youth Commission (TYC) adopts amendments to §§93.57 and §93.59, concerning records, reports, forms, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 466).

The amendments will bring about a more efficient use of staff time in organizing records

The amendments will provide direction of accessing and moving committed youth files.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.073, which provides the Texas Youth Commission with the authority to keep written records on each child.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on March 16, 1992.

TRD-9203981 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 21, 1992

For further information, please call: (512)
483-5244

• 37 TAC §93.63

The Texas Youth Commission (TYC) adopts the repeal of §93.63, concerning the disposition of youth records, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 467).

The repeal of this section will bring about greater administrative efficiency

The section is being repealed because it contains bureaucratic procedures which do not constitute a rule.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules to provide the proper accomplishment of its functions.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on March 16, 1992.

TRD-9203977

Ron Jackson
Executive Director
Texas Youth Commission

Effective date: April 8, 1992

Proposal publication date: January 21, 1992

For further information, please call: (512) 483-5244



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 35. Pharmacy Services

Subchapter D. Limitations

• 40 TAC §35.404

The Texas Department of Human Services adopts an amendment to §35.404, concerning limitations of prescription refills, in its Pharmacy Services chapter, without changes to the proposed text as published in the February 14, 1992, issue of the *Texas Register* (17 TexReg 1272).

The amendment is justified because it helps decrease the confusion among pharmacists who must conform to both Medicaid and Board of Pharmacy procedures.

The amendment will function by deleting obsolete information from the department's rules.

The department received one comment from the Texas Pharmaceutical Association supporting the department's adoption of the amendment. The association commented that the rules provide for an efficient program, while allowing adequate access to pharmacy services for recipients.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204122

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: May 1, 1992

Proposal publication date: February 14, 1992

For further information, please call: (512) 450-3765





Name: Morgan Tyrone

Grade: 2

School: Ehrhardt Elementary, Klein ISD

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department on Aging

Thursday, April 2, 1992, 11 a.m. The Texas Board on Aging's Networking/Advocacy/Legislation Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of the minutes of the March 2, 1992, meeting; recommendations of legislation based upon review of White House Conference on Aging local forums; area agency on aging (AAA) promotional literature; begin a development of network visibility policies; and adjourn.

Contact: J. Kenneth Huff, Sr., 2507 Evelyn Road, Whitesboro, Texas 76273, (903) 564-6375.

Filed: March 23, 1992, 4:01 p.m.

TRD-9204149

Texas Department of Agriculture

Thursday, April 2, 1992, 10 a.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violations of 4 TAC §§7.18, 7.22 and 11.8 and Texas Agriculture Code Annotated §§76.114, 76.111, and 75.006 (Vernon 1992) by Jesse Thompson.

Contact: Ivry J. Pollard, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: March 20, 1992, 11:01 a.m.

TRD-9204048

Texas Air Control Board

Monday, March 23, 1992, 10 a.m. The Texas Air Control Board held an emergency

meeting at 12118 IH 35, Park 35 Technology Center Building, (Second Blue Building South of TACB Offices), Austin. According to the complete agenda, the board called the meeting to order; considered and acted on Texas Air Control Board Performance Review; and met in executive session to discuss personnel evaluation of executive director. The emergency status was necessary as the need for immediate consideration of and action on Texas Air Control Board Performance Review issued by the Comptroller of Public Accounts on March 16, 1992.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: March 20, 1992, 4:16 p.m.

TRD-9204087

Texas Commission for the Blind

Wednesday, April 8, 1992, 9 a.m. The Beaumont District Office of the Texas Commission for the Blind will meet at the Holiday Inn Midtown, 2005 North 11th Street, Beaumont. According to the complete agenda, the commission will receive public input, comments, and suggestions about agency programs and services. Also, this meeting is to provide consumers with the opportunity to comment on the State Plans for Vocational Rehabilitation Services and Independent Living Rehabilitation Services in Texas. Persons unable to attend may send comments to the Public Information Office, 4800 North Lamar Boulevard, Suite 320, Austin, 78756. Due to the possibility of last minute changes, please call to confirm meeting date at 1-800-252-5204.

Contact: Cecilia Berrios, 4800 North Lamar Boulevard, Suite 320, Austin, Texas 78756, (512) 459-2611.

Filed: March 23, 1992; 2:16 p.m.

TRD-9204136

Wednesday, April 15, 1992, 2 p.m. The Corpus Christi District Office of the Texas Commission for the Blind will meet at 1201 Leopard, City Hall Council Committee Meeting Room, Corpus Christi. According to the complete agenda, the commission will receive public input, comments, and suggestions about agency programs and services. Also, this meeting is to provide consumers with the opportunity to comment on the State Plans for Vocational Rehabilitation Services and Independent Living Rehabilitation Services in Texas. Persons unable to attend may send comments to the Public Information Office, 4800 North Lamar Boulevard, Suite 320, Austin, 78756. Due to the possibility of last minute changes, please call to confirm meeting date at 1-800-252-5204.

Contact: Cecilia Berrios, 4800 North Lamar Boulevard, Suite 320, Austin, Texas 78756, (512) 459-2611.

Filed: March 23, 1992, 2:35 p.m.

TRD-9204142

Texas School for the Blind and Visually Impaired

Friday, March 27, 1992, 9 a.m. The Personnel Committee of the Board of Trustees of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, Room 110, Austin. According to the agenda summary, the committee will call the meeting to order; discuss the job description for and evaluation of the Internal Auditor.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78746-3494, (512) 454-8631, ext. 133.

Filed: March 19, 1992, 12:08 p.m.

TRD-9204022

Friday, March 27, 1992, 9 a.m. The Finance/Audit Committee of the Board of Trustees of the Texas School for the Blind and Visually Impaired will meet at 1100

West 45th Street, Room 116, Austin. According to the agenda summary, the committee will call the meeting to order; review minutes of January 17, 1992 committee meeting; update of legacy investments; presentation of information by internal auditor; review of projected capital improvement requests for 1994-1995; and adjourn.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78746-3494, (512) 454-8631, ext. 133.

Filed: March 19, 1992, 12:09 p.m.

TRD-9204023

Friday, March 27, 1992, 9 a.m. The Curriculum Committee of the Board of Trustees of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, Building 502, Room 205, Austin. According to the agenda summary, the committee will call the meeting to order; discuss the relationship between long range planning, superintendent's goals, and current curriculum projects; orientation and mobility; career education; independent living; reading and writing; "Description of Curriculum Programming;" a different approach to defining the educational services of TSBVI; proposed school reorganization; and adjourn.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78746-3494, (512) 454-8631, ext. 133.

Filed: March 19, 1992, 12:09 p.m.

TRD-9204024

Friday, March 27, 1992, 10 a.m. The Board of Trustees of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, Room 116, Austin. According to the agenda summary, the board will call the meeting to order; presentation: JobScape; hear public comments/open forum; reports by board committees; discuss new business (including): consultation with school attorney regarding litigation; approval of minutes of January 17, 1992 meeting; approval of Textbook Committee recommendations; recommend adoption or amendment of school policies; proposed contract renewals and nonrenewals; discuss board standing committees; consider proposed school calendar, 1992-1993; summary of consultants' contracts; discuss TSBVI eligibility criteria; report by Education Improvement Council; progress report on Long Range Planning; discuss graduation exercises; discussion regarding conference exhibits and other public relations; discussion of major projects for next biennium; update report on budget process; discussion of TCB/TSBVI cooperation; report on status of budget development; comments from board members; and adjourn.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78746-3494, (512) 454-8631, ext. 133.

Filed: March 19, 1992, 12:09 p.m.

TRD-9204025

Texas Bond Review Board

Friday, March 27, 1992, 10 a.m. The Texas Bond Review Board will meet at the Reagan Building, 105 West 15th Street, Room 102, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of agency strategic plan; and adjourn.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: March 19, 1992, 4:53 p.m.

TRD-9204040

Monday, March 30, 1992, 10 a.m. The Texas Bond Review Board will meet at the Reagan Building, 105 West 15th Street, Room 102, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of agency strategic plan; and adjourn.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: March 20, 1992, 4:18 p.m.

TRD-9204088

Texas Department of Commerce

Friday, March 27, 1992, 1:30 p.m. The Texas-Mexico Authority Advisory Board of the Texas Department of Commerce will meet at the First City Centre Building, 816 Congress Avenue, 11th Floor Board Room, Austin. According to the agenda summary, the board will call the meeting to order; discuss border trade alliance; Environmental Protection Agency; boarder task force; discuss Texas-Mexico Authority; and adjourn.

Contact: Deborah Kastrin, Suite 1200, 816 Congress Avenue, Austin, Texas 78701, (512) 320-9699.

Filed: March 19, 1992, 10:39 a.m.

TRD-9204017

Texas State Board of Examiners of Professional Counselors

Saturday, March 21, 1992, 9 a.m. The Texas State Board of Examiners of Professional Counselors met at the Board Offices, Room 400, Exchange Building, 8407 Wall Street, Austin. According to the emergency revised agenda summary, the board will

hear announcements; discuss approval of minutes of November 8, 1991 board meeting; discuss and possibly act on: Attorney General's opinion; lawsuit involving the Texas Psychological Association; personnel matter as regards executive secretary; Texas Department of Health personnel audit; temporary continuing education processor; financial report through January 31, 1992; budget, applications, licensing and renewals; supervision individual licenses; lawsuit concerning individual; complaints, investigations and pending hearing(s); changes to information brochure to include 1-800 number; mailing CEU listings separately; petition for rule amendment; development of requirements for supervisory training; revision of board rules; decision by United States Court of Appeals; board member(s) attending the American Association of Counseling and Development conference; financial statements by board members; request from affiliate peer review committee of Psychiatric Institute of Fort Worth; consider approval of memorandum of understanding relating to complaints of psychiatric services; and hear public comments. The emergency status was necessary as the MOU draft had just been released and approval was necessary to begin immediate uniform consideration of certain types of complaints.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628.

