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TEXAS DOCUMENTS

# TEXAS REGISTER

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The *Texas Register* is currently in the process of converting to the numbering system found in the Texas Administrative Code (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 31, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the Texas Administrative Code

§ 27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 1, Oct. 79

**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 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

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

## TEXAS REGISTER



George W. Strake, Jr.  
Secretary of State

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## Appointments

### State Conservatorship Board

*Pursuant to Senate Bill 1266, 66th Legislature, Regular Session, for a term to expire January 31, 1981:*

Frank Junell  
P.O. Box 1891  
San Angelo, Texas 76902

### Texas County and District Retirement System

*To the Board of Trustees for a six-year term to expire December 31, 1985:*

Carl S. Smith  
Tax Assessor-Collector  
Harris County  
1001 Preston  
Houston, Texas 77002

Mr. Smith is being reappointed.

### Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

*For six-year terms to expire December 31, 1985:*

Dr. Richard Reese  
Scott & White Hospital  
Audiology Department  
2401 South 31st Street  
Temple, Texas 76501

Dr. Reese is replacing A. G. Small of San Antonio, Bexar County, whose term expired.

Alice Scruggs  
Rio Grande Hearing Aid Service, Inc.  
108 East Yandell  
El Paso, Texas 79902

Mrs. Scruggs is replacing Charles H. Knox of Fort Worth, Tarrant County, whose term expired.

### Statewide Health Coordinating Council

*For a two-year term to expire October 21, 1980:*

William F. Havey  
10050 North West Freeway  
Houston, Texas 77092 (at-large consumer)

Mr. Havey is filling the unexpired term of C. V. Rice of LaMarque, Galveston County, who is no longer eligible to serve.

*For two-year terms to expire October 21, 1981:*

Lois Del Castillo  
1040 West Jefferson  
Brownsville, Texas 78520 (HSA No. 8—provider)

Mrs. Castillo is replacing Dr. James L. Coleman, Jr., of Victoria, Victoria County, whose term expired.

Ramon Sergio Chapa  
1205 Texas, Federal Building  
Lubbock, Texas 79401 (HSA No. 2—consumer)

Mr. Chapa is replacing Veronica S. Metcalf of Lubbock, Lubbock County, whose term expired.

Francine Jensen, M.D.  
P.O. Box 25249  
Houston, Texas 77005 (HSA No. 11—provider)

Dr. Jensen is being reappointed.

Robert K. Pendergrass, M.D.  
135 Quitman Street  
Pittsburg, Texas 75686 (HSA No. 7—provider)

Dr. Pendergrass is replacing George B. Pearson of Tyler, Smith County, whose term expired.

Darwin Willis  
P.O. Box 510  
Graham, Texas 76046 (HSA No. 4—consumer)

Mr. Willis is replacing Judge Wilbur Ray Dunk of Junction, Kimble County, whose term expired.

Robert P. Carroll, Jr., M.D.  
4800A North East Stallings, Suite 1100  
Nacogdoches, Texas 75961 (HSA No. 10—provider)

Dr. Carroll is replacing John Paul Thompson of Livingston, Polk County, whose term expired.

Dixie Clem  
1104 Westwood Drive  
Plano, Texas 75075 (HSA No. 5—consumer)

Mrs. Clem is replacing Ruthmary T. White of Dallas, Dallas County, whose term expired.

Wade Hartrick, Ph.D.  
Professor Emeritus  
University of Texas at El Paso  
College of Business Administration  
El Paso, Texas 79968 (HSA No. 3—consumer)

Dr. Hartrick is being reappointed.

Christin Hartung  
P.O. Box 1562  
Houston, Texas 77001 (HSA No. 11—consumer)

Ms. Hartung is replacing Dorothy D. Kisling of Richmond, Fort Bend County, whose term expired.

Capres S. Hatchett, Jr., M.D.  
2209 West 7th  
Amarillo, Texas 79106 (HSA No. 1—provider)

Dr. Hatchett is being reappointed.

Betty Himmelblau  
P.O. Box 1088  
Austin, Texas 78767 (HSA No. 6—consumer)

Mrs. Himmelblau is being reappointed.

Alma Meinrath  
302 Dolphin Place  
Corpus Christi, Texas 78411 (HSA No. 8—consumer)

Mrs. Meinrath is being reappointed.

Elizabeth DeWitt Packer  
3000 Oak Ridge  
Temple, Texas 76501 (at-large consumer)

Boone Powell, Jr.  
19th & Hickory  
Abilene, Texas 79601 (HSA No. 4—provider)

Mr. Powell is being reappointed.

## Texas Board of Land Surveying

*Pursuant to Senate Bill 313, 66th Legislature, Regular Session, for six-year terms to expire January 31, 1985:*

Calvin Dudley  
922 South Gevers  
San Antonio, Texas 78203 (public member)

Mr. Dudley is replacing Bennis W. Meeks of Center, Shelby County, whose term expired.

Robert Spears  
1600 First National Bank Building  
Midland, Texas 79701 (public member)

Mr. Spears is replacing Irving H. Webb of Buchanan Dam, Llano County, whose term expired.

## Texas Board of Physical Therapy Examiners

*For a six-year term to expire January 31, 1981:*

David Allan Hardison  
Hill Country Memorial Hospital  
P.O. Box 978  
Fredericksburg, Texas 78624

Mr. Hardison will be filling the unexpired term of J. D. Wendeborn of Laredo, Webb County, who resigned.

## Teacher Retirement System of Texas

*To the State Board of Trustees for a six-year term to expire August 31, 1985:*

Edward H. Wicker  
P.O. Box 880  
Beeville, Texas 78102

Mr. Wicker is being reappointed.

## Teachers' Professional Practices Commission

*For a two-year term to expire August 31, 1981:*

Linda Bohls Ellis  
Eastside Elementary School  
Del Rio, Texas 78840 (elementary school teacher)

Mrs. Ellis is replacing Nancy H. Hall of Hereford, Deaf Smith County, whose term expired.

## Advisory Council on Youth Camp Safety

*For two-year terms to expire December 1, 1981:*

Raymond B. Bean  
Executive Director  
YMCA—Camp Grady Spruce  
901 Ross Street  
Dallas, Texas 75202

Mr. Bean is being reappointed.

Bryan L. Walker  
Route 3, Rocky Point Center  
Roanoke, Texas 76262

Mr. Walker is replacing Silas B. Ragsdale, Jr., of Hunt, Kerr County, whose term expired.

Issued in Austin, Texas, on January 8 and 9, 1980.

Doc. No. 800232- William P. Clements, Jr.  
800233 Governor of Texas

For further information, please call (512) 475-3021.

Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.



## Requests for Opinions

### Summary of Request for Opinion RQ-245

Request from Robert Bernstein, M.D., acting commissioner of health, Texas Department of Health, Austin.

#### *Summary of Request:*

(1) May the Texas Department of Health, following procedures set out in Article 601b, Vernon's Texas Civil Statutes, legally purchase supplies, materials, equipment, or services from any business, proprietorship, partnership, corporation, or other entity wholly or partially owned by a member of the Texas Board of Health?

(2) If your answer to the preceding question is in the affirmative but containing any qualifications or restrictions, then what are such qualifications or restrictions?

Doc. No. 800230

## Opinions

### Summary of Opinion MW-124

Request from Tom O'Connell, criminal district attorney, McKinney, concerning legality of county contracts in which a county commissioner is indirectly interested, and related questions.

*Summary of Opinion:* Where a county commissioner receives royalties on the sale of rock to a company which in turn sells the rock to the county, the contract for sale of the rock to the county is void.

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800231

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

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

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

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

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

## CODIFIED

### TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State

#### Chapter 81. Elections

##### Miscellaneous

The secretary of state is adopting on an emergency basis §81.10 (004.30.01.215), which prescribes the Declaration of Intent (As an Independent Candidate) form. This form must be filed by an independent candidate not later than 6 p.m. on the first Monday in February preceding a primary election. This section is being adopted on an emergency basis because the period for filing a declaration of intent has already commenced.

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

§81.10 (004.30.01.215). *Declaration of Intent (As an Independent Candidate) Form*. The Declaration of Intent (As an Independent Candidate) form is adopted by reference. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800254      George W. Strake, Jr.  
Secretary of State

Effective Date: January 10, 1980

Expiration Date: May 9, 1980

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

### TITLE 31. NATURAL RESOURCES AND CONSERVATION Part II. Texas Parks and Wildlife Department

#### Chapter 65. Wildlife

##### Statewide Hunting, Fishing, and Trapping

The Texas Parks and Wildlife Department extends the period of effectiveness of the amendments to §65.45 (127.70.01.344), which adds daily bag and possession limits for quail. The original text of §65.45 as amended was published in the October 5, 1979, issue of the *Texas Register* (4 TexReg 3612). The amendments to §65.45 are renewed for a 60-day period, effective January 26, 1980.

Issued in Austin, Texas, on January 8, 1980.

Doc. No. 800242      Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife Department

Effective Date: January 26, 1980

Expiration Date: March 26, 1980

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

## NONCODIFIED

### Texas Department of Human Resources

#### Medicaid Eligibility

The Texas Department of Human Resources extends the period of effectiveness for various rules and amendments, which were adopted on an emergency basis, about eligibility policies and procedures for Type Program 51 in its Medicaid eligibility rules. The original texts of the following new rules and amended rules were published in the October 9, 1979, issue of the *Texas Register* (4 TexReg 3667).

##### Eligible Recipients for Title XIX (Medicaid) 326.25.21

The Texas Department of Human Resources is renewing, effective January 30, 1980, for a 60-day period, the amendments to Rule 326.25.21.001, Categorically Needy.

##### Individuals for Whom SSI Eligibility Criteria Are Used 326.25.31

The Texas Department of Human Resources is renewing, effective January 30, 1980, for a 60-day period, the amendments to Rule 326.25.31.001, Types of Applicants.

##### Income for Individuals Related to the SSI Program 326.25.34

The Texas Department of Human Resources is renewing, effective January 30, 1980, for a 60-day period, Rule 326.25.34.020, Special Income Exclusion for Type Program 51 Recipients.

### Budgeting for Individuals Related to the SSI Program 326.25.35

The Texas Department of Human Resources is renewing, effective January 30, 1980, for a 60-day period, the amendments to Rule 326.25.35.011, Budget to Determine Eligibility.

### Procedures for Applicants for Medical Assistance 326.25.53

The Texas Department of Human Resources is renewing, effective January 30, 1980, for a 60-day period, Rule 326.25.53.016, Reapplication for Rider 51 MAO Cases (Type Program 51).

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800223- Susan L. Johnson, Assistant Chief  
800227 Systems and Procedures Bureau  
Texas Department of Human Resources

Effective Date: January 30, 1980

Expiration Date: March 30, 1980

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

### Texas Board of Private Investigators and Private Security Agencies

#### Training Programs 399.20.00

The Texas Board of Private Investigators and Private Security Agencies has amended Rule 399.20.00.009, on an emergency basis, in order that the amendment to this rule promulgated by the board becomes effective immediately and in order to assure that all rules so promulgated are in accordance with recent amendments made to Article 4413(29bb), Vernon's Annotated Civil Statutes, by the 66th Legislature of the State of Texas. It is necessary that this amendment becomes effective immediately in order to include first aid training in the training curriculum for private security of-ficers.

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Annotated Civil Statutes as amended) in order to properly implement and enforce the same.

#### .009. Basic Training Course.

(a) The basic training course shall consist of a minimum of 30 [25] hours and shall include:

(1)-(6) (No change.)

(7) *first aid (successful completion of the American Red Cross eight-hour standard multimedia first aid course).*

(b)-(c) (No change.)

Issued in Austin, Texas, on January 10, 1980.

Doc. No. 800243 Clema D. Sanders  
Executive Director  
Texas Board of Private Investigators and  
Private Security Agencies

Effective Date: January 15, 1980

Expiration Date: May 14, 1980

For further information, please call (512) 475-3944.





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

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

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## CODIFIED

### TITLE 1. ADMINISTRATION

#### Part IV. Office of the Secretary of State

##### Chapter 81. Elections

###### Time and Place of Election

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal §81.11 (004.30.02.101), which specifies those elections to be held on the first Tuesday after the first Monday in November of even-numbered years. This section is being proposed for repeal because it merely restates verbatim the provisions of applicable law.

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

Public comment on the proposed repeal is invited. Comments may be submitted in writing to the Elections Division of the Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711, or by telephoning the Elections Division at (512) 475-3091 or 1-800-252-9602.

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

**§81.11 (004.30.02.101). Elections Prohibited on General Election Date.**

Doc. No. 800255

###### Suffrage

The secretary of state is proposing to amend §§81.48 and 81.49 and §§81.51-81.53 (004.30.05.320, .321, and .323-~~825~~), concerning the postage-free voter registration applications system administered by the secretary of state. These amendments are designed to update and clarify existing rules.

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

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at the Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

These amendments are proposed under the authority of Articles 1.03 and 5.13a, Vernon's Texas Election Code.

**§81.48 (004.30.05.320). Implementation of Postage-Free Voter Registration System.** *The secretary of state will provide postage-free voter registration applications in reasonable quantities to voter registrars, individuals, organizations, businesses, and political subdivisions requesting them. The postage-free applications may be printed only by the secretary of state. This office will notify each registrar of the number of applications released in the particular county by using the form entitled Notice of Delivery of Applications. The notice will indicate the quantity and date of delivery of postage-free applications and the names and addresses to which applications have been delivered in each county. The secretary of state will provide postage-free voter registration applications in reasonable quantities to any individual, organization, business, or political subdivision requesting them. Individual registrars may also request a supply. The postage-free application may be printed only by the secretary of state. The secretary of state will notify each registrar of the number of applications released in a particular county and notice will indicate the quantity and date of delivery of postage-free applications and the name and address of the organization to which the applications have been delivered in each county.*

**§81.49 (004.30.05.321). Business Reply Card [Mail] Permits.** *Each voter registrar must submit a copy of statewide Permit No. 4511 to the local post office prior to January 1, 1980, in order to receive business reply cards from the post office after that date. The 1978 applications with individual county permit numbers will not be delivered by the post office after January 1, 1980, and should no longer be used.*

(a) Each voter registrar must obtain a business reply permit from the local post office at an annual cost of \$30. The secretary of state will send each registrar a state warrant payable to the local postmaster for that amount as well as an example of a U.S. Postal Service application form, application to distribute business reply cards, envelopes, cartons, and labels. This form must be submitted to the local post office in order to receive a business reply mail permit. Immediately upon receipt from the local post office, each registrar should mail a copy of the permit authorization form to the secretary of state.

[(b) The registrar should submit the application form and the warrant for \$30 to the local post office upon receipt of the official directive from the secretary of state, but should clearly indicate to the postmaster that the application is for a business reply permit to become effective January 1, 1978.]

§81.51 (004.30.05.323). *Business Reply Card [Mail] Advance Deposit Trust Accounts.*

(a) *The secretary of state will determine which counties qualify for a business reply card advance deposit trust account to be maintained in the post office, and counties that qualify for this account will receive an annual \$75 accounting fee from the Secretary of State's Office. Under this system, each application returned to the registrar's office will cost \$ .035 plus the regular \$ .10 postage for a total of \$ .135. This type of account will be economical for those counties in which more than 750 applications are returned per year.*

(b) *Voter registrars in counties maintaining a business reply card advance deposit trust account should be notified periodically by the local post office as to the balance of the account. A U.S. Postal Service form entitled Notice to Replenish Postage Due Advance Deposit will provide such notice. Each registrar should make arrangements with the local postmaster to have this notice sent well in advance to avoid an overdrawn account.*

[The following procedure applies to those counties designated to use a business reply mail advance deposit trust account. A state warrant for \$75 is to be used for the annual accounting fee and a second warrant is to be utilized for the initial advance deposit in the account. Each application returned to the registrar's office under this system will cost \$ .035 plus regular \$ .09 postage.]

§81.52 (004.30.05.324). *"Regular" Postage Due Accounts. Counties which do not receive a \$75 accounting fee should continue to maintain their postage due accounts as they have done previously. Each application returned to the registrar's office will cost \$ .12 plus the regular \$ .10 postage for a total of \$ .22.*

(a) *Those counties which are not designated to use a trust account should open a regular postage due account. A state warrant is to be utilized for the initial advance deposit. This warrant will be an approximation of the amount necessary for the number of applications it is anticipated will be received. Each application returned to the registrar's office will cost \$ .12 plus the regular \$ .09 postage.*

(b) *A proposed list of designated counties will be flexible in regard to possible additions due to changes in anticipated mailouts of applications. Requests to be included on this list may be submitted to the secretary of state.]*

§81.53 (004.30.05.325). *Coordination of County and Secretary of State Records.*

(a) *All voter registrars should notify the secretary of state by sending the form entitled Request for Postage Account Funds when they determine that the balance in their account may become overdrawn (or, in the case of counties with business reply card advance trust deposit accounts, immediately upon receipt of a notice to replenish). Upon receipt of this form, the secretary of state will issue a state warrant to the voter registrar to replenish the account.*

(b) *A ledger form is to be utilized by each registrar for bookkeeping purposes. The secretary of state will*

*maintain an identical ledger for each county. These identical ledgers are to be maintained through use of the form entitled Business Reply Card Account Balance. This report should be mailed to the secretary of state on the last day of each month by the registrar.*

(c) *The timely issuance of state warrants to supplement individual accounts will depend upon compliance with the reporting requirements outlined above.*

[(a) All voter registrars will be notified periodically by the post office as to the status of each account. Each registrar should make arrangements with the local postmaster to have the notice to replenish sent well in advance to avoid an overdrawn account situation. Immediately upon receipt, the registrar shall send a copy of this postal notice to the secretary of state. State warrants will be issued accordingly to fill depleted accounts.

