

3500.6
R263
4/920.3

TEXAS STATE LIBRARY
DEC 12 1979
TEXAS DOCUMENTS

TEXAS REGISTER

In This Issue...

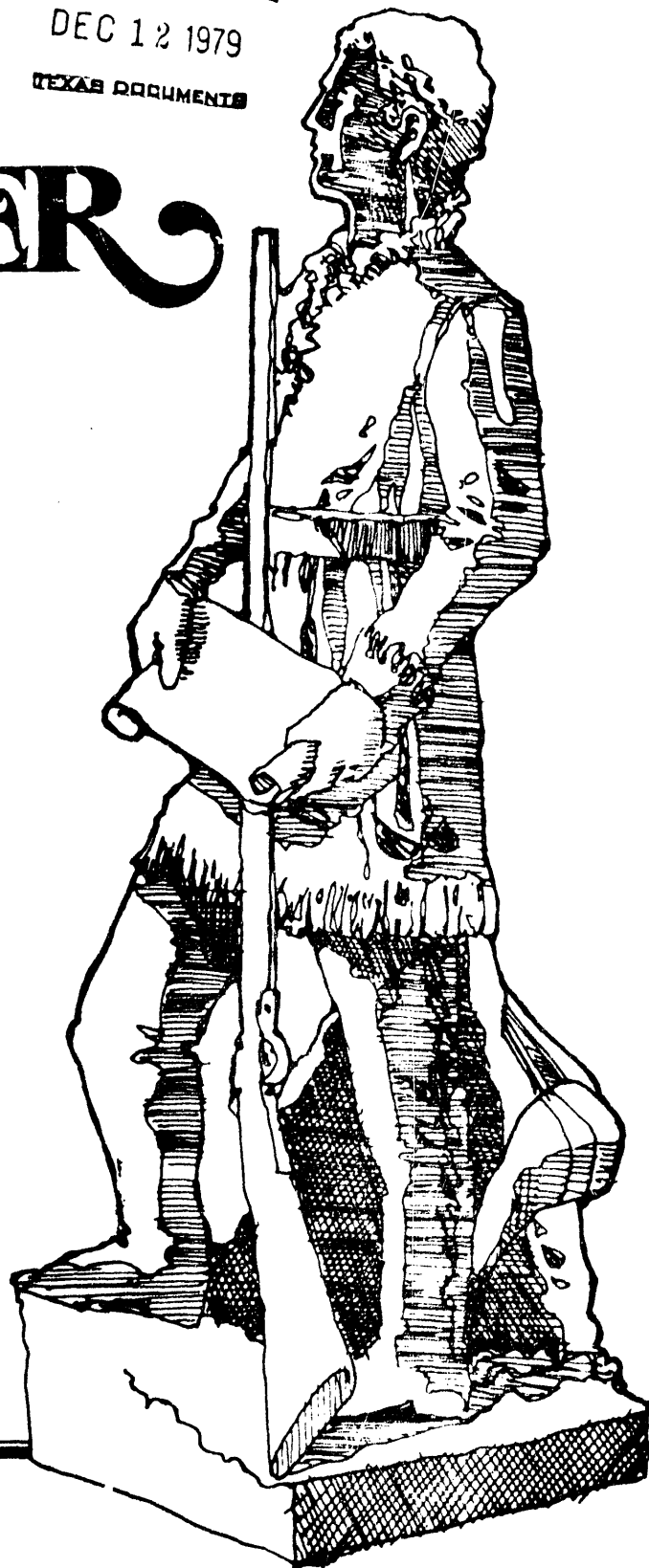
New rules on the testing of newborn children for phenylketonuria, other heritable diseases, and hypothyroidism; amendments to minimum licensing standards for nursing homes and custodial care homes; and new rules relating to control and eradication of rabies proposed by the Texas Department of Health for adoption on January 11, 1980..... 4460

New motor, diesel, and liquefied gas fuels rules adopted by the comptroller of public accounts—effective date—January 1, 1980..... 4476

New rules concerning standards for direct and purchased services adopted by the Texas Department of Human Resources; effective date—December 25..... 4492

Rules concerning licensing of private mental hospitals adopted by the Texas Department of Mental Health and Mental Retardation; effective date—December 24 4496

1980 Publication Schedule.... 4523



The Department of Health proposes rules concerning the testing of newborn children for phenylketonuria (PKU), hypothyroidism, and other heritable diseases, such as galactosemia and homocystinuria. The rules set forth the responsibilities of physicians, midwives, and other persons in attendance at birth; establish testing procedures; and establish methods for follow-up and recording of positive tests.

The Department of Health also proposes rules concerning the control and eradication of rabies. The rules define the responsibilities of the department's Zoonosis Control Division and those of the local health authorities; establish procedures to be followed when reporting human exposure to rabies; establish methods for quarantining biting animals; and outline vaccination requirements. In addition, because of the probability of rabies, the following animals would be excluded from importation as domestic pets: skunk, fox, raccoon, ringtail, bobcat, coyote, and marten.

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

Artwork: Gary Thornton

TEXAS REGISTER

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except March 9, June 1, November 27, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711, telephone (512) 475-7886. The *Register* contains executive orders of the governor; summaries of attorney general's opinions and summaries of requests for opinions, emergency rules, proposed rules, and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas. Subscriptions are \$40 for units of Texas state government and nonprofit schools and libraries in Texas, and \$60 for all others. Six month subscriptions are also available for \$30 and \$45, respectively. Back issues, when available, are \$1.50 each.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the Texas Register Division director provided no such republication shall bear the legend "*Texas Register*" or "Official" without the written permission of the director, Texas Register Division. The *Texas Register* is published under the Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas, and additional entry offices.

George W. Strake, Jr.
Secretary of State

POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 13824, Austin, Texas 78711.

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.

Texas Register Division

Linda Camp
Charlotte Scroggins
Gail Myrick

Bill Lalla, Director
Linda Garrett
Lindy Whittington
Karrie Key

Glenna Donnell
Emma Lawrence
Dee Wright

Volume 4, Number 92, December 11, 1979

The Governor

Appointments

- 4458 *State Commission for the Blind*
- 4458 *Texas Board of Health*
- 4458 *Texas State Board of Examiners of Psychologists*

The Attorney General

Opinions

- 4459 *MW-88 (concerning the registration of assessors with the Tax Assessor Examiners Board)*
- 4459 *MW-89 (concerning the legality of allowing professional organizations to utilize the "released time" of public school personnel)*
- 4459 *MW-90 (concerning whether a public official may receive an honorarium for delivering a speech)*

Proposed Rules

Texas Department of Health

- 4460 *Maternal and Child Health Division*
- 4462 *Nursing and Convalescent Homes*
- 4469 *Veterinary Public Health*
- 4472 *Water Hygiene*

Texas Department of Public Safety

- 4474 *Traffic Law Enforcement*

Office of the Secretary of State

- 4474 *Data Services*

Adopted Rules

Comptroller of Public Accounts

- 4476 *Tax Administration*

Texas Education Agency

- 4487 *Student Services*
- 4489 *Foundation School Program*

Good Neighbor Commission

- 4491 *Substantive Agency Procedures*

Texas Department of Human Resources

- 4492 *Alternate Care for Aged, Blind, and Disabled Adults*

State Board of Insurance

- 4494 *Rating and Policy Forms*

Texas Department of Mental Health and Mental Retardation

- 4496 *Other Agencies and the Public*
- 4505 *Client (Patient) Care*

Texas State Board of Public Accountancy

- 4508 *Definitions*
- 4508 *The Board*
- 4509 *Employees of the Board*
- 4509 *Licenses*
- 4510 *Temporary Practice in Texas*
- 4510 *Fee Schedule*

Office of the Secretary of State

- 4511 *Elections*

Open Meetings

- 4512 *Texas Department of Agriculture*
- 4512 *Texas Air Control Board*
- 4512 *Texas Alcoholic Beverage Commission*
- 4512 *Battleship Texas Commission*
- 4512 *State Commission for the Blind*
- 4513 *Texas Education Agency*
- 4513 *Employees Retirement System of Texas*
- 4513 *General Land Office*
- 4513 *Texas Department of Health*
- 4513 *Texas Health Facilities Commission*
- 4513 *State Board of Insurance*
- 4515 *Texas Advisory Commission on Intergovernmental Relations*
- 4515 *Texas State Board of Library Examiners*
- 4515 *Merit System Council*
- 4515 *State Board of Morticians*
- 4515 *Natural Fibers and Food Protein Commission*
- 4515 *Board of Pardons and Paroles*
- 4515 *Texas Board of Private Investigators and Private Security Agencies*
- 4516 *Public Utility Commission of Texas*
- 4516 *School Land Board*
- 4516 *Structural Pest Control Board*
- 4516 *Teachers Professional Practices Commission of Texas*
- 4517 *Texas Southern University*
- 4517 *Texas State Technical Institute*
- 4517 *Texas Water Commission*
- 4518 *Regional Agencies*

In Addition

Department of Banking

- 4520 *Applications to Purchase Control of State Banks*

State Commission for the Blind

- 4520 *Catalog of Products and Services from the Handicapped of Texas*

East Texas Council of Governments

- 4520 *Consultant Proposal Request*

State Board of Insurance

- 4521 *Consultant Proposal Request*

Public Utility Commission of Texas

- 4521 *Consultant Proposal Requests*

Senate

- 4522 *Special Committee on Delivery of Human Services in Texas*

Texas Water Commission

- 4522 *Applications for Waste Discharge Permits*

Texas Register

- 4523 *1980 Publication Schedule*

Appointments**State Commission for the Blind**

For a six-year term to expire January 1, 1985:

Paula Schuhmacher
4000 Inverness
Houston, Texas 77019

Mrs. Schuhmacher is filling the unexpired term of **Charles Sapp** of Houston, Harris County, who resigned.

Texas Board of Health

To the Dental Advisory Committee, pursuant to Senate Bill 1222, 66th Legislature, Regular Session, for a term to expire February 1, 1984:

Barbara Hutchins Mantooth
1770 St. James Place, Suite 204
Houston, Texas 77056 (public member)

**Texas State Board of Examiners of
Psychologists**

For a six-year term to expire October 31, 1985:

Joan S. Anderson, Ph.D.
1535 West Loop South, No. 222
Houston, Texas 77027

Dr. Anderson is replacing **Dr. John I. Wheeler, Jr.**, of Houston, Harris County, whose term expired.

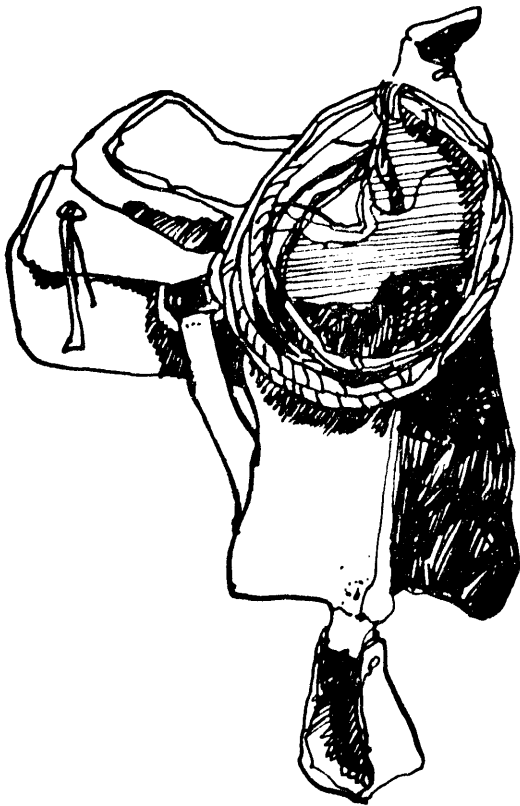
Issued in Austin, Texas, on November 29, 1979.

Doc. No. 799156 **William P. Clements, Jr.**
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.



Opinions

Summary of Opinion MW-88

Request from Carl S. Smith, chairman, Board of Tax Assessor Examiners, Austin, concerning the registration of assessors with the Tax Assessor Examiners Board.

Summary of Opinion: The chief appraiser and other employees of an appraisal district who assess and appraise property for ad valorem tax purposes are required to register with the Board of Tax Assessor Examiners whether or not the district has become fully implemented.

Doc. No. 799146

Summary of Opinion MW-89

Request from M. L. Brockette, commissioner of education, Texas Education Agency, Austin, concerning the legality of allowing professional organizations to utilize the "released time" of public school personnel.

Summary of Opinion: A policy of the Fort Worth Independent School District, which permits teachers to work for professional organizations while being paid salaries by the school district, constitutes an unconditional grant of public funds to a private organization and is therefore unconstitutional.

Doc. No. 799147

Summary of Opinion MW-90

Request from Reagan V. Brown, commissioner of agriculture, Austin, concerning whether a public official may receive an honorarium for delivering a speech.

Summary of Opinion: An honorarium offered a public official must be measured against Chapter 36 of the Penal Code and Article 6252-9b, Vernon's Texas Civil Statutes. Before an honorarium may be legally accepted, it must satisfy the requirements of both statutes.

Issued in Austin, Texas, on November 29, 1979.

Doc. No. 799148

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

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

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

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

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

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

Texas Department of Health Maternal and Child Health Division

Testing Newborn Children for Phenylketonuria, Other Heritable Diseases, and Hypothyroidism 301.33.06

The Texas Department of Health proposes to adopt new rules to implement the requirements of Articles 4447e and 4447e-1, Texas Revised Civil Statutes, on the testing of newborn children for phenylketonuria, other heritable diseases, (galactosemia, homocystinuria), and hypothyroidism. The basic requirements of these rules are as follows: definitions of diseases and related terms; persons who should be tested under these rules; responsibilities of physician or other persons attending a newborn child; testing procedures; department approval of laboratories; follow-up and record keeping on positive tests; and, issuance of an interpretive memorandum.

There are no fiscal implications of the proposed rules to the state or units of local government in that existing appropriations will be used to administer the rules and no additional funds will be required (source: Bureau of Personal Health Services staff).

Public comments on this proposal are invited and should be submitted no later than 30 days following publication of these proposed rules in the *Texas Register* to Clift Price, M.D., chief, Bureau of Personal Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. In addition, a public hearing will be held on January 3, 1980, from 9 a.m. to noon, in the first floor auditorium of the Texas Department of Health Building, 1100 West 49th Street, Austin, Texas 78756.

These rules are proposed under the authority of Articles 4447e and 4447e-1, Texas Revised Civil Statutes.

.007. Purpose. The purpose of these rules is to implement the requirements of Articles 4447e and 4447e-1, Texas Revised Civil Statutes, relating to the testing of newborn

children for phenylketonuria, other heritable diseases, and hypothyroidism.

.008. Definitions.

(a) "Department" means the Texas Department of Health.

(b) "Phenylketonuria" or "PKU" means an inherited condition which, if not treated, leads to mental retardation.

(c) "Galactosemia" means an inherited condition which, if not treated, may cause fatal infection or mental retardation.

(d) "Homocystinuria" means an inherited condition which, if not treated, may cause mental retardation, blood clots, vision problems, skeletal abnormalities, and possibly death.

(e) "Hypothyroidism" means a condition which, if not treated, causes mental and physical retardation.

(f) "Testing" means the screening of a large number of people, and the associated laboratory procedures.

.009. Persons Who Should Be Tested for PKU, Other Heritable Diseases, and Hypothyroidism.

(a) All newborn infants shall be tested, with two exceptions: if the parent or guardian objects on the basis of religious conflict, or if certain medical considerations indicate the need to delay testing.

(b) No physician, technician, or person who provides testing can be liable or responsible because of the failure or refusal of the parent or guardian to give permission or consent for the test.

.010. Responsibilities of Physician or Other Persons Attending a Newborn Child.

(a) The physician or nonphysician attending the newborn child has primary responsibility for seeing that testing is performed according to these rules, and that a satisfactory specimen is submitted to the department on a properly completed form. When a birth occurs outside of an institution involved in the care of newborns, the physician, midwife, or other person in attendance at the birth is responsible for seeing that testing is done.

(b) Collection of blood should be done using a sterile lancet, causing blood from the heel to be absorbed directly onto the filter-paper form.

(c) Specimens should air-dry on a flat surface for at least two hours, and then mailed within 24 hours to the department. If multiple specimens are mailed in one envelope, care should be taken to avoid cross-contamination.

.011. Testing for PKU, Galactosemia, Homocystinuria, and Hypothyroidism.

(a) PKU, galactosemia, and homocystinuria. Blood should be obtained 24 or more hours after protein feeding was started. If a child is discharged from a hospital prior to that time, the specimen should be obtained immediately before discharge, and a follow-up specimen obtained at age two to four weeks.

(b) Hypothyroidism. Blood should be obtained when the child is at least 36 hours old, or according to the instructions in subsection (a).

(c) Testing for all four conditions will be performed from a single filter-paper specimen.

.012. Testing Procedures To Be Used. The tests covered by these rules must be performed by either a diagnostic laboratory within the department or a department-approved laboratory. The department will be responsible for determin-

ing and implementing proper laboratory testing procedures for all of the conditions referred to in these rules.

(1) All determinations relative to initial screening procedures and follow-up testing procedures are included in these responsibilities.

(2) The establishment of current criteria for referral is dependent upon the laboratory procedure employed and will be the responsibility of the department.

(3) Laboratory results will be mailed to the person specified on the screening form upon completion of testing by the department.

.013. Department-Approved Laboratories. Approved laboratories must meet the criteria as outlined below:

(1) Phase I, beginning January 1, 1980, will involve a survey of all laboratories that plan to conduct screening on infants for any or all of the four conditions, followed by administrative approval if the technique and quality control described by each laboratory fall into good laboratory practice.

(2) Phase II will begin January 1, 1981, and will consist of the distribution by the department of specimens for testing by each approved laboratory. Continued approval will be dependent upon successful performance with the proficiency testing specimens.

(3) Phase III will include proficiency testing and an on-site inspection.

.014. Department Approval of Laboratories to Participate in the Testing Program.

(a) Application. To gain approval in this program, a laboratory must file an application form obtainable from the department. Completion of an application form is necessary only once, when entering the approval program, provided the laboratory remains approved.

(b) Testing.

(1) Beginning in January 1981, new applicant laboratories must successfully test an initial set of four specimens sent to them using the procedures for which they desire approval. Approval will be given for screening for one or more of the four diseases covered by these rules. If a laboratory does not screen for all parameters, then provision to have the remaining tests run on actual specimens must be made. After initial testing, laboratories must successfully test four specimens quarterly. All specimens will be blood spots in filter-paper.

(2) All analysts in a laboratory may test themselves on the sets of unknown specimens, but only one report marked in the appropriate columns as the testing laboratory's final decision on the specimens should be returned.

(3) Included in the approval notification will be the testing laboratory identification number and group number. These numbers must be shown on all proficiency test reports and correspondence with this department.

(c) Reporting. Reports on proficiency test specimens will be made on department-prepared forms. A due date will be placed on each form that is mailed, and the results must be received by us on or before that date for the laboratory to avoid being placed on probationary status. Delinquency notices will be sent to those laboratories that fail to respond on time, and laboratories that fail to respond to delinquency notices may have their approval status restricted, suspended, or revoked by the department after an opportunity for a hearing in accordance with the formal hearing procedures of the department.

(d) Grading. Regardless of the total number of evaluation specimens sent to a laboratory, specimens will always be in sets of four. Each type of result on each specimen will receive a grade based on a possible 100. Each incorrect result will result in a loss of points rounded off to six. Transcription errors are counted off as are technical errors. A minimum grade of 82 on each set of four specimens is acceptable. A copy of each report form showing a grade for that set is returned to the laboratory.

(e) Approval.

(1) When a laboratory enters the program by successfully testing and reporting on the initial set of 20 specimens using the report form provided, then that laboratory is placed on the list of those approved for the specified conditions for which the laboratory screens. Thereafter, screening specimens may be accepted by that laboratory.

(2) Military installations participating in a government-conducted proficiency testing program, and independent or hospital laboratories participating in a public health service program, the program of another state health department, or in an established professional society proficiency testing program, do not have to examine specimens in this department's approval program. Such laboratories may instead send to this department copies of their graded reports from those other offices.

(f) Disapproval. If a laboratory fails to pass on its initial attempt to gain approval, it must wait 30 days before reapplying. Failure on second application or subsequent applications will preclude approval each time until an additional 30 days have elapsed, but, in addition, certification must accompany the application that specific action to correct any problems has been taken.