Filed: March 19, 1992, 11:19 a.m.

TRD-9204018

Texas Commission for the Deaf and Hearing Impaired

Saturday, April 4, 1992, 10 a.m. The Board for Evaluation of Interpreters (BEI) of the Texas Commission for the Deaf and Hearing Impaired will meet at the Texas Commission for the Deaf and Hearing Impaired, Conference Room, 1524 South IH-35, Suite 200, Austin. According to the complete agenda, the board will take roll call; discuss approval of minutes; hear public comments; chairperson's report; BEI staff report; calendar update; rules update; meet in executive session to review applicant testing materials; certification, revocation, recertification, certificate extensions; and discuss old and new business.

Contact: Carla Stephenson, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: March 23, 1992, 3:25 p.m.

TRD-9204144

Texas Employment Commission

Tuesday, March 24, 1992, 8:30 a.m. The Texas Employment Commission met at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the emergency revised agenda summary, the commission discussed in executive session: Society of Separationists, Inc., et al versus James J. Kaster, et al. The emergency status was necessary due to litigation schedule.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: March 23, 1992, 4:11 p.m.

TRD-9204152

Tuesday, March 31, 1992, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will approve prior meeting notes; meet in executive session to discuss Administaff, Inc. versus James Kaster, et al; Ben Hogan versus Texas Employment Commission; and relocation of agency headquarters; actions, if any, resulting from executive session; consider requested amendment to 40 TAC §301.8; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 13; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: March 23, 1992, 4:11 p.m.

TRD-9204151

Texas Commission on Fire Protection

Monday-Tuesday, April 6-7, 1992, 10 a.m. and 8 a.m. respectively. The Fire Alarm Advisory Council of the Texas Commission on Fire Protection will meet at 333 Guadalupe Street, Building II, Room 450, Austin. According to the agenda summary, the council will discuss approval of the minutes of the previous meeting; election of vice chair; discuss and possibly act on amendments to rules relating to fire detection and fire alarm devices and systems; discuss necessary amendments to Insurance Code Article 5.43-2 and possible proposal for major revisions to that Article; and discuss and possibly act on further meeting dates, agenda items, and location.

Contact: Jack Woods, P.O. Box 2286, Austin, Texas 78768-2286, (512) 322-3550.

Filed: March 24, 1992, 7:54 a.m.

TRD-9204156

Governor's Health Policy Task Force

Friday, April 3, 1992, 9 a.m. The Subcommittee on Cost Containment of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Room 101, Austin. According to the agenda summary, the subcommittee will discuss Public Health Programs: Medicaid cost containment, data systems, state employee health plans; medical malpractice: state agencies; medical malpractice panel; and adjourn. Persons requesting interpreter services for the hearing impaired, please contact this office.

Contact: Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

Filed: March 23, 1992, 3:45 p.m.

TRD-9204148

Friday, April 3, 1992, 9 a.m. The Subcommittee on Finance of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Room 105, Austin. According to the agenda summary, the subcommittee will discuss financing alternatives; financing models in selected states; preventive/primary care and mandates: implications for financing; and discuss subcommittee business. Persons requesting interpreter services for the hearing impaired, please contact this office.

Contact: Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

Filed: March 23, 1992, 3:45 p.m.

TRD-9204146

Friday, April 3, 1992, 10 a.m. The Subcommittee on Availability of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Room 106, Austin. According to the agenda summary, the subcommittee will convene to review and discuss health education and use of volunteers; community assessment; health care providers: resource availability and needs; alternative delivery systems: emerging rural technology; committee business; and adjourn. Persons requesting interpreter services for the hearing impaired, please contact this office.

Contact: Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

Filed: March 23, 1992, 3:45 p.m.

TRD-9204145

Friday, April 3, 1992, 10 a.m. The Subcommittee on Essential Services of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Room 103, Austin. According to the agenda summary, the subcommittee will review and discuss border health issues; health care access: What Are

Other States Doing?; subcommittee business/announcements; and adjourn. Persons requesting interpreter services for the hearing impaired, please contact this office.

Contact: Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

Filed: March 23, 1992, 3:45 p.m.

TRD-9204147

Texas Growth Fund

Wednesday, April 1, 1992, 9 a.m. The Board of Directors of the Texas Growth Fund will meet at the Teacher Retirement System Building, Fifth Floor, 1000 Red River Street, Austin. According to the complete agenda, the board will review and approve minutes of the special meeting of the Board of Trustees held on January 14, 1992; receive a report on status of Grantor Funds' actions in regard to approval of trust agreement and investment contract; receive a report on the status of the search for an executive director (the board may convene in executive session for the purpose of receiving a report from a representative of Russell Reynolds Associates, Inc., concerning the employment and duties of the executive director of the fund and interviewing applicants for the executive director's position, all as permitted by Article 6252-7, Vernon's Texas Civil Statutes Annotated); consider selection of an executive director for the fund and authorization of the chairman to negotiate the terms of employment; and such other matters as may come before the board.

Contact: Jerry E. Turner, 816 Congress Avenue, First City Centre, Austin, Texas 78701, (512) 495-8430.

Filed: March 23, 1992, 11:24 a.m.

TRD-9204131

Texas Department of Health

Thursday, April 2, 1992, 9 a.m. The HIV Education, Prevention, and Risk Reduction Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the committee will approve minutes of November 14, 1991 meeting; explain full committee and subcommittee process and appointments; elect new officers; conduct group communication exercises/techniques; hold subcommittee meetings; discuss and possibly act on subcommittee reports and public health promotion update and campaign; and hear announcements and comments.

Contact: Anne Williamson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7463.

Filed: March 20, 1992, 2:17 p.m.

TRD-9204068

◆ ◆ ◆
Texas Higher Education Co-ordinating Board

Friday, April 3, 1992, 10:30 a.m. The Administration and Financial Planning Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building Three, Room 109, 313 East Anderson Lane, Austin. According to the complete agenda, institutions to comment on the performance based funding recommendations for next biennium; and discuss agency strategic plan.

Contact: Roger Elliott, 7745 Chevy Chase Drive, Austin, Texas 78752, (512) 483-6130.

Filed: March 23, 1992, 9:34 a.m.

TRD-9204110

◆ ◆ ◆
Texas Department of Human Services

Tuesday, March 31, 1992, 9:30 a.m. The Religious Community Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Sixth Floor, West Tower, Conference Room 6W, Austin. According to the complete agenda, the committee will welcome visitors and guests; make introductions; parking discussion; nomination of slate for FY 1993; report on client access pilots; client self support update on EBT, survival skills training; case management issues including family planning changes and WINGS-JOBS; family planning rules change update; confidentiality for reporters of child abuse; update on National Health issues; and adjourn.

Contact: Lucy Todd, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3129.

Filed: March 19, 1992, 4:33 p.m.

TRD-9204039

◆ ◆ ◆
Texas Department of Insurance

Tuesday, March 31, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Michael Edward Clancy, Bedford, who holds a Group I, Legal Reserve Life Insurance Agent's license and a

Group II Insurance Agent's license. Docket Number 11438.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 23, 1992, 2:34 p.m.

TRD-9204141

Friday, April 3, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at the Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Ali Jagwe, of Houston, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11427.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 23, 1992, 2:33 p.m.

TRD-9204140

Monday, April 6, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will re-open a public hearing to consider the application of Cynthia Anne Quisenberry doing business as Beneco, Bedford, for a Third Party Administrator's Certificate of Authority. Docket Number 11238.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 23, 1992, 2:33 p.m.

TRD-9204139

Wednesday, April 23, 1992, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing under Docket Number 1871 to consider proposed changes to the Texas Automobile Insurance Plan as outlined in a petition filed by the Office of Public Insurance Counsel.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 20, 1992, 11:51 a.m.

TRD-9204060

Lamar University System

Thursday, March 26, 1992, 9:30 a.m. The Board of Regents of Lamar University System will meet at the John Gray Institute, Map Room, 855 Florida, Beaumont. According to the complete agenda, the board will have no action on information items; review and discuss contract policy; LU 2000: strategic planning council report; total quality initiative; regents' policy manual; budget review; consider approval of contract for bioremediation research (Item 533); and consider approval of appointment of interim president at Lamar-Beaumont (Item 548).

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: March 20, 1992, 11:51 a.m.

TRD-9204061

Thursday, March 26, 1992, 9:30 a.m. The Board of Regents of Lamar University System will meet at the John Gray Institute, Map Room, 855 Florida, Beaumont. According to the complete revised agenda, the board will have no action on information items; review and discuss contract policy; LU 2000: strategic planning council report; total quality initiative; regents' policy manual; budget review; consider approval of contract for bioremediation research (Item 533); consider approval of appointment of interim president at Lamar-Beaumont (Item 548); and consider approval of bid for reconstruction of Photo Services Laboratory at Lamar-Beaumont (Item 549).

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: March 20, 1992, 2:41 p.m.

TRD-9204075

◆ ◆ ◆
Board of Nurse Examiners

Tuesday-Wednesday, March 24-25, 1992, 8 a.m. The Board of Nurse Examiners met at the Sheraton Mockingbird Hotel, 1893 West Mockingbird Lane, Dallas. According to the emergency revised agenda summary, the board considered 14 additional consent orders; and one voluntary surrender and the addition of a request under new business. The emergency status was necessary as these items needed board action prior to their next regularly scheduled meeting in May.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: March 20, 1992, 7:45 a.m.

TRD-9204041

Texas State Board of Podiatry Examiners

Saturday, March 28, 1992, 10 a.m. The Texas State Board of Podiatry Examiners will hold an emergency meeting at the Texas Podiatric Medical Association, 5017 Bull Creek Road, Austin. According to the complete agenda, the board will elect new vice-president; propose new fees; discuss modification of statute for Sunset Commission Report; discuss/act on appointment, employment evaluation, reassignment, duties, discipline or dismissal of executive director. The board may go into executive session 2(g) of Article 6252-17, to discuss such matter, unless the executive director requests that such discussions be held in open session. The emergency status is necessary as the board must meet to discuss an increase of fees so that the new rule can be passed in time for renewal notices to be sent out.