(b) A ledger form will be utilized by each registrar for bookkeeping purposes. The secretary of state will maintain an identical ledger for each county. Identical ledgers, one in the Office of the Secretary of State and one with each registrar, are to be maintained through notifications of delivery and use of applications and the delivery and use of funds in the postage accounts. By comparing the quantity and delivery dates for applications noted on the ledgers to the balance in each account, the need for further state funds can be assessed and the risk of depletion of the account can be minimized. These records must be kept up to date by appropriate communications between each registrar and post office. The registrar must then forward such updated information to the secretary of state. The timely issuance of state warrants to supplement individual accounts will depend upon compliance with the report requirements outlined herein.

(c) A form entitled BRM applications filed should be mailed to the secretary of state monthly by each registrar whose county is included on the list for use of the BRM advance deposit trust account. The registrar of counties not designated to use trust accounts should mail the secretary of state a notification of the number of applications filed at least once every six months or as the need for additional state funds becomes apparent. If it appears that the amount in the business reply account is insufficient to handle the number of applications released, the secretary of state should be notified by mailing a request for postage account funds. State warrants will be issued accordingly. When it appears to the secretary of state, from an examination of the ledger maintained in this office of the county, that the remaining funds may not be sufficient, a state warrant may be issued without the necessity for any preliminary request.]

Doc. No. 800256

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal §81.50 (004.30.05.322), concerning the procedures for handling the postage-free voter registration applications business reply mail accounts. New procedures are contained in the amended §§81.48 and 81.49 and §§81.51-81.53 (.320 and .321 and .323-.325) that are proposed for adoption by the secretary of state concurrently with this repeal.

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

Public comment on the proposed repeal is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at the Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

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

*§81.50 (004.30.05.322). Business Reply Mail Accounts.*

Doc. No. 800257

### Arrangement and Expense of Election

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The secretary of state is proposing to repeal §81.91 (004.30.07.103), which prescribed the 1978 primary election expense estimate forms and the 1978 index to primary financing rules. At the same time, the secretary of state is proposing to adopt the 1980 primary financing rules and forms.

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

Public comment on the proposed repeal is invited. Comments may be submitted in writing to the Elections Division of the Office of the Secretary of State, P.O. Box 12887, Austin, or by telephoning the Elections Division at (512) 475-3091 or 1-800-252-9602.

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

*§81.91 (004.30.07.103). Adoption of Primary Finance Rules and Forms.*

Doc. No. 800258

### Nominations

The secretary of state is proposing to adopt §§81.139-81.146 (004.30.13.129-.136), which implement the guidelines for administering the primary finance law by the state executive committee as provided for in Article 13.08, Vernon's Texas Election Code.

The Elections Division of the Secretary of State's Office has determined that the proposed sections will have no fiscal impact to the state or units of local government.

Public comment on the proposed sections is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at the

Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

These sections are proposed under the authority of Articles 1.03 and 13.08(j), Vernon's Texas Election Code.

*§81.139 (004.30.13.129). State Executive Committee.* The state executive committee for each party holding primary elections shall conduct that party's primary election in accordance with the applicable laws and regulations of this state.

*§81.140 (004.30.13.130). Receipts.* Each state chairman shall retain all bills, invoices, and receipts for all primary expenses so that payment of expenses may be verified.

*§81.141 (004.30.13.131). Sworn Estimates (First Primary).* No later than April 3, 1980, the state chairman of each political party that will hold a primary election in 1980 shall submit to the secretary of state on the prescribed form a sworn and itemized estimate of the costs of conducting the first primary election, together with a sworn statement of the filing fees, contributions for the conduct of the primary, and any remaining balance from previous primary elections.

*§81.142 (004.30.13.132). Sworn Estimates (Second Primary).* In the event a statewide second (runoff) primary election is held, each state chairman shall, no later than May 14, 1980, submit to the secretary of state on the prescribed form a sworn and itemized estimate of the costs of the second primary election.

*§81.143 (004.30.13.133). Actual Costs.* No later than June 28, 1980, each state chairman shall submit to the secretary of state on the prescribed form a final sworn and itemized statement of actual costs incurred, filing fees collected, contributions for the conduct of the primary, and state warrants received, and an accounting of any remaining balance from previous primary elections. This sworn statement shall encompass the first primary and second primary, if any.

*§81.144 (004.30.13.134). Forms.* The secretary of state prescribes by reference the forms for the statements required in §§81.139-81.143 (.129-.133). These forms may be obtained from the Elections Division of the Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

*§81.145 (004.30.13.135). Expenses Reimbursed.* Subject to the rules stated below, the secretary of state shall reimburse all expenditures reasonably incurred by the state executive committee in conducting the primary election.

*§81.146 (004.30.13.136). Rental.* The secretary of state will not reimburse the expenses of purchasing office space, furniture, or equipment. Rental expenses only will be reimbursed for these items, except that the rental expense of existing facilities will not be reimbursed.

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800259      George W. Strake, Jr.  
Secretary of State

Proposed Date of Adoption: February 18, 1980  
For further information, please call (512) 475-3091.

## TITLE 13. CULTURAL RESOURCES Part I. Texas State Library and Archives Commission

### Chapter 1. Library Development

#### LSCA Annual Plan and Long-Range Plan

The Texas State Library proposes to amend the 1980 LSCA Annual Program, §1.21 (351.20.02.001), which established the procedures and the criteria used in making application for grants and determining recipients of grants under the Title III, Interlibrary Cooperation project.

The proposed amendment would change the language of the section. The amendment is proposed to comply with regulations in Subpart B of Part 130 of Chapter I of Title 45 of the Code of Federal Regulations, which are applicable to the library program authorized by the Library Services and Construction Act, Public Law 84-597 as amended 95-123.

Public comment on the proposed amendment to §1.21 (.001) is invited, and persons should submit their comments in writing to Raymond Hitt, P.O. Box 12927, Austin, Texas 78711.

The proposed amendment will be considered at the public hearing of the Texas Library and Archives Commission on February 27, 1980, at 10 a.m. in the Lorenzo de Zavala Archives and Library Building, Room 202, 12th and Brazos Streets, Austin.

The amendment to §1.21 (.001) is proposed under the authority of Article 5436a, Vernon's Annotated Civil Statutes.

**§1.21 (351.20.02.001). Adoption by Reference.** The Texas State Library adopts by reference all rules contained in the LSCA Annual Program, 1980 and Long-Range Plan, 1980-84 as amended in February 1980. Copies may be obtained from the Library Development Department of the Texas State Library, P.O. Box 12927, Capitol Station, Austin, Texas 78711.

Doc. No. 800244

#### Minimum Standards for Accreditation of Public Libraries in the State Library System

The Texas State Library is proposing to amend §§1.71-1.72 (351.20.05.001-.002) which deal with minimum standards for accreditation of public libraries in the state library system. Section 1.71 (.001) dealing with population served has been reworded to clarify the language and make it more easily understood. Two new factors have been added: (1) in keeping with new legislation, the section allows the use of the decennial census or official population estimates; and (2) a procedure for allocating population in the situation in which both a county library and city library expend county funds. Section 1.72 (.002), free library service, is being amended to include a definition of library services.

The proposed amendments have no fiscal implications for units of local governments of the state.

Public comments on the proposed amendments to §§1.71-1.72 (.001-.002) are invited. Persons should submit their com-

ments in writing to Raymond Hitt, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

A public hearing to consider these amendments has been scheduled for February 27, 1980, at 10 a.m. in Room 202 of the Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. Those wishing to make oral comments may do so at this hearing.

The amendments are proposed under the authority of Article 5446a, Texas Civil Statutes.

**§1.71 (351.20.05.001). Definition of Population Served.** For a city and/or county spending public monies for public library service, the population served by a public library is the population in the most recent decennial census or official population estimate of the U.S. Department of Commerce, Bureau of Census. Calculations will be based upon the following:

(1) In counties with only one public library that does not spend any county funds, the library serves only the city population.

(2) In counties with only one public library that spends county funds, the library serves the entire county population.

(3) In counties with two or more public libraries and only one library spends county funds, the library that spends county funds serves its city population and all of the county population living outside cities with public libraries.

(4) In counties with two or more libraries that spend both city and county funds, the libraries that spend county funds serve their city population plus a percentage of the population living outside the cities. The percentage is the ratio of each city's population to the total of all the cities' populations that spend county funds.

(5) In counties with a county library and one or more city libraries that spend county funds, the city libraries that spend county funds serve their city populations plus a percentage of the county population living outside the cities. The percentage is the ratio of each city's population to the county population. The county library serves all county residents not served by a city library.

[The population served by a public library is based upon the population recorded in the most recent United States census available for the city and/or county appropriating public monies for public library services. A municipal library contracting with a county government will be credited with all or a portion of the rural county population depending on whether other municipal libraries in the county also receive county financial support. In counties with more than one contracting municipal library, the rural county population is allocated to the municipal libraries based upon the proportion of the combined municipal population served by each municipality. County libraries having public libraries unaffiliated with the county library system will not be credited with the population served by the unaffiliated libraries.]

**§1.72 (351.20.05.002). Public Library Service.** Library services include the dissemination of materials and/or information by the library staff to the general public during posted or otherwise published hours of library outlets. A public library shall provide library services without a use charge to all persons residing in the library's tax supporting political subdivision with the following exceptions: reserving library materials; use of meeting rooms; replacement of lost

borrower cards; fines for overdue, lost, or damaged materials in accordance with local library policies; searches of machine-readable data bases; postage; in-depth reference services on a contractual basis; photocopying; library parking; services to nonresidents; sale of publications; and rental and deposits on equipment.

Issued in Austin, Texas, on January 10, 1980.

Doc. No. 800245 William D. Gooch  
Assistant State Librarian  
Texas State Library

Proposed Date of Adoption: February 18, 1980  
For further information, please call (512) 475-4119.

## NONCODIFIED

### State Board of Barber Examiners

#### Practice and Procedure

##### The Board 378.01.01

The State Board of Barber Examiners is proposing an amendment to Rule 378.01.01.001. The amendment was proposed in order to cut down on travel expense for board members by having examinations and board meetings the same week.

According to agency personnel and board members, there will be no additional cost of enforcing or administering the rule.

Public comment on the proposed amendment is invited. Comments may be submitted in writing or by telephoning Mary Jo McCrorey, executive secretary, 5555 North Lamar, Building H, Suite 111, Austin, Texas 78751, telephone (512) 458-2241.

The proposed amendment is authorized under Articles 8401-8407 and 8407a, Texas Civil Statutes.

*.001. Regular Meetings and Examinations. Examinations will be held on the first Monday of each month, and regular meetings of the State Board of Barber Examiners will be held on the Tuesday following the first Monday of each month [at 5555 North Lamar, Building H, Suite 111, Austin, Texas, on the first Monday of each month], except September and any legal holiday which falls on the first Monday, when examinations will be held on the second Monday and the board will meet on the second Tuesday [it will meet on the second Monday]. Meetings of the board will be held at 5555 North Lamar, Building H, Suite 111, Austin, Texas.*

Issued in Austin, Texas, on January 10, 1980.

Doc. No. 800251 Mary Jo McCrorey  
Executive Secretary  
State Board of Barber Examiners

Proposed Date of Adoption: February 18, 1980  
For further information, please call (512) 458-2241.

### Texas Health Facilities Commission

#### Appropriateness Review

Sections 1513(g) and 1523(a)(6) of the National Health Planning and Resources Development Act, Public Law 93-641 as amended, require health systems agencies and the states to institute programs for the review of the appropriateness of existing health services within each state. Section 2.10 of the Texas Health Planning and Development Act requires the Texas Health Facilities Commission to develop and implement an appropriateness review program in Texas. The commission proposes the adoption of new rules which establish procedures and criteria for conducting appropriateness review, schedules of review, and definitions of the health services to be reviewed.

The proposed rules will have no fiscal implications for units of local government or the state, according to agency personnel.

Public comment is invited and will be accepted until February 12, 1980. Written comments should be addressed to Dan R. McNery, Texas Health Facilities Commission, P.O. Box 15023, Austin, Texas 78761. A public hearing, material to the adoption of the proposed rules, will be held on February 8, 1980, at 9 a.m. in the offices of the Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Jefferson Building, Austin.

#### Explanation of Appropriateness Review 315.30.01

This subchapter gives an explanation of appropriateness review and the scope of review of existing institutional health services.

The rules are proposed under the authority of Article 4418(h), Texas Revised Civil Statutes.

*.010. Review of Health Services.* Under the authority of the National Planning and Resource Development Act (Public Law 93-641 as amended by Public Law 96-79), and Section 2.10 of the Texas Health Planning and Development Act (Article 4418(h)), the Texas Health Facilities Commission must periodically review all institutional health services being offered within the state with respect to which goals have been established in the State Health Plan, and make written findings concerning the appropriateness of such services.

*.020. HSA Review of Health Services.* The 12 health systems agencies within the State of Texas under the authority of the National Health Planning and Resources Development Act must periodically review all institutional health services being offered in their respective health service area and with respect to which goals have been established in the state health plan. The health systems agencies shall recommend findings concerning the continued appropriateness of those institutional health care services to the commission prior to the publication of the commission findings.

*.030. Scope of Review of Health Services.*

(a) The commission and health systems agencies shall review the appropriateness of all existing institutional health services in health care facilities (licensed or unlicensed) offering the health services.

(b) The commission and the health systems agencies shall notify each health care facility offering the service being reviewed in accordance with procedures included in this chapter at the beginning of the appropriateness review of each service.

.040. *Level of Review.* In the State of Texas, during each health service review, health systems agencies shall examine the appropriateness of a health service at the health service area level and the commission shall examine the appropriateness of a health service at the state level. The commission and the health systems agencies shall review the appropriateness of the specific health service as it is delivered by health care facilities within the health service area of each health systems agency or the state.

Doc. No. 800246

## Health Services 315.30.02

This subchapter identifies and defines the services to be reviewed.

The rules are proposed under the authority of Article 4418(h), Texas Revised Civil Statutes.

.010 *Health Services Reviewed.* The appropriateness review program in the State of Texas includes but is not limited to the review of the following institutional health services hereinafter referred to as services:

|                         |                    |
|-------------------------|--------------------|
| end-stage renal disease | alcoholism         |
| radiation therapy       | psychiatric        |
| cardiac catheterization | long-term care     |
| open heart surgery      | home health care   |
| emergency services      | immunization       |
| critical care units     | family planning    |
| pediatrics              | rehabilitation     |
| obstetrics              | burn care services |
| medical/surgical        | health maintenance |
| developmental           | organization (HMO) |
| disabilities            |                    |
| drug abuse              |                    |

.020. *End-Stage Renal Disease.* The stage of renal impairment which is almost always irreversible and permanent, and requires dialysis or kidney transplantation to maintain life. ESRD services include but are not limited to the following, which are provided in health care facilities:

(1) Renal dialysis—a process by which waste products and excess fluid are removed from an ESRD patient's body by osmosis from one fluid compartment to another (hemodialysis and peritoneal dialysis).

(2) Renal transplant—a process by which a kidney is excised from a live or cadaveric donor and such kidney is implanted in an ESRD patient and supportive care is furnished to the living donor and to the recipient following implantation.

.030. *Radiation Therapy.* A field within medicine which employs the use of high energy ionizing radiation for the treatment of disease.

.040. *Cardiac Catheterization.* A procedure for diagnosing disorders of the heart, lung, and the great vessels with the resource capability to insert catheters into the heart and adjacent great vessels, to reliably measure multiple parameters

of cardiac physiological activity, and to obtain visualization of the appropriate heart chambers and adjacent vessels.

.050. *Open Heart Surgery.* A class of highly technical operations on the heart and intrathoracic great vessels which requires temporary use of cardiopulmonary bypass equipment to perform the functions of circulation during surgery.

.060. *Emergency Services.* Emergency units provided by general hospitals or by other health care facilities in the following levels:

(1) Level I. A Level I emergency service offers comprehensive emergency care 24 hours a day, with at least one physician experienced in emergency care on duty in the emergency care area. There shall be in-hospital physician coverage for at least medical, surgical, orthopedic, obstetrical/gynecological, pediatric, and anesthesiology services by members of the medical staff or by senior-level residents, with other specialty consultation available within 30 minutes, as needed. The hospital's scope of services shall include in-house capabilities for managing physical and related emotional problems on a definitive basis. The above requirements shall also apply to a comprehensive-level emergency service provided by a hospital offering care only to a limited group of patients, such as pediatric, obstetrical, ophthalmological, and orthopedic.

(2) Level II. A Level II emergency service offers emergency care 24 hours a day, with at least one physician experienced in emergency care on duty in the emergency care area, and specialty consultation available within 30 minutes by members of the medical staff or by senior-level residents. The hospital's scope of service shall include in-house capabilities for managing physical and emotional problems, with provision for patient transfer to another facility when needed.

(3) Level III. A Level III emergency service offers emergency care 24 hours a day, with at least one physician available to the emergency care area within 30 minutes through a medical staff call roster. Specialty consultation shall be available by request of the attending medical staff member or by transfer to a designated hospital where definitive care can be provided.

(4) Level IV. A Level IV emergency service offers reasonable care in determining whether an emergency exists, renders lifesaving first aid, and makes appropriate referral to the nearest facilities that have the capability of providing needed services. The mechanism for providing physician coverage at all times shall be defined by the medical staff.

.070. *Critical Care.* A specialized nursing unit which concentrates seriously ill patients needing constant observation and specialized support equipment in specific areas within a hospital. The categories of critical care units which are generally found are as follows:

- medical intensive care unit
- surgical intensive care unit
- combined intensive care unit
- coronary intensive care unit

.080. *Pediatrics.* A specialized nursing unit or hospital devoted primarily to the care of medical and/or surgical patients less than 14 years old, not including special care for infants.

.090. *Obstetrics.* A specialized nursing unit or hospital devoted primarily to providing services for maternity and

newborn patients. Obstetrical and neonatal services have three levels of care:

Neonatal intensive care unit—a specialized nursing unit which concentrates seriously ill neonates (newborns less than four weeks old) needing constant observation and specialized support equipment and care. Neonatal intensive care units usually take on a regionalized configuration with three specific levels of care:

(1) Level I. A Level I unit primarily provides services for uncomplicated maternity and newborn patients with critical consideration given to the earliest possible detection of the "high risk" maternity and newborn patient and the capability to provide emergency obstetric and newborn care.