(g) Changes.

(1) It is required that any change in address, location, and tests be made known to the department. Changes in personnel need not be reported.

(2) If any test procedure is to be dropped or the methodology altered significantly, the department must be notified. If a procedure is to be dropped, no further action is necessary after notification. If a new parameter or a new procedure is to be added or if the laboratory changed location, then an evaluation set of specimens must be tested. Successful completion of this study will permit continued approval or the adding of the new procedure of parameter, as appropriate. Failure with a new procedure or parameter will preclude reapplication for 30 days.

.015. Follow-Up and Record Keeping on Positive Tests.

(a) The department will maintain an active system of follow-up for all suspected cases of PKU, galactosemia, homocystinuria, and congenital hypothyroidism. It is the responsibility of the person attending the birth to make sure that all newborns are screened, to obtain repeat specimens when indicated, and to assist in the provision of follow-up services to confirmed cases, when appropriate.

(b) The child's health-care provider is responsible for the child's case management. However, the department will provide assistance, where possible, to assure that care is provided. Local or regional health departments will be responsible for those infants whose health care is provided through the public health system.

(c) Individuals are requested to report all confirmed cases of the above that have been detected by other mechanisms to the department.

(d) Data will be collected in order to derive incidence/prevalence rates for the various conditions. Such epidemiologic data will be obtained largely from information on the filter-paper form; thus, completeness of the form is crucial. Data collection of this nature may, in the future, identify high-risk population groups, with the ultimate goal of preventing the severe sequelae of the conditions.

.016. *Interpretive Memorandum.* For further information and guidance regarding these rules, an interpretive memorandum is available from the department.

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799184 A. M. Donnell, Jr., M.D.
Acting Commissioner of Health

Proposed Date of Adoption: January 11, 1980
For further information, please call (512) 458-7668.

Nursing and Convalescent Homes

The Texas Department of Health has rules requiring nursing homes and custodial care homes to provide certain orientation, training, and inservice education for specified employees of the home. The General Appropriations Bill of the 56th Legislature, 1979, requires that these training requirements be modified so that the cost for implementing those requirements not exceed specified amounts. Moreover, the legislature indicated that emphasis in revised training programs be directed to certain classifications of personnel.

Consequently, the Texas Department of Health must effect a reduction in its requirements for orientation, training, and inservice education; and rule amendments to meet this reduction are herein proposed. The amendments also provide clarification on some subjects. The proposed amendments include:

(1) The categories requiring job-specific training and continuing inservice education are: nursing, dietary, janitor/housekeeper, activity-social service, and medical records. Eliminated categories are administrative laundry and maintenance.

(2) Medical record personnel are not included in continuing inservice education.

(3) A medication aide is considered a nurse aide and must receive the same training as the nurse aide.

(4) A person employed as a food service supervisor who enrolls in an approved food service supervisors course within 90 calendar days of employment need not receive the dietary job-specific training.

(5) The administrator shall be responsible for determining that employees who come from outside placement resources have been adequately trained to perform the job they will occupy in the home. Facility administrators shall request outside placement resources to provide documentation that their personnel placed by the resource has successfully completed the required training.

(6) Activity directors who meet the requirements for activity directors under the intermediate care facility standards for participation of the Texas Department of Human Resources are excluded from the job-specific training.

(7) A person who is employed as an activity director and enrolls in an activity directors course that is approved by the Texas Department of Human Resources is excused from the

activities director training provided the approved course is begun within 90 days of date of employment.

(8) Clarification is made that the degree a training coordinator has from an accredited college or university is a bachelors degree.

(9) Clarification is made that the facility administrator or director of nurses cannot serve as the training coordinator.

(10) A facility consultant may teach the continuing inservice education required and count that as part of the time spent in consultation. The time a consultant spends in teaching orientation or job-specific training may not be counted as time spent in consultation.

(11) Orientation shall be completed within 10 working days of employment. Job-specific training shall be completed within 120 days of completion of the 10-working day orientation period.

(12) Dishwashing personnel need not have continuing education.

(13) The continuing education requirements may be completed at one time up to a maximum of four quarters.

(14) A new employee who has had six months previous employment in a health care facility and presents documentation of training received, and verification of previous experience, need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility.

(15) The requirements and schedule for part-time employees is clarified.

(16) The relationship of training programs and change of ownership of the facility is clarified.

There will be no fiscal implications of these amendments to the state or units of local government because these rule amendments provide a reduction of the cost of training. The staff of the department's Bureau of Long-Term Care was relied on in making this fiscal determination.

Public comment on the proposed amendments is invited and should be submitted in writing to be received no later than December 31, 1979, and addressed to Cesar M. Elizondo, M.D., chief, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A public hearing will be conducted on the proposed amendments at the Texas Department of Health, Room T-507, 1100 West 49th Street, Austin, Texas, on Thursday, December 20, 1979, at 2 p.m.

Minimum Licensing Standards for Nursing Homes 301.54.02

These amendments are proposed under authority of Article 4442c, Texas Civil Statutes.

.006. Personnel.

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

(e) Staff development.

(1) (No change.)

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

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the

same as required for new employees, or shall receive part or all orientation or training as necessary to have such required competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from a *standard training inventory list* (skills check-lists) prepared by and supplied only in sample form by the licensing agency. *The facility shall make all necessary copies. The form shall not be modified in any way. The standard training inventory list* (Skills check-lists), hereinafter referred to as the *training inventory list*, will be the document used to accomplish the following:

(i)-(iii) (No change.)

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

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

(C) Both new and present employees must receive continuing inservice education of content and scope, as it relates to the job category involved and as approved by the training coordinator [specified herein and as approved by the licensing agency].

(3) Employees involved. Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II through VI [IX] (*job specific training*) of the basic training outline of the licensing agency for these training programs, but will be included in training required for all employees found in Section I, Orientation, and in continuing education.

Orientation is required for all employees, except the administrator. The employee categories requiring job-specific training and continuing inservice education to their respective jobs are: nursing, dietary, janitor/housekeeper, activity-social service, and medical records. Medical records, however, is not included in continuing inservice education.

For the purposes of this rule, a medication aide is considered a nurse aide and must receive the same training as the nurse aides in orientation, job-specific training, and continuing inservice education. The continuing inservice education requirement for nurse aides in this rule may not be used for renewal as a medication aide.

Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administrators-in-training under the auspices of that board are not included. Consultants and subcontract personnel who are not employees of the facility are not included.

A person who is employed as a food service supervisor and enrolls in an approved food service supervisors

course within 90 calendar days after the date of employment is not required to receive the dietary job-specific training.

Activity directors who meet the requirements for activity directors under the intermediate care facility standards for participation of the Texas Department of Human Resources are excluded from the job-specific training.

A person who is employed as the activity director and enrolls in an activity directors course that is approved by the Texas Department of Human Resources is exempt from the activities director training, provided the 80-hour activity director course is begun within 90 calendar days after the date of employment.

The administrator shall be responsible for determining that employees who come from outside placement resources have been adequately trained to perform the job which they will occupy in the home. Outside placement resources would include contract personnel, registry personnel, agency pools, and temporary help placement agencies. Orientation programs for such individuals may be conducted at the discretion of each facility. Facility administrators shall request outside placement resources to provide documented evidence that their personnel has successfully completed the required training.

[Examples of employee categories requiring orientation and training specific to their respective job are: administrative (other than administrator), nursing, dietary, therapy, house-keeping and laundry, maintenance, activity, medical records, social service.

[Contract employees and registry personnel are excluded from this training. (Note: if yardmen and handymen are contract employees, they are excluded from the training.)

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

(4) Facility training coordinator. The administrator of the nursing home or custodial care home shall designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing inservice education. [Final determination of the status of all employees, new and present, with respect to training programs, training needs, and competencies will be that of the training coordinator.] The training coordinator shall engage the services of appropriate and competent persons to carry out or assist in carrying out the programs. *The coordinator, on recommendation of the instructors or trainers involved, or based on his own instruction, shall determine the status of all employees, new and present, with respect to training programs, training needs, and competencies. The coordinator will be held responsible for checking the credentials of persons being trained.* A training coordinator may serve more than one facility as long as the training program requirements are met. As the training coordinator will be responsible for the

training of all employee categories, that person shall be professionally or vocationally licensed person in health care or shall hold a *bachelors* degree from an accredited college or university. Ideally, the training coordinator will have had training or experience in adult education and in the general areas of health care. *To assure the overall quality of service provided by the facility is not lessened, the facility administrator and director of nurses are not to serve as the training coordinator.*

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

A facility consultant may teach the continuing inservice education required in this program and count that as part of the time spent in consultation. The time a consultant may use teaching in orientation (Section I) or job-specific training (Sections II through VI) may not be counted as time spent in consultation.

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

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

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

(7) *Records.* Each facility shall keep appropriate records on each employee who must be involved in training

and education programs. The records shall show the status and progress of each employee with reference to his or her required training and shall denote completion and show the date of completion of the appropriate training. *An employee is not eligible to receive a record of completion of job-specific training until he or she has been employed in the facility where the training is completed for at least 120 calendar days.* Copies of all records and *training inventory lists* [skills check-lists] will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and *training inventory lists* [skills check-lists] need only be maintained by the training institution. *Training inventory lists* [Skills check-lists] and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educational institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his or her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request, the facility shall provide that employee with a copy of his or her *training inventory list* [skills check-list] and/or other documentation showing his or her status with respect to required training; such records shall be shared with another facility on request of the employee. All records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the training coordinator by the administrator [or the governing body] and a resume or curriculum vitae of the coordinator.

(8) *Programs teaching outline.*

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

If a facility has a policy prohibiting a skill to be performed, that facility may exclude the training for that skill. Similarly, if a facility has no patients requiring a certain skill, that facility may exclude the training for that skill. In both cases, documentation to this effect shall be made on the individual's training inventory list.

Each facility shall submit a letter of intent which shall include an outline of the subject matter (if different from the one suggested by the licensing agency), the date of implementation of the training, the name and curriculum vitae of the designated training coordinator. The substituted teaching outline is subject to approval by the licensing agency. A copy of the licensing agency's basic teaching outline and suggested plan for implementing the training program will be furnished to each facility; additional copies may be reproduced by the facility. The minimum *subject requirements* [intensity] of training for each category *are* [is] shown in the licensing agency's basic teaching outline, and it is expected that each individual subject in each category will receive *an* [its] ap-

appropriate amount of time [share of intensity]. Appropriate learning-by-doing, when supervised by the training coordinator, or the person *designated by the training coordinator* [teaching the subject involved], may count toward job-specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing inservice education. Continuing inservice education subjects shall *relate to the job category involved and be as approved by the training coordinator* [meet the minimum or basic requirements of the licensing agency or be as otherwise approved by the licensing agency].

(9) Schedule of training and continuing inservice education.

(A) New employee training. Full orientation shall be provided within *10 working* [the first seven calendar] days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed within *120 calendar days following the 10-working day orientation* [the following 90 calendar days].

(B) Continuing inservice education. Each new and present employee shall secure or receive the numbers of hours of continuing inservice education per year as appropriate to his or her specific job, but not less than the following: *licensed nursing personnel and nurse aides—two* [three] hours per quarter; food service supervisors, cooks and helpers, dietary aides—two hours per quarter; [dishwasher—one hour per quarter;] housekeepers, janitors, laundry workers—one hour per quarter; activity staff—one hour per quarter; [medical records staff—one hour per quarter;] social services staff—one hour per quarter. *When related to the employee's respective job, attendance at outside meetings or seminars may be used to satisfy the continuing inservice education requirement for a maximum of four quarters.*

The facility shall keep records of the total number of hours of inservice education for all employees in the home as well as records of attendance of each individual employee.

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

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

(A) Any new employee who has already met all the training requirements or has had similar training, *or six months previous employment in a health care facility, and presents verification of previous experience*, need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator. *In either instance, the training inventory list will be used as the record for documenting credit.*

Any new employee that has had at least six months previous experience in a health care facility may demonstrate competency to the training coordinator. The re-

quired training inventory list will be administered by the facility training coordinator or by the appropriate and competent person to determine if more training is needed, and if so, in what areas. The employee's previous service dates are to be verified by the former employer, and this documentation included in the employee's training record.

(B) (No change.)

(C) *Part-time employees. Part-time employees shall be included in orientation and their respective job-specific training and continuing inservice education. Additional time may be allowed for the completion of both the orientation and job-specific training for part-time employees. The number of hours worked will determine the time allowed for completion of training. Orientation must be completed within 80 hours worked and job specific within 960 hours worked.*

(11)-(12) (No change.)

(13) *Change of ownership. When a facility undergoes a change in ownership, the administrator shall submit a letter to the licensing agency to report the status of the training program. If the training programs remain unchanged, the letter shall so state. Changes of training coordinator or the method by which the facility accomplishes its training should be reported in writing.*

The change of ownership letter must be submitted within 30 days of the change. Pending approval from the licensing agency, the facility should begin the training program so as to have it fully operational within 60 days following the change of ownership.

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

Doc. No. 799210

Minimum Licensing Standards for Custodial Care Homes 301.54.03

These amendments are proposed under authority of Article 4442c, Texas Civil Statutes.

.006. Personnel.

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

(e) Staff development.

(1) (No change.)

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

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the same as required for new employees, or shall receive part or all orientation or training as necessary to have such required competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from a *standard training inventory list* [skills check-lists], prepared by and supplied only in sample form by the licens-

ing agency. *The facility shall make all necessary copies. The form shall not be modified in any way. The standard training inventory list [Skills check-lists], hereinafter referred to as the training inventory list, will be the document used to accomplish the following:*

(i)-(iii) (No change.)

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

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

(C) Both new and present employees must receive continuing inservice education of content and scope, as *it relates to the job category involved and as approved by the training coordinator* [specified herein and as approved by the licensing agency].

(3) Employees involved. Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II through VI [IX] (*job specific training*) of the basic training outline of the licensing agency for these training programs, but will be included in training required for all employees found in Section I, Orientation, and in continuing education.

Orientation is required for all employees, except the administrator. The employee categories requiring job-specific training and continuing inservice education to their respective jobs are: nursing, dietary, janitor/housekeeper, activity-social service, and medical records. Medical records, however, is not included in continuing inservice education.

For the purposes of this rule, a medication aide is considered a nurse aide and must receive the same training as the nurse aides in orientation, job-specific training, and continuing inservice education. The continuing inservice education requirement for nurse aides in this rule may not be used for renewal as a medication aide.

Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administrators-in-training under the auspices of that board are not included. Consultants and subcontract personnel who are not employees of the facility are not included.

A person who is employed as a food service supervisor and enrolls in an approved food service supervisors course within 90 calendar days after the date of employment is not required to receive the dietary job-specific training.

Activity directors who meet the requirements for activity directors under the intermediate care facility standards

for participation of the Texas Department of Human Resources are excluded from the job-specific training.

A person who is employed as the activity director and enrolls in an activity directors course that is approved by the Texas Department of Human Resources is exempt from the activities director training, provided the 80-hour activity director course is begun within 90 calendar days after the date of employment.

The administrator shall be responsible for determining that employees who come from outside placement resources have been adequately trained to perform the job which they will occupy in the home. Outside placement resources would include contract personnel, registry personnel, agency pools, and temporary help placement agencies. Orientation programs for such individuals may be conducted at the discretion of each facility. Facility administrators shall request outside placement resources to provide documented evidence that their personnel has successfully completed the required training.

[Examples of employee categories requiring orientation and training specific to their respective job are: administrative (other than administrator), nursing, dietary, therapy, house-keeping and laundry, maintenance, activity, medical records, social service.]

[Contract employees and registry personnel are excluded from this training. (Note: if yardmen and handymen are contract employees, they are excluded from the training.)]

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

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

areas of health care. *To assure the overall quality of services provided by the facility is not lessened, the facility administrator and director of nurses are not to serve as the training coordinator.*

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

A facility consultant may teach the continuing inservice education required in this program and count that as part of the time spent in consultation. The time a consultant may use teaching in orientation (Section I) or job-specific training (Sections II through VI) may not be counted as time spent in consultation.

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

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

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

(7) **Records.** Each facility shall keep appropriate records on each employee who must be involved in training and education programs. The records shall show the status and progress of each employee with reference to his or her required training and shall denote completion and show the date of completion of the appropriate training. *An employee is not eligible to receive a record of completion of job-*

specific training until he or she has been employed in the facility where the training is completed for at least 120 calendar days. Copies of all records and *training inventory lists* [skills check-lists] will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and *training inventory lists* [skills check-lists] need only be maintained by the training institution. *Training inventory lists* [Skills check-lists] and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educational institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his or her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request, the facility shall provide that employee with a copy of his or her *training inventory list* [skills check-list] and/or other documentation showing his or her status with respect to required training; such records shall be shared with another facility on request of the employee. All records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the training coordinator by the administrator (or the governing body) and a resume or curriculum vitae of the coordinator.

(8) **Programs teaching outline.**

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

If a facility has a policy prohibiting a skill to be performed, that facility may exclude the training for that skill. Similarly, if a facility has no patients requiring a certain skill, that facility may exclude the training for that skill. In both cases, documentation to this effect shall be made on the individual's training inventory list.

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

specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing inservice education. Continuing inservice education subjects shall *relate to the job category involved and be as approved by the training coordinator* [meet the minimum or basic requirements of the licensing agency or be as otherwise approved by the licensing agency].

(9) Schedule of training and continuing inservice education.

(A) New employee training. Full orientation shall be provided within *10 working* [the first seven calendar] days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed within *120 calendar days following the 10-working day orientation* [the following 90 calendar days].

(B) Continuing inservice education. Each new and present employee shall secure or receive the numbers of hours of continuing inservice education per year as appropriate to his or her specific job, but not less than the following: *licensed nursing personnel and nurse aides—two* [three] hours per quarter; food service supervisors, cooks and helpers, dietary aides—two hours per quarter; [dishwasher—one hour per quarter;] housekeepers, janitors, laundry workers—one hour per quarter; activity staff—one hour per quarter; [medical records staff—one hour per quarter;] social service staff—one hour per quarter. *When related to the employee's respective job, attendance at outside meetings or seminars may be used to satisfy the continuing inservice education requirement for a maximum of four quarters.*

The facility shall keep records of the total number of hours of inservice education for all employees in the home as well as records of attendance of each individual employee.

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

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

(A) Any new employee who has already met all the training requirements or has had similar training, *or six months previous employment in a health care facility, and presents verification of previous experience,* need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator. *In either instance, the training inventory list will be used as the record for documenting credit.*

Any new employee that has had at least six months previous experience in a health care facility may demonstrate competency to the training coordinator. The required training inventory list will be administered by the facility training coordinator or by the appropriate and competent person to determine if more training is needed, and if so, in what areas. The employee's previous service

dates are to be verified by the former employer, and this documentation included in the employee's training record.

(B) (No change.)

(C) *Part-time employees. Part-time employees shall be included in orientation and their respective job-specific training and continuing inservice education. Additional time may be allowed for the completion of both the orientation and job-specific training for part-time employees. The number of hours worked will determine the time allowed for completion of training. Orientation must be completed within 80 hours worked and job specific within 960 hours worked.*

(11)-(12) (No change.)

(13) *Change of ownership. When a facility undergoes a change in ownership, the administrator shall submit a letter to the licensing agency to report the status of the training program. If the training programs remain unchanged, the letter shall so state. Changes of training coordinator or the method by which the facility accomplishes its training should be reported in writing.*

The change of ownership letter must be submitted within 30 days of the change. Pending approval from the licensing agency, the facility should begin the training program so as to have it fully operational within 60 days following the change of ownership.

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

Doc. No. 799211

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

The Texas Department of Health has rules requiring nursing homes and custodial care homes to provide certain orientation, training, and inservice education for specified employees of the homes. The General Appropriations Bill of the 66th Legislature, 1979, requires that these training requirements be modified so that the cost for implementing those requirements not exceed specified amounts. Moreover, the legislature indicated that emphasis in revised training programs be directed to certain classifications of personnel.

Consequently, the Texas Department of Health must effect a reduction in its requirements for orientation, training, and inservice education; and modifications to the department's pamphlet entitled "Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes" are herein proposed. Certain changes have also been made for clarification. Proposed modifications and changes in the teaching outline include:

(1) The categories requiring job-specific training and continuing inservice education are: nursing, dietary, janitor/housekeeper, activity-social service and medical records. Medical records personnel are not included in continuing inservice education requirement. Eliminated categories are administrative, laundry, and maintenance.