Contact: Janie Alonzo, 3420 Executive Center Drive, Suite 305, Austin, Texas 78731, (512) 794-0145.

Filed: March 20, 1992, 8:19 a.m.

TRD-9204095

State Preservation Board

Monday, March 30, 1992, 2 p.m. The Permanent Advisory Committee of the State Preservation Board will meet at the Lorenzo de Zavala Library and Archives Building, Room 314, Austin. According to the agenda summary, the committee will call the meeting to order; discuss approval of minutes; old or unfinished business; and adjourn.

Contact: Dealey Herndon, 201 East 14th Street, Room 503, Austin, Texas 78701, (512) 463-5495.

Filed: March 20, 1992, 3:47 p.m.

TRD-9204085

Texas Board of Private Investigators and Private Security Agencies

Wednesday-Thursday, April 1-2, 1992, 9 a.m. The Texas Board of Private Investigators and Private Security Agencies will meet at the John H. Reagan Building, Room #109, 105 West 15th Street, Austin. According to the agenda summary, the board will review staff recommendation and board action on new licenses, suspension orders, reinstatement orders, revocations, denials, reprimands, and other proposals for decision; board action on proposed rule change regarding Attorney General Opinion; board action on proposed rule regarding powers

and responsibilities of the executive director. The above agenda is continuous and will serve for both April 1 and 2. Lunch breaks will be taken at appropriate times during the proceedings. The board will adjourn at approximately 5 p.m. on April 1.

Contact: Clema D. Sanders, 313 East Anderson Lane, #200, Austin, Texas 78752, (512) 463-5545.

Filed: March 23, 1992, 5:05 p.m.

TRD-9204155

Public Utility Commission of Texas

Tuesday, March 31, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10894-application of Gulf States Utilities Company to reconcile fuel costs and for authority to change fixed fuel factors.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 23, 1992, 9:20 a.m.

TRD-9204102

Thursday, May 7, 1992, 9:30 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10939-complaint of William A. Marek, Jr. against Houston Lighting and Power Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 23, 1992, 2:41 p.m.

TRD-9204143

Railroad Commission of Texas

Monday, March 30, 1992, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 12-126, Austin. Agendas follow.

The commission will consider the staff recommendation to sign the grant agreement with the United States Environmental Protection Agency for the Underground Injection Control Program for FY 1992.

Contact: Jerry Mullican, P.O. Box 12967, Austin, Texas 78711, (512) 463-6790.

Filed: March 20, 1992, 11:06 a.m.

TRD-9204050

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: March 20, 1992, 11:07 a.m.

TRD-9204051

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: March 20, 1992, 11:07 a.m.

TRD-9204052

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7251.

Filed: March 20, 1992, 11:07 a.m.

TRD-9204053

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7187.

Filed: March 20, 1992, 11:07 a.m.

TRD-9204054

The commission will consider category determination under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6755.

Filed: March 20, 1992, 11:07 a.m.

TRD-9204055

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: March 20, 1992, 11:08 a.m.

TRD-9204056

The commission will consider and act on the Division Director's report on budget and personnel matters related to organization of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: March 20, 1992, 11:08 a.m.

TRD-9204057

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. Consideration of appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: March 20, 1992, 11:08 a.m.

TRD-9204058

The commission will consider and act on various matters within the jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various action, including, but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act, including to receive legal advice regarding pending and/or contemplated litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: March 20, 1992, 11:08 a.m.

TRD-9204059

Texans' War on Drugs, Inc.

Tuesday, March 24, 1992, 10 a.m. The Board of Directors of the Texans' War on Drugs, Inc. held an emergency meeting at 11044-D Research Boulevard, Suite 200, Austin. According to the complete agenda, the board called the meeting to order; welcomed board; discussed approval of minutes; met in executive session to discuss candidates to be interviewed for the position of executive director; began interview process at 11 a.m., conclude interviews at 3:45 p.m.; discussed candidates interviewed; acted on matters discussed in executive session; and adjourned. The emergency status was necessary due to urgent need to interview personnel.

Contact: Janis Pittel, 11044-D Research Boulevard, Suite 200, Austin, Texas 78759, (512) 343-6950.

Filed: March 20, 1992, 3:33 p.m.

TRD-9204082

Texas Property and Casualty Insurance Guaranty Association

Friday, March 27, 1992, 11 a.m. The Board of Directors of the Texas Property and Casualty Insurance Guaranty Association will meet at the William P. Hobby Building, 333 Guadalupe Street, Tower I, 12th Floor, Austin. According to the agenda summary, the board will discuss the approval of the minutes from the March 10 meeting; consider and possibly take action on: the plan of operation; appointment of a Transition Committee; discuss personnel matters; delegation of duties; establishing a line of credit; leasing office space; Attorney General representation; compliance with open meetings and open records; financial disclosure by board members; sale of dedicated assets respecting Performance Insurance Company; report on Texas Employers Insurance Association; insurer solvency matters; litigation matters; discuss implementation of portions of Articles 21.28 and 21.28-C of the Insurance Code.

Contact: Gene Brodhead, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 322-0223.

Filed: March 19, 1992, 4:30 p.m.

TRD-9204038

Texas State Technical College

Friday, March 27, 1992, 7 a.m. The Board of Regents of the Texas State Technical College will meet at the Waco Hilton Board Room, 113 South University Parks Drive,

Waco. According to the agenda summary, the board will review and discuss board orientation: history of Texas State Technical College; organization of board of regents and committees; appropriations requests; funds accounting; and board of regents travel.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 20, 1992, 3:02 p.m.

TRD-9204079

Friday, March 27, 1992, 9 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Ideas Center, 3801 Campus Drive, Waco. According to the agenda summary, the board will discuss and review the following TSTC Policy Committee minute orders and reports: Committee of the Whole; Policy Committee for Instruction and Student Services; Policy Committee for Human Resources and Development; Policy Committee for Fiscal Affairs; Policy Committee for Facilities; and Committee of the Whole.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 20, 1992, 2:59 p.m.

TRD-9204076

Saturday, March 28, 1992, 9 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Ideas Center, 3801 Campus Drive, Waco. According to the agenda summary, the board will discuss and act on the following minute orders: classes meeting with less than 10 students; establishment of Aquaculture Technology; new program biotechnology; contract with Ranger Junior College; emergency medical technology; request for budget change; signature authorizations; ratify approval of reimbursement housing agreement; accept facilities loan for housing refurbishment; agreement for operation of laundromats; aircraft pilot flight training fees; modify food service contract; energy management plan; Diamond-Shamrock supplemental easement of right-of-way; major repair and rehabilitation of housing units; seek coordinating board approval to repair and renovate housing; appointment of architect/engineer for housing repair and renovation project; contract for central chiller plant; Wayne Chemical; ratify appointment of architect; schematic design phase and seek bids for Applied Technology Education Center; policy prohibiting sexual harassment; settlement of Billy Dickson lawsuit; and faculty senate organization.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 20, 1992, 3 p.m.

TRD-9204077

Saturday, March 28, 1992, 9:30 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Ideas Center, 3801 Campus Drive, Waco. According to the agenda summary, the board will convene into executive session in accordance with Article 6252-17 for specific purpose provided in Section 2, Subsection (e) and (f).

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 20, 1992, 3:02 p.m.

TRD-9204080

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University of North Texas/Texas College of Osteopathic Medicine

Friday, March 27, 1992, 9 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine will meet at the Board Room, Administration Building, University of North Texas, Denton. According to the agenda summary, the board will review and discuss UNT: submission of the University of North Texas Strategic Plan; and TCOM: submission of the Texas College of Osteopathic Medicine Strategic Plan.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: March 23, 1992, 2:11 p.m.

TRD-9204133

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The University of Texas at Austin

Thursday, March 26, 1992, 2 p.m. The Council for Intercollegiate Athletics for Women of the University of Texas at Austin met at the University of Texas, the Ex-Students' Association, Moffett Library, 21st and San Jacinto Streets, Austin. According to the agenda summary, the council called the meeting to order; discussed approval of the minutes of the previous meeting of February 20, 1992; discussed old and new business; announcements/information reports; director search; and adjourned.

Contact: Dr. Donna Lopiano, BEL 718, UT Austin, Austin, Texas 78712, (512) 471-7693.

Filed: March 23, 1992, 9:29 a.m.

TRD-9204103

**University of Texas System,
M. D. Anderson Cancer
Center**

Tuesday, March 24, 1992, 9 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M. D. Anderson Cancer Center met at the M. D. Anderson Cancer Center, Conference Room AW7.707, Seventh Floor, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modifications thereof.

Contact: Anthony Mastromarino, Ph.D., U.T. M. D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3991.

Filed: March 19, 1992, 2:49 p.m.

TRD-9204035

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Texas Water Commission

Wednesday, April 1, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission, including specifically the adoption of new or amended agency regulations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: March 20, 1992, 4:49 p.m.

TRD-9204093

Wednesday, April 1, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 20, 1992, 4:48 p.m.

TRD-9204092

Wednesday, April 1, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission, including specifically the adoption of new or amended agency regulations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: March 23, 1992, 4:09 p.m.

TRD-9204150

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Texas Workers' Compensation Commission

Thursday, March 26, 1992, 9 a.m. The Texas Workers' Compensation Commission met at the Southfield Building, 4000 South IH-35, Rooms 910-911, Austin. According to the agenda summary, the commission called the meeting to order; discussed approval of minutes for the public meeting of March 12, 1992; discussed and considered rules for adoption; discussed and considered: adoption to existing rules; possible amendment to existing rule; rule-making petition; TWCC Safety Award Program; revised TWCC Internal Audit Plan and other internal audit activities; met in executive session; action, if any, on matters considered in executive session; general reports of issues relating to commission activities which may include but are not limited to the following: discussion of future public meetings; and adjourned.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: March 20, 1992, 3:20 p.m.