(2) Level II. A Level II unit provides a full range of maternal and neonatal services for uncomplicated patients and for the majority of complicated obstetrical problems and certain neonatal illnesses.

(3) Level III. A Level III unit provides care for normal patients but especially for all the serious types of maternal-fetal and neonatal illnesses and abnormalities. Level III units provide continuing education to improve the overall quality of care and generate, develop, and evaluate new concepts and techniques in prenatal and perinatal care. A Level III unit may be actively engaged in clinical and basic research related to perinatal health.

.100. *Medical/Surgical.* Inpatient and outpatient services providing care in health care facilities for medical and/or surgical purposes that are not designated in other specialized units of service listed.

.110. *Developmental Disabilities.*

(a) Services provided by hospitals or other health care facilities to individuals with a severe, chronic disability which:

(1) is attributable to a mental or physical impairment or combination of mental and physical impairments;  
 (2) is manifested before the person attains age 22;  
 (3) is likely to continue indefinitely;  
 (4) results in substantial functional limitations in three or more of the following areas of major life activity:

- (A) self-care,
- (B) receptive and expressive language,
- (C) learning,
- (D) mobility,
- (E) self-direction,
- (F) capacity for independent living, and
- (G) economic sufficiency; and

(5) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(b) Services for persons with developmental disabilities means priority services and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referred services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(c) Mental retardation. Mental retardation services provided by hospitals or other health care facilities to individuals with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating during the developmental period. Mental retardation services are generally provided in the following areas:

(1) ICF-MR-I—a service provided to ambulatory residents able to take appropriate action in emergencies, with IQs between 40 and 69, who do not need professional nursing care but are receiving and can benefit from actual developmental treatment. Self administration of medication is allowed with physician approval.

Note: Nonambulatory residents can be admitted to an ICF-MR-I facility only when the facility is surveyed under the institutional section of the Life Safety Code and is found to meet the code.

(2) ICF-MR-V—a service provided to ambulatory or mobile nonambulatory residents with IQ range severe through mild (25-69), with adaptive behavior levels 1-3 who can benefit from actual developmental treatment.

(3) ICF-MR-VI—a service provided to ambulatory, mobile nonambulatory, and/or nonmobile residents where IQ is severe to profound (39-0), with adaptive behavior levels 3-4 who can benefit from actual developmental treatment.

.120. *Drug Abuse.* The nonmedical use of any drug in such a way that it adversely affects some aspects of the user's life, and drug abuse treatment focuses on reducing existing cases of drug-related disorders in a given population.

(1) Environment (National Institute on Drug Abuse definitions).

(A) Prison. The client is incarcerated in a federal, state, or other prison or jail and participates in a treatment program within the correctional institution.

(B) Hospital (inpatient). The client resides in a hospital setting and is being treated primarily for a drug abuse problem. The client may, in addition, be receiving services for medical or psychiatric-psychological problems.

(C) Residential. The client resides in a drug abuse treatment clinic other than a prison or hospital. Halfway houses and therapeutic communities are included in this category.

(D) Daycare. The client resides outside the clinic. The client participates in a drug abuse treatment program, with or without medication, according to a minimum schedule as defined by the funding source (usually five or more hours, five or more days per week). Services provided may include individual, group, and family counseling; job development; and/or educational or legal services. The client has regularly assigned and supervised salaried or non-salaried work functions at the clinic.

(E) Outpatient. The client resides outside the clinic. The client participates in a drug abuse treatment program with or without medication. The client attends the clinic according to a predetermined schedule for services that includes counseling and supportive services. Outpatient differs from daycare in that usually the client attends the clinic less frequently and does not have regularly assigned and supervised functions at the clinic.

(2) Modality. Within any environment, the National Institute on Drug Abuse defines the primary treatment approach or regimen (modality) experienced by the client.

(A) **Detoxification** (with or without counseling). Detoxification is the period of planned withdrawal from drug dependency supported by use of a prescribed medication. If methadone detoxification exceeds 21 days, the treatment modality becomes maintenance; however, there are other types of detoxification which may last six weeks or longer.

(B) **Maintenance.** The modality assigned to the client during which only methadone, LAAM (1-alpha acetylmethadol), or Darvon/N (Propoxyphene-N) is prescribed to achieve stabilization. Detoxification from maintenance, slow methadone withdrawal, and the abstinence phase of maintenance are included in this category.

(C) **Drug free.** The treatment regimen that does not include any chemical agent or medication as the primary part of drug treatment. The treatment modality withdrawal without medication is drug free. Temporary medication may be prescribed in a drug-free modality, e.g., short-term use of tranquilizers, but the primary treatment method is traditional counseling (individual, group, family, etc.).

(D) **Other.** The primary treatment modality assigned the client is other than those specified above.

(i) **With medication.** The primary treatment modality assigned the client includes chemotherapy using a primary medication (other than methadone, LAAM, or Darvon-N), such as the antagonists. This includes the sustained use of medications for conditions such as anxiety, depression, manic depression, and schizophrenia.

(ii) **Without medication.** This includes modalities using other primary treatment methods, e.g., acupuncture, transcendental meditation, yoga, etc.

**.130. Alcoholism.** A disease of unknown cause, without recognizable anatomical signs, manifested by addiction to or dependence on alcohol. Universal alcoholism treatment and rehabilitation services include:

(1) **Extended services**—a specialized unit or facility that provides through an organized medical or professional team, permanent facilities that include inpatient beds, medical services, and continuous nursing services, emergency care diagnosis, and treatment of patients.

(2) **Medical care detoxification services**—a specialized unit or facility which provides 24-hour supervised care under the direction of a physician in a hospital or other suitably equipped medical setting.

(3) **Nonmedical care detoxification services**—a specialized unit or facility that provides treatment by utilization of rest, fluids, medications, counseling, and nursing care to restore physiological functions.

(4) **Intermediate care services**—a specialized unit or facility designed to rehabilitate the alcoholic person by placing the client in an organized therapeutic environment in which he may receive diagnostic services, counseling, vocational rehabilitation, and/or work therapy.

(5) **Outpatient care services**—a specialized unit or facility designed to provide a variety of diagnostic and primary alcoholism treatment services on both a scheduled basis and nonscheduled basis in a nonresidential setting to alcoholic persons and their families.

(6) **Outreach care services**—a specialized unit or facility that provides care and facilitates identification (within a target population) of persons and their families who have problems related to the use of alcohol.

(7) **After care services**—a specialized unit or facility that provides care to patients who have progressed sufficiently through emergency, inpatient, intermediate, and/or

outpatient services to a point in their recovery where they will benefit from a level of continued contact which will support and increase the gains made to date in the treatment process.

**.140. Psychiatric.** A service provided by hospitals or other health care facilities which deals with the study, treatment, and prevention of mental illness.

(1) **Adult psychiatric service**—a specialized unit or facility offering as its primary function the diagnosis, treatment, and rehabilitation of the psychiatrically ill, and in which there are psychiatrists or other physicians who assume clinical responsibility for all patients with a primary diagnosis of psychiatric disorder.

(2) **Psychiatric outpatient service**—a specialized unit or facility which enables individuals to obtain psychiatric treatment for emotional, mental, or behavioral problems without disrupting the pattern of their daily lives. The usual procedure involves periodic visits of a relatively short duration.

(3) **Child and adolescent psychiatric services**—a specialized unit or facility having as its primary function the assessment, treatment, and rehabilitation of children and adolescents with emotional and/or behavioral disorders and/or deviations or disturbances in their development, and in which there are psychiatrists or other physicians who assume medical responsibilities for all children and adolescents under the care of a facility.

**.150. Long-Term Care.** Health care services provided by hospitals, nursing homes, or other health care facilities to individuals who require health care services above the level of room and board on a long-term basis due to chronic illness, age, or disability (mental or physical).

(1) **Skilled nursing care**—a service necessitating skilled nursing techniques and/or medical therapy of a complex and/or intensive degree on a long-term basis. The care would meet the current health needs and promote the maximum physical and psychosocial well-being of patients receiving such care on a 24-hour basis. Licensed nursing care and supervision is required.

(2) **Intermediate care**—a service providing medically and socially oriented nursing care necessitating licensed nursing supervision and/or services and/or medical therapy of a moderately complex yet specific nature on a long-term basis. This care would meet the current health needs and promote the maximum physical and psychosocial well-being of patients receiving such care.

(3) **Custodial care**—socially oriented institutional care necessitating personal and social supervision and/or services of a simple but nonmedical nature on a long-term basis.

(4) **Extended care**—a health care service provided by a skilled nursing facility or other health care facility to individuals recovering from an acute illness or operation for an extended period of time and do not require hospitalization or long-term care.

**.160. Home Health Care.** A health care service provided by an agency in a patient's residence for pay or other consideration according to a written and signed plan of treatment prescribed by a physician. The health care services provided in a patient's residence include nursing care, physical therapy, occupational therapy, speech therapy, medical social service, home health aide, furnishing medical supplies, and nutritional counseling.



*.170. Immunization Services.* Those services and health-related support activities provided by health care facilities or other health care entities directed toward rendering individuals resistant to specific diseases by means of vaccines. Appropriateness review will be restricted to such services which are provided routinely for preventive purposes to the general public or specific population groups within the general public by agencies of federal, state, or local government. Participation by hospitals and private physicians in immunization programs administered by federal and state agencies will be reviewed only to the extent that information related to such participation is available from the administering agency.

*.180. Family Planning.* A service provided by a health care facility or other health care entity which utilizes a range of methods of fertility regulation to help individuals or couples to avoid unwanted births; bring about wanted births; produce a change in the number of children born; regulate the intervals between pregnancies; and control the time at which births occur in relation to the age of parents. It may include an array of activities such as from birth planning, the use of contraception, and the management of infertility to sex education, marital counseling, and even genetic counseling. Family planning has succeeded the older term, birth control, which is now felt to be restrictive in meaning. Birth control can be separately defined as the prevention of pregnancy by contraception, abortion, sterilization, or abstinence from coitus.

*.190. Rehabilitation.* A service that provides care for coordinated multidisciplinary physical restoration of normal form and function to a person after injury or illness, or the development and/or restoration of a disabled (congenital or otherwise), ill, or injured person to self-sufficiency and/or gainful employment at his or her highest attainable skill in the shortest possible time, but excludes any services offered in the office(s) and/or treatment areas(s) of a physician, or group of physicians, in private practice.

*.200. Burn Unit.* A discrete, self-contained unit located in a hospital or other health care facility that is equipped, staffed, and devoted exclusively to the provision of burn care.

*.210. Burn Center.* A discrete, self-contained unit located in a hospital or a facility that is equipped, staffed, and devoted exclusively to the provision of burn care. It has the capacity to provide the following: emergency care and stabilization of burn patients; evaluation of burn severity; acute, convalescent, and rehabilitative burn care; basic and clinical research; and education and training.

*.220. Health Maintenance Organization (HMO).* An entity that undertakes to provide or arrange for the provision of one or more health care plans, pursuant to the Texas Health Maintenance Organization Act, Article 20A.01-20A.35, Texas Revised Civil Statutes. A health care plan is any arrangement whereby an entity undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care service and at least part of such arrangements consists of arranging for or the provision of health care services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

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## Review Criteria Indicators and Standards 315.30.03

This subchapter describes the characteristics, criteria, and indicators which are to be utilized in the performance of appropriateness review.

The rules are proposed under the authority of Article 4418(h), Texas Revised Civil Statutes.

*.010. Appropriateness Review Characteristics.* The health systems agencies and the commission in conducting appropriateness review of all services shall consider certain factors or characteristics to determine the degree to which the services meet the health care needs of the population served. The review characteristics include the following:

- (1) the availability of the service;
- (2) the accessibility of the service;
- (3) the quality of the service;
- (4) the continuity of the service;
- (5) the cost of the service; and
- (6) the acceptability of the service.

*.020. Review Criteria.* The characteristics form the basis of review criteria by providing specific parameters by which a service's performance is assessed. When a service compares favorably with all of the established review criteria against which it is properly measured, the service shall be considered appropriate by the health systems agency and the commission. When a service compares unfavorably with one or more of the established review criteria against which it is properly measured, the health systems agency and the commission may consider the service inappropriate.

### *.030. Availability Criterion.*

(a) A health care service under review should be available to the population in the health service area and the state.

(b) In reviewing health care services for appropriateness, the commission and the health systems agencies shall determine the extent to which the health care services are available to patients in a specified area.

(c) In conducting a review to determine availability, the following shall be considered:

- (1) the geographic areas and population groups that will be served by the service under review;
- (2) the inadequacies of existing health care delivery systems in the health service area as they relate to the service under review;
- (3) the current and projected utilization for the service under review;
- (4) the population trends and vital rates for the health service area;
- (5) the availability of resources (including health manpower, management personnel, and funds for capital and operating need) for the provision of the service under review; and
- (6) the percentage of out- and in-migration for utilization of the service under review.

### *.040. Accessibility Criterion.*

(a) A health care service under review should be accessible to the population in the health service area and the state.

(b) In reviewing health care services for appropriateness, the commission and the health systems agencies shall

determine the extent to which the health care system inhibits or facilitates provision of appropriate services.

(c) In conducting a review to determine accessibility the following shall be considered:

- (1) the geographical areas and population groups that will be served by the service under review;
- (2) the barriers (i.e. cultural, physical, transportation, financial, etc.) that could affect the service within the area;
- (3) the current and projected utilization of the service under review;
- (4) the accessibility of the service under review to patients in the health service area.

*.050. Quality Criterion.*

(a) A health care service under review should be provided in a quality manner.

(b) In reviewing health care services for appropriateness, the commission and the health systems agencies shall determine the extent to which the health services delivered meet established standards of quality.

(c) In conducting a review, the following shall be considered:

- (1) the inadequacies of existing health care delivery systems in the health service area as they relate to the service under review;
- (2) the utilization of appropriate resources, including health manpower, facilities, and equipment for the provision of the service under review; and
- (3) the accreditation, certification, licensure, or other established standards or mechanisms for evaluating the provision of the service under review.

*.060. Continuity Criterion.*

(a) A health care service under review should be provided so that continuity of care is available.

(b) In reviewing health care services for appropriateness, the commission and the health systems agency shall determine the extent of effective linkages and coordination in providing a succession of appropriate services over time.

(c) In conducting a review to determine continuity, the following shall be considered:

- (1) the coordination agreements for shared services as they relate to the service under review;
- (2) how the service under review accomplishes effective integration with other services and elements of the health care system; and
- (3) the availability and proximity of appropriate health manpower, facilities, and equipment required to support the service under review.

*.070. Cost Criterion.*

(a) A health care service under review should be provided in a cost effective manner.

(b) In reviewing health care services for appropriateness, the commission and the health systems agencies shall determine the cost to the patient for procedures encountered in the service category and the extent to which health services are delivered in a cost effective manner.

(c) In conducting a review to determine cost effectiveness, the following shall be considered:

- (1) the availability of less costly or more effective alternative methods of providing such service;
- (2) the total economic value of resources required to provide services, including all financial expenditures.

*.080. Acceptability Criterion.*

(a) A health care service under review should be acceptable to the population in the health service area and the state.

(b) In reviewing health care services for appropriateness the commission and the health systems agency shall determine the measure of consumers' satisfaction with the services they receive, the manner in which the services are delivered, the ease with which services are obtained, and their confidence in the providers of the services.

(c) In conducting a review to determine acceptability the following shall be considered:

- (1) the barriers (i.e. cultural, physical, transportation, etc.) that could affect the service within an area;
- (2) the availability of less costly or more effective alternative methods of providing such service;
- (3) the existence of mechanisms for soliciting patient comment and existence of patient's bill of rights; and
- (4) percentage of out- and in-migration for utilization of the service under review.

*.090. Other Factors Considered in Review.*

(a) In considering various review criteria during review the health systems agency and the commission shall review and examine various other factors and information relating to the service under review. These factors or indicators assist the health systems agency and the commission in determining whether a service compares favorably or unfavorably with the review criteria.

(b) In the review of a service the commission shall consider the following factors:

- (1) the relationship of the service under review to the applicable health systems plan(s), and annual implementation plan(s), and the state health plan;
- (2) the relationship of the service under review to the long-range development plans (if any) of existing facilities providing the service;
- (3) the need that the population served has for the service under review, and the extent to which low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups have access to the service;
- (4) the special circumstances of providing the service under review with respect to the need for conserving energy;
- (5) the effect of competition on the supply of the health service under review;
- (6) improvements or innovations in the financing and delivery of the service under review which foster competition and serve to promote quality assurance and cost effectiveness;

(7) the special needs and circumstances of those entities which provide a substantial portion of their services or resources to individuals not residing in the health service area or in adjacent health service areas (these entities may include medical and other health profession schools, multidisciplinary clinics, and specialty centers);

(8) the special needs and circumstances of HMOs—the needs and circumstances shall include:

(A) the needs of enrolled members and reasonably anticipated new members of the HMO for the existing institutional health services provided by the organization;

(B) whether the services are obtained in a reasonable and cost-effective manner which is consistent with the

basic method of operation of the HMO, if the HMO is obtaining services from non-HMO, or other HMO, providers;

(9) the special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages;

(10) the contribution of the existing institutional health service in meeting the health-related needs of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services, particularly those needs identified in the applicable health systems plan(s) and annual implementation plan(s) as deserving of priority.

*.100. Specific Service Indicators.* In order for the commission and the health systems agencies to determine whether a service under review compares favorably with the review criteria, specific indicators are established by these rules. The health care service indicators are contained in this subchapter.

*.110. End-Stage Renal Disease Indicators.*

(a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization).

(b) Accessibility:

- (1) size of service area;
- (2) density of population within service area;
- (3) travel time;
- (4) hours of operation;
- (5) available transportation systems;
- (6) financial—are there any financial policies that would prohibit patient services because of inability to pay.