(2) The teaching content for most categories has been reduced.

(3) The intensity of training expressed by means of devoting specified hours to subjects has been eliminated from the

job-specific teaching outline; however, recommended time frames have been expressed.

These proposed modifications and changes are made through amendment to Rule 301.54.09.001, which adopts the teaching outline by reference.

There will be no fiscal implications of this rule amendment to the state or units of local government because this rule amendment provides a reduction of the cost of training. The staff of the department's Bureau of Long-Term Care was relied on in making this fiscal determination.

Public comment on the proposed amendment is invited and should be submitted in writing to be received no later than December 31, 1979, and addressed to Cesar M. Elizondo, M.D., chief, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A public hearing will be conducted on the proposed amendment at the Texas Department of Health, Room T-507, 1100 West 49th Street, Austin, Texas, on Thursday, December 20, 1979, at 2 p.m.

This amendment is proposed under authority of Article 4442c, Texas Civil Statutes.

.001. *Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes, Revised.* The Texas Department of Health adopts by reference the department's pamphlet entitled "Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes, *Revised*," as amended in 1980. Copies of this pamphlet are available on request and also may be inspected in the office of the department's Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799212 A. M. Donnell, Jr., M.D.
Deputy Commissioner of Health

Proposed Date of Adoption: January 11, 1980
For further information, please call (512) 458-7706.

Veterinary Public Health

Rabies Control and Eradication 301.58.03

The Texas Department of Health proposes to adopt rules to implement the requirements of House Bill 1323, 66th Texas Legislature, 1979, to become effective January 1, 1980, relating to the control and eradication of rabies. The rules will cover: definitions; responsibilities of the department's Zoonosis Control Division; responsibilities of local health authorities; reporting of human exposure to rabies; quarantining of biting animals; vaccination requirements; and importation of certain animals that have a high probability of carrying rabies into the state.

There will be no fiscal implications to the State of Texas or units of local government since authorized program funds will be used to administer the rules (source: Bureau of Veterinary Public Health).

Public comments on the proposed rules are invited and should be submitted in writing no later than January 7, 1980, to Foy V. McCasland, D.V.M., chief, Bureau of Veterinary Public Health, 1100 West 49th Street, Austin, Texas 78756. In addition, a public hearing on the proposed rules will be held in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas, from 9 a.m. to noon on December 13, 1979. Comments, questions, and testimony relevant to the proposed rules will be considered.

These rules are proposed under authority of Articles 6252-13a and 4418a, Texas Revised Civil Statutes.

.001. *Purpose.* The purpose of these rules is to protect the public health by establishing uniform rules for the control and eradication of rabies in the State of Texas.

.002. *Definitions.* Definitions of terms for these rules are as follows:

(1) "Zoonosis Control Division" (ZCD) means the Division of the Bureau of Veterinary Public Health of the Texas Department of Health to which the responsibility for implementing these rules is assigned.

(2) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

(3) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(4) "Sanitize" means to make physically clean and to destroy disease-producing agents.

(5) "Humanely destroy" means to cause the death of an animal by a method which:

(A) produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress; or

(B) which utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

(6) "Zoonosis control representative" means any person employed by the ZCD.

(7) "Dog" means any live or dead dog (*Canis familiaris*).

(8) "Cat" means any live or dead cat (*Felis catus*).

(9) "Animal" means any live or dead mammal, domesticated or wild.

(10) "Wild state" means living in its original, natural condition; not domesticated. "Wildlife" refers to animals living in such conditions. "Wild animal" refers to any mammal except the common domestic species (dogs, cats, horses, cattle, swine, sheep, and goats) regardless of state or duration of captivity.

(11) "Public health region" means a contiguous group of Texas counties, so designated by the board.

(12) "Vaccinated" means properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture.

(13) "Currently vaccinated" means vaccinated and satisfying the following criteria:

(A) the animal must have been at least three months of age at the time of vaccination;

(B) at least 30 days have elapsed since the initial vaccination;

(C) not more than 12 months have elapsed since the most recent vaccination.

(14) "Observation period" means the 10 days following a bite incident during which the biting animal's health status must be monitored.

(15) "Quarantine period" means that portion of the observation period during which a biting animal is physically confined for observation as provided for in Rule .007.

(16) "Department" means the Texas Department of Health (TDH).

(17) "Unowned animal" means any animal for which an owner has not been identified.

.003. Information Relating to the Control of Rabies. The ZCD will assume the responsibility of collecting, analyzing, and preparing monthly, quarterly, and annual summations of zoonotic disease activity in the state. These reports will be forwarded to national, state, and municipal agencies as required and selected statistics will be sent to the practitioners of veterinary medicine throughout the state.

.004. Local Health Authorities. Pre-exposure rabies immunization should be given to the local health authority engaged in removing heads and/or brains and these persons should possess neutralizing antibody levels equal to or greater than the level considered protective by the U.S. Public Health Service.

.005. Reports of Human Exposure to Rabies.

(a) Any person having knowledge of an animal bite to a human will report the incident to local health authorities as soon as possible, but not later than 24 hours from the time of the incident.

(b) The owner of the biting animal will place that animal in quarantine as prescribed in Rule .006 under the supervision of the local health authority.

(c) The local health authority will investigate each bite incident, utilizing standardized reporting forms provided by TDH.

.006. Facilities for the Quarantining of Animals.

(a) Generally.

(1) **Structural strength.** Housing facilities shall be structurally sound and shall be maintained in good repair in order to protect the animals from injury, to contain them, and to prevent exposure to other animals.

(2) **Water and electric power.** Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available.

(3) **Storage.** Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(4) **Waste disposal.** Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestations, odors, and disease hazards.

(5) **Washrooms and sinks.** Facilities for personal hygiene, such as washrooms, basins, or sinks, shall be provided for employees.

(b) **Facilities—indoor.**

(1) **Heating.** Indoor housing facilities shall be sufficiently heated when necessary to protect the animals. The room temperature shall not be allowed to fall below 59° F.

(2) **Ventilation.** Indoor housing facilities shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided

with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the temperature is 85° F. or higher.

(3) **Lighting.** Indoor housing facilities shall have ample light of sufficient intensity to permit routine inspection and cleaning during the entire work period. Primary enclosures shall be situated to protect the animals from excess illumination.

(4) **Interior surfaces.** The interior building surfaces shall be constructed and maintained so that they are impervious to moisture and may be readily sanitized.

(5) **Drainage.** A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage onto the floor of the room.

(c) **Facilities—outdoor.**

(1) **Shelter from sunlight.** When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all animals to protect themselves from the direct rays of the sun.

(2) **Shelter from rain, sleet, or snow.** Animals shall be provided with access to shelter to allow them to remain dry during rain, sleet, or snow.

(3) **Shelter from cold weather.** Shelter shall be provided for all animals when the atmospheric temperature falls below 50° F. (10° C.). Sufficient clean bedding material or other means of protection from the cold shall be provided.

(4) **Drainage.** A suitable method shall be provided to rapidly eliminate excess water.

(d) **Primary enclosures shall:**

(1) be structurally sound and maintained in good repair;

(2) provide convenient access to clean food and water;

(3) enable the animal to remain dry and clean;

(4) be constructed so as to protect the animal's feet and legs from injury;

(5) provide sufficient space to allow each animal to turn around fully, stand, sit, and lie in a comfortable normal position;

(6) provide each dog a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of the tail, plus six inches, expressed in square feet;

(7) provide each adult cat 2-1/2 square feet of floor space.

(e) **Feeding.**

(1) **Dogs and cats shall be fed at least once a day except as otherwise might be directed by a licensed veterinarian.** The food shall be free from contamination, wholesome, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the dog or cat.

(2) **Food receptacles shall be accessible to all dogs and cats and shall be located so as to minimize contamination by excreta.** Feeding pans shall be durable and kept clean and sanitary. Disposable food receptacles may be used but must be discarded after each feeding. Self feeders may be used for

the feeding of dog food, and shall be kept clean and sanitary to prevent molding, deterioration, or caking of feed.

(f) **Watering.** If potable water is not accessible to the dogs and cats at all times, it shall be offered to them at least twice daily for periods of not less than one hour, except as directed by a licensed veterinarian. Watering receptacles shall be kept clean and sanitary.

(g) **Sanitation.**

(1) **Cleaning of primary enclosures.** Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the inhabitants and to reduce disease hazards and odors.

(2) **Sanitation of primary enclosures.** Cages, rooms, and pens or runs shall be maintained in a clean and sanitary condition.

(3) **Building and premises shall be kept clean.**

(h) **Pest control.** A regular program for the control of insects, ectoparasites, and other pests shall be established and maintained.

.007. *Quarantine Method and Testing.*

(a) When a dog or cat which has bitten a human has been identified, the owner will be required to place the animal in quarantine. The 10-day observation period will begin on the day of the bite incident. The animal must be placed in the animal control facilities specified for this purpose, if available. However, the owner of the animal may request permission from the local health authority for home quarantine if the following criteria can be met:

(1) Secure facilities must be available at the home of the animal's owner, and must be approved by the local health authority.

(2) The animal is currently vaccinated against rabies.

(3) The local health authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the local health authority must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing.

(4) The animal was not in violation of applicable laws at the time of the bite.

(5) If the biting animal cannot be maintained in secure quarantine, it should be humanely destroyed and the brain submitted for rabies diagnosis in a TDH-certified laboratory using the fluorescent antibody test.

(b) No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The head shall be sent to the nearest laboratory certified to perform the fluorescent antibody test for rabies.

.008. *Public and Private Entities That Operate a Quarantine Facility.*

(a) **Quarantining procedures.**

(1) Biting animals and animals suspected of rabies that are placed in confinement for observation must be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

(2) The unowned animal can be destroyed for rabies diagnosis prior to the end of the quarantine period.

(3) The local health authority may require a written agreement by the owner or the custodian at the time of

quarantine and the animal may be disposed of according to terms of this agreement.

(b) **Facilities planning.** Any county, city, town, or incorporated community desiring to construct animal control facilities should submit plans to the department for approval.

(c) **Inspection requirements of quarantine facilities.**

(1) It will be the responsibility of the department to inspect all existing animal quarantine facilities. The inspection of the premises will be accomplished during ordinary business hours and the inspector must be accompanied by the person responsible for the management of the facility. All deficiencies will be documented in writing. Those that are of sufficient significance to affect the humane care of any animal confined to the facility must be corrected within a reasonable period of time.

(2) The inspections will be accomplished annually or more frequently when significant discrepancies have been identified. Any facility that cannot achieve acceptable standards within one year will be required to cease operation until acceptable standards have been achieved.

(3) **The right of appeal.** If the opinion of management of the quarantine facility is in conflict with the inspection evaluation, he may request a review of the inspection by the director, Zoonosis Control Division. In the event points of difference still remain, the supervisor may request a review of the inspection by the chief, Bureau of Veterinary Public Health. Each of the above appeals, when required, will be made in writing through the public health region director's office in whose area the animal facility is located.

(4) All facilities supervised by a licensed veterinarian in the full-time employment of a local health department and those operated by a licensed practicing veterinarian are exempt from inspection.

.009. *Vaccination Required.*

(a) **Vaccination.** The owner of each dog or cat shall have the dog or cat vaccinated against rabies by the time it is four months of age and within each subsequent 12-month interval thereafter.

(b) The licensing authority shall issue a metal tag to be worn by the dog or cat on a collar or harness for one year.

(c) Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by TDH. Information required is as follows:

- (1) owner's name, address, and telephone number;
- (2) animal identification—species, sex, age, (three months to twelve months, 12 months or older), size (pounds), predominant breed, and colors;
- (3) vaccine used, producer, expiration date, and serial number;
- (4) date vaccinated;
- (5) rabies tag number;
- (6) veterinarian's signature and license number.

.010. *Importation of Certain Animals.*

(a) The following animals, because they have a high probability of carrying rabies and constitute a danger to public health if brought into Texas, will be excluded from importation as domestic pets:

- (1) skunk (*Mephitis mephitis*, *Spilogale putorius*, *Spilogale gracilis*, *Mephitis macroura*, *Conepatus mesoleucus*, *Conepatus leuconotus*);
- (2) fox (*Vulpes fulva*);
- (3) raccoon (*Procyon lotor*);

- (4) ringtail (*Bassariscus astutus*);
- (5) bobcat (*Lynx rufus*);
- (6) coyote (*Canis latrans*);
- (7) marten (*Martes martes*).

These animals may be imported if they are destined for a research institute or public display, as in zoos or organized entertainment units (circus).

(b) Certificates of health for dogs and cats as authorized by these rules shall be prepared by a licensed veterinarian on forms provided by the Texas Department of Health. A copy of the completed certificate for each dog or cat departing the state will be forwarded to the Bureau of Veterinary Public Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. These certificates will be held for two years and discarded at the beginning of each fiscal year.

.011. *Interstate Movement of Dogs and Cats into Texas.* All dogs and cats to be transported into Texas for any purpose shall be admitted only when accompanied by an official health certificate completed by a licensed graduate veterinarian of the state of origin, who shall certify that the animals are free from all infectious and contagious diseases or known exposure thereto, have not been exposed to rabies, nor originated in a rabies-quarantined area, and are currently vaccinated against rabies and identified by vaccination certificates showing date of vaccination.

.012. *International Movement of Dogs and Cats into Texas.* International movement of dogs and cats into Texas will proceed in accordance with the rules and regulations prescribed by the United States Public Health Service.

Doc. No. 799185

Water Hygiene

Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems 301.83.01

Under the authority of the Civil Statutes of Texas, the Texas Department of Health currently maintains and enforces the "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems," which were adopted by the Texas Board of Health on June 4, 1977, effective on July 1, 1977, and amended on November 30, 1977, effective on January 3, 1978. The Texas Department of Health proposes to amend Rule .002. The amendments are primarily for the purpose of clarifying the definitions of a public water system and service connection. In addition, the number of connections in the definition of a public water system will be the same as in the Federal Safe Drinking Water Act, Public Law 93-523. The increase from four connections to 15 connections will eliminate over 100 water systems from the public water supply inventory and these systems will not have to meet the requirements of the "Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems."

There will be no fiscal implications of these proposed amendments to the State of Texas or units of local government (source: Division of Water Hygiene).

Written comments on the amendments to the "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems" may be submitted to the department and mailed no later than 30 days after publication in the *Texas Register*. All written comments should be addressed to Charles K. Foster, P.E., director, Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Copies of the amendments to the "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems" are available at the Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Copies are available at the following public health regional offices:

- (1) Public Health Region 1, P.O. Box 968, West Texas State University Station, Old Health Center Building, Canyon, Texas 79016.
- (2) Public Health Region 2, 3211 Knoxville, Suite 100, Lubbock, Texas 79413.
- (3) Public Health Region 3, P.O. Box 10736, 2300 East Yandell, El Paso, Texas 79903.
- (4) Public Health Region 4, Old Courthouse, second floor, 301 Oak Street, Abilene, Texas 79602.
- (5) Public Health Region 5, 701 Director Drive, P.O. Box 5627, Arlington, Texas 76011.
- (6) Public Health Region 6, P.O. Box 190, Alexander Nursing Building, Scott and White Hospital, Temple, Texas 76501.
- (7) Public Health Region 7, P.O. Box 2501, Cotton Belt Office, 1517 West Front Street, Tyler, Texas 75710.
- (8) Public Health Region 8, P.O. Box 592, 500 South Rangerville Road, Harlingen, Texas 78550.
- (9) Public Health Region 9, P.O. Drawer 630, Old Memorial Hospital Building, Garner Field Road, Uvalde, Texas 78801.
- (10) Public Health Region 11, 1110 Avenue G, Rosenberg, Texas 77471.

These amendments to the "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems" are being proposed pursuant to Article 4477-1, Vernon's Texas Civil Statutes.

.002. *Definitions.* The following definition shall apply in the interpretation and enforcement of these standards, and reference shall be had to the department's "Rules and Regulations for Public Water Systems" for aid in determining the meaning of the terms herein defined:

- (a) "Public water system" means a system for the provision of piped drinking water at least 60 days out of any 12-month period, if such system has 15 or more service connections or regularly serves an average of at least 25 individuals daily. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. [means any system for the delivery to the public of piped water for human consumption, if such a system has four or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any

collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.]

(b)-(j) (No change.)

Doc. No. 799186

Public Water Systems 301.83.12

Under the authority of the Civil Statutes of Texas, the Texas Department of Health currently maintains and enforces the "Rules and Regulations for Public Water Systems," which were adopted by the the Texas Board of Health on July 29, 1978, and were effective on September 1, 1978. The Texas Department of Health proposes to amend Rule .001(i) and (j). The amendments are primarily for the purpose of clarifying the definitions of a public water system and service connection. In addition, the number of connections in the definition of a public water system will be the same as in the Federal Safe Drinking Water Act, Public Law 93-523. The increase from four connections to 15 connections will eliminate over 100 water systems from the public water supply inventory and these systems will not have to meet the requirements of the "Rules and Regulations for Public Water Systems."

There will be no fiscal implications of these proposed amendments to the State of Texas or units of local government (source: Division of Water Hygiene).

Written comments on the amendments to the "Rules and Regulations for Public Water Systems" may be submitted to the department and mailed no later than 30 days after publication in the *Texas Register*. All written comments should be addressed to Charles K. Foster, P.E., director, Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Copies of the amendments to the "Rules and Regulations for Public Water Systems" are available at the Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Copies are available at the following public health regional offices:

- (1) Public Health Region 1, P.O. Box 968, West Texas State University Station, Old Health Center Building, Canyon, Texas 79016.
- (2) Public Health Region 2, 3411 Knoxville, Suite 100, Lubbock, Texas 79413.
- (3) Public Health Region 3, P.O. Box 10736, 2300 East Yandell, El Paso, Texas 79903.
- (4) Public Health Region 4, Old Courthouse, second floor, 301 Oak Street, Abilene, Texas 79602.
- (5) Public Health Region 5, 701 Director Drive, P.O. Box 5627, Arlington, Texas 76011.
- (6) Public Health Region 6, P.O. Box 190, Alexander Nursing Building, Scott and White Hospital, Temple, Texas 76501.
- (7) Public Health Region 7, P.O. Box 2501, Cotton Belt Office, 1517 West Front Street, Tyler, Texas 75710.
- (8) Public Health Region 8, P.O. Box 592, 500 South Rangerville Road, Harlingen, Texas 78550.
- (9) Public Health Region 9, P.O. Drawer 630, Old Memorial Hospital Building, Garner Field Road, Uvalde, Texas 78801.
- (10) Public Health Region 11, 1110 Avenue G, Rosenberg, Texas 77471.

These amendments to the "Rules and Regulations for Public Water Systems" are being proposed pursuant to Article 4477-1, Vernon's Texas Civil Statutes.

.001. Definitions.

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

(i) "Drinking water" shall mean all water distributed by any entity [agency] or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "drinking water" shall also include all water supplied for human consumption or used by any institution catering to the public.

(j) "Public water system" shall mean a water system which supplies drinking water on each of 60 full or partial days during any 12-month period to 15 or more service connections, or serves an average of at least 25 individuals. In the context of residences, service connections shall be counted as follows: one for each residential (i.e., one-family) unit to which drinking water is supplied from the system. In nonresidential contexts, such as business or industrial locations, connections shall be counted as follows: one for each building to which drinking water is supplied from the system. "Individuals" shall include employees whose basic place of business is also the place to which drinking water from the system is supplied. An individual shall be deemed to be served by a system if he resides in or works in a place to which drinking water is supplied from the system, or uses such place as his employment headquarters. The term "public water system" includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. This definition is intended to be the department's interpretation of state statute language. [shall mean a system which supplies water to four or more service connections, or serves 25 or more individuals for at least 60 days annually.]

(k)-(n) (No change.)

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799187

A. M. Donnell, Jr., M.D.

Acting Commissioner of Health

Proposed Date of Adoption: January 11, 1980

For further information, please call (512) 458-7533.