TRD-9204081

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Texas Workers' Compensation Insurance Facility

Tuesday, March 31, 1992, 9 a.m. The Governing Committee of the Texas Workers' Compensation Insurance Facility will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda summary, the committee will discuss approval of minutes; discuss possible action on proposed amendment to present "Good Faith" rule; employee leasing mat-

ters; ERRF rules and regulations; setting a date and agenda for annual meeting of member companies; deductible plan and facility rating plan; maintenance tax and maintenance tax surcharge rules adopted by SBI; regulatory and financial status of Employers Casualty Company; request by The Travelers for servicing company/fees in litigation involving Leasing Services, Inc. and Acme Trucking/TESI; authorize staff to negotiate servicing company fees in litigations involving alleged premium fraud or premium audits; consider investment policy; request for proposal for Investment Manager for Facility; requests for reimbursement from servicing companies; recommendations from Appeals Subcommittee; reinsurance agreements; financial audit, including audit status possible changes in audit scope and procedures and independent auditors; Actuarial Subcommittee; and update on agreements TWCC.

Contact: Miles L. Mathews, 8303 MoPac Expressway, #310, Austin, Texas 78759, (512) 345-1222.

Filed: March 23, 1992, 4:40 p.m.

TRD-9204153



Texas Youth Commission

Thursday, March 26, 1992, 9:30 a.m. The Board of the Texas Youth Commission met at 4900 North Lamar Boulevard, Public Hearing Room, Austin. According to the emergency revised agenda summary, the board discussed and acted on Wendt Trust Expenditure authorization; and furnishing of ex-student Center, Corsicana State Home. The emergency status was necessary as the close timetable for order, purchase and delivery of furnishings for the newly remodeled ex-student center at Corsicana State Home prior to the Orphan Homecoming in June, 1992 and the recent need to reallocate state appropriated funds heretofore set aside for this purpose, has created an unforeseeable situation requiring immediate board consideration of this funding alternative.

Contact: Ron Jackson, 4900 North Lamar Boulevard, Austin, Texas 78765, (512) 483-5000.

Filed: March 20, 1992, 3:43 p.m.

TRD-9204084



Regional Meetings

Meetings Filed March 19, 1992

The Leon County Central Appraisal District Board of Directors met at the Leon County Central Appraisal District Office, Gresham Building, Centerville, March 23,

1992, at 7 p.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9204028.

The Lubbock Regional Mental Health and Mental Retardation Center Board of Trustees met at 3801 Avenue J, Board Room, Lubbock, March 23, 1992, at noon. (revised agenda). Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202. TRD-9204033.

The Mental Health and Mental Retardation Authority of Brazos Valley Board of Trustees met at 804 Texas Avenue, Large Conference Room, Bryan, March 26, 1992, at 1:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9204034.

The Middle Rio Grande Development Council Texas Review and Comment System Committee met at the Del Rio Civic Center, Kennedy Room, 1915 Avenue F, Del Rio, March 24, 1992, at 10 a.m. (revised agenda). Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9204032.

The Pecan Valley Mental Health and Mental Retardation Region Board of Trustees met at the Pecan Valley MHMR Region Clinical Office, 906 Lingleville Road, Stephenville, March 25, 1992, at 9 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9204027.

The Sharon Water Supply Corporation Board of Directors met at the Office of the Sharon Water Supply Corporation, Highway 37 South, Winnsboro, March 23, 1992, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, P.O. Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9204029.

The South Texas Private Industry Council, Inc. met at Highway 83, and Seventh, Zapata, March 26, 1992, at 4 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9204026.



Meetings Filed March 20, 1992

The Ark-Tex Council of Governments Board of Directors met at the Fish Nest Restaurant, Highway 71 North, Texarkana, Arkansas, March 26, 1992, at 5:30 p.m. Information may be obtained from Beverly Pearson, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9204045.

The Austin-Travis County Mental Health and Mental Retardation Center Operations and Planning Committee met at 1430 Collier Street, Board Room, Austin, March 24, 1992, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9204094.

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, March 26, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9204086.

The Austin-Travis County Mental Health and Mental Retardation Center Executive Committee met at 1430 Collier Street, Board Room, Austin, March 26, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9204090.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, March 25, 1992, at 4 p.m. Information may be obtained from Ron Fieseler, 1800 San Jacinto Center, 98 San Jacinto Boulevard, Austin, Texas 78701, (512) 472-8021. TRD-9204083.

The Bosque Central Appraisal District Appraisal Review Board met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, March 26, 1992, at 9 a.m. Information may be obtained from Bilye L. McGehee, P.O. Box 393, Meridian, Texas 76665, (817) 435-2304. TRD-9204091.

The Capital Area Rural Transportation System (CARTS) Board of Directors met at 5111 East First Street, Conference Room, Austin, March 26, 1992, at 12:30 p.m. Information may be obtained from Edna M. Burroughs, 5111 East First Street, Austin, Texas 78702, (512) 478-7433. TRD-9204066.

The Coastal Bend Council of Governments Membership will meet at the Nueces County Courthouse, Central Jury Room, Fourth Floor, 910 Leopard Street, Corpus Christi, March 27, 1992, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9204067.

The Dallas Area Rapid Transit Corporate Location Ad Hoc Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 24, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204073.

The Dallas Area Rapid Transit Minority Affairs Committee met at the DART Office,

601 Pacific Avenue, Board Room, Dallas, March 24, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204071.

The Dallas Area Rapid Transit Audit Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 24, 1992, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204072.

The Dallas Area Rapid Transit Customer and Community Relations Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, March 24, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204070.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 24, 1992, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204074.

The Education Service Center, Region VI Executive Committee will meet at the Del Lago Conference Center, Montgomery, April 1, 1992, at 7 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9204047.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, March 26, 1992, at 2 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9204064.

The Gulf Bend Mental Health and Mental Retardation Center Board of Trustees met at the Gulf Bend MHMR Center, 1404 Village Drive, Victoria, March 26, 1992, at noon. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9204069.

The Leon County Central Appraisal District Board of Directors met at the Leon County Central Appraisal District Office, Gresham Building, Centerville, March 23, 1992, at 7 p.m. (revised agenda). Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9204063.

The Lower Neches Valley Authority Finance Committee met at the LNVA Office

Building, 7850 Eastex Freeway, Beaumont, March 25, 1992, at 11 a.m. Information may be obtained from A. T. Hebert, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9204078.

The Panhandle Regional Planning Commission Board of Directors met at 2736 West Tenth, PRPC Board Room, Amarillo, March 26, 1992, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9204062.

The Tarrant Appraisal District Board of Directors met at 2301 Gravel Road, Fort Worth, March 26, 1992, at 9 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005. TRD-9204046.

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Meetings Filed March 23, 1992

The Brazos Valley Development Council Bootstrap/Family Self-Sufficiency Coordinating Body held an emergency meeting at the Council's Office, 3006 East 29th Street, Door #2, Bryan, March 26, 1992, at 9 a.m. The emergency status was necessary as no authorized signature was available until Friday, March 20, 1992. Information may be obtained from Sandy Shumaker, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9204106.

The Canadian River Municipal Water Authority Board of Directors will meet at the Plainview Country Club, 2902 West Fourth Street, Plainview, April 8, 1992, at 10:30 a.m. Information may be obtained from John C. Williams, P.O. Box 99, Sanford, Texas 79078, (806) 865-3325. TRD-9204134.

The Central Plains Center for Mental Health and Mental Retardation and Substance Abuse Board of Trustees held an emergency meeting at 2700 Yonkers, Plainview, March 23, 1992, at 1:30 p.m. The emergency status was necessary as property being sold would be sold immediately. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2036. TRD-9204096.

The Dallas Area Rapid Transit Search Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, March 24, 1992, at noon. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204129.

The Eastland County Appraisal District Appraisal Review Board will meet at the

Commissioner's Courtroom, Second Floor, Eastland County Courthouse, Eastland, April 8, 1992, at 10 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597. TRD-9204105.

The Education Service Center, Region XIII Board of Directors will meet at the ESC, Region XIII, Room #205, 5701 Springdale Road, Austin, March 30, 1992, at 12:45 p.m. Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9204135.

The Kempner Water Supply Corporation Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, March 26, 1992, at 7 p.m. Information may be obtained from Doug Lavender or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9204107.

The Lower Rio Grande Valley Development Council Board of Directors met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, March 26, 1992, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr., 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481. TRD-9204104.

The Region 18 Education Service Center Board of Directors will meet at 2811 LaForce Boulevard, Midland, April 2, 1992, at 7 p.m. Information may be obtained from Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380. TRD-9204109.

The San Antonio-Bexar County Metropolitan Planning Organization Steering Committee will meet at the San Antonio City Hall Basement Conference Room, San Antonio, March 30, 1992, at 1:30 p.m. Information may be obtained from Charlotte Roszelle, 434 South Main Street, Suite 205, San Antonio, Texas 78204, (512) 227-8651. TRD-9204132.

The West Central Texas Council of Governments WCTCOG-Ombudsman Task Force will meet at 1025 East North 10th Street, Abilene, March 27, 1992, at 10 a.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9204154.

The West Central Texas Council of Governments Private Industry Council will meet at 1025 East North 10th Street, Abilene, April 2, 1992, at 10 a.m. Information may be obtained from Mary Ross, P.O. Box 3195, Abilene, Texas 79601, (915) 672-8544. TRD-9204108.



**Meetings Filed March 24,
1992**

The Greater Austin-San Antonio Corridor Council, Inc. Executive Committee will meet at the Institute of Texas Cultures, John Connally Conference Room, San Antonio, March 27, 1992, at 2 p.m. Information may be obtained from Dolores Sullivan, P.O. Box 1618, San Marcos, Texas 78667-161, (512) 245-2535. TRD-9204161.