(c) Quality:

- (1) percentage of services delivered in accredited or certified facilities;
- (2) availability of qualified health manpower (including physician and physician specialists) to provide the service.

(d) Continuity:

- (1) levels of service available;
- (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
- (3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

- (1) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;
- (2) physical barriers—consideration for the handicapped;
- (3) percentage of out- and in-migration for utilization of the service.

*.120. Radiation Therapy Indicators.*

(a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization);
- (4) personal services (lodging, food, etc.).

(b) Accessibility:

- (1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) hours of operation;

(5) available transportation systems;

(6) financial—are there any financial policies that would prohibit patient services because of inability to pay.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) range of service available;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(2) physical barriers—consideration for the handicapped;

(3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(4) percentage of out- and in-migration for utilization of the service.

*.130. Cardiac Catheterization Indicators.*

(a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization).

(b) Accessibility:

- (1) size of service area;
- (2) density of population within service area;
- (3) travel time;
- (4) financial—are there any financial policies that would prohibit patient services because of inability to pay;
- (5) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

- (1) levels of service;
- (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
- (3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

- (1) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;
- (2) percentage of out- and in-migration for utilization of the service.

*.140. Open Heart Surgery Indicators.*

(a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization).

(b) Accessibility:

- (1) size of service area;
- (2) density of population within service area;

(3) travel time;

(4) financial—are there any financial policies that would prohibit patient services because of inability to pay;

(5) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) levels of service;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(2) percentage of out- and in-migration for utilization of the service.

#### .150. *Emergency Services Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) hours of operation;

(5) available transportation systems;

(6) financial—are there any financial policies that would prohibit patient services because of inability to pay.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) levels of service;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(2) physical barriers—consideration for the handicapped;

(3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

#### .160. *Critical Care Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) financial—are there any financial policies that would prohibit patient services because of inability to pay;

(5) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) levels of service;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability—existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

#### .170. *Pediatric Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) available transportation systems;

(5) financial—are there any financial policies that would prohibit patient services because of inability to pay;

(6) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(7) physical barriers—consideration for the handicapped.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(2) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(2) percentage of out- and in-migration for utilization of the service.

#### .180. *Obstetric Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) available transportation systems;

(5) financial—are there any financial policies that would prohibit patient services because of inability to pay;

(6) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(7) physical barriers—consideration for the handicapped.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) levels of service available—regionalized system of maternal and prenatal health;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(2) percentage of out- and in-migration for utilization of the service.

#### .190. *Medical/Surgical Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) available transportation systems;

(5) financial—are there any financial policies that would prohibit patient services because of inability to pay;

(6) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(7) physical barriers—consideration for the handicapped.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(2) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(2) percentage of out- and in-migration for utilization of the service.

#### .200. *Developmental Disabilities Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) hours of operation;

(5) available transportation systems;

#### .210. *Drug Abuse Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

(3) travel time;

(4) hours of operation;

(5) available transportation systems;

(6) financial—are there any financial policies that would prohibit patient services because of inability to pay.

(c) Quality—percentage of services delivered in accredited or certified facilities or agencies.

(d) Continuity:

(1) levels of service available;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) language/cultural barriers—the ability of personnel to communicate to residents in the prevailing area languages;

(2) physical barriers—consideration for the handicapped;

(3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(4) percentage of out- and in-migration for utilization of the service.

(6) financial—are there any financial policies that would prohibit patient services because of inability to pay.

(c) Quality—percentage of services delivered in accredited or certified facilities.

(d) Continuity:

(1) levels of service available;

(2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;

(3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability:

(1) Language/cultural barriers—the ability of personnel to communicate to residents in the prevailing area languages;

(2) physical barriers—consideration for the handicapped;

(3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;

(4) percentage of out- and in-migration for utilization of the service.

#### .220. *Alcoholism Indicators.*

(a) Availability:

(1) capacity—resources necessary to deliver service;

(2) geographical distribution of service;

(3) demand (including rates of utilization).

(b) Accessibility:

(1) size of service area;

(2) density of population within service area;

- (3) travel time;
- (4) hours of operation;
- (5) available transportation systems;
- (6) financial—are there any financial policies that would prohibit patient services because of inability to pay.
- (c) Quality—percentage of services delivered in accredited or certified facilities or agencies.
- (d) Continuity:
  - (1) levels of service available;
  - (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
  - (3) proximity of support services.
- (e) Cost—the availability of less costly or more appropriate methods of providing such services.
- (f) Acceptability:
  - (1) language/cultural barriers—the ability of personnel to communicate to residents in the prevailing area languages;
  - (2) physical barriers—consideration for the handicapped;
  - (3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;
  - (4) percentage of out- and in-migration for utilization of the service.

#### .230. *Psychiatric Indicators.*

- (a) Availability:
  - (1) capacity—resources necessary to deliver service;
  - (2) geographical distribution of service;
  - (3) demand (including rates of utilization).
- (b) Accessibility:
  - (1) size of service area;
  - (2) density of population within service area;
  - (3) travel time;
  - (4) hours of operation;
  - (5) available transportation systems;
  - (6) financial—are there any financial policies that would prohibit patient services because of inability to pay.
- (c) Quality—percentage of services delivered in accredited or certified facilities or agencies.
- (d) Continuity:
  - (1) levels of service available;
  - (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
  - (3) proximity of support services.
- (e) Cost—the availability of less costly or more appropriate methods of providing such services.
- (f) Acceptability:
  - (1) language/cultural barriers—the ability of personnel to communicate to residents in the prevailing area languages;
  - (2) physical barriers—consideration for the handicapped;
  - (3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights;
  - (4) percentage of out- and in-migration for utilization of the service.

#### .240. *Long-Term Care Indicators.*

- (a) Availability:
  - (1) number of beds available at each level of care:
    - (A) present occupancy for each level;

- (B) present population and future population trends;
  - (2) services offered;
  - (3) services not available in the area;
  - (4) professional staffing patterns;
  - (5) nonprofessional (nonlicensed personnel) staffing patterns;
  - (6) support facilities and services.
- (b) Accessibility:
  - (1) patient mix characteristics of area (ethnicity, age, diagnosis, handicap);
  - (2) percentage of patient revenues by service (private pay, Title XIX, Title XVIII, etc.);
  - (3) size of service area;
  - (4) travel time;
  - (5) hours of operation;
  - (6) available transportation systems.
- (c) Quality:
  - (1) percentage of facilities accredited or certified;
  - (2) availability of in-service training and continuing education for staff and volunteers and education and training of residents;
  - (3) existence of treatment plans and plan of care designed to meet the individual patient's needs.
- (d) Continuity:
  - (1) alternate care available (home care, outpatient clinics, hospitals, etc.);
  - (2) transfer agreements and their utilization;
  - (3) existence of treatment plans and plan of care designed to meet the individual patient's needs.
- (e) Cost—the availability of less costly or more appropriate methods of providing such services.
- (f) Acceptability:
  - (1) staff acceptability and capabilities—the ability of personnel to communicate with patients in the prevailing area languages;
  - (2) orientation and education of the patient and family concerning services provided;
  - (3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

#### .250. *Home Health Care Indicators.*

- (a) Availability:
  - (1) capacity—resources necessary to deliver service;
  - (2) geographical distribution of service;
  - (3) demand (including rates of utilization).
- (b) Accessibility:
  - (1) size of service area;
  - (2) density of population within service area;
  - (3) travel time;
  - (4) hours of operation;
  - (5) available transportation systems;
  - (6) financial—are there any financial policies that would prohibit patient services because of inability to pay.
- (c) Quality—percentage of services delivered by accredited or certified facilities.
- (d) Continuity:
  - (1) levels of service available;
  - (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
  - (3) proximity of support services.
- (e) Cost—the availability of less costly or more appropriate methods of providing such services.

## (f) Acceptability:

- (1) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;
- (2) physical barriers—consideration for the handicapped;
- (3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

**.260. Immunization Service Indicators.**

## (a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization).

## (b) Accessibility:

- (1) size of service area;
- (2) density of population within service area;
- (3) travel time;
- (4) hours of operation;
- (5) available transportation systems;
- (6) financial—are there any financial policies that would prohibit patient services because of inability to pay;
- (7) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;
- (8) physical barriers—consideration for the handicapped.

## (c) Quality:

- (1) percentage of services delivered by accredited or certified agencies;
- (2) established procedures for reporting adverse vaccine reactions;
- (3) established procedures for maintaining safety standards and vaccine quality.

## (d) Continuity:

- (1) levels of service available;
- (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated, including mechanisms for the identification of individuals in need of immunization services;
- (3) proximity and nature of back-up capabilities in case of adverse vaccine reaction.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability—existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

**.270. Family Planning Indicators.**

## (a) Availability:

- (1) health service needs of the population and special population groups;
- (2) geographical distribution of health services;
- (3) capacity—resources necessary to deliver service;
- (4) present utilization rates;
- (5) projected future needs of the population to be served.

## (b) Accessibility:

- (1) distribution of service within the health service area;
- (2) size of service area;
- (3) travel time;
- (4) hours of operation;
- (5) available transportation systems;

(6) financial—are there any financial policies that would prohibit patient services because of inability to pay;

(7) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(8) physical barriers—consideration for the handicapped.

## (c) Quality:

(1) the availability of personnel, equipment, support services;

(2) conformance with national, state, and local regulations and accreditation standards;

(3) conformance with national, state, and local safety regulations.

## (d) Continuity:

(1) adequacy of the availability of personnel, equipment, and support services;

(2) affiliation agreements;

(3) referral and follow-up mechanisms;

(4) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

(f) Acceptability—existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

**.280. Rehabilitation Indicators.**

## (a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization).

## (b) Accessibility:

- (1) size of service area;
- (2) density of population within service area;
- (3) travel time;
- (4) hours of operation;
- (5) available transportation systems;
- (6) financial—are there any financial policies that would prohibit patient services because of inability to pay.

(c) Quality—percentage of services delivered by accredited or certified facilities or agencies.

## (d) Continuity:

- (1) levels of service available;
- (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
- (3) proximity of support services.

(e) Cost—the availability of less costly or more appropriate methods of providing such services.

## (f) Acceptability:

(1) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;

(2) physical barriers—consideration for the handicapped;

(3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

**.290. Burn Unit/Burn Center Indicators.**

## (a) Availability:

- (1) capacity—resources necessary to deliver service;
- (2) geographical distribution of service;
- (3) demand (including rates of utilization).

- (b) Accessibility:
- (1) size of service area;
  - (2) density of population within service area;
  - (3) travel time;
  - (4) financial—are there any financial policies that would prohibit patient services because of inability to pay;
  - (5) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages.
- (c) Quality—percentage of services delivered by accredited or certified facilities or agencies.
- (d) Continuity:
- (1) levels of service;
  - (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
  - (3) proximity of support services.
- (e) Cost—the availability of less costly or more appropriate methods of providing such services.
- (f) Acceptability—existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

### .300. Health Maintenance Organization (HMO) Indicators.

- (a) Availability:
- (1) capacity—resources necessary to deliver service;
  - (2) geographical distribution of service;
  - (3) demand (including rates of utilization).
- (b) Accessibility:
- (1) size of service area;
  - (2) density of population within service area;
  - (3) travel time;
  - (4) hours of operation;
  - (5) available transportation systems;
  - (6) financial—are there any financial policies that would prohibit patient services because of inability to pay.
- (c) Quality—percentage of services delivered by accredited or certified facilities or agencies.
- (d) Continuity:
- (1) levels of service available;
  - (2) established protocol for transfer and referral of patients and the communication of appropriate patient information as indicated;
  - (3) proximity of support services.
- (e) Cost—the availability of less costly or more appropriate methods of providing such services.
- (f) Acceptability:
- (1) language/cultural barriers—the ability of personnel to communicate to patients in the prevailing area languages;
  - (2) physical barriers—consideration for the handicapped;
  - (3) existence of mechanisms for obtaining patient's comments and existence of patient's bill of rights.

.310. *HSA Review Standards.* The health systems agencies may adopt specific standards to be used in determining whether a service under review compares favorably with a given characteristic or review criteria.

Doc. No. 800248

### Review Schedule 315.30.04

This subchapter establishes the service review schedule and priority of review which both the health systems agencies and the commission must follow in conducting appropriateness review.

The rules are proposed under the authority of Article 4418(h), Texas Revised Civil Statutes.

.010. *Scheduling of Reviews.* The commission and the health systems agencies shall review institutional health care services according to the schedule within this subchapter. When a person requests a reconsideration hearing, or appeals a commission finding concerning appropriateness of a specified service, such hearing will proceed concurrently with the scheduled review or reviews of other elements of the health care system.

.020. *Time Schedule for Appropriateness Review.* Review schedule is as follows:

|   | Start  | HSA Complete | Start  | THFC Complete |
|---|--------|--------------|--------|---------------|
| End Stage Renal Disease Radiation Therapy   | 6/1/80 | 12/31/80     | 1/1/81 | 12/31/81      |
| Cardiac Catheterization Open Heart  | 6/1/81 | 12/31/81     | 1/1/82 | 12/31/82      |
| Emergency Services Critical Care Pediatrics Obstetrics                                    | 6/1/82 | 12/31/82     | 1/1/83 | 12/31/83      |
| Medical/Surgical Developmental Disabilities Drug Abuse Alcoholism Psychiatric             | 6/1/83 | 12/31/83     | 1/1/84 | 12/31/84      |
| Long-Term Care Home Health Care Immunization Family Planning Rehabilitation Burn Care HMO | 6/1/84 | 12/31/84     | 1/1/85 | 12/31/85      |

Doc. No. 800249

### Review Procedures 315.30.05

This subchapter describes the procedures which the health systems agencies and the commission will follow in the review for appropriateness of existing institutional health services.

The rules are proposed under the authority of Article 4418(h), Texas Revised Civil Statutes.

.010. *HSA Notice of Review.* The health systems agency shall notify all affected persons within its health service area of the beginning of review of a specific health care service.



The health systems agency may provide notification through publication of the notice in the health systems agency's newsletter. The health systems agency must notify health care facilities and HMOs which offer the specific service under review by mail. In addition, the health systems agency must publish a notice of the beginning of the specific service review in at least one newspaper of general circulation in the health service area. Affected persons to whom written notification must be sent by the health systems agency include the facilities and institutions providing the service under review, the commission, and all interested persons requesting written notification. Notice to the general public within the health service area, other health care facilities, HMOs, and health care professionals shall be through the notice published in newspapers of general circulation in the health service area.

**.020. Length of HSA Review.** The health systems agencies shall complete the review of a health service within 180 days of the date of notification of affected persons or the date of public notice in newspapers of general circulation, whichever occurs first.

**.030. Commission Notice of Review.** Within 180 days of the scheduled completion of the health systems agency's review, the commission must provide a written notification that a statewide review of the service under review is beginning. The notice will be provided to all health care facilities in the state which provide the service under review, all health systems agencies in the state, and other affected persons. The notice shall include a statement that the commission review of health services is based on the HSAs reviews.

**.040. Length of Commission Review.** The commission shall begin a statewide review of the specific service in accordance with the schedule of review. This statewide review shall be completed and the commission shall make written public findings within 180 days of the date of notification that the state level of review commenced. The commission review of a health service shall not exceed a period of one year.

**.050. Length of Appropriateness Review.** The appropriateness review of health services by the health systems agencies and the commission shall not exceed a period of 18 months exclusive of the time required for reconsideration hearings, and or appeal hearings at the state level.

**.060. Information Required for Review.** Reviews of the appropriateness of existing institutional health care services in the State of Texas will be based on the following types of information:

(1) data utilized by the health systems agency in its planning process, as well as data collected by other state agencies and organizations as a part of ongoing data collection and analysis responsibilities; and

(2) survey forms submitted to facilities offering the services under review at the time of notification of the beginning of a health systems agency review, to be completed and returned to the health systems agency conducting the review within 45 days of the date of notification. (The survey will prescribe additional information required of the facility in regard to the service under review, which is not available through surveys conducted annually by the Texas Department of Health and other state agencies and health-related organizations. The information required may vary according to the health systems agency and the service under review.)

**.070. Notification of Health Systems Agency Recommendation.** The health systems agency must provide the commission with the recommendations and the results of the review of health services in writing on or before the date that the review is scheduled to be completed by these rules. The health systems agency shall forward a copy of the results of the review and written recommendations to all health care facilities providing the reviewed service. The results of the review and recommendations shall be made available to all persons upon request.

**.080. Contents of Inappropriateness Recommendation by HSA.**

(a) A health systems agency recommendation of inappropriateness concerning a health service shall be supported by the following written statements:

(1) the service compares unfavorably with one or more of the established review criteria;

(2) a specific citation of the criterion or criteria the service failed to meet;

(3) the reasons that the service failed to meet the criteria including those that are beyond the control of the facilities providing that service.

(b) When the health systems agency recommends to the commission that a service is inappropriate, the health systems agency shall submit with such recommendation a written plan for correcting the inappropriateness of the service.

**.090. Commission Findings.** On or before the 180th day following notification that state level review has commenced, the commission shall provide written findings as to the appropriateness of existing institutional health care service under review. The commission shall transmit the findings to the secretary of state, all health care facilities providing the service under review, and all health systems agencies in the state. The commission shall publish the findings in the *Texas Register*. Copies of the findings shall be available to persons upon request.

**.100. Appropriateness Review Status Reports.** Each health systems agency and the commission shall prepare a semiannual report of the status of reviews of appropriateness. The commission and the health systems agencies shall send the semiannual report to all health care facilities subject to appropriateness review.

**.110. Hearing Mechanism.** The appropriateness review program is a public process with opportunities for public input through public hearings during the review. The health systems agency and the commission shall permit the health care facilities providing the service under review to participate in the review and hearing process.