Texas Department of Public Safety

Traffic Law Enforcement

Requirements for Displaying Vehicle Inspection Certificate 201.02.05

The Texas Department of Public Safety is proposing to amend Rule 201.02.05.002 by changing the rule title from Texas Vehicles Returning without Valid Vehicle Inspection Certificates to Acceptance of Out-of-State Vehicle Inspection Certificates. Proposed amendment 1 creates subsection (a) promulgating authority to accept inspection certificates issued outside the State of Texas on Texas-registered vehicles. Proposed amendment 2 creates subsection (b) which establishes the vehicle inspection and vehicle identification certificate requirements for out-of-state registered vehicles that are required to be registered in Texas. Proposed amendment 3 creates subsection (c) with existing language of the rule. Proposed amendment 4 creates subsection (d) listing the states with a vehicle inspection law similar to that of the State of Texas.

The staff of the Texas Department of Public Safety has determined there are no fiscal implications involved in the proposed amendments relating to enforcement guidelines.

Comments on the proposed amendments are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the Register.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, 6701d, Section 140.

.002. Acceptance of Out-of-State [Texas Vehicles Returning without Valid] Vehicle Inspection Certificates.

(a) *Texas-registered vehicles. Acceptance of inspection certificates issued outside the State of Texas. A valid certificate of inspection issued in the District of Columbia or in another state of the United States having an inspection law similar to that of the State of Texas is acceptable on a Texas-registered vehicle provided the inspection certificate was obtained while the owner or operator of the vehicle was residing in the other jurisdiction and the vehicle was regularly assigned, garaged, or stationed outside of the State of Texas. This acceptance does not extend to owners and operators who have resided continuously in Texas.*

(b) *Out-of-state registered vehicles. Vehicles required to be registered in Texas will be required to be inspected at an official vehicle inspection station and obtain a vehicle identification certificate, Form VI-30-A, before the registration process can be completed. Valid out-of-state safety inspection certificates will not be honored on vehicles required to be registered.*

(c) *Time allowed to acquire inspection certificate. The Department of Public Safety extends the time within which a certificate of inspection shall be obtained by a resident owner or operator of a Texas-registered vehicle, when the vehicle has no valid inspection certificate. The extension will be granted only on the first occasion of operation in this state during an inspection year and only until the resident owner or operator of the vehicle has arrived at his home, station, or destination in this state and for three days thereafter.*

(d) *Texas-registered vehicles may operate in Texas on a valid inspection certificate from the District of Columbia or any of the following states provided the certificate was obtained while the owner of the vehicle resided in the other jurisdiction: Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Indiana, Iowa, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, West Virginia.*

Issued in Austin, Texas, on November 29, 1979.

Doc. No. 799149 Wilson E. Speir
Director
Texas Department of Public Safety

Proposed Date of Adoption: January 11, 1980
For further information, please call (512) 452-0331.

Office of the Secretary of State

Data Services 004.15.00

The secretary of state proposes for amendment Rule 004.15.00.001, which sets the fees charged for the extraction of information from public records maintained on computer by the Data Services Division of the Office of the Secretary of State. The fees set by the amendment have been established giving due consideration to the expenses involved in providing the public records and every effort has been made to match the charges with the actual cost of providing the records. The fees were approved by the State Purchasing and General Services Commission under letter of December 3, 1979, as required by Section 9(b) of Article 6252-17a, Texas Civil Statutes (the Open Records Act). As a result of suggestions received from the Texas Register Division, the numbering scheme of subparagraphs of the rule has been changed.

The staff of the Office of the Secretary of State has determined that the proposed changes to the fee schedule will have no fiscal impact on units of state or local government. The proposal provides for a more accurate recoupment of costs incurred, resulting in a reduction of state expenditures in providing open records information.

Public comment on the proposed amendment is invited. Persons should submit their comments in writing to John Lovelady, director, Data Services Division, P.O. Box 12887, Austin, Texas 78711.

This amended rule is proposed under the authority of Article 6252-17a, Texas Civil Statutes.

.001. Fees and Charges.

(a) The following fees shall be charges for the extraction of information from public records maintained on computer by the Data Services Division of the Office of the Secretary of State:

(1) Equipment cost.

- (A) CPU time—(\$5.00 per execution minute)
 (\$80 per execution hour)
 (\$40 per execution hour for
 program compilation)

(B) Memory-batch on-line—K Bytes multiplied by CPU hours multiplied by \$0.45
K Bytes multiplied by elapsed wall clock hours multiplied by \$0.0625]

[(C) Disk—\$0.00 per program compilation
\$0.35 per 1,000 transfers
(reads/writes)]

[(D) Card reader—\$0.19 per 1,000 cards read]

(B)(E) Printer—\$0.45 per 1,000 lines printed on stock forms provided by the performing agency
[\$0.35 per 1,000 lines printed for program compilation]
[\$0.25 per 1,000 lines printed on forms supplied by the receiving agency]

[(F) Magnetic tape drives—\$3.45 per drive per hour (elapsed time)]

(2) Personnel costs.

(A) Data entry and/or control—\$5.00 per [man] hour (*two* [one]-hour minimum)

(B) Systems analysis—\$35 [\$15] per [man] hour

(C) Programming—\$25 [\$12] per [man] hour

(D) Computer operator—\$8.00 per hour (*one-hour minimum*)

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

(b) (No change.)

Issued in Austin, Texas, on December 4, 1979.

Doc. No. 799192

H. David Hamdon

Assistant Secretary of State

Proposed Date of Adoption: January 11, 1980

For further information, please call (512) 475-7881.

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

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

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

Comptroller of Public Accounts

Tax Administration

Fuel Tax Division 026.02.09.001-.022

The comptroller of public accounts has adopted the repeal Rules 026.02.09.001-.022. The proposed repeal was published in the October 12, 1979, issue of the *Texas Register* (4 TexReg 3739). The repeal was proposed because new rules have been adopted to implement House Bill 1431 enacted by the 66th Legislature. The new Act is a complete revision and recodification of the motor fuel, diesel fuel, and liquefied gas fuels acts which the new motor fuel act specifically repeals. The new Act takes effect on January 1, 1980.

Pursuant to the authority of Texas Taxation—General Annotated, Article 9.021, 1979 Texas Session Law Service, Chapter 291, Section 1, 638 (Vernon's).

Doc. No. 799230

026.02.09.101-.116

Under the authority of Texas Taxation—General Annotated, Article 9.021, 1979 Texas Session Law Service, Chapter 291, Section 1, at 638 (Vernon), the Comptroller of Public Accounts has adopted Rules 026.02.09.101-.116 to read as follows:

.101. *Special Purpose Liquefied Gas Propelled Motor Vehicle: 9.304(2).*

(a) Definition. A "special-purpose" liquefied gas-propelled motor vehicle is a motor vehicle having unique, technical, or scientific equipment mounted or installed as an integral part of the vehicle. Examples of "special purpose" vehicles include but are not limited to well-servicing units and recreational vehicles.

(b) Conditions. Any person applying for a special-purpose class decal must include with the application to the comptroller a statement describing each vehicle for which a Class S decal is requested. No decal will be issued for special-purpose vehicles which will be driven more than 5,000 miles

annually on the public highways of Texas. If the odometer reading shows that the vehicle was driven over 5,000 miles during the preceding year for which a decal was issued, sufficient evidence must be submitted to show that the mileage in excess of 5,000 miles was not the result of travel on the public highways of Texas.

.102. *Transit Company Affidavit: 9.101(1)(F), 9.201(1)(F).*

(a) Application for exemption. In order to purchase gasoline or diesel fuel at a reduced tax rate, a transit company must submit to the comptroller an affidavit stating:

(1) that the business holds a franchise from a political subdivision or is owned or operated by a political subdivision;

(2) that the rates charged by the business are regulated by the subdivision; and

(3) that any gasoline or diesel fuel purchased by the business at a reduced tax rate shall be used exclusively in its transit carriers that are designed to carry 12 or more passengers.

(b) Exemption certificate. After review and approval of the affidavit, the comptroller shall issue to that transit company an exemption certificate which may be reproduced for suppliers or distributors. No fuel may be sold at a reduced rate unless a copy of the exemption certificate is presented to the supplier or distributor. The exemption certificate issued to the transit company by the comptroller shall be valid until cancelled by the company or revoked by the comptroller.

.103. *Refunds on Gasoline and Diesel Fuel Tax: 9.116, 9.117, 9.220, 9.221, 9.222.*

(a) Refunds. A person may file a claim for refund of the taxes paid on gasoline or diesel fuel used off the highway, for certain resale, for export from Texas, and for loss caused by fire or other accident.

(b) Time limitation. The time limitation for filing a claim for refund is before the expiration of one year from the first day of the calendar month following:

(1) purchase; or

(2) tax exempt sale; or

(3) use, if withdrawn from one's own storage for one's own use.

(c) Filing forms and documentation. Each type of claim for refund must be filed on a form furnished by the comptroller and must be accompanied by supporting documentation to fully substantiate the claim, including identification of each vehicle or type of equipment in which the fuel was used. Categories of refund claims:

(1) Exports from Texas by nonpermitted purchaser. A claim for refund can be filed only on gasoline or diesel fuel exported in quantities of 100 gallons or more. The claim must be supported by the original invoice(s) issued by the seller to the purchaser reflecting that the state tax was assessed; and also supported by proof of export which shall be one of the following:

(A) proof of export certified by U. S. Customs officials if the fuel was exported to a foreign country;

(B) proof of export certified by port of entry official of the state of importation if ports of entry are maintained;

(C) proof from the tax officials of the state into which the fuel was imported showing that the fuel has been accounted for by the exporter on that state's tax reports;

(D) other proof that the gallons have been accounted for to the state into which the gasoline or diesel fuel was imported; or

(E) a common or contract carrier's transporting documents listing the consignor and consignee, the points of origin and destination, the number of gallons shipped or transported, the date of export, and the kind of fuel exported.

(2) Sales by dealers to the federal government. For the purposes of this rule, the federal government means any department, board, bureau, agency, corporation, or commission created or wholly owned by the United States government. The claim for refund of taxes on gasoline or diesel fuel sold by dealers who have paid the state tax must be supported by:

(A) a U. S. tax exemption certificate—Standard Form 1094; or

(B) copies of the invoice(s) when a U. S. national credit card—Standard Form 149 was used for the purchase, and will include the license number or official vehicle designation if fuel is delivered into the fuel supply tank of a motor vehicle; or

(C) a copy of a contract between the dealer and the federal government supported by sales invoices or purchase vouchers under the provisions of the contract.

(3) Loss by fire or other accident. A loss for which tax refund is claimed must be caused either by fire or other accident, and the claimant must prove that an accident occurred, and that the exact quantity of the fuel claimed as lost was actually lost as a result of such accident.

(A) If the accidental loss was incurred through a leak in a line or a storage tank, the required proof includes:

(i) a statement by the person who actually dug up or otherwise examined the hole or leak; such statement should set out the extent of the leak, the date of his examination, and his name and title;

(ii) a statement of the actual loss as determined by computing the measured inventory next preceding the discovery of the accidental leak, plus motor fuel salvaged from the leaky tank or line, if any, less intervening withdrawals for sale or use.

(B) Dealers are required to take inventory on the first of each month so an accident should be discovered no later than at the inventory of the succeeding month's business, and corrected promptly thereafter. If inventories have not been accurately or timely measured, and if complete records have not been kept of all withdrawals for sale or use as required by law, refund claim cannot be honored for payment.

(4) Claim for refund on gasoline or diesel fuel used off-highway. A claim for refund on fuel used solely for off-highway purposes will:

(A) list each off-highway vehicle or piece of equipment; and

(B) the total number of gallons which have been used; and

(C) be supported with the original invoice(s) issued by the seller or other documentation showing the state tax has been assessed and by a distribution schedule identifying each off-highway vehicle or piece of equipment and the number of gallons of fuel used and each highway motor vehicle and the number of gallons delivered into each if any fuel covered by the invoice(s) or other documents supporting the claim was used in motor vehicles on the public highways.

(5) Incidental highway use. A refund claim may be filed by a person who used gasoline or diesel fuel in motor vehicles incidentally on the highway when the incidental travel on the public highway is infrequent, unscheduled, and is insignificant to the total operation of the motor vehicle. The claim shall:

(A) be supported by a record showing the date and miles traveled during each highway trip; and

(B) 1/4 gallon for each mile of incidental highway travel shall be deducted from the number of gallons claimed.

(6) Sales by diesel fuel dealer for off-highway use. A refund claim filed by diesel fuel dealers who have paid the state tax to their supplier and thereafter made a tax-free sale shall support the claim by copies of invoices issued on each tax-free sale. The invoices shall have the name and address of the dealer stamped or preprinted on the invoice, and be completed including:

(A) the purchaser's name;

(B) date of delivery;

(C) number of gallons delivered;

(D) type or description of the vehicle into which the delivery was made (e.g., railway engines, motorboat, refrigeration unit, stationary engine, or off-highway equipment);

(E) statement on the invoices that no tax was collected; and

(F) signature of the purchaser.

(7) Gasoline or diesel-powered motor vehicles equipped with power-take-off or auxiliary power units with metering devices. A refund claim for gasoline or diesel fuel used to propel motor vehicles equipped with approved measuring or metering devices which measure or meters the fuel used in stationary operations shall support the claim with records on each vehicle so equipped reflecting:

(A) the miles driven as shown by any type of odometer;

(B) the gallons delivered to each vehicle; and

(C) the gallons used as recorded by the meter or other measuring device.

(8) Diesel-powered motor vehicles equipped with power-take-off or auxiliary power units with no metering device. A claim for refund by users who are required to pay the tax on diesel fuel used in motor vehicles equipped with a power-take-off or an auxiliary power unit mounted on the motor vehicle and using the fuel supply tank of the motor vehicle shall be supported by a schedule listing:

(A) each motor vehicle so equipped;

(B) the miles traveled by each vehicle as recorded by any type of odometer;

(C) the gallons delivered to each vehicle; and

(D) the date of the delivery.

The claim may be filed for a refund not to exceed 5.0% of the total taxable diesel fuel used in this state by each vehicle so equipped when an approved measuring device is not used.

(9) Federal agency claim for refund on tax-paid purchase. A federal government agency may file a claim for refund on state taxes paid on gasoline and diesel fuel used exclusively by that agency. The refund claim shall include:

(A) original purchase invoice(s) showing that the state tax was assessed and supported by a U.S. tax exemption certificate—Standard Form 1094; or

(B) original purchase invoice(s) showing that the state tax was assessed and stamped with the imprint of a U.S.

national credit card—Standard Form 149 issued to the agency purchasing the fuel.

.104. Incidental Highway Travel by Bonded Users: 9.220(2).

(a) Definition. "Incidental travel" on the public highway means those infrequent and unscheduled trips that are insignificant to the total operation of the motor vehicle.

(b) Requirements. Bonded diesel users are required to remit the tax due on diesel fuel used for incidental travel of motor vehicles at a rate of 1/4 gallon per mile traveled on the public highway.

(c) Records. Bonded diesel users shall maintain a record showing the date and miles traveled on each on-highway trip in addition to the other records required of a bonded user.

.105. Use of Liquefied Gas Tax Decal: 9.304.

(a) Use of decal. A person operating a liquefied gas-powered motor vehicle, including motor vehicles equipped to use liquefied gas interchangeably with another motor fuel, that is required to be licensed in Texas for use on the public highways of Texas shall:

(1) prepay the liquefied gas tax to the comptroller on an annual basis; and

(2) obtain from the comptroller a liquefied gas tax decal for affixing to the motor vehicle for which the tax was paid.

(b) Application. Persons must submit an annual application to the comptroller for each vehicle for each calendar year. Applications will be processed in December of each calendar year for the succeeding year.

(c) Prorated decals. If a decal is purchased after January 31, the purchaser is required to prepay an amount equal to 1/12 of the decal class rate for each month remaining in the calendar year including the month of purchase.

(d) Rate schedule. The following rate schedule applies:

Class A: Less than 4,000 pounds	RGW*	\$72
Class B: 4,000 to 8,000 pounds	RGW*	\$84
Class C: 8,001 to 12,500 pounds	RGW*	\$120
Class D: 12,501 to 22,500 pounds	RGW*	\$168
Class E: 22,501 and over	RGW*	\$300

*Registered Gross Weight

The following special use liquefied gas tax decal and tax shall be required for the types of vehicles described below:

- Class S: Special-purpose motor vehicle used for purposes which do not require travel on the public highways exceeding 5,000 miles annually. \$48
- Class T: Transit carrier vehicles operated by a transit company \$330
- Class Y: Motor vehicles designed for carrying fewer than 10 passengers and used for the transportation of persons for compensation. \$204

(e) Installation of decal. The purchaser will be responsible for:

(1) affixing the decal to the inside, lower right-hand side of the windshield on the passenger side of the vehicle; and

(2) removing any invalid liquefied gas tax decal before installing a new decal or transferring ownership of the motor vehicle.

.106. Fuel Used by Power-Take-Off and Auxiliary Power Units: 9.116(4), 9.220(4).

(a) Metering devices. The comptroller will accept the use of metering devices as a basis for determining the quantity of gasoline or diesel fuel consumed in the operation of auxiliary power units or power-take-off equipment mounted on a motor vehicle.

(b) Design specifications. The meters shall be designed to separately measure the fuel used to propel the motor vehicle from the fuel used in the power-take-off or auxiliary power unit:

(1) the metering device, or a model thereof, must be tested for accuracy and proper performance by the Texas Engineering Experiment Station, Texas A&M University, or other testing agency approved by the comptroller, and provided that the test has clearly established that the metering device operates within the acceptance tolerances for allowable error or departure from true performance set forth in the National Bureau of Standard, U. S. Department of Commerce Handbook 44, latest edition for slow-flow meters;

(2) the metering device must be designed so that the gasoline or diesel fuel will flow through and be recorded by the metering device only when the motor vehicle's spring-loaded air-parking brake or other approved air-parking brake, or hydraulic parking brake is engaged, or when any hydraulic power-take-off unit which can be operated only when the motor vehicle is stationary and is engaged, and providing that said gasoline or diesel fuel will at all times bypass the metering device and flow through a by-pass line when the air brakes, hydraulic brakes, or hydraulic power-take-off units described above are disengaged, or when such motor vehicle is propelled in any manner by such fuels; and

(3) the metering device must be installed on the motor vehicle and maintained by the owner or operator thereof in a manner in which it will operate at all times within the maintenance tolerances set forth in Handbook 44 for slow-flow meters.

(c) Disallowance of tax credit or refunds. It is expressly provided that tax credits or tax refunds may be disallowed on gasoline or diesel fuel measured and recorded by any metering device, the operation of which is not maintained within the maintenance tolerance stated herein, or any case where the owner or operator fails to keep the records of the miles traveled and fuel consumed in each such motor vehicle as set out below:

(1) a complete record of the total miles traveled by each motor vehicle equipped with such metering device as shown by the speedometer or odometer readings accurately maintained;

(2) the total gallons of gasoline or diesel fuel used therein shall be kept for a period of four years open to inspection; and

(3) each claim for tax credit or tax refund shall be supported by such mileage and fuel consumption record together with the beginning and ending meter readings recorded on such metering device.

.107. Certificate of Deposit as Permit Security:
9.113(3)(B), 9.216(3)(B), (5).

(a) Election of security. A person may elect to use a certificate of deposit for all or part of the security for a gasoline or diesel fuel permit in lieu of a surety bond or cash.

(b) Conditions. If a certificate of deposit is used, the certificate must be filed with the comptroller together with

an executed assignment form provided by the comptroller, and:

(1) the certificate of deposit shall have a maturity date of at least one year from the date of issuance; and

(2) the maturity date shall not be less than 11 months from the date that the certificate is filed with the comptroller.

(c) Assignment form. The certificate of deposit assignment shall be in substantially the following form:

CERTIFICATE OF DEPOSIT ASSIGNMENT

SECTION I - TAXPAYER INFORMATION

1. _____ 2. _____
 (Name of Assignor/Taxpayer) (Taxpayer No.)
 3. _____
 (P.O.Box or Street Address) (City) (State) (Zip Code)

SECTION II - BANK OR SAVINGS AND LOAN INFORMATION

4. _____ 5. _____
 (Name of Bank or Savings & Loan Assn) (Texas Taxpayer or Vendor No.)
 6. _____
 (P.O.Box or Street Address) (City) (State) (Zip Code)

SECTION III - CERTIFICATE OF DEPOSIT - ATTACH CERTIFICATE OF DEPOSIT

7. FUEL TYPE _____ Gasoline _____ Diesel Fuel
 8. _____ 9. \$ _____
 (Certificate of Deposit Number) (Amount)
 10. _____ 11. _____
 (Effective Date) (Maturity Date)

SECTION IV - ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS:

That we, the above named assignor, in accordance with the provisions of the MOTOR FUEL TAX LAW, cited as Chapter 9, TEX. TAX.-GEN. ANN. do hereby assign to the Comptroller of Public Accounts, State of Texas, the attached Certificate of Deposit issued to the above named bank or savings and loan association whose accounts are insured by an agency of the United States Government.