The Greater Austin-San Antonio Corridor Council, Inc. Board of Directors will meet at the Institute of Texas Cultures, Auditorium, San Antonio, March 27, 1992, at 3 p.m. Information may be obtained from Dolores Sullivan, P.O. Box 1618, San Marcos, Texas 78667-161, (512) 245-2535. TRD-9204160.

The High Plains Underground Water Conservation District Number One Board of Directors will meet at 2930 Avenue Q, Conference Room, Lubbock, April 2, 1992, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9204162.

The Region One Education Service Center Board of Directors held an emergency meeting at 1900 West Schunior, Edinburg, March 26, 1992, at 7 p.m. The emergency status was necessary since board members are geographically located in a seven county area and meet only once a month, and it was urgent that the TSTA hearing be held as scheduled since grievant had been waiting for her hearing and returned from out of state for it. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611. TRD-9204163.



In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board

Notice of Contested Case Hearing Number 296

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to determine whether or not Permit Number 18702 should be issued to Landmark Chevrolet Corporation (the applicant) to construct and operate two paint booths located at 9111 North Freeway, Houston, Harris County.

Deadline for Requesting to be a Party. At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the applicant and TACB. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner Cindy Hurd and make sure that this request is actually received at the TACB Central Office, 12124 Park 35 Circle, Austin, Texas, 78753 by 5 p.m., Friday, April 10, 1992. The examiner cannot grant party status after that deadline, unless there is a good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to TACB before publication of this notice will not be considered as a request for party status. The examiner will decide on party status at the prehearing conference.

Prehearing Conference. The examiner has scheduled a prehearing conference at 1:30 p.m. on Tuesday, April 21, 1992, at the TACB Austin Office, Room 143E, 12124 Park 35 Circle, Austin, Texas 78753. At this conference, the examiner will consider any motions of the parties, but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m. on Tuesday, May 19, 1992, at the TACB Central office, Room 143-E, 12124 Park 35 Circle, Austin, Texas, 78753.

What the Applicant Must Prove. This hearing is a contested case hearing under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13. It is generally conducted like a trial in district court. The applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the requirements of the Texas Clean Air Act, Texas Health and Safety Code (the Act), Chapter 382, §382.0518, and TACB §116.3. These requirements include compliance with all applicable TACB and federal regulations, ambient air quality standards, and application of best available control technology considering the technical practicability and economic reasonableness of reducing or eliminating emissions.

Public Attendance and Testimony. Members of the gen-

eral public may attend the prehearing conference and the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin at (512) 908-1770 a day or two prior to the prehearing conference and the hearing dates in order to confirm the settings, since continuances are sometimes granted. Any person who wants to give testimony at the hearing, but who does not want to be a party, may call the TACB Hearings Section of the Legal Division at (512) 908-1770 to find out the names and addresses of all persons who may be contacted about the possibility of presenting testimony.

Information About the Application and TACB Rules. Information about the application and copies of TACB's rules and regulations are available at the TACB Regional Office located at 5555 West Loop, Suite 300, Bellaire, Texas 77401, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753, and at the Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087.

Legal Authority. This hearing is called and will be conducted under the authority of the Act, §§382.029, 382.0291, 382.030, 382.031, 382.056, 382.0518, and 382.061 and TACB §§103.11(3), 103.31, and 103.41.

Issued in Austin, Texas, on February 18, 1992.

TRD-9204044 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Filed: March 20, 1992

For further information, please call: (512) 908-1451

Texas Bond Review Board

Bi-Weekly Report on the 1992 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of March 5, 1992-March 19, 1992.

Total amount of state ceiling remaining unreserved for the \$242,886,000 subceiling for qualified mortgage bonds under the Act as of March 19, 1992: \$100,397,950.

Total amount of state ceiling remaining unreserved for the \$151,803,750 subceiling for state-voted issues under the Act as of March 19, 1992: \$51,803,750.

Total amount of state ceiling remaining unreserved for the \$65,058,750 subceiling for qualified small issues under the Act as of March 19, 1992: \$55,058,750.

Total amount of state ceiling remaining unreserved for the \$43,372,500 subceiling for residential rental project issues under the Act as of March 19, 1992: \$1,872,500.

Total amount of state ceiling remaining unreserved for the

\$364,329,000 subceiling for all other bonds requiring an allocation under the Act as of March 19, 1992: \$7,329,000.

Total amount of the \$867,450,000 state ceiling remaining unreserved as of March 19, 1992: \$216,461,950.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from March 5, 1992-March 19, 1992: Midlothian IDC, Safe Tire Disposal Corporation, qualified small issue bonds (IDBs), \$5 million; Panhandle-Plains Higher Education Authority eligible borrowers, qualified student loans, \$50 million; San Antonio HFC, The Prime Group Walnut Hill Apartments, residential rental project issue, \$12 million; San Antonio HFC, The Prime Group River Oaks Apartments residential rental project issue, \$7 million; San Antonio HFC, The Prime Group Eagle's Nest Apartments residential rental project issue, \$500,000.

Following is a comprehensive listing of applications which were either withdrawn or cancelled pursuant to the Act from March 5, 1992-March 19, 1992: Liberty County IDC, Safe Tire Disposal Corporation, qualified small issue bonds (IDBs), \$5 million; Eastland County IDC, South Texas Tire Recovery, Inc., qualified small issue bonds (IDBs) \$9,935,000; Travis County HFC, The Prime Group The Hamptons Apartments, qualified residential rental project \$11 million.

Following is a comprehensive listing of applications which released a portion or their reserved amount pursuant to the Act from March 5, 1992-March 19, 1992: Gulf Coast Waste Disposal Authority, GeneSyst International solid waste/pollution control, released-\$3 million,

Issued in Austin, Texas, on March 19, 1992.

TRD-9204089 Tom K. Pollard
Executive Director
Texas Bond Review Board

Filed: March 20, 1992

For further information, please call: (512) 463-1741

◆ ◆ ◆
**Texas Department of Commerce/Work
Force Development Division**
Request for Proposals

The Texas Department of Commerce (Commerce), Work Force Development Division (WFDD), hereby solicits proposals for the delivery of JTPA program and financial monitoring training workshops in Austin to service delivery areas (SDA) administrators and monitors and WFDD staff.

The agency has issued in this RFP in order to select an organization to provide training for 2 1/2 days of workshops, April 27, April 28, and April 29, 1992, in Austin for approximately 300 SDA administrators and monitors and WFDD staff. The training will focus on program and financial monitoring techniques.

The successful proposer must include all presentations and workshops in the proposal and shall provide and perform, as a minimum, the following: JTPA-experienced instructors for all general sessions and concurrent workshops; three hundred sets of training materials for participants. Materials shall be adapted to the Texas JTPA system and include a guide with methodologies, sample documents to enable SDAs to prepare and/or revise their monitoring

systems. Successful proposers will be responsible for all costs associated with printing and delivering materials the training location; new, innovative approaches and techniques to monitoring; small and large group exercises to incorporate "hands-on" training activities; responses to questions entertained from the audience, and responsible analysis and comment on monitoring methodologies.

Responders must submit the following with their proposal: one sample of the participant handout materials that will be used during each proposed training workshop or existing materials that will be used to produce these handouts; descriptions of prior experience and qualifications in the delivery of the proposed services, three references related to prior service delivery, and resumes for each trainer to be used; proposals must be received by the agency before 4 p.m. CST on Thursday, April 2, 1992, to be considered for award of a contract.

Interested bidders may obtain proposal instructions from the Texas Department of Commerce at the following address: Barbara Cigainero, Director, Work Force Development Division, Texas Department of Commerce, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204130 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: March 23, 1992

For further information, please call: (512) 320-9800

◆ ◆ ◆
The Texas Literacy Council, Texas Department of Commerce is soliciting proposals for literacy assistance programs to be funded under the Job Training Partnerships Act (JTPA) Public Law 97-300, Title II A, 8.0% (80%) Education Coordination policy.

Approximately \$800,000 may be available for local literacy efforts through the JTPA Service Delivery Areas (SDAs) for the education of persons who qualify for JTPA funds and who function at or below a sixth grade reading level. The goal of the Texas Literacy Council is to fund the development of community partnerships to serve JTPA eligible persons who are most educationally disadvantaged. The partnerships must provide the basic literacy skills required to enter employment training.

The proposed project should incorporate the following objectives to meet the Texas Literacy Council's goal.

The successful bidders must serve out-of-school youth and adults who meet JTPA eligibility requirements and who are most educationally disadvantaged by teaching them basic literacy skills, including reading, writing, and math. Reading should emphasize comprehension, writing should emphasize a process approach, and math should emphasize problem solving.

The successful bidders must design a curriculum reflective of the specific needs of a targeted group which coordinates the local programs in a joint program to define desired educational outcomes to facilitate attendance. The program must not duplicate existing literacy efforts.

The successful bidders must form a partnership among literacy efforts at the local level and coordinate the services of each program to create a comprehensive literacy effort which can address the needs of persons at various

levels of literacy.

This initiative is targeted toward out-of-school youth and adults qualifying for JTPA funds who function at or below a sixth grade reading level. The SDAs are encouraged to further target certain populations in need (e.g., aid to families with dependent children, displaced homemakers, hearing impaired-deaf, technologically displaced workers, limited english proficiency, homeless, and learning disabled).

A particular population in need is the parents of young children. The generational effects of illiteracy are well documented. Parental "literacy behaviors" influence children's school achievement, school attendance, motivation, self-concept, and behavior. Parents who have not mastered the basic literacy skills may not model appropriate literacy behaviors or pass on to their children the attitudes and abilities involved in literacy.

There may be approximately \$800,000 available to allocate to an estimated 10 programs. The maximum request amount per program is \$75,000. The funding period is July 1, 1992-June 30, 1993. The Texas Literacy Council reserves the right of final authority on awarding of grants and is under no obligation to fund any application. The department may also negotiate portions of a proposal. Any bid not meeting the minimal requirements of the RFP specifications will be deemed nonresponsive and rejected. The proposal must meet the following requirements in order to be considered.