**.120. Health Systems Agency Hearing.** Each health systems agency, when requested by an affected person, shall provide for a public hearing in the course of the review of appropriateness of an institutional health care service in the health service area. When the board of the health systems agency considers it appropriate, the agency may conduct more than one hearing in different geographic locations of the health service area. The health systems agency shall publish a notice of the hearing in a newspaper of general circulation in the health service area at least 30 days prior to the scheduled date of the hearing. Any person who wishes to speak to the issues surrounding the appropriateness of the service under review may appear in person, by registered mail, or be heard, or

offer written comments. The health systems agency shall consider the record of the hearing or hearings in developing recommendations to the commission concerning the service under review.

*.130. Reconsideration of Health Systems Agency Recommendation.*

(a) After the health systems agency has made public its recommendation concerning the service under review, any person may submit a written request for a reconsideration of the recommendation. A person must submit a written request for reconsideration to the health systems agency within 15 days from the date of the issuance of the written recommendation. In the written request, the person requesting the reconsideration must demonstrate good cause for reconsideration or that the health systems agency has materially failed to follow the procedures set forth in this chapter in reaching its findings for recommendation. The appropriate body of the health systems agency shall review each request for reconsideration and determine whether the requestor has demonstrated good cause that such a reconsideration should be granted. The health systems agency shall determine whether good cause has been shown for a reconsideration within 30 days of the date of submission of the request for reconsideration. When good cause has been shown, the health systems agency shall grant the request and publish a notice of reconsideration hearing in a newspaper of general circulation. The reconsideration hearing shall begin within 15 days of the published notice and the health systems agency shall make written findings based on the reconsideration hearing within 45 days of completion of the hearing.

(b) The granting of a reconsideration hearing does not relieve the health systems agency of the responsibility of providing recommendations to the commission within 180 days as set forth in the schedule of review. State-level review shall proceed on the basis of the original recommendation until such time as the commission is notified that the health systems agency has altered its recommendation as a result of the reconsideration hearing. When a reconsideration is granted, the health systems agency shall provide written notification to the commission.

*.140. Commission Hearing.*

(a) The commission shall conduct a public hearing in the course of a statewide review of an institutional health service when a hearing is requested by one or more affected persons. A request for a hearing must be submitted to the commission within 45 days after the date of notification that statewide review has commenced. When a hearing is requested, the commission shall schedule a hearing and shall provide notice of the hearing to affected persons. The commission shall consider the record of the hearing in developing findings on the service under review.

(b) The commission shall conduct all appropriateness review hearings in accordance with the Texas Administrative Procedure and Texas Register Act, Article 6252-13(a), Texas Revised Civil Statutes.

*.150. Reconsideration of Commission Findings.*

(a) After the commission has published its written findings on the appropriateness of a service under review, any person may, for good cause shown, request a public hearing for reconsideration of the state finding. The commission shall review a request for reconsideration on its merits and shall decide whether good cause has been shown for a reconsideration hearing.

(b) A person requesting reconsideration must submit a written request for reconsideration to the commission within 45 days of the publication of the commission's findings on the appropriateness of a health care service. When the commission determines that the person requesting reconsideration has shown good cause, the commission shall schedule a reconsideration hearing within 45 days of the receipt of the request for reconsideration. Upon scheduling of a reconsideration, the commission shall provide notice of the hearing to the person requesting the reconsideration, all health care facilities providing the service under review, and the health systems agencies within the state. The commission shall publish the notice of reconsideration hearing in the *Texas Register*. The commission shall conduct a reconsideration hearing in accordance with the administrative rules governing hearings before the commission. Written findings of the reconsideration hearing shall be published within 60 days of the conclusion of the reconsideration hearing.

*.160. Good Cause for Reconsideration.* The criteria for good cause consists of the following:

- (1) presentation of significant relevant information not previously considered by the commission;
- (2) demonstration that there have been significant changes in the factors or circumstances relied upon by the commission in reaching its findings;
- (3) demonstration that the commission has materially failed to follow the procedures set forth in this chapter in reaching its findings; or
- (4) demonstration that other circumstances exist which the commission considers to be good cause for reconsideration.

*.170. Review of a Finding of Inappropriateness.*

(a) When a health service has been found inappropriate by the commission, health care facilities offering the service may request a reconsideration of the commission findings upon demonstration of substantial progress in correcting the factors which led to the finding of inappropriateness. Such a request must be endorsed by at least half the health systems agencies in the state. In addition to the endorsements, the request must contain the following information:

- (1) justification for reconsidering the service prior to the time it would normally be scheduled for a subsequent review;
- (2) documentation of specific actions taken by the institutions offering the service to remedy the deficiencies which led to the finding of inappropriateness;
- (3) revised survey forms reflecting the effect of the actions taken; and
- (4) endorsement of the health systems agencies serving areas where the service is available for the reconsideration.

(b) This information will be used by the commission in deciding whether or not the service should be reconsidered. If the commission decides that a reconsideration is indicated, all institutional providers of the inappropriate service will be asked to resubmit survey forms to the HSA serving their area and the state agency. The THFC will obtain the recommendations of the HSAs on the request for reconsideration within 45 days of submittal of the revised forms. The commission will conduct a public hearing on the matter at a time and place announced at least 15 days prior to the conduct of the hearing.

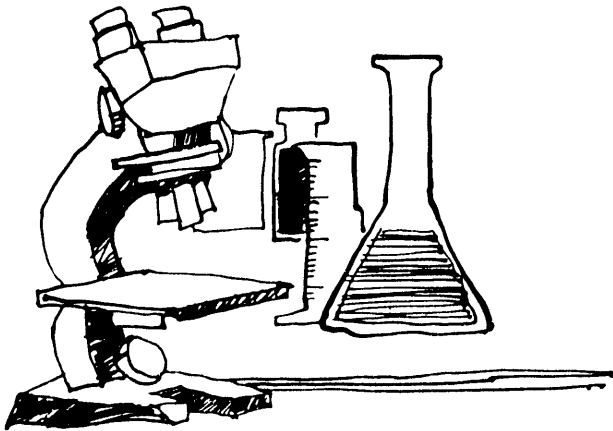
(c) The evidence produced during the hearing, along with the recommendation of the HSAs and the material submitted by the facilities providing the service, will become a factor in the commission's decision as to whether the service is now appropriately offered. A finding that the deficiencies have been remedied and the services now appropriately structured shall not change the schedule for the next full scale review of that service in the state.

**.180 HSA Appeals Mechanism.** A health systems agency as a party to appropriateness review, is entitled to judicial review (by the district courts) of a finding made by the commission regarding appropriateness of an existing institutional health service which is inconsistent with the recommendation by the health systems agency on the service. The health systems agency must first request a reconsideration hearing of the finding and the contested finding must remain basically unchanged before judicial review will be available. This appeals mechanism will be consistent with the provisions of the Texas Administrative Procedure and Texas Register Act, Article 6252-13(a), Texas Revised Civil Statutes.

Issued in Austin, Texas, on January 11, 1980.

Doc. No. 800250 Melvin Rowland  
Chairman  
Texas Health Facilities Commission

Proposed Date of Adoption: February 18, 1980  
For further information, please call (512) 475-6940.



## Texas Department of Human Resources

### Medicaid Eligibility

The Department of Human Resources proposes various rules and amendments about eligibility policies and procedures for Type Program 51 in its Medicaid Eligibility rules. The Texas Board of Human Resources has approved the use of state funds to continue eligibility for medical assistance only (MAO) nursing homes and institutional recipients whose income exceeded the department's income maximum as a result of the July 1979 cost-of-living increase in RSDI

benefits. Recipients remaining eligible for assistance under these provisions are referred to as Rider 51 cases and will be certified under Type Program 51. The rules and amendments were adopted on an emergency basis, effective October 1, 1979. The board's action on Type Program 51 ensures legislative intent expressed in Rider 51, General Appropriations Act, 66th Legislature, Regular Session, which specified that recipients not be denied assistance as a result of freezing the current MAO income maximum and the July increase in federal benefits.

The department has determined that the proposed rules and amendments will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, assistant chief, Systems and Procedures Bureau—363, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this Register.

### Eligible Recipients for Title XIX (Medicaid) 326.25.21

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

*.001. Categorically Needy.* The Texas Medical Assistance Program, under the provision of Title XIX (Medicaid) of the Social Security Act, provides certain benefits to all individuals who meet the department's definition of categorically needy. The categorically needy are defined as (1)-(4) (No change.)

*(5) Individuals approved for vendor payments in a Title XIX-approved medical facility in June 1979 whose income exceeds the department's current income maximum due to the July 1979 RSDI cost-of-living increase continue to be eligible for Title XIX coverage under Type Program 51. To maintain eligibility under this program, these individuals must continue to reside in a Title XIX medical facility, to require long-term care, and to meet all SSI eligibility standards except income. Countable income, excluding the amount of the July 1979 RSDI cost-of-living increase, must be below the maximum established by the department.*

*(6)(5) Individuals in a Title XIX approved medical facility for whom vendor payments were made under Title XIX for the month of December 1973. These individuals remain eligible for Title XIX benefits under Type Program 02 subsequent to January 1, 1974, as long as they:*  
(A)-(C) (No change.)

*(7)(6) Individuals who were receiving both public assistance and social security benefits in August 1972 continue to be eligible for Title XIX coverage under Type Program 03. These individuals must meet SSI eligibility criteria in the current month, with the exclusion of the amount of the October 1972 20% increase. However, subsequent increases in social security benefits are not exempt for this group of people.*

*(8)(7) Individuals who were SSI recipients and were denied SSI cash benefits solely because of a cost-of-living increase in social security benefits may be eligible for*

continued Title XIX coverage under Type Program 03. These individuals must meet all current SSI eligibility criteria with the exclusion of the social security cost-of-living increase.

(A)-(B) (No change.)

Doc. No. 800217

## Individuals for Whom SSI Eligibility Criteria Are Used 326.25.31

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

.001. *Types of Applicants.* The eligibility criteria of the Federal Supplemental Security Income (SSI) Program are used in determining Medicaid eligibility for the following categories of assistance:

(1) (No change.)

(2) *Rider 51 MAO (Type Program 51).* Individuals in long-term care facilities who became ineligible for SSI-related MAO on July 1, 1979, due solely to the July 1979 cost-of-living increase in RSDI benefits may continue eligibility for assistance under the provisions of Rider 51 of the Texas Department of Human Resources' appropriation in the General Appropriations Act, 66th Legislature, Regular Session. To qualify, these individuals must continue to meet all SSI-related MAO eligibility requirements with an additional exclusion from income equal to the amount of the July 1979 RSDI cost-of-living increase.

(3)(2) RSDI increase MAO (Type Program 03). Individuals who are entitled to the exclusion of a social security increase may qualify for Medicaid benefits under Type Program 03 even though their income exceeds the current income maximum. To qualify, these individuals must meet SSI eligibility criteria except for income. The amount of the appropriate RSDI increase is excluded before income is measured against the appropriate budgetary standard.

(4)(3) Three months prior eligibility (Type Programs 03, 11, and 14). Individuals, under certain conditions, may be extended Medicaid eligibility during the three calendar months prior to the month of application for assistance. Any individual who applies for SSI or MAO is potentially eligible. In addition, the bona fide agent of a deceased individual may request application services. To qualify, the individual must:

(A)-(C) (No change.)

Doc. No. 800218

## Income for Individuals Related to the SSI Program 326.25.34

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

.020. *Special Income Exclusion for Type Program 51 Recipients.* Rider 51 of the General Appropriations Act, 66th Legislature, Regular Session, provides for the continued eligibility of SSI-related MAO recipients whose countable income exceeded the department's income maximum on July 1, 1979, due to the July 1979 cost-of-living increase in RSDI

benefits. For individuals meeting this criterion, a deduction equal to the amount of the July 1979 RSDI cost-of-living increase is made prior to measuring income against the departmental maximum in determining eligibility for Type Program 51.

Doc. No. 800219

## Budgeting for Individuals Related to the SSI Program 326.25.35

The following amendments are proposed under the authority of the Human Resources Code, Chapter 32.

.011. *Budget to Determine Eligibility.*

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

(d) For individual and couple budgets, the following steps are used to determine eligibility:

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

(3) For Type Program 03 and Type Program 51 cases, determine the amount of the RSDI exclusion(s).

(4)-(5) (No change.)

(e) For a companion budget, the following steps are used to determine eligibility:

(1) For initial applications, if eligibility is to be determined for the calendar month of separation, available income must be deemed from the ineligible spouse to the applicant. Deemed income is considered as the individual's own unearned income and is included in (d)(1)(2) through (5) above. If there is no unmet need, the individual is ineligible for the month of separation. If there is an unmet need, the individual is eligible for medical assistance only. Applied income is then computed.

(2) (No change.)

Doc. No. 800220

## Procedures for Applications for Medical Assistance 326.25.53

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

.016. *Reapplication for Rider 51 MAO Cases (Type Program 51).*

(a) Rider 51 of the General Appropriations Act, 66th Legislature, Regular Session, provided for continued Medicaid coverage for nursing home recipients whose income on July 1, 1979, exceeded the department's income maximum due to the July 1979 cost-of-living increase in RSDI benefits. Individuals who continue to be eligible under these provisions are referred to as "Rider 51" MAO cases and are certified under Type Program 51.

(b) All individuals eligible under these provisions were transferred to Type Program 51 in July 1979. In order to continue eligibility, they must:

(1) continue to reside in a Title XIX-certified long-term care facility (other than to enter a Title XIX hospital or for visits of up to three days); and

(2) continue to be determined in need of long-term care by the Texas Department of Health's Long-Term Care Unit; and

(3) continue to meet all SSI-related eligibility criteria; and

(4) have income, minus appropriate deductions including the exclusion of the July 1979 RSDI increase, less than the department MAO income maximum.

(c) If at any time any of the above conditions are not met, the individual is no longer eligible for Type Program 51 and the case must be denied. In order to re-establish eligibility for medical assistance only, the individual must be redetermined under Type Programs 14 or 03 criteria.

Issued in Austin, Texas, on January 10, 1980.

Doc. No. 800221 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Proposed Date of Adoption: February 18, 1980  
For further information, please call 475-4601.

## Texas State Board of Medical Examiners

### Licensure by Examination 386.02.00

The Texas State Board of Medical Examiners is proposing to amend a requirement regarding application completion time on the applications for licensure by examination, Rule 386.02.00.003(g). The revised text of the rule follows. The proposed amendment would clarify the time requirement for completion of examination applications. This change became necessary since the number of applications have increased dramatically, and this would allow more time for the office staff and the physician to complete the application requirements, in every detail, before the examination.

It has been discussed with the Texas Board of Medical Examiners accounting office and determined that there are no fiscal implications for either the State of Texas or units of local government.

Public comment on the proposed amendment to Rule .003(g) is invited. Comments may be submitted by telephoning the office of the board at (512) 475-0741, or by writing to the board at Southwest Tower Building, 211 East 7th, Austin, Texas 78701.

The amendment to Rule .003(g) is proposed under the authority of Article 4496 and Article 4509, Civil Statutes of Texas.

#### .003. Time, Place, and Scope of Examination.

(a)-(f) (No change.)

(g) The completed application, two sets of fingerprints, and required credentials must be filed with the secretary not later than 120 (90) days before the examination date and complete in every detail 60 days prior to the examination date.

(h)-(p) (No change.)

Doc. No. 800214

### Licensure by Endorsement or Reciprocity 386.03.00

The Texas State Board of Medical Examiners is proposing to amend Rule 386.03.00.003(a), regarding requirement for licensure by endorsement or reciprocity. The revised text of

this rule follows. The proposed amendment would clarify the time requirement for filing and completion of an application for reciprocity or endorsement. This change became necessary since the number of application have increased dramatically. This change allows more time in which the physician and the office staff can complete the application, in every detail, prior to the board meeting at which the application is to be considered. It also will greatly diminish the number of temporary license extensions which need to be issued while the physician is awaiting the final approval of his application.

It has been discussed with the Texas State Board of Medical Examiners accounting office and determined that there are no fiscal implications for either the State of Texas or units of local government.

Public comment on the proposed amendment to Rule .003(a) is invited. Comments may be submitted to the office of the board by telephone at (512) 475-0741, or by writing to the board at Southwest Tower Building, 211 East 7th, Austin, Texas 78701.

The amendment to Rule .003(a) is proposed under the authority of Article 4496 and Article 4509, Civil Statutes of Texas.

#### .003. Required Credentials and Fee.

(a) Application for endorsement or reciprocity must be printed in ink or typewritten on this board's form, which will be furnished by the secretary upon request. The completed application, two sets of fingerprints, and required credentials as listed on the application, together with a fee of \$200, must be sent to the secretary, to whom all communications concerning licensure shall be addressed. Completed application with required credentials must be filed with the board office at least 120 (90) days prior to the meeting date and complete in every detail 90 (60) days prior to the meeting date.

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

Doc. No. 800215

### Foreign Medical School Graduates 386.04.00

The Texas State Board of Medical Examiners is proposing to amend Rule 386.04.00.001(l), regarding licensure for foreign medical school graduates. The revised text of this rule follows. The proposed amendment would clarify the time requirement for filing and completion of applications for licensure from graduates of foreign medical schools. The proposed amendment, affecting licensure by examination and reciprocity, directly correlates to Rules 386.03.00.003(a) and 386.02.00.003(g) of the board rules which outline the time requirement for filing and completing applications for licensure by either method. This change allows more time for processing and greatly ensures that the application is complete in all aspects when it is presented either for admittance to the examination or for board approval.

It has been discussed with the Texas State Board of Medical Examiners accounting office and determined that there are no fiscal implications for either the State of Texas or units of local government.

Public comment on the proposed amendment to Rule .001(l) is invited. Comments may be made by telephoning the board office at (512) 475-0741, or by writing to the board at Southwest Tower Building, 211 East 7th, Austin, Texas 78701.

The amendment of Rule .001(l) is proposed under the authority of Article 4496 and Article 4509, Civil Statutes of Texas.

.001. *Requirements for Licensure.*

(a)-(k) (No change.)