The assignment is conditioned upon the assignor being issued or having applied for a permit pursuant to the provisions of Chapter 9, TEX. TAX.-GEN. ANN.

If the assignor complies with the provisions of the cited statute and pays to the State of Texas through the Comptroller of Public Accounts at Austin, Texas, all the taxes including penalties, interest and costs accruing under the cited statute, this obligation shall be null and void.

The assignment and Certificate of Deposit shall not be released until it is determined by examination or audit by the Comptroller of Public Accounts that no tax, penalty or interest liability exists for the fuel type that the assignment secures. When a permit holder has been cleared of all tax liability by the Comptroller of Public Accounts, the assignment and Certificate of Deposit shall be released within 60 days.

The Comptroller of Public Accounts may use the Certificate of Deposit to satisfy a final determination of delinquent liability or a judgment secured in any action by this State to recover tax, penalty, interest and costs found to be due this State.

SECTION V - SIGNATURES

THIS Assignment made this ____ day of _____ 19 ____.

(Business Name)_____
(Signature)_____
(Position)**.108. Trip Permit in Lieu of Interstate Trucker Permit: 9.105, 9.209.**

(a) Who may qualify. A person entering Texas for commercial purposes with a gasoline or diesel-powered motor vehicle having a fuel tank capacity of 42 gallons or more may purchase a temporary trip permit in lieu of the required interstate trucker permit if no more than five entries into the state are made during a calendar year.

(b) Conditions:

- (1) a trip permit must be obtained before entering into Texas;
- (2) the trip permit is valid for 20 days from date of purchase; and
- (3) the trip permit is acceptable for one entry into the state.

(c) Procedures:

- (1) a remittance for the trip permit shall be made to the Texas state treasurer in an amount equal to the tax on the total fuel tank capacity of each vehicle but never less than \$5.00;
- (2) the remittance may be in the form of a cashier's check or a money order delivered by mail or wire service to the Texas comptroller's office, Austin, Texas; and
- (3) the receipt from the cashier's check or money order shall be marked "trip permit" and carried in the vehicle for which the tax payment is made.

(d) Limitations. Persons who make more than five entries must obtain an interstate trucker permit.

.109. Liquefied Gas Bonded Dealers Operating as Interstate Truckers: 9.302.

(a) Conditions. A permitted liquefied gas bonded dealer may operate under his dealer's permit as an interstate trucker without securing a separate permit or posting a cash bond in excess of \$100 as required by Article 9.308, but shall be subject to all other requirements and liabilities imposed on these permittees.

(b) Requirements. Bonded dealers who also operate as interstate truckers must purchase a liquefied gas tax decal for each motor vehicle licensed in Texas even if the vehicles are operated in states other than Texas. Motor vehicles base plated in a state other than Texas will not be required to be permitted with a liquefied gas decal but the operation of these vehicles in the state of Texas must be reported on the interstate trucker portion of the liquefied gas report form. All deliveries made in the State of Texas into the fuel supply tanks of vehicles base plated in a state other than Texas must

be taxable deliveries and reported by the selling dealer. All deliveries into bulk storage facilities may be made tax-free.

.110. Signed Statement Sales: 9.202.

(a) Signed statement. Diesel fuel can be purchased tax-free if the purchaser has only off-highway use of the diesel fuel and provides the seller with a signed statement which indicates the purchaser will use the fuel only for non-taxable purposes.

(b) Use of signed statement. Permitted suppliers may make tax-free sales of diesel fuel to qualifying purchasers that furnish the supplier a signed statement. Persons holding a diesel tax prepaid user's permit may not issue a signed statement, but may purchase tax-free from a supplier solely for delivery into his own bulk storage facility.

(c) Purchasers qualifying to use signed statements. A purchaser may furnish a signed statement if:

- (1) the purchaser does not operate any diesel-powered motor vehicles on the public highways of Texas;
- (2) all of the diesel fuel will be consumed by the purchaser and in no event may diesel fuel purchased on a signed statement be resold; and
- (3) none of the diesel fuel purchased in this state will be delivered or permitted by the purchaser to be delivered into fuel supply tanks of motor vehicles.

(d) Separate operating divisions. Separate operating divisions of a corporation may furnish a supplier a signed statement if the division:

- (1) does not operate any diesel-powered motor vehicles on the public highways of Texas;
- (2) does not make resales of diesel fuel;
- (3) consumes the entire quantity purchased; and
- (4) maintains separate storage apart from any other operating division.

(e) Revocation of signed statement. The signed statement remains in effect unless:

- (1) the statement is revoked in writing by the purchaser or supplier;
- (2) the comptroller notifies the supplier in writing that the purchaser may no longer make tax-free purchases; or
- (3) the supplier is put on notice by making taxable sales of diesel fuel to a purchaser who has previously submitted a signed statement to this supplier. Taxable sales create a rebuttable presumption that the supplier had reasonable notice that all subsequent sales would have been taxable.

SIGNED STATEMENT FOR PURCHASING DIESEL FUEL TAX-FREE

(Date) _____

To: _____
(Selling Supplier)

(Address)

PLEASE READ CAREFULLY BEFORE SIGNING

DO YOU OPERATE DIESEL POWERED MOTOR VEHICLES ON THE HIGHWAYS OF TEXAS?

() YES* () NO

IF THE ANSWER IS YES*, THE STATEMENT MAY NOT BE LEGALLY SIGNED. (DIESEL TAX PREPAID USER PERMITTEES MAY NOT SUBMIT A SIGNED STATEMENT.) PLEASE CONTACT THE NEAREST COMPTROLLER'S OFFICE FOR PERMIT INFORMATION OR CALL THE COMPTROLLER'S FUELS TAX DIVISION TOLL-FREE IN TEXAS AT 1-800-252-5555.

I do hereby declare that:

- 1. I do not, nor does the business or company I represent, operate diesel fuel powered motor vehicles on the public highways of Texas, and
- 2. All of the diesel fuel will be consumed by the purchaser and in no event may diesel fuel purchased on a signed statement be resold; and
- 3. None of the diesel fuel purchased in this State by this business or company will be delivered by the purchaser, or permitted by the purchaser to be delivered into the fuel supply tanks of motor vehicles operated on the public highways of this State.

I am aware that certain fines and criminal penalties are provided by law if I give a false diesel fuel signed statement.

By: _____
(Signature)

(Business Name)

(Name - Print)

(Address)

If this business is a division of a corporation, give the name of the parent corporation.

(Name)

(Address)

111. Cargo Tank Calibration: 9.101(2), 9.201(2).

(a) Calibration required. Cargo tanks or containers used for the transportation of gasoline and diesel fuel shall be tested, measured, and calibrated.

(b) Who calibrates. Calibrations and measurements may be completed by:

- (1) the Texas comptroller's office;
- (2) an authorized agency of another state; or
- (3) a commercial calibration company which meets the calibration standards set forth in this rule.

(c) Specifications.

(1) Design of compartments. The shell and bulkheads of a cargo tank shall be so constructed that under any condition of liquid lading they will not become distorted sufficiently to cause a change in the capacity of any compartment (as determined by volumetric test) equal to more than 1/2 pint per 200 gallons, or fraction thereof, of the nominal compartment capacity, or to more than one pint, whichever is greater. (This specification prescribes a limit on permissible distortion only and is not to be construed as setting up a secondary tolerance on compartment capacities to be added to the values given on Table 1.)

(A) Venting. Effective venting and/or vapor recovery of a compartment shall be provided to permit air to escape, during filling operations, from all areas designated to be filled with liquid and to permit the influx of air to the compartment during the discharge of liquid therefrom. Venting shall prevent formation of air pockets.

(B) Completeness of delivery. A tank shall be so constructed that, when it is standing on a level surface, complete delivery can be made from any compartment through its delivery faucet or valve whether other compartments are full or empty, and whether or not the delivery is through a manifold.

(C) Fill or inspection opening. The fill or inspection opening of a compartment shall be of such size and location that it can readily be determined by visual inspection that the compartment has been properly filled or completely emptied and shall be so positioned with respect to the ends of the compartment that the indicator may be positioned as required. In no case shall the opening, if circular, have a diameter of less than 7-5/8 inches, or if other than circular, have an effective area of less than 45 square inches.

(D) Dome flange and baffle plates. Any dome flange extending into a compartment shall be provided with sufficient perforations or openings flush with the compartment shell to prevent any trapping of air. All baffle plates in a compartment shall be so cut away at top and bottom and elsewhere as necessary, as to facilitate loading and unloading.

(E) Compartment and piping capacities and emergency valve. If a compartment is equipped with an emergency (or safety) valve, this shall be positioned at the lowest point of outlet from the compartment, and the compartment capacity or capacities shall be construed as including the capacity of the piping leading therefrom.

(F) Expansion space. When a compartment is filled to the level of the highest indicator in the compartment there shall remain an expansion space of at least 0.75% and not more than 3.0% of the nominal compartment capacity as defined by that indicator.

(2) Design of compartment indicators. An indicator shall be so designed that it will distinctly and unmistakably

define a capacity point of its compartment when liquid is in contact with the lowest portion of the indicator.

(A) Number of indicators. Two indicators may be positioned in a compartment when more than one indicator is needed to comply with weight limits prescribed by law for highway travel.

(B) Position. An indicator shall be positioned as nearly as practicable:

(i) midway between the sides of its compartment, and

(ii) midway between the ends of its compartment, and shall be adjacent to but shall not extend into that section of the compartment defined by a vertical projection to the fill opening. In no case shall an indicator be offset from a position midway between the ends of the compartment by more than 10% of the compartment length.

(C) Permanence. Any indicator that is not intended to remain adjustable and all brackets or supports shall be securely welded in position.

(D) Adjustable indicators and adequate provisions shall be made for conveniently affixing a security seal or seals:

(i) to any indicator intended to remain adjustable, so that no adjustment of the indicator can be made without mutilating or destroying the seal, and

(ii) to any removable part to which an indicator may be attached, so that the part cannot be removed without mutilating or destroying the seal.

(E) Sensitiveness. The position of any indicator in its compartment shall be such that at the level of the indicator a change of 0.04 inch in the height of the liquid surface will represent a volume of not more than the value of the tolerance for the nominal compartment capacity as defined by that indicator.

(F) Partial loads. Except as expressly provided herein, the top indicator shall determine the compartment capacity when loading, transporting, or delivering taxable gasoline or diesel fuel.

(i) However, in cases where a cargo tank when loaded to the top indicator with gasoline or diesel fuel will exceed the weight limit fixed by law for travel over the public highways, the measurement certificate may be amended or a new measurement certificate issued, to permit the owner or operator to load to a second indicator.

(ii) When an owner/operator of a multicompartiment transport vehicle determines that safe travel can be conducted with a partial load, the owner/operator is authorized to load any combination of compartments to the highest marker and leave one compartment completely empty so as to meet highway weight limits. In such case, the owner/operator will indicate on the cargo manifest that the specific compartment contains zero gallons of fuel at loading.

(3) Design of compartment discharge manifold. When two or more compartments discharge through a common manifold or other single outlet, effective means shall be provided to insure:

(A) that liquid can flow through the delivery line leading from only one compartment at one time and that flow of liquid from one compartment to another is automatically prevented; or

(B) that all compartments will discharge simultaneously.

If the discharge valves from two or more compartments are automatically so controlled that they can only be operated

together, thus effectively connecting these compartments each to the other, such compartments shall, for the purpose of this subparagraph, be construed to be one compartment.

(4) Marking of compartment.

(A) Compartment identification. Each compartment of a multiple-compartment tank shall be conspicuously identified by a letter or number marked on the dome or immediately below the fill opening. Such letters or numbers shall be in regular sequence from front to rear, and the delivery faucets or valves shall be marked to correspond with their respective compartments in letters no less than two inches high.

(B) Compartment capacity indicators. A compartment provided with a single indicator shall be clearly, permanently, and conspicuously marked with a statement of its capacity as defined by its indicator in letters no less than two inches high. A compartment provided with two indicators shall be clearly, permanently, and conspicuously marked with a statement identifying:

(i) each indicator by a letter or number and, immediately adjacent thereto,

(ii) the capacity of the compartment as defined by the particular indicator.

(C) Total tank capacity. The total capacity of all compartments, as measured to the top indicator of each compartment, shall be conspicuously marked on the rear surface of each vehicle tank.

(D) the number of the state measurement certificate shall also be conspicuously marked on the rear surface of each vehicle tank to which issued.

(5) Test liquid. Water shall be used to measure the capacity of vehicle tank compartments. All capacities shall be stated in gallons, a gallon being equal to 231 cubic inches.

(6) Conditions of use—filling. A vehicle shall stand upon a level surface during the filling of a compartment.

(7) Delivering. During a delivery, a vehicle shall be so positioned as to assure complete emptying of a compartment.

(8) Tolerance values. Maintenance and acceptance tolerances shall be as shown in Table 1 below:

Nominal Capacity of Compartment Gallons	Maintenance and Acceptance Tolerance	
	Expressed in Quarts	Expressed in Gallons
200 or less	2	0.5
201 to 400, incl.	3	0.75
401 to 600, incl.	4	1.0
601 to 800, incl.	5	1.25
801 to 1,000, incl.	6	1.50
Over 1,000	Add 1 quart per 200 gallons or fraction thereof.	Add 0.25 gallon per 200 gallons or fraction thereof.

(9) Adjustment and remarking. When a compartment is found upon test to have an error in excess of the applicable tolerance, the capacity of the compartment shall be adjusted to agree with its marked capacity, or its marked capacity shall be changed to agree with its capacity as determined by the test.

(10) NBS code application. The general code applicable to cargo tanks as published by National Bureau of Standards in Handbook 44 shall apply to all classes of cargo tanks

and other devices, except that this rule shall supersede general code requirements in all cases of conflict.

(11) Recalibration. Whenever a cargo tank is marked "out of order" by the comptroller because of damage or modifications that might affect the accuracy of its measurement, it shall not thereafter be used for measurement until it has been recalibrated as prescribed in (b) above and then inspected and approved for use by the comptroller.

(d) Measurement certificate. The comptroller's representative after completing a measurement and calibration of a cargo tank or container will issue to the owner of the tank or container a properly executed Texas comptroller's department cargo measurement certificate, which will accompany the tank or container at all times when the tank or container is being used to transport gasoline or diesel fuel in the State of Texas. If a tank or container has been measured and calibrated by an agency of a state other than Texas or by a commercial company, a measurement certificate issued by that agency or company will be honored in Texas if that agency or company has met the standards set out herein and has received approval of the Texas comptroller's office.

(e) Manifest required. The capacity or capacities shown on the comptroller's measurement certificate shall be recorded on the manifest as the gross quantity sold, distributed, used, or transported, and will be used as a basis for accounting for the taxes accruing to the state under the terms of the Texas Motor Fuel Tax Law.

(f) Meter loading. Any person who desires to use positive displacement meters of the ticket-printing type may, when the use of such meters is approved by the comptroller, set the meter for a volume equal in quantity to the capacity shown by the measurement certificate for the vehicle tank, or equal to the capacity shown for the compartment loaded. If the volume delivered by use of the meter varies more than .25 of 1.0% (1/4 of 1.0%) from the measurement certificate, sufficient withdrawals or additions shall be made to bring the surface of the liquid horizontally level with the lower level of the indicator.

(1) The use of positive displacement meters of the ticket-printing type shall be subject to the following conditions:

(A) The use of such meters shall be optional, and nothing herein contained shall be construed as requiring the use of such meters either by persons at any place of business or for the purpose of loading any vehicle tank or vehicle tank compartment.

(B) Where printed meter tickets are used as manifests or invoices, such tickets shall conform to all requirements of the law relating to a cargo manifest or invoice; otherwise, the printed meter ticket shall be attached to a manifest or invoice approved by the comptroller, as proof of the volume sold, distributed, used, or transported.

(C) No such meter shall be used as the basis for issuing manifests or invoices or for the payment of motor fuel taxes until the person desiring to use such meter has obtained the permission of the comptroller of public accounts to use such meter for such purposes.

(D) The accuracy of any such meter shall be maintained within 1/10 of 1.0% of correct volume during all loading operations.

(E) Any person who has obtained the permission of the comptroller to use such meters shall test each such meter each 120 days, or after each 5,000,000 gallons through-put, whichever occurs first, and a record of these tests and subse-

quent adjustments, if any, shall be maintained for examination by the comptroller for at least four years. In addition, however, a test of each meter shall be made, as provided herein, each time the accuracy varies from that prescribed in paragraph (4) above.

(F) The accuracy and tests required under paragraph (4) and (5) above shall be determined by the methods provided by the American Society of Mechanical Engineers-American Petroleum Institute (ASME-API) Code 1101 for the installation, proving, and operation of positive displacement meters in liquid hydrocarbon service.

(2) If any person authorized herein to use such meters shall fail or refuse to comply with any provision of this rule and regulation, or shall violate the same, the comptroller may revoke such person's authority to use meters for the purposes and under the conditions provided herein.

.112. Motor Fuel Transporting Documents: 9.004.

(a) Manifest requirements. The transportation of motor fuel as cargo shall be recorded on a cargo manifest issued at the time the motor fuel is delivered into a cargo tank and shall accompany the cargo until it is resold or removed from the cargo tank and shall be retained for four years for audit purposes.

(b) Information required. The cargo manifest shall be issued in not less than duplicate and shall contain:

- (1) type of motor fuel being transported;
- (2) the name of the carrier;
- (3) the quantity of motor fuel in gross gallons;
- (4) the date of loading or movement;
- (5) the point cargo loaded;
- (6) the destination of the cargo;
- (7) the name of the seller, consignor, or shipper;
- (8) the name of the purchaser or consignee;
- (9) the method of transportation:

(A) if by truck, the license or unit number or tank calibration number;

(B) if by barge or boat, the name of the vessel;

(C) if by railway, the rail car number and initial.

(c) If a carrier is transporting motor fuel which requires waybills pursuant to the regulations of the Texas Railroad Commission or a bill of lading pursuant to the regulation of the U. S. Department of Transportation, these documents may be used in lieu of the manifest prescribed above if the waybill or bill of lading lists the number of gross gallons of motor fuel in the load.

(d) Delivery of manifest. One copy of the transporting document shall be delivered to the purchaser at the time of fuel delivery, one copy retained by the seller; and if delivered by common or contract carrier, the carrier must retain one copy.

(1) Transportation of motor fuel by a person in his own cargo tank for a purpose other than his own use shall be covered by a cargo manifest.

(2) If the cargo is being off-loaded at various locations, at the time the off-loading is accomplished, a notation shall be made on the required cargo manifest or a customer invoice shall be prepared indicating the location and amount of motor fuel which has been off-loaded at each place. The cargo manifest or a copy of the customer invoice shall be retained with the transporting vehicle until the motor fuel is removed from the cargo tank.

.113. On-Highway Travel of Farm Machinery: 9.116(2), 9.220(2).

(a) Owners or operators of multiple farms, ranches, or similar tracts of land in the same vicinity may move farm tractors, combines, and similar self-propelled farm machinery over the public highways for up to and including 10 miles for the purpose of transferring the base of operation of the machinery. Gasoline and diesel fuel used for travel on the highway by such machinery in excess of 10 miles during one trip is taxable.

(b) Gasoline and diesel fuel used for travel on the highway for any purpose other than for moving the machinery from one tract of land to another to change base of operation shall be considered taxable.

.114. Assignment of Refund Claims for Tax-Paid Gasoline Exported from Texas: 9.116(6).

(a) Persons qualifying. A person residing or maintaining a place of business outside the State of Texas and who purchases 100 gallons or more of gasoline and immediately exports the entire quantity may assign his right to claim a refund to the permitted distributor from whom the gasoline was purchased or to any permitted distributor who has paid the tax on the gasoline either directly or through another permitted distributor in Texas.

(b) Conditions. When the distributor has secured from the purchaser proof of export required by the comptroller, the distributor may file for refund of the tax paid on the gasoline exported or take credit equal to the gallons exported on any monthly report filed with the comptroller within one year from the first day of the month following the date of delivery to the exporter of the gasoline.