The program must target the most educationally disadvantaged.

Only SDAs, in partnership with local literacy efforts, may apply for funding.

The SDAs may subcontract using appropriate procurement procedures, with individual literacy efforts as long as the subcontractor has the capacity to safeguard federal funds, administer the training program to achieve planned objectives, and serve persons who meet JTPA requirements.

The SDAs are responsible for ensuring that JTPA eligibility requirements are met and must provide intake services for the programs.

The SDAs must form a partnership to coordinate with a local nonprofit literacy council and one or more of the following: libraries, adult basic education providers, community based organizations, community colleges and technical institutes and universities.

The proposal must describe the partnership and the specific project roles each partner will play. The partnership agreement must be signed by a representative of each participating partner and must delineate the financial responsibilities borne by each participating group.

The proposal must include a plan for referral services which coordinates the program with local referral services.

The proposal must specify the number of JTPA eligible participants to be served.

The proposal must: adhere to the goal in the RFP; have written measurable objectives; identify standards by which these objectives may be measured; design a series of activities to accomplish the objectives; delineate time lines for achievement of activities; and provide a final report that describes the extent to which all objectives have been met.

The proposal must comply with program year 1992 JTPA,

8.0% (80%) Education Coordination state and federal cost category limitations policy.

The program must describe how it will provide accessibility for persons with disabilities in compliance with the American Disabilities Act Public Law 101-336.

The proposal must describe how literacy training will be integrated with other training programs.

The deadline for receipt of proposals is April 29, 1992, 4:30 p.m.

The Texas Literacy Council retains the right to accept or reject any or all proposals. The Texas Literacy Council is under no legal requirement to execute a contract on the basis of its making this request for proposals, and intends the material provided herein only as a means of identifying and considering various contractor alternatives and the general cost of services desired.

This request for proposals does not commit the Texas Literacy Council to pay for any costs incurred prior to execution of a contract or prior to funding availability from the United States Department of Labor for this procurement.

The Texas Literacy Council specifically reserves the right to vary the provisions set forth herein at any time prior to execution of a contract where the Texas Literacy Council deems such variance to be in the best interest of the State of Texas, and to act otherwise as it deems in its sole discretion.

Interested bidders may obtain proposal instructions from The Texas Department of Commerce, Texas Literacy Council, at the following address: Texas Department of Commerce, Texas Literacy Council, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, Austin, Texas 78701, Attn: Pat Hartgrove.

Issued in Austin, Texas, on March 18, 1992.

TRD-9204097 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: March 23, 1992

For further information, please call: (512) 320-9800

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General Services Commission

Notice of Public Hearing on Proposed Rules

The General Services Commission will hold a public hearing to receive comments on proposed amendments and new section to 1 TAC §§125.1, 125.3, 125.5, 125.9, 125.11, 125.13, 125.17, 125.19, 125.21 and new §125.23, regarding the administration of the State Travel Management Program. These sections were published in the December 6, 1991, issue of the *Texas Register* (16 TexReg 6981).

The hearing will be convened at 9 a.m. on April 2, 1992, in Room 1-100, William B. Travis Building, 1701 North Congress Avenue, Austin.

For additional information, please contact Judith M. Porras at (512) 463-3583.

Issued in Austin, Texas on March 18, 1992.

TRD-9203963 Judith M. Porras
General Counsel

Filed: March 18, 1992

For further information, please call: (512) 463-3583



Texas Department of Health

Correction of Error

The Texas Department of Health submitted a notice of Clinical Health Service Fees for publication in the March 13, 1992, *Texas Register* (17 TexReg 1951).

Due to an error in the chart concerning income guidelines and schedules of charges, the headings should read "Annual Income" instead of "Weekly Income."



Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Lubbock	West Texas Physicians Group, LLP	L04557	Lubbock	0	03/11/92
Odessa	West Texas Imaging Center	L04562	Odessa	0	03/05/92
Throughout Texas	Walzel & Associates, Inc.	L04523	Aransas Pass	0	03/09/92

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Austin	Syncor International Corporation	L02117	Austin	49	03/04/92
Austin	SEA Pharmaceutical Sciences, Inc.	L04427	Austin	2	03/05/92
Austin	Vista Chemical Company	L04520	Austin	1	03/10/92
Azle	Harris Methodist Northwest	L03230	Azle	11	03/09/92
Baytown	San Jacinto Methodist Hospital	L02388	Baytown	11	03/06/92
Carthage	Panola General Hospital	L02540	Carthage	10	02/28/92
College Station	A.A.E./B.C.S. Traders Inc.	L03949	Globe, Arizona	4	02/28/92
Denton	Texas Woman's University	L00304	Denton	35	03/06/92
Falls City	Conoco, Inc.	L01634	Falls City	36	03/05/92
Fort Worth	MASI Healthcare Services	L03212	Fort Worth	17	02/28/92
Fort Worth	All Saints Hospital Cityview	L04105	Fort Worth	3	03/06/92
Fort Worth	All Saints Episcopal Hospital	L02212	Fort Worth	23	03/06/92
Friendswood	Iso-Tex Diagnostics, Inc.	L02999	Friendswood	23	02/27/92
Houston	Houston Department of Health and Human Services	L00149	Houston	46	02/28/92
Houston	Memorial Care System	L00439	Houston	43	02/28/92
Houston	Lyndon B. Johnson General Hospital	L04412	Houston	3	02/28/92
Houston	Twelve Oaks Hospital	L02432	Houston	13	03/04/92
Kingwood	Kingwood Plaza Hospital	L04482	Kingwood	5	03/12/92
Lubbock	Methodist Hospital	L00483	Lubbock	70	02/28/92
Lubbock	South Park Medical Center	L01560	Lubbock	17	02/28/92
Nederland	AMI Hospitals of Texas, Ltd.	L01756	Nederland	20	03/11/92
Port Arthur	St. Mary Hospital of Port Arthur	L01212	Port Arthur	46	02/28/92
Port Arthur	AMI Park Place Medical Center	L01300	Port Arthur	18	03/09/92
Port Arthur	AMI Park Place Medical Center	L01707	Port Arthur	24	03/09/92
San Angelo	Ethicon, Inc.	L00720	San Angelo	32	03/04/92

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

San Antonio	Nix Medical Center	L03531	San Antonio	7	02/28/92
San Antonio	Humana Hospital - Metropolitan	L02232	San Antonio	21	03/03/92
San Antonio	Syncor International Corp.	L02033	San Antonio	57	03/04/92
Terrell	Terrell Community Hospital	L03048	Terrell	10	02/28/92
Texas City	Phibro Energy USA, Inc.	L02578	Texas City	11	03/10/92

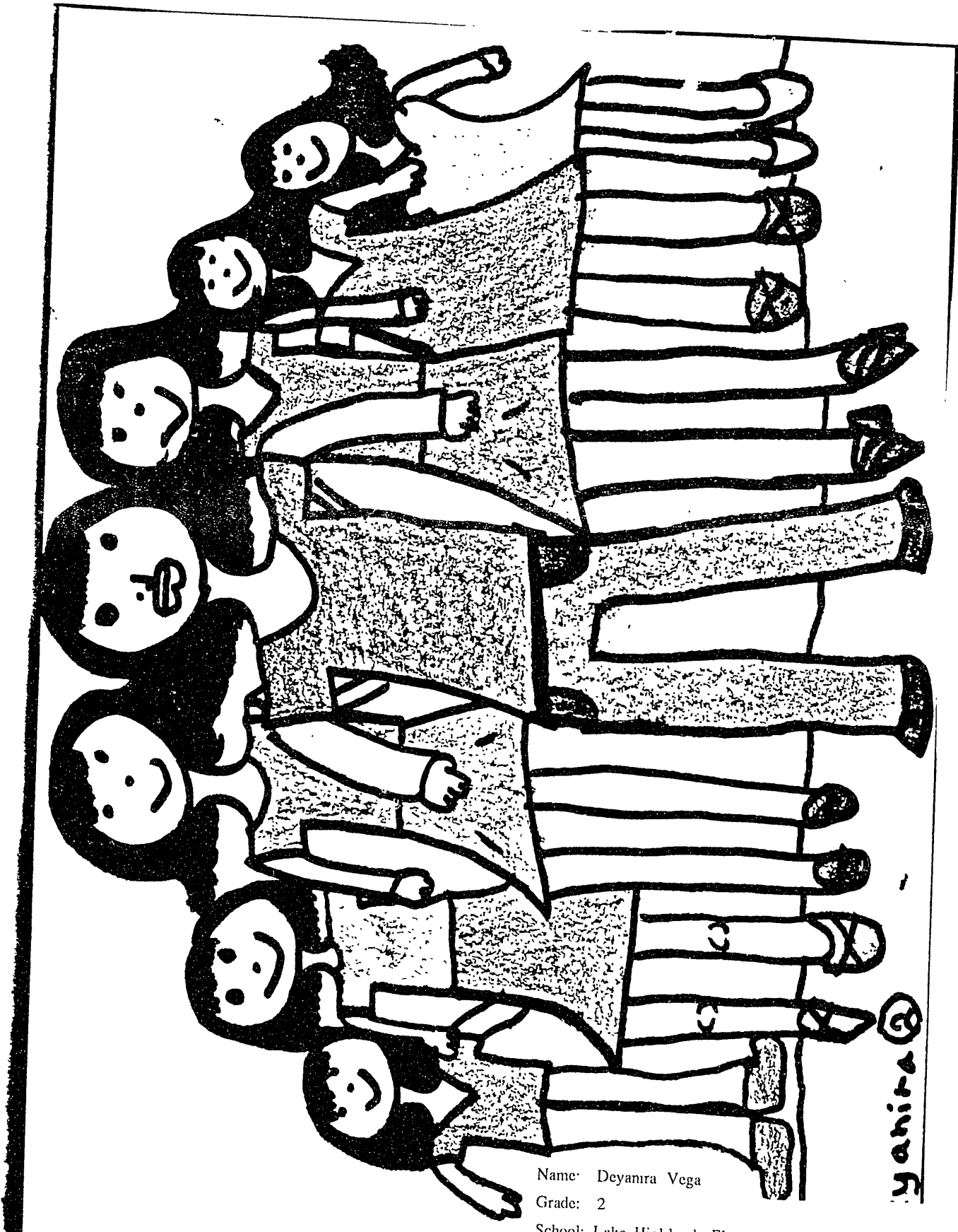
Texas City	Marathon Oil Company	L04431	Texas City	3	03/10/92
Throughout Texas	SGS Industrial Services	L04460	Seabrook	4	02/27/92
Throughout Texas	Diamond Wireline Services, Inc.	L04158	Corpus Christi	4	02/28/92
Throughout Texas	Petroleum Industry Inspectors	L04081	Houston	21	03/03/92
Throughout Texas	Schlumberger Technology Corporation	L00109	Houston	36	03/05/92
Throughout Texas	Schlumberger Technology Corporation	L01833	Houston	81	03/05/92
Throughout Texas	Nuclear Technologies International	L02975	Midland	30	03/05/92
Throughout Texas	Berger Materials Engineering, Inc.	L03332	Bryan	12	03/03/92
Throughout Texas	Itex Enterprises, Inc.	L04414	Dallas	1	03/06/92
Throughout Texas	MQS Inspection Incorporated	L00087	Elk Grove Vil., IL	54	03/10/92
Throughout Texas	CBI NA-CON, Inc.	L01902	Houston	26	03/10/92
Throughout Texas	Global X-Ray & Testing Corp.	L03663	Houston	18	03/10/92
Throughout Texas	SGS Industrial Services	L04460	Seabrook	5	03/10/92
Throughout Texas	Southwestern Laboratories	L01934	Dallas	31	03/11/92
Throughout Texas	Nuclear Technologies International	L02975	Midland	31	03/12/92
Tyler	Mother Frances Hospital	L01670	Tyler	41	03/09/92