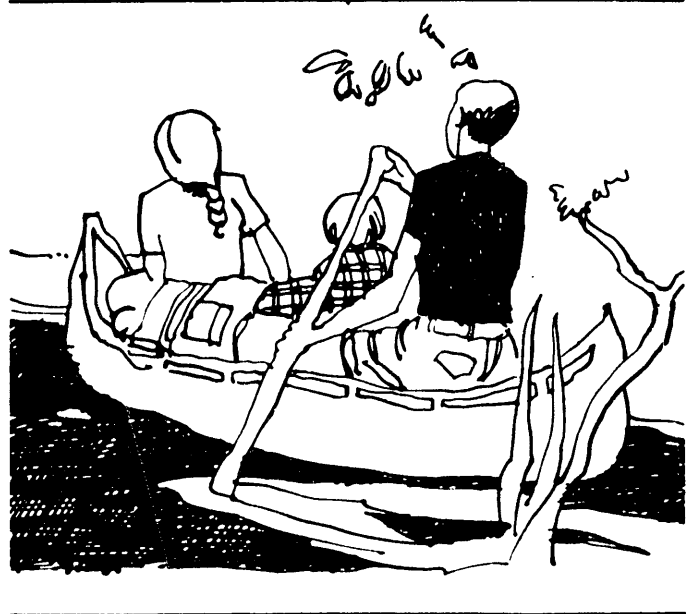
(l) Foreign medical graduates must file their [com-  
pleted] applications with the board office 120 [90] days prior  
to the board meeting date for a license by reciprocity and 120  
[90] days prior to the *examination* [board meeting] date for  
admission to the examination. Applications *for examination*  
must be complete in every detail 60 days prior to the [meeting  
of] exam date. *Applications for a license by reciprocity*  
*must be complete in every detail 90 days prior to the*  
*board meeting date.*

(m)-(o) (No change.)

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800216      A. Bryan Spires, Jr., M.D.  
                            Secretary-Treasurer  
                            Texas State Board of Medical Examiners

Proposed Date of Adoption: February 18, 1980  
For further information, please call (512) 475-0741.



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

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

## CODIFIED

### TITLE 1. ADMINISTRATION

#### Part IV. Office of the Secretary of State

##### Chapter 81. Elections

###### Miscellaneous

The secretary of state adopts §81.8 (004.30.01.213), which defines the term "voting year."

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

**§81.8 (004.30.01.213).** *Definition of the Term "Voting Year."* The term "voting year," as used in the Election Code, means the period beginning March 1 of each year and ending the last day of February of the succeeding year. The voting year shall be denominated by the calendar year in which it begins; i.e., voting year 1980 will begin March 1, 1980, and end February 28, 1981.

Doc. No. 800260

The secretary of state adopts §81.9 (004.30.01.214), which adopts by reference the 1979 Optical Tabulator Voting System Directive.

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

**§81.9 (004.30.01.214).** *1979 Optical Tabulator Voting System Directive.* The 1979 Optical Tabulator Voting System Directive is adopted by reference. The directive is published by and is available from the Elections Division, Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Doc. No. 800261

##### Nominations

The secretary of state proposes to adopt §81.138 (004.30.13.124), which prescribes the Application for a Place on the Party General Primary Ballot form.

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

**§81.138 (004.30.13.124).** *Application for a Place on the Party General Primary Ballot Form.* The Application for a Place on the Party General Primary Ballot form is adopted by reference. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800262      George W. Strake, Jr.  
Secretary of State

Effective Date: January 31, 1980

Proposal Publication Date: November 20 & 23 & December 4,  
1979

For further information, please call (512) 4. 5-3091.

## Part IX. State Aircraft Pooling Board

### Chapter 181. General Provisions

The State Aircraft Pooling Board adopts §§181.1-181.8 (012.01.00.001-.008), concerning the practice and procedures governing the meeting of this board and the records that will be available for public inspection.

These sections are promulgated under the authority of Chapter 746, Acts of the 66th Legislature, 1979 (Article 4413(34b), Vernon's Texas Civil Statutes), and Chapter 61, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

**§181.1 (012.01.00.001).** *Board Meetings—Regular.* The board will meet once per month, on the first Tuesday of each month at a time and place to be determined by the chairman. The chairman shall post or cause to be posted with the Office of the Secretary of State the requisite notice so as to comply in all respects with the provisions of the Administrative Procedure and Texas Register Act and the Open Meetings Act, Article 6252-17, Vernon's Texas Civil Statutes.

**§181.2 (012.01.00.002).** *Board Meetings—Called.* From time to time as circumstances may warrant, the chairman may call special meetings of the board. When such meetings are called, the chairman shall notify the members, either by letter or by telephone, not less than 24 hours prior to the meeting, and shall post or cause to be posted with the Office of the Secretary of State the requisite notice, as set forth in §181.1 (.001) of this title.

**§181.3 (012.01.00.003).** *Quorum.* Two voting members of the board constitute a quorum for transacting business.

**§181.4 (012.01.00.004).** *Agenda.* When deemed necessary by the chairman, an agenda shall be prepared and submitted to the members of the board within a reasonable time, but not to exceed 24 hours, before the meeting.

§181.5 (012.01.00.005). *Parliamentary Authority.* Subject to applicability, the current edition of *Robert's Rules of Order* shall govern the conduct of board meetings.

§181.6 (012.01.00.006). *Minutes.* The chairman or member acting as chairman shall keep or cause to be kept a complete record of the proceedings of the meetings of the board, including all motions and their outcome, all decisions, all orders, and any other official actions of the board the chairman deems it necessary or advisable to record.

§181.7 (012.01.00.007). *Access to Information.* The minutes of the meetings of the board shall be open for public inspection at the office of the board during reasonable business hours. The rules, minutes, orders, decisions, and policy statements of the board shall be indexed for public access and maintained in the office of the board.

§181.8 (012.01.00.008). *Fees.* The board by order may assess reasonable fees to be charged the agencies using services provided by the board. Such fees collected shall be utilized for the purchase or lease of state aircraft and to defray the operating expenses of the board.

Doc. No 800240

## Chapter 183. Rulemaking Procedure

The State Aircraft Pooling Board adopts §§183.1-183.5 (012.02.00.001-.005), concerning rulemaking procedure for the adoption, amendment, or repeal of rules and petitioning by interested persons.

These sections are promulgated under the authority of Chapter 746, Acts of the 66th Legislature, 1979 (Article 4413(34b), Vernon's Texas Civil Statutes), and Chapter 61, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

§183.1 (012.02.00.001). *Purpose.* The board may promulgate and adopt rules, as authorized and required by statute, necessary for the performance of its duties, to establish and maintain a pool of state-owned and leased aircraft in order that the state may conduct its business in an orderly, expeditious, and efficient manner.

§183.2 (012.02.00.002). *Adoption, Amendment, or Repeal of Rules.* All adoptions, amendments, or repeal of rules must be in compliance with the provisions of the Administrative Procedure and Texas Register Act (Texas Revised Civil Statutes, Article 6252-13a) and related legislation. The board may use informal conference and consultations as means of obtaining the viewpoints and advice of interested persons concerning contemplated rulemaking. The board may appoint advisory committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rulemaking.

§183.3 (012.02.00.003). *Petition for Adoption of Rules.* Any interested person may petition the board requesting the amendment, adoption, or repeal of a rule. Such petition must be in writing and signed by the person or persons requesting the amendment, adoption, or repeal. A petition will be deemed to be filed only when a signed copy for each board member is received at the office of the board, together with any fee required by statute or agency rule. A petition may be

in any legible form, but must contain at least the following information:

(1) The full name, complete mailing address, and telephone number of the person or persons on whose behalf the petition is filed.

(2) The category number and title under which it is proposed that the action be taken. If the request is to amend or repeal an existing rule, the existing rule must be identified by number and title.

(3) An explanation of the proposed rule, or an explanation of the amendment or reason for repeal if an amendment or repeal is being requested. The explanation should include any relevant background necessary to an understanding of the rule and must include a statement of any foreseeable effects of the requested action should that action be taken.

(4) A statement of the statutory or other authority under which the requested action may be taken.

§183.4 (012.02.00.004). *Petition Decision by Board.* Within 60 days after submission of a petition requesting the adoption of a rule, the board must either deny the petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings in accordance with §183.2 (.002) of this title.

§183.5 (012.02.00.005). *Effective Date.* These rules take effect 20 days after filed for adoption with the Texas Register Division.

Issued in Austin, Texas, on January 10, 1980.

Doc. No. 800241      Barbara Mitchell  
Administrative Assistant  
State Aircraft Pooling Board

Effective Date: February 1, 1980

Proposal Publication Date: October 23, 1979

For further information, please call (512) 475-8301.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board

#### Chapter 327. Effluent Standards

##### Domestic Wastewater Treatment Plants

At its regular meeting on December 18, 1979, the Texas Water Development Board finally adopted the proposed §§327.1-327.4 (156.18.05.001-.004) relating to domestic wastewater treatment plants, as proposed in the *Texas Register* on September 4, 1979 (4 TexReg 3146), except for modification of Table 1 contained in §327.4 (.004). This modification simply made corrections of errors in the table consistent with the intent of the proposed rules to delete specific effluent sets relating to advanced waste treatment.

These sections are adopted under the authority of Sections 5.131 and 5.132, Texas Water Code.

§327.1 (156.18.05.001). *Introduction and Purpose.*

(a) The purpose of these sections is to promulgate a set of effluent quality standards consistent with given classes of treatment processes to be applied as necessary to meet treatment requirements based on water quality conditions. "Secondary treatment" by a publicly owned treatment plant is



defined by EPA, with exceptions applicable to certain oxidation pond systems, as reduction to the following effluent quality:

|                              | 30-Day Average             | 7-Day Average |
|------------------------------|----------------------------|---------------|
| BOD, mg/l                    | 30                         | 45            |
| Suspended Solids (TSS), mg/l | 30                         | 45            |
| pH, units                    | Within limits of 6.0 - 9.0 |               |

Furthermore, in this definition, the reduction of BOD and TSS through a treatment plant shall be a minimum of 85%. For oxidation ponds meeting the conditions set out in §327.3(d) (003(d)) of this title, the suspended solids level may be adjusted to 90 mg/l TSS, the level achievable with best waste stabilization pond technology.

(b) The department's experience enforcing a secondary treatment requirement for wastewater treatment plants has demonstrated that a higher quality of effluent, i.e., 20 mg/l of BOD and TSS, can be expected from conventional secondary treatment facilities.

(c) The State of Texas has established a State Water Quality Management Program and a continuing planning process which sets forth the strategy and procedures for accomplishing the management program's objectives. Essential elements of the program comprise basin planning and waste load allocations by basin segments. In order to achieve compliance with water quality standards within certain segments, it is necessary to establish effluent quality standards for basic secondary treatment plants as well as for the "tertiary" treatment processes required to protect water quality.

#### §327.2 (156.18.05.002) Rationale for Effluent Sets.

(a) The effluent sets in Table 1 are written to provide an approach to waste treatment that accounts for the manner in which pollutant concentrations respond to various treatment processes. During the treatment process, the pollutant concentration is decreased either gradually, as the limitation of a particular unit process is approached, or stepwise, as additional unit processes are employed. A pollutant concentration beyond the capability of one unit process, while not adequately utilizing the potential of the next unit process, should not ordinarily dictate specifying a pollutant concentration which utilizes the majority of the process capability, avoids the diminishing return, and allows for the normal variations in plant efficiencies due to the operational modes and seasonal and climatic variations.

(b) When departures from the uniform sets of effluent criteria are requested, any departure shall be fully justified in the permit application.

#### §327.3 (156.18.05.003) Application of Effluent Sets.

(a) Existing sources

(1) Effluent limitation segment. Oxygen resources: Effluent Set 1 shall be used for systems other than oxidation pond systems.

(2) Water quality segment. Oxygen resources. When a waste load allocation has been completed, the first effluent set meeting the allocation shall be used.

(b) New sources.

(1) Effluent limitation segment and receiving streams for which numerical criteria have not been specified. Oxygen resources. Comparing the stream assimilative capacity and Effluent Set 1, the more stringent effluent set shall be used.

(2) Water quality segment. Oxygen resources: Comparing the load allocation for segment and the load based on Effluent Set 1, the more stringent effluent set shall be used.

(c) Disinfection and discharges into certain reservoirs. Any discharge made within five miles of a reservoir or lake covered by a private sewage facility regulation issued pursuant to Chapter 26 of the Texas Water Code, or which serves as a source for domestic drinking water, shall be governed by Effluent Set 2 and A. Five miles shall be measured in stream miles from the normal conservation pool elevation. Any exceptions to this section must be fully justified in the permitting process so as to prove that such exception would have a negligible impact on the water quality of the reservoir. Disinfection for all discharges shall be as outlined in Effluent Set A.

(d) (No change)

(e) The commission may allow the utilization of sewage effluent for irrigation purposes when the applicant demonstrates that this practice will not alter the uses of the existing groundwaters or detrimentally affect the surface waters of the State of Texas. Each project will also be consistent with laws regulating water rights in the State of Texas. Project types will fall into three categories: irrigation, infiltration-percolation, or overland flow. The purpose of a project will be to dispose of treated effluent or to further enhance the quality of the effluent prior to discharge or a combination of the two. When land disposal systems will utilize lands to which the public has access for the ultimate disposal of effluent, the effluent applied shall be treated to a degree equivalent to existing secondary level standards. When agricultural lands are to be irrigated, primary effluent may be utilized consistently with environmental safeguards and the protection of ground and surface water. Primary treatment means solids separation as may be accomplished by primary clarifiers, Imhoff tanks, and other units designed in accordance with all applicable requirements of the most recent design criteria for sewerage systems promulgated by the department.

(f) If discharges of pollutants from a point source or group of point sources, with the application of effluent limitations in accordance with subsections (a) and (b), would interfere with the attainment or maintenance of water quality of a stream which assures protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water, the commission in individual permits or the board by rule may establish effluent limitations for such point source or sources which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

§327.4 (156.18.05.004) Table 1, Effluent Standards for Domestic Wastewater Treatment Plants. This table contains the sets of effluent criteria for waste discharge permits.

(Editor's note: See table, page 196)

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800208

Bruce Bigelow

General Counsel

Texas Department of Water Resources

Effective Date: January 31, 1980

Proposal Publication Date: September 4, 1979

For further information, please call (512) 475-6658

Table 1  
Effluent Standards for Domestic Wastewater Treatment Plants

|                         |      | 30-Day Average  |     |   |   | 7-Day Average   |     |   |    | 24-Hr. Composite |     |    |    | Grab Samples |     |   |     |              |     |    |    |                |                 |    |
|-------------------------|------|-----------------|-----|---|---|-----------------|-----|---|----|------------------|-----|----|----|--------------|-----|---|-----|--------------|-----|----|----|----------------|-----------------|----|
|                         |      | NH <sub>3</sub> |     |   |   | NH <sub>3</sub> |     |   |    | NH <sub>3</sub>  |     |    |    | Column I(1)  |     |   |     | Column II(2) |     |    |    |                |                 |    |
|                         |      | BOD             | TSS | N | P | BOD             | TSS | N | P  | BOD              | TSS | N  | P  | BOD          | TSS | N | P   | BOD          | TSS | N  | P  | O <sub>2</sub> | Cl <sub>2</sub> | l  |
| Oxygen Demand           | X    | 30              | 90  | . | . | 45              | .   | . | 70 | .                | .   | .  | 50 | .            | .   | . | 100 | .            | .   | .  | .  | (3)            | (4)             |    |
|                         | 0    | 30              | 30  | . | . | 45              | 45  | . | .  | 70               | 70  | .  | .  | 50           | 50  | . | .   | 100          | 100 | .  | .  | .              | .               |    |
|                         | 1    | 20              | 20  | . | . | 30              | 30  | . | .  | 45               | 45  | .  | .  | 35           | 35  | . | .   | 65           | 65  | .  | .  | .              | .               |    |
|                         | 2    | 10              | 15  | . | . | 15              | 25  | . | .  | 25               | 40  | .  | .  | 20           | 25  | . | .   | 35           | 60  | .  | .  | 2              | .               |    |
|                         | 2-N  | 10              | 15  | 3 | . | 15              | 25  | 6 | .  | 25               | 40  | 10 | .  | 20           | 25  | 8 | .   | 35           | 60  | 15 | .  | 4              | .               |    |
| <b>Disinfection</b>     |      |                 |     |   |   |                 |     |   |    |                  |     |    |    |              |     |   |     |              |     |    |    |                |                 |    |
|                         | A(5) | .               | .   | . | . | .               | .   | . | .  | .                | .   | .  | .  | .            | .   | . | .   | .            | .   | .  | .  | .              | 1               | 20 |
| <b>Nutrient Removal</b> |      |                 |     |   |   |                 |     |   |    |                  |     |    |    |              |     |   |     |              |     |    |    |                |                 |    |
|                         | 2-P  | 10              | 15  | . | 2 | 15              | 25  | . | 4  | 25               | 40  | .  | 7  | 20           | 25  | . | 4   | 35           | 60  | .  | 10 | 2              | .               | .  |

When examining 5 consecutive grab samples randomly collected on separate days by the same entity, the pollutant concentration shall not exceed the specified level in more than 2 samples.

Single grab sample (instantaneous) limit  
Not less than

Detention time in minutes

Any combination of detention time and chlorine residual where the product of Cl<sub>2</sub>(mg/l)xt(min.) equals or exceeds 20 is satisfactory except that the minimum detention time shall be 20 minutes and the minimum residual shall be 0.5 mg/l.

Disinfection is not required where secondary treatment is provided by properly designed and constructed stabilization ponds unless: (1) the discharge is made within five miles of a reservoir or lake covered by a Septic Tank Board Order, or (2) it is deemed necessary to protect public health, or (3) it is necessary to meet the stream standards of the receiving waters.