(c) Documentation.

(1) Properly executed assignment of all right to claim tax refund made to the permitted distributor making the sale and claiming tax refund or credit.

(2) Proof of export of tax-paid gasoline including one of the following forms of evidence which shall be secured by the distributor claiming tax refund or credit:

(A) proof of export certified by a U. S. Customs officer if the gasoline is exported from this state to a foreign country; or

(B) proof of export certified by port of entry of state of importation if ports of entry are maintained; or

(C) proof from the tax officials of the state into which the gasoline was imported that the gasoline has been accounted for by the exporter on that state's tax reports; or

(D) other proof that the gallons have been accounted for to the state into which the gasoline was imported.

(d) When required. An assignment of the right to claim a tax refund on tax-paid gasoline exported from Texas should be executed on sales by the distributor. The proof of export should be retained by the distributor if a credit is taken for assigned export sales on monthly gasoline reports. If refund claims are filed, the proof of export must be submitted with the claim for refund.

(e) Assignment form. The assignment form must be substantially in the form set out below:

**ASSIGNMENT OF RIGHT TO FILE REFUND CLAIM ON GASOLINE
PURCHASED FROM A TEXAS PERMITTED DISTRIBUTOR AND
EXPORTED FROM THE STATE OF TEXAS**

SELLER INFORMATION:

Seller's Name

Address

City State Zip Code

Texas Distributor's Permit Number

PURCHASER'S INFORMATION:

Purchaser's Name

Address

City State Zip Code

PURCHASER'S DECLARATION:**I DO HEREBY DECLARE THAT:**

I reside or maintain a place of business outside the State of Texas.

I have purchased gasoline from the above named distributor in quantities of 100 gallons or more.

I am exporting the entire quantity from the State of Texas.

I assign all rights to apply to the State of Texas for refund of tax paid on this gasoline to the above named distributor.

I will not file with the State of Texas a refund claim for any part of the gasoline purchased under this assignment.

I will furnish to the above named distributor the proof necessary for each transaction for the distributor to either file claim for refund or take credit on a report filed with the State of Texas.

Period for which it is effective _____

SIGNATURES:

BY PURCHASER _____

BY SELLER _____

Capacity of person signing

Capacity of person signing

Date:

Date:

115. Diesel Tax Prepaid User Permit: 9.207.

(a) Diesel tax prepaid user permit. Certain persons who could qualify for a bonded user permit may elect to obtain a diesel tax prepaid user permit in lieu of the bonded user permit.

(b) Qualifications.

(1) The persons use of diesel fuel must be at least 50% for nonhighway purposes; and

(2) the person must own or operate one or more passenger cars or light trucks and have no other diesel-powered highway vehicles; and

(3) the person must have his own diesel bulk storage facility from which to make deliveries into those passenger cars or light trucks and any other purchases or deliveries of fuel from suppliers or dealers into the fuel supply tanks of the permittees diesel-powered vehicles are taxable.

(c) Application. Persons must submit an annual application to the comptroller for each vehicle for each calendar year. Applications will be processed in December of each calendar year for the succeeding year.

(d) Rate schedule. The following rate schedule as set out in Article 9.207 applies:

Class A: Less than 2,500 lbs. (RGW)*	\$20
Class B: 2,500 to 3,500 lbs. (RGW)*	\$36
Class C: 3,501 to 4,500 lbs. (RGW)*	\$45
Class D: 4,501 to 7,000 lbs. (RGW)*	\$64

*Registered gross weight

(e) Prorated permits. A person who puts into use a diesel-powered passenger car or light truck at any time during a calendar year after January 31 will be required to pay in advance an amount equal to 1/12 of the permit class rate shown in Texas Taxation—General Annotated, Article 9.207, for each month remaining in the calendar year, including the month in which the purchase occurs. If the vehicle is put into use during the month of January, the full annual payment for the permit class rate must be made.

.116. *Tax-Free Sales of Motor Fuel to the Federal Government: 9.101(1)(D), 9.201(1)(B), 9.301(2).*

(a) Tax-free sales. Gasoline, diesel fuel, and liquefied gas may be sold tax-free to the federal government for their exclusive use.

(b) Documentation. Tax-free sales to the federal government shall be documented by:

(1) a contract between the seller and the federal government supported by sales invoices or purchase vouchers issued under the provisions of the contract; or

(2) a U. S. tax exemption certificate—Standard Form 1094 issued by the purchaser; or

(3) a U. S. national credit card—Standard Form 149 invoice for the purchase.

(c) Definition. For the purposes of this rule, the federal government means any department, board, bureau, agency, corporation, or commission created or wholly owned by the United States government.

Doc. No. 799231

026.02.09.117

Under the authority of Texas Taxation—General Annotated, Article 9.021, 1979 Texas Session Law Service, Chapter 291, Section 1, at 638 (Vernon), the comptroller of public accounts has adopted Rule 026.02.09.117 to read as follows:

.117. *Documentation and Reporting of Exports and Export Sales by Distributors and Suppliers: 9.003, 9.101(B), 9.101(C), 9.201(A), 9.201(C).*

(a) Exports and export sales.

(1) Exports. A permitted distributor or a permitted supplier makes an export when he ships motor fuel to a point outside the state:

(A) through facilities operated by the permittee; or

(B) through delivery by the permittee as consignor to a common or contract carrier, ocean-going vessel (including ship, tanker, or boat), or a barge for shipment to a consignee at the out-of-state point; or

(C) through delivery by the permittee to a custom or forwarding agent for shipment forthwith outside the state.

(2) Export sales. A permitted distributor or permitted supplier makes an export sale when he sells motor fuel in Texas to a non-Texas permitted purchaser who then, prior to any other sale or use in Texas, sends or transports the motor fuel forthwith outside of the state by a common or contract carrier, ocean-going vessel (including ship, tanker, or boat), or a barge.

(A) If the purchaser fails to provide or refuses to divulge the final destination of the fuel to a point outside of Texas, thereby preventing the proper reporting of the fuel exportation, the Texas taxes shall be collected by the seller at the time of the sale in Texas.

(B) A permitted distributor or supplier making an export sale will not be liable for the tax on motor fuel diverted by the purchaser provided the seller has obtained, at the time of sale, documentation from the purchaser showing the fuel is to be delivered to a destination outside of Texas.

(b) Documentation.

(1) Common, contract carriers. The documents for the distributor's or supplier's records, in addition to other records required, must be supported by the bill of lading issued by the common or contract carrier, ocean-going vessel, or barge covering the transaction and delivery of the fuel to a point outside the State of Texas.

(2) Proof of export. The comptroller may request proof of export from the distributor or supplier to verify that the motor fuel was exported from the State of Texas. This proof may be:

(A) proof of export certified by a U.S. customs office if the fuel was exported from this state to a foreign country; or

(B) proof of export certified by port of entry of state of importation if ports of entry are maintained; or

(C) proof from the tax officials of the state into which the motor fuel was imported that the motor fuel has been accounted for by the exporter on the state's tax reports; or

(D) other proof that the fuel has been accounted for to the state into which the motor fuel was imported.

(c) Reporting. When both parties to the transaction in Texas are permitted distributors or permitted suppliers, the transaction will be treated as a distributor to distributor or supplier to supplier tax-free sale in Texas followed by an export or export sale; the last Texas permitted distributor or supplier who holds legal title shall report the export or export sale.

Issued in Austin, Texas, on December 5, 1979.

Doc. No. 799232

Bob Bullock
Comptroller of Public Accounts

Effective Date: January 1, 1980

Proposal Publication Date: November 2, 1979

For further information, please call (512) 475-1930.

Texas Education Agency

Student Services

Types of Transportation 226.34.63.010

The Texas Education Agency has amended Rule 226.34.63.010, concerning the provision of transportation services. The text of the administrative procedure portion of the rule has been deleted. Procedures concerning regular, private, contracted, and commercial transportation, and transportation to the nearest college and university are found in new Rules .020-.060.

Rule .010 is adopted with no changes from the rule as proposed.

This rule is promulgated under the authority of Section 16.005, Texas Education Code.

.010. *Provision of Services by Type.*

(a) Policy. The types of transportation which shall be provided for eligible students are regular, private, contracted, and commercial (Special Transportation Provisions for Certain Educational Programs, 34.64). The commissioner of education shall establish in accordance with state and federal law the procedures by which these types of transportation shall be provided to students.

(b) Administrative procedure. The procedures by which these types of transportation are operated are found in Administrative Procedures 34.63.020-.060.

Doc. No. 799142

226.34.63.020, .030, .040, .050, and .060

The Texas Education Agency has adopted new Rules 226.34.63.020, .030, .040, .050, and .060, concerning transportation. This material, with revisions, was previously in Rule .010. Rule .020 provides guidelines for regular transportation. Except as provided in this rule, a district which receives funding under Section 16.206 of the Texas Education Code may not require or allow a child to stand on a school bus that is in motion. Rule .030 concerns private transportation. Applications for funds are due by June 1 of each school year. Rules .040 and .050, regarding contracted and commercial transportation, have no substantive changes from the material in Rule .010. Rule .060 concerns transportation to nearest college or university which districts may furnish. Doing so will not affect the transportation allocation under the Foundation School Program.

Public review and discussion of the proposed rules were held. The rules are adopted with no substantive change but with minor editorial corrections.

These rules are promulgated under the authority of Section 16.005, Texas Education Code.

.020. *Regular Transportation.*

(a) General guidelines. The school transportation program shall provide the most economical system for serving all of the eligible students residing in the school district. All proposed additions to or changes in the transportation program shall be reported to the Texas Education Agency as soon as approved by the lawful designated authority.

(b) Requirements for establishing routes. School bus routes for the following school year shall be established by June 1 as required by Section 16.202(b)(2), Texas Education Code, and route descriptions furnished annually to the Texas Education Agency for each route operated. If notification of revised routes is not received by June 1, the program for the following school year will be approved in keeping with the route mileages rendered on the annual student transportation report for the current year.

(c) Basis for approval of routes.

(1) Request for the approval of additional bus routes shall be on forms furnished by the Texas Education Agency. There must be a complete route description for each new route requested and a statement explaining why the route is necessary.

(2) Each request for an additional school bus route or route revision shall be subject to a survey by a Texas Education Agency staff member. The survey will include an examination of the district's total transportation program and need of the additional route, utilizing the criteria listed and other appropriate data that may be furnished by local school officials such as information on local traffic conditions, the times of day when traffic is the heaviest, the specific driving time for each bus operated, and the number, if any, of ineligible students transported.

(3) Transferred students shall not be considered in the approval of a bus route, if their grades are taught in their home district and transportation is provided or can be provided by that district, or their grades are not taught in their home district and transportation is provided by another receiving district over a route approved by the lawful designated authority and by the commissioner of education.

(4) Duplicate routes and/or services must be approved by the lawful designated authority having jurisdiction and by the state commissioner of education. Factors to be considered in approving duplication of services and/or routes are economy and geographic barriers.

(5) Applications for new bus routes for schools operating transportation systems must be approved by the lawful designated authority and received by the Texas Education Agency on or before December 22 of the current school year. Routes operated by districts in the fourth quarter of the 1979-80 school year must be approved by the commissioner of education.

(6) Standees.

(A) Except as otherwise provided by this section, a school district that receives funding under Section 16.206(i) of the Texas Education Code may not require or allow a child to stand on a school bus that is in motion.

(B) A school district may apply to the commissioner of education for permission to operate a school bus with standees. The request must be supported by comments in regard to the situation that developed which caused standees to be evident on school buses as well as the district's plan to bring the district into compliance with 21.173(a) of the Texas Education Code. If the commissioner finds good cause, the commissioner may order that the district be permitted to operate the school bus with standees.

(C) Within seven days of receipt of the district's request to be allowed to operate buses with standees, the commissioner shall respond to the district's request by letter. If the commissioner has not responded to the district's request within seven days, permission to operate buses with standees

is considered to have been granted without regard to subsequent action by the commissioner.

(D) If a district has been granted permission to operate buses with standees, it may not operate one or more buses with standees for more than a total of 10 school days during any school year, and the district may not permit more than one child per seat to stand while a bus is in motion.

(E) Situations justifying operation of a bus or buses with standees:

- (i) unexpected rapid growth,
- (ii) natural disaster,
- (iii) other comparable conditions.

(d) Regulations for lengths of routes.

(1) A bus route is administratively defined as being the service provided by one bus to transport eligible bus students.

(2) All school bus routes should be measured from the last school served within the district. The length of an individual bus route will be twice the distance from the last school served, except mid-day kindergarten, over the nearest practical route required to serve the eligible students and return to school. The distance will not be doubled for mid-day kindergarten.

(3) Retracing side roads where children live a reasonable distance from the main route should be reduced to a minimum. Such retracing cannot be regarded as necessary where the distance is not more than one-half mile and shall not be included in calculating the length of the bus route. Where retracing seems absolutely unavoidable, it must be fully justified and must be approved by the state commissioner of education.

(4) A student will not be expected to spend in excess of one hour each morning and one hour each afternoon on a school bus unless the area of the school district and the location of the student's residence make a longer period of time on the bus mandatory.

.030. Private Transportation. Regulations for the approval of a private transportation service (service provided for eligible students transported by privately owned passenger vehicles) of a county or individual school district shall include:

(1) Applications must be approved by the local lawful authority and the Texas Education Agency.

(2) Applications must be submitted prior to or on the date the service becomes effective.

(3) A student may only be transported to and from his or her residence and the school the student attends by private vehicle.

(4) Forms for the final application for funds for private transportation shall be mailed annually to the district on or before May 1.

(5) Final application for funds for private transportation shall be due annually on or before June 1.

.040. Contracted Transportation.

(a) Contracted transportation services are those services provided by a public transportation company operating under a contract with a county or school district board of trustees to transport eligible students.

(b) Contractive transportation services for all or any part of the district's transportation program may be provided under the following conditions:

(1) A contract service application shall be filed with the Texas Education Agency on or before June 15 for the next

school year. All contract applications shall be filed on forms designed and supplied by the agency and shall furnish information on the approved length of each bus route to be contracted and the number of eligible students to be transported.

(2) A copy of the proposed contract with the public transportation company shall be submitted with each contract request. If the contract is to include provisions for the transportation of students to and from approved school activities, such provisions and the cost therefor must be separate and apart from the contract cost for regular school transportation on approved school bus routes.

(3) The contract price for the bus routes to be served by the public transportation company must be equal to or less than the total cost to the school district for providing its own complete bus service.

(4) The projected total cost to the district for the routes to be contracted as determined from the contract service application shall be subject to field examination by staff members of the Transportation Section and/or members of the field audit staff before a recommendation is made from the Transportation Section to the commissioner of education.

(5) The commissioner of education shall submit recommendations on applications for contract bus service to the State Board of Education each year at the July meeting of the board.

(6) When a contract is approved by the State Board of Education, the portion of the annual transportation allotment which is to be used to finance the contract for alternative transportation services shall be included in the estimated annual transportation cost allotment for the county or district.

(7) Each county or school district board of trustees shall file the regular annual transportation report of the approved bus routes covered in the contract.

.050. Commercial Transportation. Commercial transportation services are those services provided by regular commercial bus lines for isolated groups of eligible students. Regulations for the approval of services by commercial bus lines for eligible students are:

(1) Application for commercial transportation must be approved by the local lawful authority and the commissioner of education.

(2) Annual applications for commercial transportation must be submitted on or before the date the service becomes effective.

.060. Transportation to Nearest College or University.

(a) Any school district may furnish transportation by school bus or other conveyance to and from the nearest college or university for residents of the district who are enrolled at the college or university. Neighboring school districts may contract with each other to provide this transportation service for residents of the districts.

(b) Nothing in this section affects the transportation cost allotment to which any school district is entitled under the Foundation School Program

Doc. No. 799143

Foundation School Program

Transportation 226.41.07.020, .031, .040, .050, .060, .070, .080, .090

The Texas Education Agency has amended Rules 226.41.07.020, .031, .040, .050, .060, .070, .080, and .090, concerning transportation funds. In Rule .020, school districts may furnish transportation to the nearest college or university for residents of the district enrolled at the college or university. Furnishing such transportation will not affect the district's transportation allocation. Rule .031 is amended to reflect changes in the funding system as required by Senate Bill 350, 66th Legislature. Funding is based on linear density groupings. Districts may apply for additional funding to be used for children within the two-mile limit who would be subject to hazardous traffic conditions if they walked to school. In Rule .040, the special reimbursement formula for mid-day kindergarten has been deleted. Kindergarten is part of the overall transportation formula. In Rule .050, the funding limit for private and commercial transportation has been raised from \$80 to \$600 per eligible student per year. In Rule .060, funding for contracts with a public transportation company also will be computed under the regular transportation formula. In Rule .070, funding rates for handicapped students are also amended to reflect changes made by Senate Bill 350. The wording in Rules .080 and .090 has been clarified.

Public review and discussion of the proposed rules were held. The rules are adopted with one change in Rule .070 from the text as proposed. In Rule .070(b)(3), the provision that handicapped students are eligible for transportation for only 175 days each year has been deleted.

These rules are promulgated under the authority of Section 16.005 and Section 16, Subchapter F, Texas Education Code.

.020. Transportation to Nearest College or University.

(a) Policy.

(1) Any school district may furnish transportation by school bus or other conveyance to and from the nearest college or university for residents of the district who are enrolled at the college or university. Neighboring school districts may contract with each other to provide this transportation service for residents of the districts.

(2) Nothing in this section affects the transportation cost allotment to which any school district is entitled under the minimum Foundation School Program.

(b) Administrative procedure. (Reserved for expansion.)

.031. Regular Routes.

(a) Policy. The calculation of cost allotments for transportation services shall be as specified by law.

(b) Administrative procedure.

(1) For the 1979-80 and 1980-81 school years, the allowable total base cost of maintenance, operation, salaries, depreciation, and other costs for each approved bus route shall be:

Linear Density Grouping	Allocation Per Mile of Approved Route
2.40 and above	\$.94
1.65 to 2.40	\$.75
1.15 to 1.65	\$.68
.90 to 1.15	\$.59

.65 to .90	\$.52
.40 to .65	\$.48
up to .40	\$.44

(2) Density grouping shall be based on the 1977-78 data compiled by the commissioner of education pursuant to Section 10, Chapter 1, Acts of the 65th Legislature, First Called Session, 1977.

(3) For the 1981-82 school year and thereafter, the commissioner of education shall determine the daily cost per regular eligible student of operating and maintaining the regular transportation system based on the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act.

(4) The allocation for eligible regular students transported by the regular transportation system shall be increased by 5.0% for any district or county board which has complied with the provisions of Section 21.173 of the Texas Education Code.

(5) The total allocation for a district or county transportation unit for the 1979-80 or 1980-81 school year shall not be less than the total allocation received for the 1978-79 school year based on an equal number of state-approved bus routes. If the district or county has deleted routes, the minimum allocation shall be proportionately reduced.

(6) A district may apply for and, on approval of the commissioner of education, receive an additional amount of up to 10% of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested.

.040. Transportation of Kindergarten Students at Mid-Day.

(a) Policy. Reimbursement for additional regular transportation routes necessary to transport eligible kindergarten students to or from school at mid-day shall be on the basis of the regular transportation formula.

(b) Administrative procedure. (Reserved for expansion.)

.050. Private and Commercial Transportation.

(a) Policy. The commissioner of education may approve private or commercial transportation for individual children who live in isolated areas and in cases of extreme hardship.

(b) Administrative procedure. Private and commercial transportation applications are approved individually. Districts where students are transported by private or commercial transportation are entitled to funds equal to the actual cost of these services, not to exceed \$600 per eligible student per year in the 1979-80 and 1980-81 school years. These amounts shall be prorated for any students enrolled for less than the full year. Districts must have documentation available to verify the actual costs for these services. The per student per year allowable for the 1981-82 school year and thereafter shall be determined by the commissioner of education and included for consideration by the Foundation School

Program Committee and the legislature in the General Appropriations Act.

.060. Contract with Public Transportation Company.

(a) Policy. Funds may be allocated to transportation units which have, with the approval of the State Board of Education, contracted all or part of their transportation services to a public transportation company.

(b) Administrative procedure. The Foundation School Program transportation allotment will be computed from the annual transportation report under the regular transportation formula.

.070. Transportation for Handicapped Students.

(a) Policy. The commissioner of education may allocate funds for the transportation of handicapped students as specified by law (Handicapped Students Eligibility, Policy 34.62; Child-Centered Educational Process, Policy and Administrative Procedure 35.72.060).