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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El Paso	Chevron U.S.A., Inc.	L02669	El Paso	6	02/28/92
Houston	The Methodist Hospital	L00457	Houston	63	02/28/92
Houston	Trinity Industries, Inc.	L01539	Houston	23	03/06/92
McKinney	McKinney Hospital Venture	L02415	McKinney	9	03/10/92
Odessa	City of Odessa	L02183	Odessa	7	03/12/92
San Antonio	Southwest General Hospital	L02689	San Antonio	12	03/11/92
Throughout Texas	R-MCO	L03145	Refugio	8	02/28/92
Throughout Texas	Albert H. Halff Associates, Inc.	L04074	Dallas	1	02/28/92
Throughout Texas	Baker Hughes Tubular Services, Inc.	L00916	Houston	46	03/03/92
Throughout Texas	Sperry-Sun Drilling Services, Inc.	L02603	Houston	32	03/12/92

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Houston	St. Elizabeth Hospital	L03467	Houston	2	03/05/92
Houston	Saint Edward Hospital	L03523	Houston	4	03/05/92
Lampasas	Rollins-Brook Hospital	L03480	Lampasas	4	03/12/92
Temple	Harry B. Macey, Jr., M.D. and Thomas A. W. Walker, MD	L03871	Temple	3	03/12/92
Throughout Texas	S & E Engineering	L04138	Houston	3	03/04/92



Name: Deyanira Vega

Grade: 2

School: Lake Highlands Elementary, Richardson ISD

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with **Texas Regulations for Control of Radiation** in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the **Texas Regulations for Control of Radiation**.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county, and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, The Exchange Building, 8407 Wall Street, Austin, Texas, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on March 17, 1992.

TRD-9204043 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 20, 1992

For further information, please call: (512) 458-7236

◆ ◆ ◆
Texas Department of Human Services
Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) announces this request for consulting proposals.

Description of Services. To improve the service delivery process in Child Protective Services (CPS) and Adult Protective Services (APS) programs, the department will implement the Paragon Project in 1993. Paragon will improve the delivery of protective services to children and aged and/or disabled adults in Texas who are at risk of abuse/neglect or exploitation by providing a fully function-

al, integrated, on-line, automated Protective Services system to CPS and APS staff statewide.

Prior to the design, development, and implementation of Paragon by an independent contractor, the Department is issuing this request for proposal to procure the services of a consultant to advise on the development of the CPS Pilot and Statewide Implementation Request For Proposal (RFP) to ensure appropriate items are addressed; assist in the evaluation and selection of a Performing Contractor for the RFP, and monitoring of the progress of the Performing Contractor for the CPS and APS Paragon Project.

The scope of this RFP includes advice on the structure and content of the RFP draft for the CPS and APS Paragon Project; review and recommend project management procedures and automated tools; advice on project organization and staffing needs; participate in the development and selection of the RFP contract award as a non-voting member; provide on-going Quality Assurance Reviews; provide on-going Project Management Reviews; assess the effectiveness and completeness of acceptance tests; and review and evaluate pilot implementations to assure system goals and objectives are met.

TDHS plans to contract with a consultant firm, experienced in RFP document development and review; data processing, large scale systems development projects; and experience in large scale ADP procurements.

Term of Contract. It is anticipated the contract will begin June 1992 and end December 1994.

Contact Person. Requests for proposal packets may be made in person or in writing. Please contact Jeanette Gifford, MC W-631, Texas Department of Human Services; P.O. Box 149030; Austin, Texas 78714-9030; (512) 450-3388.

Questions. Potential offerors must submit all questions, if any, concerning this RFP in writing to Holly Jung, Program Analyst, MIS Planning Section, MC W-631, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030. Except for written inquiries to Ms. Jung, any communication about the RFP to other TDHS personnel prior to the proposal due date will be grounds for disqualification of the offeror.

Offerors Conference. An offerors conference will be held on Wednesday, April 8, 1992, at the John H. Winters Complex, 701 West 51st Street, Austin.

Closing Date. Proposals must be received by 3 p.m. CST, May 1, 1992.

Criteria for Evaluation and Selection. Selection of the consultant will be based on experience of the offeror and skills of key personnel; proposed approach; and total costs.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204123 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: March 23, 1992

For further information, please call: (512) 450-3765

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Correction of Error

The Texas Department of Human Services adopted new 40 TAC §29.1104, concerning Texas Medicaid Reburse-

ment Methodology (TMRM). The rule appeared in the March 10, 1992, *Texas Register* (17 TexReg 1821). Due to a proofreading error by the *Texas Register* an extra "i" was printed in clause (a)(1)(B)(i). It should be deleted.

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Invitation to Bid

The Texas Department of Human Services (DHS) announces an invitation to bid (ITB) for purchased food stamp issuance services. DHS uses a competitive procurement process to ensure and document that services are of the highest quality, lowest price, and best meet the needs of the clients served.

Description of Services. Over-the-counter food stamp issuance is the exchange of food coupon booklets for authorization to participate (ATP) forms. ATP forms will specify client name, case number, ID and issuance numbers, total benefit amount, number of each denomination booklets to be issued, and month valid. Food stamp clients will present issuance agent with ATPs and ID cards. Issuance agent will check to see that the ID card serial number matches the corresponding number on the ATP form. If they match and the ATP is valid for the current month, the client will sign the ATP form in the presence of the issuance agent, who will then exchange the indicated number of each denomination of booklets for the signed ATP form. The issuance agent will write the issuance verification code (from the ID card) on the ATP form, date stamp the ATP form, and later batch it for daily delivery to DHS. To contract with DHS, the contractor must comply with all insurance requirements specified in the ITB, including providing an all-risk insurance policy naming DHS as the guaranteed loss payee. Geographical Area: DHS will procure over-the-counter food stamp issuance service in Jefferson County, Beaumont.

Terms of Contract. The contract will be for one 12-month period. DHS has the option to renew the contract on a non-competitive basis for a limited number of additional periods. The contractor will be paid a fee per transaction basis for each eligible ATP form processed.

Procedures for Awarding Contract. Only bids meeting the requirements of the procurement will be considered for contract award. A contract will be awarded to the lowest bidder whose bid meets the specified requirements.

Contact Person. To request an ITB package or additional information, please contact Margarette Kaylor at (512) 450-3467. Sealed Bids must be received by Margarette Kaylor no later than 3 p.m., May 26, 1992, at Issuance Services Unit (W-320), Client Self-support Services Division, Texas Department of Human Services, 701 West 51st Street, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204124 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: March 23, 1992

For further information, please call: (512) 450-3765

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Texas Department of Insurance Company Licensing

The following applications have been filed with the Texas Department of Insurance and are under consideration.

1. Application for incorporation in Texas for Acordia Small Business Benefits of the Southwest, Inc., a domestic third party administrator. The home office is in Corpus Christi, Texas.

2. Application for incorporation in Texas for ACT Employee Benefits, Inc., a domestic third party administrator. The home office is in Dallas, Texas.

3. Application for admission to do business in Texas for Benefit Systems & Services, Inc. (BSSI) (assumed name for Benefit Systems and Services, Inc.), a foreign third party administrator. The home office is in Westmont, Illinois.

4. Application for admission to do business in Texas for Claim Management Services, Inc., a foreign third party administrator. The home office is in Green Bay, Wisconsin.

5. Application for admission to do business in Texas for Double L. Services, Inc., a foreign third party administrator. The home office is in Naperville, Illinois.

6. Application for admission to do business in Texas for Mutual Assurance, Inc., a foreign fire insurance company. The home office is in Birmingham, Alabama.

7. Application for name change in Texas for Massachusetts Indemnity and Life Insurance Company, a foreign life insurance company. The home office is in Boston, Massachusetts. The proposed new name is Primerica Life Insurance Company.

8. Application for admission to do business in Texas for Self Assurance Company, Inc., a foreign third party administrator. The home office is in Morton, Illinois.