**Treatment Process Corresponding to Effluent Set**

- SET x - Oxidation ponds meeting requirements in Section .003(D) of these Rules.
- 0 - Other Oxidation Ponds
- 1 - secondary (conventional design)
- 2 - modified secondary (enhanced solids separation)

- SET 2-N - set 2 with biological nitrification
- 2-P - chemical precipitation after biological treatment

Volume 5, Number 5, January 18, 1980

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**NONCODIFIED****Texas Department of Mental Health and  
Mental Retardation****Other Agencies and the Public****Form, Submission, Consideration, and Disposition  
of Petitions for the Adoption of Rules by the  
Commissioner of Mental Health and Mental  
Retardation 302.03.05**

Under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, The Texas Department of Mental Health and Mental Retardation has adopted Rule 302.03.05.007 to read as follows:

**.007. Form and Content of Petitions.**

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

(d) The form of the petition shall be as follows:

**Petition for Adoption of a Rule**

To the Commissioner of Mental Health and Mental Retardation:

**I.**

\_\_\_\_\_ hereinafter called Petitioner, hereby seeks the adoption of the following rule:

(The text of the proposed rule should be typed here. If amendment of an existing rule is sought, affected wording should be indicated by a different style type, contrasting color in the type, or underscoring. If the repeal or amendment of an existing rule is sought, the existing rule should be cited.)

**II.**

The proposed effective date of the rule is \_\_\_\_\_  
\_\_\_\_\_, 19 \_\_\_\_.

**III.**

The proposed application of the rule is (The persons, institutions and officials to whom the rule is to apply should be stated here. Any desired limitation of the application of the rule should also be stated here.)

**IV.**

The requested action is justified for the following reasons:

(The justification for the adoption of the rule should be stated here in narrative form with sufficient particularity to fully inform the Department and any interested party of the facts upon which the Petitioner relies.)

**V.****Summary:**

(State here a concise but complete summary of the name and address of the Petitioner; the proposed rule; whether the proposed rules would constitute a new rule, an amendment of an existing or the repeal of an existing rule; the proposed effective date of the rule; the proposed application of the rule; and the

facts relied upon by the Petitioner to justify the adoption of the rule.)

Respectfully submitted,

(Petitioner's or Representative's  
signature)  
(Complete address)

Doc. No. 800234

**Inspection of Department Records 302.03.08**

Under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Retardation has adopted Rule 302.03.08.004 to read as follows:

**.004. Availability.**

(a) Public records containing public information shall be made available to any person who applied in writing to either:

(1) be allowed to inspect such records to

(2) be supplied with copies of such records,

unless the record is believed to be a record described in one or more of the exceptions contained in Section 3(a) of the Open Records Act, Article 6252-17a, Vernon's Annotated Civil Statutes.

(b) If it appears that the record requested is one covered by one or more of the exceptions contained in Section 3(a) of the Act or if there is any doubt on that issue, the written request will be promptly forwarded to the custodian of public records of the Texas Department of Mental Health and Mental Retardation for such action or advice, or both, as he may deem proper. In this case, the record or records in question may not be disclosed for inspection nor may copies be provided until disclosure has been authorized by the custodian of public records of the Texas Department of Mental Health and Mental Retardation. If the custodian of public records of the Texas Department of Mental Health and Mental Retardation determines that the record requested contains information considered to be within one or more of the exceptions stated in Section 3(a) of the Open Records Act, but there has been no previous determination that it falls within one of the exceptions, the department within a reasonable time no later than 10 days after receipt of the written request, shall request a decision from the attorney general to determine whether the information is within one or more of the exceptions.

(c) The advice of the department's Legal Division should be requested if there is a question concerning whether information should be disclosed to a member of the public.

Doc. No. 800235

**Practice and Procedure with Respect to  
Administrative Hearings of the Department in  
Contested Cases 302.03.19**

Under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rule 302.03.19.031 to read as follows:

**.031. Ex Parte Consultations.** Unless required for the disposition of ex parte matters authorized by law, the examiner and/or other persons assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate directly or indirectly in connection with any issue of fact or law with any party or his representative, except on notice and opportunity for all parties to participate. Any department decision maker may communicate ex parte with other members of the department who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the department's staff in evaluating the evidence in accordance with Section 14(q) of Article 6252-13a, Vernon's Annotated Civil Statutes, and paragraph (h) of Rule .022 of these rules.

Doc. No. 800236

## Client (Patient) Care

### Public Responsibility Committees 302.04.09

Under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, and in Section 60 of Article 5547-300, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rule 302.04.09.007 to read as follows:

**.007. Procedures and Responsibilities.**

(a)-(h) (No change.)

(i) When the PRC determines that an instance of abuse or denial of rights has occurred which involves a client who is mentally retarded, the PRC shall report this instance to the advocacy system, to the appropriate authorities, to the facility superintendent or director, and to the appropriate deputy commissioner.

(j)-(n) (No change.)

Doc. No. 800237

### Drug Research Contracts 302.04.20

Under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rule 302.04.29.006 to read as follows:

**.006. Agreed Protocol Required for Undertaking of Drug Evaluation.** Drug evaluations to be performed at institutions of the department shall not be undertaken until the grantor drug company and the head of the facility:

(1) have agreed upon a protocol describing the research to be performed;

(2) have entered into a contract in which they agree to expenditures deemed necessary to accomplish the specified research.

Doc. No. 800238

### Rights of Mentally Retarded Clients 302.04.34

Under the authority contained in Section 4.01 of Article 5547-204, Texas Civil Statutes, and Section 26 and 60 of Article 5547-300, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rule 302.04.34.005, .007, and .008 to read as follows:

**.005. Rights of Mentally Retarded Clients.** Clients who receive mental retardation services are specifically granted the following additional rights by the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes:

(1)-(9) (No change.)

(10) Right to access to his or her own medical records except where lawfully restricted such as but not limited to when contraindicated by the client's interdisciplinary team. Parents of minors and guardians of the person have access to educational records under the education regulations. Also, parents of minors and guardians of the person have the right of access to their child's or ward's records under the Education of Handicapped Children Act and the right to seek to amend erroneous information contained in educational records through an administrative hearing under the education regulations.

(11)-(12) (No change)

**.007. Mentally Retarded Rights Handbook.**

(a) The department will publish a handbook outlining the rights of mentally retarded persons, to be entitled "Your Rights under the Mentally Retarded Persons Act, Texas Department of Mental Health and Mental Retardation. The department will review and revise said handbook annually, as necessary.

(b)-(i) (No change.)

**.008. Communication of Rights.**

(a) (No change.)

(b) If a client is manifestly unable to comprehend the rights, a parent of a minor client or the court-appointed guardian of the person of a client, if any, must be informed of the client's rights. The method used to communicate a client's rights to a parent or guardian should be designed for effective communication and should not be limited to written correspondence. Verbal communication of clients' rights shall be documented and witnessed by a third person.

(c) (No change.)

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800239

John J. Kavanagh, M.D.  
Commissioner

Texas Department of Mental Health and  
Mental Retardation

Effective Date: January 30, 1980

Proposal Publication Date: November 30, 1979

For further information, please call (512) 454-3761, ext. 241.

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

## Texas Air Control Board

**Friday, January 25, 1980, 9:30 a.m.** The Texas Air Control Board will meet at the Ramada Inn, 2301 Decker Drive, Baytown. According to the agenda summary, the board will consider the following items: reports; report on staff review of permit applications; consideration and adoption of resolution redesignating Ector County as attainment for ozone; status of State Implementation Plan; new business.

Additional information may be obtained from Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, telephone (512) 451-5711, extension 354.

Filed: January 11, 1980, 10:14 a.m.  
Doc. No. 800272

## State Banking Board

**Tuesday, January 22, 1980, 2 p.m.** The State Banking Board will meet at 2601 North Lamar, Austin. According to the agenda, voting session will include: applications for charter for Parkway Bank & Trust, Dallas; and First City Bank—Northchase, Houston; interim charter applications for Allied Travis Bank, Austin, and second American Bank & Trust of Baytown, Baytown; domicile change applications for Allied Union Bank, Beaumont, Allied Bank of Texas, Houston, First State Bank of Frisco, Frisco, Texas Commerce Medical Bank, Houston, and Iredell State Bank, Iredell; motion for rehearing on North Texas Bank and Trust, Gainesville; rescission of charter for Trinity Bank, Dallas.

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

Filed: January 11, 1980, 3:15 p.m.  
Doc. No. 800298

## Texas State Commission for the Blind

**Friday, January 25, 1980, 10:30 a.m.** The Texas Committee for the Purchase of Blind-Made Products and Services, an advisory committee to the Texas State Commission for the

Blind, will meet in Suite 400, Stokes Building, 314 West 11th Street, Austin. According to the agenda, the committee will consider the following items: legal status of committee; committee rules; feasibility study; workshop site visits; workshop reports to TIBH; new products and/or services; progress report; new business.

Additional information may be obtained from Rodney M. Green, 314 West 11th Street, Austin, Texas, telephone (512) 475-7011.

Filed: January 11, 1980, 10:13 a.m.  
Doc. No. 800273

## Texas Coastal and Marine Council

**Friday, January 18, 1980, 9 a.m.** The Texas Coastal and Marine Council made emergency additions to the agenda of a meeting held in the Lt. Governor's Committee Room, State Capitol, Austin. According to the agenda, the additions were the following: executive session for consideration of personnel matters; executive committee report; Procedures and Policies Committee report; discussion of council projects for 1980; resolution on "Year of the Coast;" liberty ship buoy maintenance, Palmetto Bend Dam project report; coastal building standards; weather forecasting improvement and evacuation; aquaculture/mariculture; proposed East Matagorda Bay improvements; public comments.

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

Filed: January 11, 1980, 2:28 p.m.  
Doc. No. 800293

## Texas Conservation Foundation

**Tuesday, January 15, 1980, 10 a.m.** The Texas Conservation Foundation conducted an emergency meeting in Room 503-G, Sam Houston State Office Building, Austin. According to the agenda summary, the foundation considered approval of the minutes of December 21, 1979, meeting; report on attorney general's ruling on use of cigarette tax money; procedure for filling executive director position; disposition of funds donated for restoration/maintenance of the Aldrich House, Crockett; request for transfer of assets from the Natural Areas Survey Project of the LBJ School of Public Affairs to the Texas Conservation Foundation; federal assistance application under the intergovernmental personnel exchange program; heritage conservation/recreation service regional field office activities report; Texas trails association activities report; and date of next meeting.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: January 14, 1980, 9:12 a.m.  
Doc. No. 800310

## Texas Department of Health

**Friday, January 25, 1980, 9 a.m.** The Application, Budget, and Project Review Committee of the Texas Statewide Health Coordinating Council will meet in Salon "H" at the Marriott

Hotel, IH 35 at U.S. 290, Austin. According to the agenda, the committee will discuss and review the following applications: Greater East Texas Health Systems Agency, Inc.—Beaumont, and Permian Basin Health Systems Agency—Midland. Final Statewide Health Coordinating Council recommendations will be made at full council meeting at 1 p.m. January 25, 1980, at the Marriott Hotel.

Additional information may be obtained from John Dombroski, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7234.

Filed: January 14, 1980, 9:20 a.m.  
Doc. No. 800307

**Friday, January 25, 1980, 1 p.m.** The Texas Statewide Health Coordinating Council of the Texas Department of Health will meet at Marriott Hotel, Salon F, G, & H, IH 35 at U.S. 290, Austin. According to the summary agenda, the council will consider: minutes of previous meeting; annual implementation plans review committee report; reports on continuation application from Greater East Texas Health Systems Agency, Inc.; continuation application from Permian Basin Health Systems Agency; consideration of revised statewide health coordinating council review manual; monitoring and assessment committee report; state health plan review committee report, consideration of proposed state health plan; state medical facilities plan review committee report; report of Ad Hoc Bylaws Committee and consideration of changes to statewide health coordinating council bylaws; nominating committee report; appointment of new members to committees.

Additional information may be obtained from John Dombroski, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7234.

Filed: January 14, 1980, 9:19 a.m.  
Doc. No. 800308

**Sunday, January 27, 1980, 10 a.m.** The Texas Radiation Advisory Board of the Texas Department of Health will meet at the Texas Department of Health Auditorium, 1100 West 49th Street, Austin. According to the summarized agenda, the board will consider the following: introduction of Dr. Bernstein to board; approval of minutes of last meeting; election of officers for 1980; reports of: the director; ionizing radiation and nonionizing radiation; industrial radiography; consultants; and review of low-level radioactive waste.

Additional information may be obtained from David K. Lacker, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7341.

Filed: January 11, 1980, 10:13 a.m.  
Doc. No. 800270

**Public Hearings.** The Texas Department of Health will conduct hearings as summarized.

**Tuesday, January 29, 1980**

10:30 a.m.—Old Courthouse Courtroom, Bridge and Constitution Streets, Victoria; to consider Application 1253 of Victoria County to locate a solid waste disposal site near Placedo

11 a.m.—to consider Application 1254 of Victoria County to locate a solid waste disposal site near Bloomington

**Thursday, January 31, 1980**

10 a.m.—President's Office, Prairie View A&M University, Prairie View; to consider Application 1310 of Prairie View A&M University to locate a solid waste disposal site near Prairie View

**Tuesday, February 5, 1980**

10 a.m.—conference room of the Public Health Region 11, 1110 Avenue G, Rosenberg; to consider Application 1160 of Conservation Management, Inc., to locate a solid waste disposal site near Houston

Additional information may be obtained from Jack C. Carmichael, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7271.

Filed: January 11, 1980, 10:13 a.m.  
Doc. No. 800271

## Texas Health Facilities Commission

**Thursday, January 24, 1980, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications:

certificate of need  
Hillside Mental Health Center, Dallas  
AA78-1004-919

K'Way Kare Rest Home, Holland  
AN79-0904-013

Shady Oaks Nursing Home, Sherman  
AN79-0829-009

exemption certificate  
Medical Plaza Hospital, Sherman  
AH79-1115-027

Mid-Jefferson County Hospital, Nederland  
AH79-1115-029

Texas Children's Hospital, Houston  
AH79-1116-016

McCuistion Regional Medical Center, Paris  
AH79-1116-034

McCuistion Regional Medical Center, Paris  
AH79-1116-038

McCuistion Regional Medical Center, Paris  
AH79-1116-032

declaratory ruling  
Luling Medical Center, Luling  
AO79-0822-012

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

Filed: January 11, 1980, 11:38 a.m.  
Doc. No. 800277

## Texas Historical Commission

**Friday, January 18, 1980, 9 a.m.** The Texas Historical Commission Board has made an emergency deletion and addition to the agenda of a meeting to be held in the La Posada Motor Hotel, McAllen. According to the agenda, the original agenda item, Governor's Mansion Report, will be deleted, and auditor's letter of January 2, 1980, and 1979 audit report will be added to the agenda.

Additional information may be obtained from Truett Latimer, P.O. Box 12276, Austin, Texas 78711, or 1511 N. Colorado, telephone (512) 475-3092.

Filed: January 11, 1980, 12:06 p.m.  
Doc. No. 800289

## State Board of Insurance

**Monday, January 21, 1980, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto, Austin, to consider protest of proposed name concerning Docket 5920—General American Fidelity and Guaranty Corporation, Dallas.

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

Filed: January 10, 1980, 3:48 p.m.  
Doc. No. 800265

## Texas Legislative Council

**Friday and Saturday, January 25 & 26, 1980, 10 a.m. daily.** The Election Code Study Commission of the Texas Legislative Council will meet in Room 301 (Senate Finance Committee Room) at the Capitol in Austin. According to the agenda summary, the council will consider voting systems and campaign finance.

Additional information may be obtained from Walter Fisher, P.O. Box 12128, Austin, Texas 78711, telephone (512) 475-0722.

Filed: January 11, 1980, 2:30 p.m.  
Doc. No. 800294

## Texas State Board of Medical Examiners

**Friday, January 18, 1980, 3 p.m.** The Legislative Committee of the Texas State Board of Medical Examiners will conduct an emergency meeting in Suite 900, 211 East 7th Street, Austin, primarily for discussion of sunset.

Additional information may be obtained from Jean Davis, 211 East 7th Street, Austin, Texas 78701, telephone (512) 475-0746.

Filed: January 10, 1980, 2:03 p.m.  
Doc. No. 800263

## Texas Department of Mental Health and Mental Retardation

**Thursday, January 24, 1980, 9 a.m.** The Texas State Mental Health Advisory Council of the Texas Department of Men-

tal Health and Mental Retardation will meet at the Central Office, first floor auditorium, 909 West 45th Street, Austin. According to the agenda summary, the council will consider the following items: amendment to Texas state plan for comprehensive mental health services; report on status of federal legislation in mental health; progress reports on: 1981 update of state mental health plan, data workshop, and house subcommittee hearings regarding HSAs; report of nominating committee; and reports of deputy commissioners of community services and mental health services.

Additional information may be obtained from Stuart Fisher, P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761, extension 261.

Filed: January 11, 1980, 3:43 p.m.  
Doc. No. 800290

## Texas Board of Licensure for Nursing Home Administrators

**Tuesday, January 22, 1980, 8:30 a.m.** The Texas Board of Licensure for Nursing Home Administrators will meet at Albert Pick Motor Inn, 3301 Southwest Freeway, Houston. According to the summarized agenda, the board will consider reports from executive secretary, chairman, investigator, Health Department, and Department of Human Resources; prehearing conference reports and board decision regarding these reports; committee reports; and rule waiver hearings and request.

Additional information may be obtained from Mable Staton, 7333 Highway 290 East, Austin, Texas 78723, telephone (512) 926-9530.

Filed: January 10, 1980, 3:49 p.m.  
Doc. No. 800266

## Texas State Board of Pharmacy

**Tuesday and Wednesday, January 22 and 23, 1980, 1:30 p.m.-5 p.m. and 9 a.m.-5 p.m., respectively.** The Texas State Board of Pharmacy will meet in Suite 1221, Southwest Tower, 211 East 7th Street, Austin. According to the summarized agenda, the board will meet to discuss Texas jurisprudence exam; foreign pharmacy graduates; budget and staff considerations; comments on proposed rules; and will hear motions for rehearing and applications for pharmacists licensure.