(b) Administrative procedure.

(1) A school district that provides special transportation services for eligible handicapped students is entitled to a state allocation. Allocations for handicapped transportation in district- or county-operated school buses shall be paid on the previous year's cost per mile. For the 1979-80 and 1980-81 school years, the maximum allowable per-mile cost will be \$.80. For the 1981-82 and 1982-83 school years and thereafter, the maximum rate per-mile allowable shall be recalculated based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary.

(2) The commissioner of education may grant an amount not to exceed \$.18 per mile or a maximum of \$600 per student per year for private transportation to reimburse parents or their agents for transporting eligible handicapped students. For the 1981-82 and 1982-83 school years and thereafter, the rate per mile and the maximum allowable per student will be determined by the commissioner of education for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The mileage allowed shall be computed along the shortest public road from the student's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(3) Districts serving eligible handicapped students who ride the bus during the fourth quarter of the 1979-80 school year shall submit a supplement to the final application requesting funds prior to July 1, 1980.

(4) Funds appropriated may be used only for the transportation of handicapped students and must be properly accounted for in the fiscal records of the transporting unit.

.080. Transportation for Vocational Education Students.

(a) Policy. The commissioner of education shall reimburse school districts for the transportation of vocational education students based on the number of actual miles traveled times the district's official extracurricular travel-per-mile rate as set by their local board of trustees and approved by the commissioner of education.

(b) Administrative procedure.

(1) (No change.)

(2) Each approved bus route serving students enrolled in an approved vocational program is subject to survey by the Texas Education Agency.

(3) A separate application is made for the reimbursement of funds.

(4) The Texas Education Agency shall reimburse the district based on the number of miles required to transport students from the home campus to the vocational campus and return times the district's official extracurricular travel-per-mile rate as set by the local board of trustees and approved by the Texas Education Agency.

.090. Transportation for Children Enrolled in Required Statewide Bilingual Education Programs.

(a) Policy. Each school district operating an approved program of bilingual education for children of limited English-speaking ability shall be reimbursed for the cost of transporting eligible students from one campus to another within a district or from one district to another when the home district does not offer a bilingual education program.

(b) Administrative procedure. The procedures by which funds are allocated for the transportation of eligible bilingual education students are:

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

(4) The Texas Education Agency shall reimburse the district based on the number of miles required to transport students from the home campus to the bilingual campus and return times the district's official extracurricular travel-per-mile rate as set by the local board of trustees and approved by the Texas Education Agency.

Doc. No. 799144

226.41.07.100

The Texas Education Agency has repealed Rule 226.41.07.100 concerning old age and survivors insurance for bus drivers. Previously, the employer's portion of this insurance was paid to county school superintendents' offices. The state no longer provides funds for the offices of county school superintendents. Therefore, the rule has been repealed.

Public review and discussion of the proposed repeal were held.

This repeal is effected under the authority of Section 16.006, Texas Education Code.

Issued in Austin, Texas, on November 30, 1979.

Doc. No. 799145

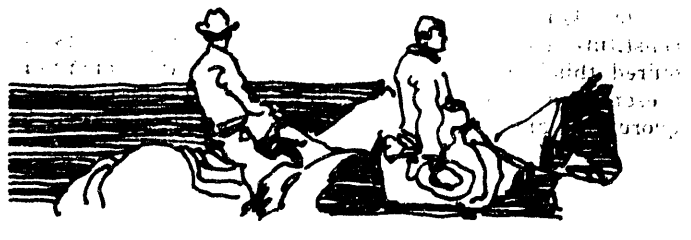
A. O. Bowen

Commissioner of Education

Effective Date: December 21, 1979

Proposal Publication Date: September 25, 1979

For further information, please call (512) 475-7077.



Good Neighbor Commission

Substantive Agency Procedures 354.01.00

The Good Neighbor Commission adopts Rules 354.01.00.001-.007, which outline the agency procedures of the commission. These procedures define the functions of the commission regarding meetings, officers, committees, staff, and amendments. Rules .001-.007 are assigned by law and outline the functions of the Good Neighbor Commission in accordance with Article 4101-2, Vernon's Texas Civil Statutes as amended by Acts 1979, 66th Legislature, House Bill 1061.

These rules are adopted under the authority of Article 4101-2, Vernon's Texas Civil Statutes as amended by Acts 1979, 66th Legislature, House Bill 1061.

.001. Function. The commission shall carry out the functions prescribed by law to the Good Neighbor Commission.

.002. Composition. The Good Neighbor Commission is composed of nine members appointed by the governor, with the advice and consent of the senate. Each member must have expertise in one or more of the following areas: international trade and tourism, industrial development, education and research, diplomacy or Hispanic culture, law, sociology, economics, or language. Members are appointed to serve for a term of six years. Vacancies on the commission will be filled by the governor as prescribed by law. Members serve until a successor is appointed.

.003. Meetings.

(a) **Scheduling.** The commission shall hold at least four regular business meetings annually, one of which shall be held in Austin, Texas. A majority of the commissioners shall set the dates and locations of all regular meetings, except for the location noted above. In the event the commissioners fail to set a date or choose a location for a regular meeting, the chairman shall make the selection and shall give sufficient notice to the executive director so that the members may have notice no less than three weeks in advance of the regular meeting. In addition, special and emergency meetings may be held in response to a call by the chairman, or a majority of the commissioners, at any time by giving one week's notice in writing to all commissioners. All meetings, except those in executive session, shall be open to the public.

(b) **Agendas.** The chairman, with the assistance of the executive director, shall prepare and submit to each member prior to each meeting, a preliminary copy of the agenda, listing items that he believes should be considered by the commission, those required by law, and others as members have requested. Materials supplementing the agenda may be included. Official agendas shall be distributed the day of the commission meeting. The agenda of regular meetings shall provide an opportunity for citizens to address the commission on any item of business which is included on the agenda, subject to reasonable time limits.

(c) **Quorum.** Five members of the commission shall constitute a quorum, and whenever a majority vote is required, this is deemed to mean a majority of those members present at a meeting having a quorum. In the absence of a quorum at any commission meeting, the meeting shall be recessed until a quorum is present.

(d) **Attendance.** In the event a member should fail to attend three consecutive, regularly scheduled meetings of the commission over a two-year period, and at the will of the com-

mission, such person shall cease to be a commissioner, in which event the action shall be reported to the governor.

(e) **Proxies.** No proxies shall be permitted at any meeting of the commission.

(f) **Rules of order.** The commission shall observe *Robert's Rules of Order*, revised, except as otherwise provided by these rules or by statute.

(g) **Minutes.** Copies of the minutes shall be forwarded to each member for review and comments or corrections prior to approval at a subsequent meeting of the commission. "Official minutes" are those approved by the commissioners at a regular or special meeting. Official minutes shall be kept in the commission's headquarters and shall be open to inspection by the public.

.004. Officers.

(a) **Enumeration.** The officers of the commission shall be a chairman, a vice chairman, and such other officers as the commission shall from time to time elect.

(b) **Election and term.** Election of officers shall be held at the first regular meeting of each calendar year and shall be chosen from the membership of the commission. Term of office for each officer shall be for a term of one year, or until a successor is elected, and shall not exceed two consecutive terms.

(c) **Filling of vacancies.** Should a vacancy occur in the office of chairman, the vice chairman shall immediately assume the duties of chairman and shall serve in that capacity for the unexpired term. Should a vacancy occur in the office of vice chairman, the commissioners shall hold an election for that office at the next regular meeting. Should vacancies occur in any other office the commission may designate, such vacancies shall be filled in the same manner as for the vice chairman.

(d) **Duties of chairman.** The chairman shall preside at all meetings of the commission; perform such other functions as may be assigned by the commission as well as functions customarily performed by such office. In the interim period between meetings, it shall be the duty of the chairman, with assistance of the executive director, to coordinate commission-related activities of the members. The chairman shall approve all vouchers for the expenditure of funds as provided by law, with the exception of the chairman's travel vouchers, which shall be approved by the vice chairman. In addition, the chairman shall serve as ex-officio member on all committees of the commission. The chairman shall appoint a parliamentarian.

(e) **Duties of the vice chairman.** In the absence or unavailability of the chairman, the vice chairman shall carry out the duties of the chairman.

.005. Committees.

(a) **Appointment.** All standing committee chairmen and members shall be appointed by the commission chairman as soon as practical after the meeting at which the chairman is elected. Notice of such appointments to those affected shall be made by the most expedient manner.

(b) **Term.** The term of all standing committee memberships shall be until their successors shall have been appointed.

(c) **Vacancies.** All vacancies on any standing committee shall be filled by the commission chairman.

(d) **Minutes of committee meetings.** Summary minutes shall be kept of all standing committee meetings, copies of

which shall be distributed to all committee members for review and then distributed to all commissioners.

(e) Reporting procedures. Standing committee chairmen or their designated representatives shall render a report of their activities, actions taken, and present recommendations, if any, to the commissioners at all regular meetings.

(f) Standing committees. The standing committees, their make-up, and functions shall be the following:

(1) Executive Committee. The Executive Committee shall consist of the officers of the commission and the chairmen of the standing committees. This committee shall act for the entire commission whenever necessary between regular meetings of the commission. The committee shall also have the duty of enhancing the commission's posture with representatives of the governor's office, the Legislative Budget Board, the legislature, and appropriate state agencies.

(2) Administrative Committee. The Administrative Committee shall consist of at least three members and shall work with the executive director and his staff in developing and implementing administrative and fiscal policies and guidelines; conduct an annual review and evaluation of the commission activities; and develop and monitor the internal operating budget.

(3) Program Development Committee. The Program Development Committee shall consist of at least three members and shall be responsible for the overall coordination of the statutory functions of the commission. Its duties shall include the interpretation of legislative intent; the evaluation of existing commission programs; and the formulation of a set of comprehensive goals to be accomplished over a five-year period. Once adopted, the commission's goals shall be reviewed and updated as the commission may direct.

(g) Special committees. Special committees may be appointed from time to time by the chairman who shall designate the duties and terms of such committees.

.006. Executive Director.

(a) Appointment. The commission shall appoint an executive director who shall serve at the will of the commission. The executive director shall be the executive head of the commission and shall perform its administrative functions. The salary of the executive director shall be that sum provided by law.

(b) Duties. The executive director may employ staff members necessary for administering the functions of the commission; shall serve as staff advisor to all committees; and shall approve staff travel.

.007. Amendments.

(a) These rules may be amended by the commission at any regular or special meeting, provided a copy of the proposed amendments are sent to each member 21 days prior to the meeting at which the amendments are to be considered.

(b) The staff shall keep these rules current and updated as revised by the commission.

Issued in Austin, Texas, on December 5, 1979.

Doc. No. 799238 Eddie Aurispa
 Executive Director
 Good Neighbor Commission

Effective Date: December 26, 1979

Proposal Publication Date: November 2, 1979

For further information, please call (512) 475-3581.

Texas Department of Human Resources

Alternate Care for Aged, Blind, and Disabled Adults

Standards 326.58.56

The Department of Human Resources adopts the following rules concerning standards for direct and purchased services for its Social Services Branch. These rules were published in proposed form in the September 5, 1978, issue of the *Texas Register* (3 TexReg 3087). The standards from which these rules were derived are a part of a service control system which establishes a minimum level of quality expected in DHR direct and purchased services and a process for assessing whether services meet these standards.

Since appearing in proposed form, these rules (standards) have been pilot-tested for a year throughout the department's regions. During that time, they have been subjected to review by the public and department staff and as a result of comment they have been revised to delete those items which were either unmeasurable or not specific enough. In addition, there has been extensive reorganization. What was proposed as Rule .001, Standards for Case Management for DHR Staff, has been expanded with additional clarifying information and is now numbered Rules .001-.011. Standards for contract agency staff have been removed and are included in new rules which were proposed regarding Minimum Standards for Agencies and Individuals Contracting to Provide Alternate Care Services for Aged, Blind, and Disabled Adults. Comments received from the public and the department have been incorporated as follows.

The primary recommendation regarding the proposed standards was for the following to be accomplished within 12 working days from the date of intake: case assignment, eligibility determination, client needs assessment, service plan development, task assignment plan development, registration, and contract agency referral. Previously, each activity was to occur within a certain number of days from the preceding activity. For example, eligibility was to be determined within five days from the date of case assignment. The department endorses the recommendation. It does not change the standard that service is to be initiated within 10 working days from the date of the referral to the contract agency. We are attempting to deliver service as soon as possible or no later than 22 working days from the date of intake.

Another major recommendation was that DHR staff should be responsible for preparing the task assignment plan (TAP). The piloted Standards for In-Home Services required contract agency staff to complete the TAP. The department does not fully endorse the recommendation. In some regions, the contract agencies are doing the plan, and in other regions the department does the TAP. In some cases, an agency supervisor accompanies the caseworker, and that appears to be the best approach. In view of these differences between the regions, this department recommends that each region be able to handle the TAP in accordance with regional procedures.

These new rules have been approved by the Texas Board of Human Resources and are adopted under the authority of the Human Resources Code, Chapter 11.

.001. Intake.

(a) Situations reported to be emergencies will be assigned to staff on the same day that the intake report is received.

(b) Staff will respond to a situation reported to be an emergency on the same day that the intake report is received by the department.

(c) The assignment of the intake request and receipt of the assignment by staff, in a situation that is not reported to be an emergency, will be accomplished within two working days from the receipt of the request at intake.

.002. Eligibility Determination.

(a) Staff will determine the applicant's eligibility for service "with regard to income" within 12 working days from the date of the intake request.

(b) Staff will determine the applicant's eligibility for services "without regard to income" at the time of the intake request.

(c) Staff will collect information in order to determine eligibility for service "with regard to income" in a face-to-face interview with the applicant or with the applicant's representatives.

(d) Staff will collect information in order to verify eligibility for service "without regard to income" in a face-to-face interview with the client or with the client's representative.

(e) Staff will inform the applicant of his or her rights and responsibilities at the time eligibility is determined or redetermined.

(f) Applicants who are determined to be eligible for service will be registered on the Social Services Management System (SSMS) within 12 working days from the date of intake.

(g) Staff will notify the applicant determined to be ineligible (denied) for service in writing within 15 calendar days from the date of the determination of the reasons for the denial and of the procedures to obtain a fair hearing.

(h) In the event an applicant or client indicates a desire to appeal an adverse action concerning the provision of services, staff will inform the appropriate department personnel in writing and within five days from awareness of the client's indication.

.003. Client Needs Assessment.

(a) Staff will complete a needs assessment on the client within 12 working days from the date of the intake request.

(b) Staff will visit the client at home prior to the initiation of service for the purpose of assessing living conditions.

(c) Staff will conduct the assessment or reassessment in a face-to-face interview with the client or with the client's representative.

(d) In the event the assessment is conducted with a representative of the client, staff will see the client prior to the initiation of service.

.004. Service Plan and Reassessment.

(a) Staff will complete a service plan on the client within 12 working days from the date of the intake request.

(b) Department staff and/or contract agency supervisory staff will prepare a task assignment plan; if the plan is

prepared by department staff, it will be completed within 12 working days from the date of the intake request.

(c) Staff will review the service plan and reassess the needs of the client within five working days from notification of a change in the client's condition if that change may result in the modification of the service plan.

(d) Staff will review the service plan and reassess the client's needs within six months from the date of the previous assessment and at the time service is terminated by the department if the client remains at home.

.005. Service Initiation.

(a) Staff will refer clients who are to receive services from a contract agency to that agency within 12 working days from the date of the intake request.

(b) Staff will initiate service within 10 working days from the date that the initial needs assessment and service plan are completed for clients who are to receive services directly from the department.

(c) Staff will perform or arrange for services in accordance with the client's service plan.

(d) Staff will notify the client or the client's representative in writing at least 15 calendar days prior to the date service is scheduled to be reduced or terminated by the department; the notification will consist of the reasons for the change, of rights to appeal, and of procedures to obtain a fair hearing.

.006. Reporting and Follow-Up.

(a) Staff will report any situation considered to be an emergency to the client's family or doctor or other community resources on the same day as awareness of the situation occurs.

(b) Staff will report to the contract agency complaints, problems, deficiencies, and noncompliances with policies, procedures, and standards which are observed by them or reported to them by the next working day from awareness of the situation. The complaint and the report will be documented.

(c) Staff will contact the client or source of the complaint within 10 working days from receipt of the contract agency's report on the situation for the purpose of determining whether the situation was satisfactorily resolved.

.007. Case Monitoring.

(a) Staff will contact the client receiving in-home services within 10 working days from the date service is initiated for the purpose of monitoring service delivery.

(b) Staff will conduct a home visit to the client receiving in-home services at least once every three months from the date of service initiation for the purpose of monitoring service delivery.

(c) Staff will conduct a home visit to the client receiving protective services at least once every two months from the date of service initiation for the purpose of monitoring service delivery.

(d) Staff will conduct an on-site visit of each day activity center, congregate meals site, and alternative living plan home site at least once a month from the effective date of the contract for the purpose of monitoring service delivery.

.008. Case Recording. Staff will maintain a case record for each client which will include at least the following information and records:

(1) the date of the request for information or service (intake), the name of the person making the request, the nature of the request, and the disposition;

(2) the date of the assignment of the intake and the name of the social worker it was assigned to;

(3) the client's application and eligibility certification for services;

(4) the assessment of the client's needs for services;

(5) the service plan, including a task assignment plan for clients of in-home services;

(6) registration of the client with the Social Services Management System (SSMS);

(7) a record of the delivery of service which will include home visits, phone contacts; information, referral, and follow-up activities and dates; and results of case monitoring;

(8) a record of emergencies, other serious occurrences, and significant changes reported about the client;

(9) record of service termination and case closure.

.009. Referral and Follow-Up.

(a) Staff will respond to a situation reported to be an emergency and refer the client to a resource, if applicable, on the same day as awareness of the situation.

(b) Staff will contact the client and/or the agency or the person to whom the client was referred in an emergency situation by the next calendar day after the date of the referral, in order to determine whether the emergency situation was alleviated.

(c) Staff will refer the client that is not in an emergency situation to a resource, if applicable, within two working days from receipt of an inquiry for information or service.

(d) In a nonemergency situation, staff will contact the client and/or the agency or person to whom the referral for other than Title XX direct delivery or purchased service was made within 30 calendar days from the date of the referral in order to determine if the service was satisfactorily obtained.

.010. Individual Provider/Family Care.

(a) Service will be initiated within 22 working days from completion of the client's initial needs assessment and service plan.

(b) Staff will assess the prospective provider's qualifications for fulfilling the tasks required in the client's task assignment plan prior to executing the service authorization-provider agreement.

(c) Staff, client, and prospective provider will agree upon and sign the service authorization-provider agreement prior to the initiation of service.

(d) In the event a provider no longer continues to provide service, staff will arrange for the provision of service by a new provider within 22 working days from the date of awareness that the previous provider ceased to provide service.

(e) Staff, client, and provider will agree upon and sign a new service authorization-provider agreement at least once every six months.

(f) If the agreement is to be terminated by the department, staff will inform the provider in writing and the reasons for termination will be given; notification will occur no later than one week prior to the date of termination except in the following cases where a notice is not required:

(1) documented abuse, neglect, or exploitation of the client by the provider;

(2) the client enters an institution or changes residence; and

(3) inadequate performance by the provider.

.011. Individual Provider/Alternative Living Plans (ALP).

(a) Provider/home assessment.

(1) Staff will complete an assessment of a prospective provider prior to the authorization to deliver service.

(2) Staff will contact the three personal references obtained from the provider.

(3) Staff will complete an assessment of the home prior to certification of the home.

(4) Staff will reassess the provider within 12 months from the date of the previous assessment.

(5) Staff will reassess and recertify the home within 12 months from the date of the previous assessment/certification.

(b) Client placement.

(1) Staff, client, and provider will agree upon and sign the service authorization-provider agreement prior to the initiation of service.

(2) Staff will initiate service within 10 working days from the date of the initial client needs assessment and service plan.

(3) Staff will place no more than three clients in an ALP Type I or II home.

(4) Staff will not place more than eight clients in an ALP Type III or IV home.

Issued in Austin, Texas, on December 4, 1979.