9. Application for admission to do business in Texas for Self-Funded Plans, Inc., a foreign third party administrator. The home office is in Cleveland, Ohio.

10. Application for admission to do business in Texas for Student Insurance, Inc., a foreign third party administrator. The home office is in Metairie, Louisiana.

11. Application for name change in Texas for Texas Thompson Funeral Insurance Company, a domestic life insurance company. The home office is in Jacksonville, Texas. The proposed new name is Texas Directors Life Insurance Company.

12. Application for admission to do business in Texas for United Employers Insurance Company, a foreign fire insurance company. The home office is in Milwaukie, Oregon.

13. Application for admission to do business in Texas for USLIFE Indemnity Company, a foreign fire insurance company. The home office is in Omaha, Nebraska.

14. Application for deleting the dba name National Health Care Administrators of ABI Administrative Services, Inc. of Florida, a foreign third party administrator. The home office is in Tampa, Florida.

issued in Austin, Texas, on March 16, 1992.

TRD-9204119 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: March 23, 1992

For further information, please call: (512) 463-6327

Correction of Errors

The Texas Department of Insurance submitted two notifications pursuant to the Insurance Code, Chapter 5, Subchapter L. The notices were published in the March 3, 1992, *Texas Register* (17 TexReg 1657). Due to a typographical error by the *Texas Register*, the article statutory authority was printed incorrectly. The article should read "Article 5.96".

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Texas Department of Insurance Exempt Filing Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L, Article 5.96

(Note: The Texas Department of Insurance submitted a notification pursuant to the Insurance Code, Chapter 5, Subchapter L. The notice was published in the March 20, 1992, issue of the Texas Register (17 TexReg 2118). By mistake the agency scheduled a public meeting rather than a public hearing. The public hearing will be held under Docket Number 1871 at the same date and time as the meeting notice specified.)

The State Board of Insurance, at a Board meeting scheduled for 8:30 a.m. on April 23, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal filed by the Office of Public Insurance counsel ("OPIC").

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Texas Department of Licensing and Regulation

Correction of Error

The Texas Department of Licensing and Regulation adopted 16 TAC §§75.20 and 75.70. The rules were published in the March 13, 1992, *Texas Register* (17 TexReg 1907).

The effective date of March 27, 1992, is incorrect. The effective date should be March 30, 1992.

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Public Utility Commission of Texas

Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on February 18, 1992, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Southwestern Public Service Company for a certificate of convenience and necessity for proposed transmission line within Gaines, Andrews, Ector, Midland, Lubbock, Lynn, Garza, and Borden Counties, Docket Number 10955 before the Public Utility Commission of Texas.

The Application: In Docket Number 10955, Southwestern Public Service Company requests approval of its application to construct approximately 159.5 miles of 230/345-kV transmission line and approximately 24.3 miles of 115-kV transmission line within Gaines, Andrews, Ector, Midland, Lubbock, Lynn, Garza, and Borden Counties.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas on March 18, 1992.

TRD-9203992 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 18, 1992

For further information, please call: (512) 458-0100

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Notice of Intent to File Pursuant to PUC Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rules 23.27 for approval of customer-specific PLEXAR-Custom Service for Fort Worth Independent School District (Fort Worth ISD), Fort Worth.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Fort Worth ISD pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number 11007.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Fort Worth ISD. The geographic service market for this specific service is the Fort Worth area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas on March 17, 1992.

TRD-9203993 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 18, 1992

For further information, please call: (512) 458-0100

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Tarrant County, Fort Worth.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Tarrant County Pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number 11015.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Tarrant County. The geographic service market for this specific service is the Fort Worth area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas on March 18, 1992.

TRD-9204030 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 19, 1992

For further information, please call: (512) 458-0100

◆ ◆ ◆
Texas Racing Commission
Correction of Error

The Texas Racing Commission proposed an amendment to 16 TAC §309.53, new §321.233, and adopted §311.159. The rules were published in the March 13, 1992, *Texas Register* (17 TexReg 1860, 1862, and 1909).

In §309.53, paragraph three of the preamble, "vary, on" should read "vary, depending on".

In §321.233(b) the period after "\$6.08" should be deleted.

In §311.159(b)(1) "associations" should read "association".

◆ ◆ ◆
Railroad Commission of Texas
LP-Gas Advisory Committee Meeting

The LP-Gas Division of the Railroad Commission of Texas announces a meeting of the LP-Gas Advisory Committee to be held on Tuesday, April 21, 1992, 9 a.m., Room 9-147, William B. Travis Building, 1701 North Congress Avenue, Austin.

Issued in Austin, Texas, on March 20, 1992.

TRD-9204049 Nolan Ward
Hearings Examiner, Legal Division-General
Law
Railroad Commission of Texas

Filed: March 20, 1992

For further information, please call: (512) 463-6949

◆ ◆ ◆
The University of Texas System
Notice of Contract Award

The University of Texas Medical Branch at Galveston (UTMB) file this statement of award of contract for consulting services in accordance with provisions of Texas Civil Statutes, Article 6252-11c. On March 2, 1992, UTMB entered into two contracts for consulting services in response to consultant proposal request published in the October 8, 1991, issue of the *Texas Register* (16 TexReg 5610).

Project Description. The contractors selected shall pro-

vide the following services related to UTMB's charge coding system.

Contract 1. The contractor shall perform a comprehensive review of coding assessment of inpatient and outpatient coding as required by Medicare and Texas Medicaid, to include a review, update, and corrected copy of the hospital charge master. The contractor shall also provide UTMB with a comprehensive report detailing findings, recommendations, and financial impact, coding manuals and guides, Medicare reimbursement manuals, and newsletters.

Contract 2. The contractor shall assist UTMB in the implementation of a logical, controlled development process related to the examination of charge coding, submission, and reimbursement activities for UTMB outpatient services. The contractor shall perform an outpatient coding audit, assess the skill and training of all coding staff, develop a staff education plan, assist in the preparation of a coding and reimbursement methodology, analyze outpatient billing records, and analyze third party remittances, to include denial categories, payment levels, requests for additional information, other coding related feedback, and procedures for appealing or resubmitting denied charges. The contractor shall provide appropriate reports to UTMB regarding findings and recommendations.

Name and Address of Contractors. St. Anthony Publishing, Inc., located at 500 Montgomery Street, Alexandria, Virginia 22314-1561 is the consultant who has contracted with UTMB to provide the services required Contract 1. Meaghan Jared Partners, Inc., located at 12011 Northeast First Street, Suite 103, Bellevue, Washington 98005 is the consultant who has contracted with UTMB to provide the services required under Chapter 2.

Value of Contract and Effective Dates. The maximum amount of Contract 1 is \$35,900, plus additional reasonable and documented travel expenses not to exceed \$5,160. The maximum amount of Contract 2 is \$59,280, plus additional reasonable and documented travel expenses not to exceed \$23,712. Both contracts became effective on March 2, 1992, and shall continue in effect until the activities described in the contract are completed and accepted by UTMB. It is anticipated that Contract 1 will be completed within 40 days and that Contract 2 will be completed within five months.

Issued in Austin, Texas, on March 20, 1992.

TRD-9204065 Arthur H. Dilly
Executive Secretary to the Board
The University of Texas System

Filed: March 20, 1992

For further information, please call: (512) 499-4402

◆ ◆ ◆
Texas Water Commission
Correction of Errors

The Texas Water Commission adopted emergency amendments and new sections in 31 TAC §§421.1, 423.10, 427.6, 427.8, 429.10, 429.11, 429.13, 429.17, 429.19, 429.51, and 431.4, which were published in the January 31, 1992 *Texas Register* (17 TexReg 763).

In §421.1 the definition of "Water conservation" the word "healthy" is misspelled as "health." The definition should read: "Water conservation-The design and installation of an irrigation system which applies the least amount of water to maintain healthy individual plan material or turf."

In §423.10(b), the last phrase reads "within 10 working days after receipt of the complete application." The word "**complete**" is new language and should be in boldtype.

In §427.6(a), a quotation mark was omitted from the words "low hazard".

In §427.8(d)(1) the words, "of .25" should be inserted between "rate" and "inches". The phrase should read as follows. "(1) Landscape irrigation systems using spray or rotary heads that are installed in Precipitation Zone Number 1, as defined in §421.1(A) of this title (relating to Definitions), shall be designed and/or installed to provide a minimum precipitation rate of .25 inches per hour for every hour that the landscape irrigation system is in operation."

In the last paragraph of the preamble to Chapter 429 a portion of the sentence describing §429.18 reads: "Section 429.18 (notice of board order). The word "concerning" should be before "notice".

In §429.10(2) new language "; **and**" should have been printed in boldtype.

In §429.10(3) a comma was omitted after the word "parties".

In §429.11 the phrase "§429.4 of this title (relating to Board's Receipt of Complaint)" should read "§429.3 of this title (relating to Complaint)".

In §429.13(b)(2) the word "allegedly" should be inserted between "board" and "violation". Section §429.13(b)(2) should read "(2) the statute and rules of the board allegedly violated;".

In §429.19(c) a phrase reads "that person may satisfy the requirements of subsection (b) of this section, by filing with the executive secretary an affidavit sworn by the person assessed a penalty." The comma separating "section by" should be omitted.

In §429.51(a) a phrase reads "a rule adopted by the board pursuant to Article 8751;". The words "Texas Civil Statutes," should be inserted and the phrase should read "a rule adopted by the board pursuant to Texas Civil Statutes, Article 8751;".

In the second paragraph of the preamble to Chapter 431 a portion of the sentence describing §431.4 reads "Section 431.4 (relating to advertisement) dictates where a licensed must display his registration number;" The words "irrigator or installer" were omitted. The reference to §431.4 should read "Section 431.4 (relating to advertisement) dictates where a licensed irrigator or installer must display his registration number;".

In §431.4(a) the word "in" should be inserted between "LI_____" and "block".



1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. 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 *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

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