Additional information may be obtained from Priscilla Jarvis, Southwest Tower, Suite 1121, 211 East 7th Street, Austin, Texas 78701, telephone (512) 478-9827.

Filed: January 10, 1980, 3:48 p.m.  
Doc. No. 800264

## Texas Department of Public Safety

**Monday, January 21, 1980, 10 a.m.** The Public Safety Commission of the Texas Department of Public Safety will meet at 5805 North Lamar, Austin. According to the agenda, the commission will consider approval of minutes; budget matters; personnel matters, including hearing on appeal of discharged employee; and approval of internal manual sections.

Additional information may be obtained from James B. Adams, 5805 North Lamar, Austin, Texas, telephone (512) 452-0331, sta. 3700.

Filed: January 11, 1980, 8:35 a.m.  
Doc. No. 800267

## Public Utility Commission of Texas

**Friday, January 25, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing concerns Docket 2988, application of Lyntegar Electric Cooperative, Inc. for a rate increase for its customers in Andrews, Borden, Dawson, Gaines, Garza, Hockley, Lubbock, Lynn, Martin, Terry, and Yoakum Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: January 11, 1980, 2:10 p.m.  
Doc. No. 800292

**Tuesday, January 29, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N at 7800 Shoal Creek Boulevard in Austin to consider Docket 2978, application of Peoples Water Supply, Inc., for a rate increase within Brown County. This meeting was rescheduled to this time.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: January 14, 1980, 9:20 a.m.  
Doc. No. 800306

**Monday, January 28, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Docket 2904, application of Public Service Company of Oklahoma for a certificate of convenience and necessity in Childress County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: January 14, 1980, 9:20 a.m.  
Doc. No. 800305

**Monday, February 11, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider the application of Water Suppliers, Inc. to amend its certificate of convenience and necessity within Travis and Hays Counties, and application of Water Suppliers, Inc. for a rate increase within Travis and Hays Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: January 11, 1980, 10:13 a.m.  
Doc. No. 800269

## Railroad Commission of Texas

**Monday, January 14, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the addition concerned consideration of the following application for exception to statewide Rule 37: Docket 8381A73, Amoco Production Company, Manahans E. (Penn. Lo) Field, Winkler County. This matter was properly noticed for the meeting of January 7, 1980 and was passed over at that meeting. Consideration on less than seven days notice is required as a matter of urgent public necessity.

Additional information may be obtained from William E. Black, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1282.

Filed: January 11, 1980, 11:52 a.m.  
Doc. No. 800278

**Monday, January 14, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the addition concerned consideration of final adoption of amendments to statewide Rules 051.02.02.038 and 051.02.03.003. This item was properly noticed for conference on January 7, 1980, was passed at such conference, and is now being considered on less than seven days notice as a matter of urgent public necessity.

Additional information may be obtained from John G. Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1281.

Filed: January 11, 1980, 11:51 a.m.  
Doc. No. 800279

**Monday, January 14, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the addition concerned consideration of Oil & Gas Docket 9-74, 485, motion by Heydrick Petroleum Company for Railroad Commission of Texas to seal the Consolidated Oil Company, Hopkins -B Well No. 1, Vera Field Area, Clay County. This matter is being considered on less than seven days notice as a matter of urgent public necessity because the subject well is currently producing without a permit in violation of Rule 37(F).

Additional information may be obtained from William E. Black, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1282.

Filed: January 11, 1980, 11:49 a.m.  
Doc. No. 800280



**Monday, January 21, 1980, 9 a.m.** The Railroad Commission of Texas will meet in the conference room, third floor, 1124 South IH 35, Austin. According to the agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act, respectively.

Additional information may be obtained from James P. Grove IV, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: January 11, 1980, 11:52 a.m.  
Doc. No. 800288

**Monday, January 21, 1980, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider Gas Utilities Dockets: 2329, 2330, 2056, 1676, and the director's report.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: January 11, 1980, 11:49 a.m.  
Doc. No. 800282

**Monday, January 21, 1980, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider Gas Utilities Dockets: 2327, 2328, 2332, 2333, 2334, and 2335.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126

Filed: January 11, 1980, 3:34 p.m.  
Doc. No. 800299

**Monday, January 21, 1980, 9 a.m.** The LP-Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin, to consider the director's report.

Additional information may be obtained from Guy G. Mathews, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1189.

Filed: January 11, 1980, 11:49 a.m.  
Doc. No. 800283

**Monday, January 21, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1307.

Filed: January 11, 1980, 11:50 a.m.  
Doc. No. 800285

**Monday, January 21, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider category determinations under Sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: January 11, 1980, 11:50 a.m.  
Doc. No. 800284

**Monday, January 21, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the commission will consider adoption of an amendment to Rule 051.02.99.001, and publication of proposed amendments to Rules 051.02.02.008, .013, and .014 in the *Texas Register*.

Additional information may be obtained from John G. Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1281.

Filed: January 11, 1980, 11:51 a.m.  
Doc. No. 800287

**Monday, January 21, 1980, 9 a.m.** The Surface Mining Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the division will consider an amendment to Conoco, Inc., Permit 008 adding 371 acres to the permitted area at Site 5 (Rosenbrock-Carmody) and the director's report.

Additional information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1176.

Filed: January 11, 1980, 11:51 a.m.  
Doc. No. 800286

**Monday, January 21, 1980, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: January 11, 1980, 11:48 a.m.  
Doc. No. 800281

**Monday, January 21, 1980, 9 a.m.** The Transportation Division of the Railroad Commission of Texas made an addition to the agenda of a meeting to be held in Room 107, 1124 South IH 35, Austin. According to the agenda, the division will consider a final order in the application of Southwestern Freight Bureau to establish specific rates; reduction for fatty

alcohols, inedible, Noibn, etc., in tank cars, carloads from Houston, Texas, to Lubbock and Tulia, Texas (Docket 022934ZZR).

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: January 11, 1980, 4:22 p.m.  
Doc. No. 800311

## Advisory Council for Technical-Vocational Education in Texas

**Tuesday, January 22, 1980, 3 p.m. to 6 p.m.** The Steering Committee of the Advisory Council for Technical-Vocational Education in Texas will meet at the Advisory Council Office, Suite 202, 1700 South Lamar, Austin. According to the agenda, the Steering Committee will review the final plans for the statewide conference on vocational, technical, adult education and other training, review the council program of work and activities, and hear reports on Advisory Council projects.

Additional information may be obtained from Valeria Blaschke, P.O. Box 1886 or 1700 South Lamar, Suite 202, Austin, Texas 78767, telephone (512) 475-2046.

Filed: January 11, 1980, 2:11 p.m.  
Doc. No. 800291

## Texas Tech University

**Saturday, January 12, 1980, 9 a.m.** The Board of Regents of Texas Tech University made an emergency addition to the agenda of a meeting held in the Administration Building, Board of Regents Suite, on campus in Lubbock. According to the agenda, the addition concerned consideration of naming of a president in executive session.

Additional information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, telephone (806) 742-2161.

Filed: January 11, 1980, 11:29 a.m.  
Doc. No. 800276

**Saturday, January 12, 1980, 9 a.m.** The Board of Regents of Texas Tech University Health Sciences Center made an emergency addition to the agenda of a meeting held in the Administration Building, Board of Regents Suite, on campus in Lubbock. According to the agenda, the addition concerned consideration of personnel matters in executive session.

Additional information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, telephone (806) 742-2161.

Filed: January 11, 1980, 11:29 a.m.  
Doc. No. 800275

## Texas Water Commission

**Monday, January 21, 1980, 10 a.m.** The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the following: applications for bond issues; use of surplus funds; release from escrow; petition for appointment of directors; petition for creation; peti-

tion for conversion; water quality permits, amendments, renewals; voluntary suspension and cancellation of water quality permits; adoption of private sewage facilities rules; adjudication matters; final decisions on water rights applications; weather modification license; extension of time applications; temporary docket hearing date setting; and filing and setting of hearing dates for applications.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: January 11, 1980, 2:44 p.m.  
Doc. No. 800295

## Regional Agencies

### Meetings Filed January 10, 1980

**The Central Texas Manpower Consortium, Youth Council,** met at Lisa's Schnitzel House, 311 East 3rd, Lampasas, on January 14, 1980, at 7 p.m. Further information may be obtained from Billy Don Everett, P.O. Box 727, San Saba, Texas 76877, telephone (915) 372-5136.

**The Deep East Texas Regional MH/MR Services, Board of Trustees,** will meet in the Ward R. Burke Community Room, Day Treatment/Administration Facility, 4101 S. Medford Drive, Lufkin, on January 22, 1980, at 5:30 p.m. Further information may be obtained from Wayne Lawrence, 4101 S. Medford Drive, Lufkin, Texas 75901, telephone (713) 639-1141.

Doc. No. 800222

### Meetings Filed January 11, 1980

**The Alamo Area Council of Governments, Executive Committee,** will meet at 532 Three Americas Building, San Antonio, on January 23, 1980, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

**The Concho Valley Council of Governments, Executive Committee,** met in the St. Angelus Room of the Central National Bank, 36 W. Beauregard, San Angelo, on January 16, 1980, at 7 p.m. Further information may be obtained from James F. Ridge, 17 S. Chadbourne, Suite 200, San Angelo, Texas 76903, telephone (915) 653-1214.

**The East Texas CETA Consortium, Board of Directors,** met in the Blue Room at the Allied Citizens Bank, Kilgore, on January 16, 1980, at 2 p.m. Further information may be obtained from Wendell Holcombe, 5th Floor, Allied Citizens Bank Building, Kilgore, Texas, telephone (214) 984-8641.

**The Education Service Center, Region XI, Board of Directors,** will meet at 3001 North Freeway, Fort Worth, on January 22, 1980, at 7:30 p.m. Further information may be obtained from R. P. Campbell, Jr., 3001 N. Freeway, Fort Worth, Texas 76106, telephone (817) 625-5311.

**The Education Service Center, Region XV, Facilities Study Committee,** met at 100 North Magdalen Street, San Angelo, on January 14, 1980, at 2:30 p.m. Further information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, telephone (915) 655-6551.

Doc. No. 800274

## Comptroller of Public Accounts

### Administrative Decision

#### Summary of Administrative Decisions 9038 and 10425

For copies of the following opinion selected and summarized by the administrative law judges, contact the administrative law judges, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with our confidentiality statutes.

**Summary of Decision 9038:** An on-premises search of a company's purchase records by comptroller auditors without notice to the taxpayer violates the Fourth Amendment of the U.S. Constitution and Article 1, Section 9, of the Texas Constitution, and evidence of sales and use tax liability derived from the search may not be used either directly or indirectly as the basis for a sales tax assessment against the taxpayer according to the Fourth and Fourteenth Amendments of the U.S. Constitution.

**Summary of Decision 10425:** A motor common carrier operating in Texas pursuant to certificates of public convenience and necessity must include the account which represents anticipated liability for property loss resulting from accidents ("Accrued Loss and Damage Claims Property Accidents") in its "taxable capital" for purposes of computing its franchise tax. However, the account representing claims actually filed as the result of damaged property ("Accrued Cargo Loss and Damage Claims") is excludable from "taxable capital," being found to be sufficiently certain as to time and amount as to be an "actual liability."

Issued in Austin, Texas, on January 9, 1980.

Doc. No. 800228- Fred Conder  
800229 Chief Administrative Law Judge  
Comptroller of Public Accounts

Filed: January 9, 1980, 2:18 p.m.

For further information, please call (512) 475-1938.

## Texas Health Facilities Commission

### Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of January 5-10, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Satur-

day, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, 315.17.05.010-.030, 315.18.04.010-.030, and 315.18.05.010-.030

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

HCHD Sunnyside Health Center, San Antonio (1/7/80)  
AH79-0306-003A(010380)

AMD/CN—Request amendment CN AH79-0306-003, which authorized replacement of existing Sunnyside Health Center through renovation and equipment of another facility, by extension of completion deadline to November 1, 1980, and to increase the project cost by \$61,900

St. Joseph Hospital, Houston (1/10/80)  
AH80-0107-013

EC—Renovation of the existing education building at 1915 Crawford Street for compliance with City of Houston fire code standards

Lubbock Regional MH/MR, Lubbock (1/10/80)  
AA80-0107-017

EC—Establish a 10-bed ICF-MR-I residential living program at 3015 36th Street with residents coming from the community, the Lubbock State School, and nursing homes

Southwest Texas Methodist Hospital, San Antonio  
(1/7/80)

AH75-0627-010A(010480)

AMD/DR—Request amendment DR AH75-0627-010, which authorized construction of the ambulatory surgery area as part of the completed Methodist Hospital Plaza, by extension of completion deadline to January 13, 1981

The Good Shepherd Hospital, Longview (1/7/80)  
AH79-0517-015A(010380)

AMD/EC—Request amendment of EC AH79-0517-015, which authorized addition of two hemodialysis stations and conversion to a multipatient central proportioning and delivery system, by extension of completion deadline to July 4, 1980

Bell County Health Department Family Planning Program, Temple (1/7/80)

AO80-0104-004

DR—That neither a CN nor an EC is required for the continued operation of the Bell County Health Department's ongoing activities, both health care and non-health related, in the cities of Temple, Belton, and Killeen and for the lease of additional space for the Temple clinic

Issued in Austin, Texas, on January 11, 1980.

Doc. No. 800253      Dan R. McNery  
    General Counsel  
    Texas Health Facilities Commission

Filed: January 11, 1980, 11:38 a.m.

For further information, please call (512) 475-6940.

## Railroad Commission of Texas Gas Utilities Division—Public Hearing Notice Apportionment of Natural Gas in the State of Texas

The Railroad Commission of Texas is charged with the responsibility for enforcing the conservation laws of the State of Texas and for protecting the public interest through the regulation of natural gas supplies.

The Railroad Commission of Texas has the specific authority under Texas Revised Civil Statutes Annotated, Article 6053 (1962), to apportion gas between towns, cities, and corporations.

The demand for natural gas has at times exceeded the supply available in specific areas of the state while other areas have had a surplus.

The Railroad Commission of Texas is of the opinion it must determine: (1) the location and extent of existing and impending natural gas shortages within the State of Texas; (2) the location and amount of any source of supply that could be used to alleviate these shortages; (3) the means whereby the surplus on one system could be transferred to alleviate shortages on other systems.

The commission in an open meeting on January 7, 1980, after discussion of recent curtailment problems ordered a statewide hearing be called to allow input from both public and industry representatives.

It is ordered pursuant to the authority under Texas Revised Civil Statutes Annotated, Articles 1446c (Supplement 1978-1979) and 6050 et. seq. (1962), that notice be and is hereby given to the public and to all gas utilities in Texas that the Railroad Commission of Texas will at 10 a.m. January 23, 1980, in Room 107 of the Railroad Commission offices at 1124 South IH 35, Austin, Texas, hold a hearing for the purpose of gathering evidence to determine whether the available supply of natural gas can voluntarily be shared or apportioned on an equitable basis among the gas utilities so as to alleviate shortages. If no voluntary program can be achieved, it must be determined whether the need exists to establish a mandatory statewide apportionment program, and what rules, regulations, procedures, and orders, if any, should be established to implement such a program.

It is further ordered that any comments or critiques that the parties have regarding the emergency amendment to Substantive Rule 051.04.03.014 signed by the commission on January 7, 1980, be presented at that time.

It is further ordered that notices of intent to participate be submitted to the Railroad Commission of Texas, Gas Utilities Division, P.O. Drawer 12967, Austin, Texas 78711, on or before January 21, 1980. Such parties should be prepared to submit any plans they have developed for voluntary cooperation among intrastate gas utilities so as to alleviate the curtailment problems to the maximum extent possible.

All parties should be prepared to present brief statements including outlines of existing plans to augment gas reserves, increase gas deliverability, and agreements to provide spot sales to other gas utilities having curtailment problems. Plans, proposals, or general comments on a workable voluntary program will also be accepted.

Pursuant to said hearing, the commission will enter such rules or regulations as in its judgment may be deemed lawful and necessary in the public interest.

In the event neither the Railroad Commission of Texas nor any of its members are present to preside over and hold said hearing, then the director or hearings examiner of the Gas Utilities Division is hereby designated and empowered to hold the same and to do and perform any act as provided in Texas Revised Civil Statutes Annotated, Article 6519(a) (Supplement 1979).

Issued in Austin, Texas, on January 8, 1980.

Doc. No. 800252      John W. Camp, Acting Director  
    Gas Utilities Division  
    Railroad Commission of Texas

Filed: January 11, 1980, 11:52 a.m.

For further information, please call (512) 445-1147.

## Texas Water Commission Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of January 2-4, 1980.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed actions; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

### Week Ending January 4, 1980

International Minerals and Chemical Corp. (IMC Carbon Products), Corpus Christi, Nueces County; stores, crushers, and ships petroleum coke; 0.5 mile west of Navigation Boulevard Drawbridge on the split of land between Corpus Christi Inner Harbor and Nueces Bay; new permit

Reed Tool Company, Houston, Harris County; oil well drilling tool plant; 6501 Navigation Boulevard; 00635; amendment

North Forest Municipal Utility District, Houston, Harris County; sewage treatment plant; 16230 Medberry Road; 10905-01; renewal

City of Weslaco, Hidalgo County; water treatment plant; southeast intersection of FM Road 88 and Mile 9 North Road; 10619-01; renewal

James P. S. Griffith (Tejas Village), Houston, Harris County; Tejas Apartment and Shopping Center Complex; on the east side of Lee Road, 1,000 feet north of Jetero Boulevard; 11160; renewal

Harris County Municipal Utility District No. 6, Houston, Harris County; sewage treatment plant; two miles north and one mile east of the intersection of Fairbanks-North Houston Road with White Oak Bayou; 11273-01; amendment and renewal

Soltex Polymer Corp., Deer Park, Harris County; polyolefin and inorganic chemical plant; 1230 Battleground Road (State Highway 134); 00544; amendment

Issued in Austin, Texas, on January 7, 1980.

Doc. No. 800089      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: January 7, 1980, 3:16 p.m.

For further information, please call (512) 475-1311.

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