Doc. No. 799219

Jerome Chapman
Commissioner

Texas Department of Human Resources

Effective Date: December 25, 1979

Proposal Publication Date: September 5, 1978

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

State Board of Insurance

Rating and Policy Forms

Fixing Rate of Automobile Insurance

059.05.01.001

The State Board of Insurance has amended on a permanent basis Rule 059.05.01.001, which adopted by reference the Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements. The amendment is attached and incorporated herein by reference.

The amendment was previously adopted on an emergency basis to be effective November 1, 1979. On August 1, 1979, the board held a public meeting during which testimony, data, opinions, and comments were received from members of the public, the Texas Automobile Insurance Service Office and others relating to some form of encouragement in the form of reduced automobile insurance premiums to promote increased use of carpools, share-expense arrangements, and alternate mass transit. The board, after thorough consideration of all the testimony received during the August 1, 1979, meeting, has decided that two new private passenger automobile rate classifications should be established to allow certain individuals who reduce the use of their automobiles through carpooling, share-expense arrangements, or utilization of mass transit to have lower insurance premiums than certain

Individuals who drive their automobiles to and from work on a regular full-time basis. In addition to the establishment of the two new private passenger automobile rate classifications 1C and 6C, the amendments adopted also include editorial changes in certain sections of Rules 38 and 39 of the Texas Automobile Manual to implement the new classifications.

This amendment is adopted under the authority of Article 5.01 of the Texas Insurance Code.

.001. Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements. The State Board of Insurance adopts by reference the attached Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements as amended in December 1979. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on November 27, 1979.

Doc. No. 799158 Pat Wagner
 Chief Clerk
 State Board of Insurance

Effective Date: December 24, 1979

Proposal Publication Date: October 16, 1979

For further information, please call (512) 475-3486.

059.05.01.001

The State Board of Insurance has amended, effective January 1, 1980, Rule 059.05.01.001, which adopted by reference the Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements. The amendments are attached and incorporated herein by reference. The amendment is adoption of a new Endorsement 158R—amendatory endorsement—family protection coverage, protection against uninsured motorists, and insurance against uninsured motorists (uninsured/underinsured motorists coverage) to replace the current Endorsement 158P with the same title. The primary purpose of the amendment is to comply with Senate Bill 642, Acts of the 66th Legislature, Regular Session. In addition, the new Endorsement 158R clarifies the "trust agreement" provisions as it relates to underinsured motorists insurance and makes changes in the definition of "hit and run" vehicle and in the "conditions" section respecting the reporting requirements and right of inspection of an insurer prior to the time repairs are made to any property damaged for which coverage would be afforded under the property damage provisions of uninsured/underinsured motorists coverage. The definition of "property damage" was also editorially revised to clarify the intent with respect to "loss of use."

These amendments are adopted pursuant to the authority of Articles 5.01 and 5.06, Texas Insurance Code.

.001. Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements. The State Board of Insurance adopts by reference the attached Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements as amended in January 1980. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 799159

Policy Forms and Endorsements 059.05.06.001

The State Board of Insurance has amended, effective January 1, 1980, its Rule 059.05.06.001, which adopted by reference the Standard Provisions for Automobile Policies Written on and after October 1, 1974. The amendments are attached and incorporated herein by reference. The changes are in the insuring agreements relating to uninsured/underinsured motorists coverage and appear on pages 34-36, 59-61, and 69-71. The changes to the standard provisions are required by the provisions of Senate Bill 642, Acts of the 66th Legislature, Regular Session. In addition, the revisions clarify provisions relative to underinsured motorists coverage and revise the definition of "hit and run" vehicle to qualify the time for reporting an occurrence caused by a "hit and run" vehicle. Other editorial changes are made in that definition, and the definition of "property damage" has been editorially revised to clarify the intent with respect to "loss of use." A copy of the revised pages as they will read is attached.

This amendment is adopted pursuant to the authority of Article 5.06 of the Texas Insurance Code.

.001. Standard Provisions for Automobile Policies Written on and after October 1, 1974. The State Board of Insurance adopts by reference the attached Standard Provisions for Automobile Policies Written on and after October 1, 1974, as amended in January 1980. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 799160

059.05.06.002

The State Board of Insurance has amended, effective January 1, 1980, Rule 059.05.06.002, which adopted by reference the Standard Provisions for Automobile Policies Written on and after April 1, 1955. The amendments are attached and incorporated herein by reference. The amendments revise the standard provisions by deleting Endorsement 158P as it appears on pages 119-122 and replacing the deleted endorsement with Endorsement 158R. The amendments are adopted as a result of the provisions of Senate Bill 642, Acts of the 66th Legislature, Regular Session. In addition, the new Endorsement 158R clarifies the provisions of the underinsured motorists protection and makes changes in the definition of "hit and run" vehicle respecting the reporting requirements and the right of inspection of an insurer prior to the time that repairs are made to any property damaged by a "hit and run" vehicle. The definition of "property damage" was also editorially revised to clarify the intent with respect to "loss of use."

This amendment is adopted pursuant to the authority of Article 5.06 of the Texas Insurance Code.

.002. Standard Provisions for Automobile Policies Written on and after April 1, 1955. The State Board of Insurance adopts by reference the attached Standard Provisions for Automobile Policies Written on and after April 1, 1955, as amended in January 1980. This document is published by and available from the Texas Automobile Insurance Service

Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, TEXAS 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, TEXAS 78786.

Issued in Austin, TEXAS, on November 28, 1979.

Doc. No. 799161 Pat Wagner
 Chief Clerk
 State Board of Insurance

Effective Date: January 1, 1980

Proposal Publication Date: October 26, 1979

For further information, please call (512) 475-3486.

Texas Department of Mental Health and Mental Retardation

Other Agencies and the Public

Licensing of Private Mental Hospitals 302.03.21

Under the authority of Article 5547-95, Texas Civil Statutes, and Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rules 302.03.21.001-.030 to read as follows:

.001. Purpose. The purpose of these rules governing licensing of private mental hospitals is to insure proper care and treatment of patients in private mental hospitals.

.002. Definitions. In these rules:

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

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

(3) "Category A license" means the permission to operate a private mental hospital granted to a person by the department which substantially conforms to all of the standards contained in these rules.

(4) "Category B license" means the permission to operate a private mental hospital granted to a person by the department which does not operate in a traditional hospital building but substantially complies:

(A) with departmental standards other than physical plant standards contained in these rules for the proper care and treatment of mental patients, and

(B) with JCAH standards for psychiatric programs and continues to be accredited by JCAH and provides the department with evidence of accreditation

(5) "Category C license" means the permission to operate a private mental hospital granted to a person by the department which does not operate in a traditional hospital building but substantially complies:

(A) with departmental standards other than physical plant standards contained in these rules for the proper care and treatment of mental patients, and

(B) with JCAH standards for psychiatric programs within 15 months from initial licensure by the department and provides the department with evidence of a one-year or two-year accreditation by the JCAH.

(6) "Person" includes firm, partnership, joint stock company, joint venture, association, and corporation.

(7) "Applicant" means a person who is seeking a license from the department, and who has complied with all statutory and department rules with respect to the execution and completion of application forms and the furnishing of required information and documents.

(8) "Licensee" means a person who has been granted a license by the department and who has not had that license suspended or revoked by the department.

(9) "Private mental hospital" means a hospital operated by any person or political subdivision.

(10) "Mental hospital" means a hospital operated for the primary purpose of providing inpatient care and treatment for the mentally ill.

(11) "Political subdivision" includes a country, city, town, village, or hospital district in this state but does not include the department or any other department, board, or agency of the state having statewide authority and responsibility.

(12) "JCAH" means the Joint Commission on the Accreditation of Hospitals.

.003. Applicability. These rules apply to:

(1) persons operating a private mental hospital in Texas; and

(2) applicants for licensure as a private mental hospital in Texas.

.004. Basic Principles.

(a) The primary function of a private mental hospital shall be to:

(1) provide, for compensation, from its patients on an inpatient basis, diagnostic, and therapeutic services for the treatment of mental disorders. Though not required, outpatient services may be provided.

(2) have provisions for all medical services that would be required for the treatment of any other disease or any injury manifested during confinement.

(3) prepare and maintain a written individual treatment plan for each patient based on a diagnostic assessment of the patient's needs with documentation that the plan is under the supervision of any physician licensed to practice medicine in Texas.

(4) have a staff of physicians specializing in psychiatry directly involved in the treatment program, at least one of whom must be present at the facility or on call at all times.

(5) provide medical and psychiatric care and treatment in accordance with the highest standards accepted in medical practice.

(6) safeguard the dignity and civil rights of the patient.

(7) provide personnel qualified for the type of work they perform. Members of the professional staff must be competent and subscribe to professional and ethical standards. Also, the treatment of psychiatric disorders involves the contribution of parapsychiatric professionals. The ultimate responsibility for patient care rests with the psychiatrist.

(8) not deny any person because of race, creed, sex, or national origin services, membership of the governing board, medical staff, or participation in the affairs of the facility.

(b) When community mental health centers contract with another facility to provide inpatient services to patients court-committed under the Mental Health Code to the center for inpatient psychiatric services, the facility that the center contracts with must be licensed a private mental hospital.

(c) If a facility or a portion of a facility is going to accept court-committed patients under the Mental Health Code, the facility or that portion of the facility must be licensed as a private mental hospital.

(d) In those cases where a facility is licensed as a hospital, and that facility has a portion of the facility that is designated for psychiatric services, that special section of the hospital may be licensed as a private mental hospital.

(e) Each private mental hospital shall comply with all the provisions of the Texas Mental Health Code.

.005. Governing Board: Responsibility, Disclosure of Ownership and Control; Required Actions.

(a) Each hospital shall have a governing board of at least three persons to whom the head of the hospital shall report. The governing board has legal and moral responsibility for the conduct of the hospital in meeting the needs of both the patient and the community. Minutes shall be kept of the board meetings.

(b) Full disclosure of facility ownership and control is required. Licensure is not transferable on change of ownership and control and/or relocation. The facility shall advise the deputy commissioner for Mental Health Services of the department within 60 days prior to the change of ownership, control, and/or relocation of the facility. When such a change is made, a new license will be issued upon the day of the changeover if the facility continues to meet these licensing standards.

(c) The governing board shall:

(1) adopt bylaws and have written policies, procedures, and organizational plans.

(2) appoint, to be in charge of medical treatment, a physician who is certified by the American Board of Psychiatry and Neurology; a physician who is certified by the American Osteopathic Board of Psychiatry and Neurology; or a physician who has at least three years of experience as a physician in psychiatry in a mental hospital. The board may appoint, as chief administrative officer of the hospital, anyone meeting the above criteria, or anyone who is eligible for certification in Administration by the American Psychiatric Association, or who has a masters degree in hospital administration or its equivalent, or has demonstrated competency in hospital administration.

(3) insure that all federal, state, and local laws including licensure, fire inspection, and other safety measures are met.

(4) appoint members of the medical staff and make them responsible for making recommendations concerning medical staff appointments, reappointments, and delineations of privileges. It shall require that the medical staff maintain high standards of professional ethical practice. The diagnosis and treatment of psychiatric disorders are the ultimate responsibility of psychiatrists.

(5) provide a physical plant equipped and staffed to maintain the needed facilities and services for patients.

(6) provide for the election or appointment of its officers and the appointment of committees necessary to effect the discharge of its responsibilities.

(7) establish a formal means of liaison with the medical staff preferably by a joint conference committee.

.006. Physical Plant Standards for Private Mental Hospitals.

(a) Each private mental hospital shall be constructed in compliance with Chapter 10, Institutional Occupancies, of

the National Fire Protection Association No. 101, Life Safety Code, 1973.

(b) Each private mental hospital seeking licensure on or after the effective date of these standards shall be required to comply with Section 10-1, New Hospitals, Nursing Homes, and Residential/Custodial Care Occupancies, Life Safety Code, 1973.

(c) Any additions to an existing licensed private mental hospital shall be constructed in compliance with Section 10-1, New Hospitals, Nursing Homes, and Resident/Custodial Care Occupancies, Life Safety Code, 1973.

(d) Each private mental hospital licensed on the effective date of these standards shall comply with Section 10-2, Existing Hospitals, Nursing Homes, and Residential/Custodial Care Occupancies, Life Safety Code, 1973.

(e) Buildings or sections of buildings which house or in which care is rendered to mental patients who are capable of average judgment in taking action for their preservation under emergency conditions, in the opinion of the commissioner the Texas Department of Mental Health and Mental Retardation, may come under other sections of the Life Safety Code instead of Section 10-1.

(f) The commissioner may require buildings or sections of buildings of a private mental hospital in which care is rendered to mental patients who are capable of average judgment in taking action for their preservation under emergency conditions to comply with sections of the 1973 Life Safety Code other than Section 10-1 of that code.

(g) Each private mental hospital is required to have an approved fire safety inspection from a local fire marshal. Inspections will be performed at least on a semiannual basis. Documentation must be provided if local fire marshal will not perform these inspections.

.007. Dietetic Department: Facilities; Personnel; Records; Conferences.

(a) Each private mental hospital must have an organized dietetic department directed by qualified personnel and integrated with other departments of the hospital.

(b) Facilities must be provided for the general dietary needs of the hospital. These should include facilities for the preparation of special diets. Sanitary conditions must be maintained in the storage, preparation, and distribution of food.

(c) There must be a qualified dietitian available to clinical staff and patients.

(d) There should be adequate administrative and technical personnel competent in their respective duties.

(e) There must be a systematic record of menus for review by a dietitian for nutritional adequacy.

(f) Documentation of special diets must be recorded in the patient's clinical record including regular progress notes by the dietitian.

(g) Departmental and interdepartmental conferences should be held periodically to assure that the food service is an integral part of the treatment program.

(h) Food should be served in an attractive and relaxed atmosphere at hours which are realistic to the needs of patients.

.008. Clinical Records: Administrative Procedures; Medical Staff Responsibilities; Contents of the Clinical Record.

(a) With respect to the administrative procedures of a private mental hospital, the following provisions are applicable:

(1) there must be a clinical record maintained on each patient admitted for care;

(2) clinical records must be kept inviolate or a microphotographic reproduction thereof and preserved for a period of time not less than 10 years after discharge of the patient;

(3) the clinical records department shall be the responsibility of an individual who has demonstrated competence and experience or training in clinical record administration;

(4) an identification and filing system to insure the rapid location of the patient's clinical record must be maintained;

(5) all clinical information pertaining to a patient must be included in the patient's record;

(6) all patient record information must be kept confidential except as indicated in Rule .030;

(7) clinical records for all discharged patients must be completed within 15 days;

(8) all verbal orders shall be signed within 24 hours by the presiding physician;

(9) all entries must be authenticated by signature and title.

(b) The physician of each patient is responsible for insuring that the clinical record contains sufficient information to justify the diagnosis and course of treatment.

(c) The clinical record should contain sufficient information to clearly identify the individual patient, to justify the diagnosis and treatment, and to accurately document the results. The records should contain:

(1) identification data;

(2) basic descriptive data concerning the patient, including present illness and social history;

(3) a summary of the evaluation process, including diagnosis, treatment recommendations, prognosis, and outcome;

(4) initial and periodic physical and psychiatric examinations;

(5) a record of all psychological testing;

(6) a plan for treatment based on initial medical and psychiatric examinations within seven days after admission and indicating the date that the next review is planned;

(7) a nursing assessment and care plan;

(8) signed, dated, and timed orders for medical/psychiatric treatment, medications, mechanical restraint and seclusion which must be time limited, and incident/accident reports;

(9) a record of the medication including dosage, duration and route of the administration, and results of the treatment;

(10) a copy of all consultation reports, including clinical laboratory reports and x-ray reports;

(11) progress notes by all clinical staff actively involved in the patient's treatment;

(12) all communications including clinical history or clinical progress;

(13) a discharge summary including at least a recapitulation of the patient's hospitalization, course of treatment, recommendations concerning follow-up or after-care, and the patient's condition at discharge;

(14) autopsy findings.

.009. *Pharmaceutical Services.*

(a) Each private mental hospital shall maintain or contract with a pharmacy directed by a registered pharmacist.

(b) Pharmaceutical services provided or contracted for by a private mental hospital shall:

(1) be appropriately staffed to meet the needs of the patients.

(2) provide for safe procedures, facilities and equipment for storing, preparing, and dispensing of drugs.

(3) inspect all drug storage areas and medication stations on a monthly basis. These inspections shall be clearly documented.

(4) participate in staff development programs for professional and supporting staff.

(5) be responsible for admixture of parenteral products.

(6) maintain and provide for adequate drug information and reference materials.

(c) Each private mental hospital shall formulate written policies and procedures with regard to pharmaceutical services that are reviewed and revised at least annually and include the following:

(1) arrangement for obtaining drugs when the pharmacy is closed.

(2) medication administered shall be prescribed for the patient by a licensed physician.

(3) legend medications shall be kept in containers bearing the prescription label which shows the patient's name, date filled, name of medication, strength, number of tablets or capsules, directions for use, name of physician prescriber, prescription number, expiration of time dated drugs, and special precautions or properly labeled unit dose.

(4) medications shall be administered by licensed nursing personnel and shall be directly supervised by a registered nurse. A registered nurse shall be accountable for all medications given.

(5) an annual refresher course for licensed nursing personnel shall be required so that such personnel may remain familiar with new medications and refresh information on currently utilized medications.

(6) self-administration of medications shall be permitted only when there is a specific written order signed by the attending physician and there is supervision by an appropriate clinical staff member.

(7) medication errors and drug reactions shall be promptly reported to the attending physician and director of nursing services or their on-duty representative and the pharmacist.

(8) emergency medical kits shall have their contents approved by the medical staff, readily available, properly sealed, and inspected monthly.

(9) security and accountability requirements for scheduled drugs shall be maintained and documented in accordance with pertinent laws and safe pharmacy practices.

.010. *Pathology Services.*

(a) Each private mental hospital shall provide for and have a written plan describing the organization of or arrangement for the provision of:

(1) clinical pathology services;

(2) anatomic pathology services;

(3) blood bank services.

(b) Pathology services provided or contracted for by private mental hospital shall maintain:

(1) a pathologist, either full time or as a consultant on a scheduled basis;

(2) adequate and qualified personnel to supervise and conduct the service in order to meet the patients' needs;

(3) adequate facilities, space, and equipment to perform pathology examinations;

(4) at least one medical technologist on duty or available on call at all times.

(5) signed duplicate copies of all reports that are filed in the patients' records;

(6) safety equipment, such as a fire blanket, an eyewash station, and an emergency shower station.

(c) Each private mental hospital shall formulate written policies and procedures with regard to pathology services that are reviewed and revised at least annually and include the following:

(1) a complete listing and description of each available test;

(2) a list of analytical methods employed and information concerning the basis for the listed "normal" range made available to each medical staff member.

(3) written procedures regarding:

(A) ordering of tests;

(B) collection of specimens;

(C) proper identification, storage, and preservation of specimens;

(D) deadlines for reporting results;

(4) written plan for a preventative and corrective maintenance program that includes a description of records to be maintained on each piece of equipment showing the date of inspection and the validation or performance evaluation;

(5) the checks and rechecks done on chemical and biochemical solutions to ensure proper reactivity;

(6) the lab should participate regularly in proficiency surveys and/or reference sample service.

.011. Radiology Services.

(a) Each private mental hospital shall provide for:

(1) a written plan describing the organization of radiology services, or

(2) arrangement for the provisions of radiology services on a contractual basis to meet the needs of hospitalized patients. Such contracted services shall meet these same requirements.

(b) Radiology services provided or contracted for by a private mental hospital shall:

(1) be directed by a qualified radiologist on the medical staff or by a consultant on a scheduled basis;

(2) maintain at least one qualified radiologic technologist on duty or on call at all times;

(3) provide for safety procedures to assure that radiology services provided are free of hazards for patients and personnel;

(4) provide adequate qualified personnel, space, and equipment for the reception, examination, and treatment of patients;

(5) maintain a written record of calibration on equipment on at least an annual basis;

(6) provide authenticated reports of radiology examinations and therapy in the patient's medical record and retain duplicates in the radiology department.

(c) Each private mental hospital shall formulate written policies and procedures with regard to radiology services that include:

(1) a written description shall be maintained in each nursing station of all examinations and therapy available through radiology services;

(2) the requirements for written medical orders;

(3) regulations for the use, handling, and storage of radioactive elements;

(4) a written plan for the referral of patients for evaluation and treatment for services not provided;

(5) at least an annual review, which must be dated and signed, to indicate time of last review.

.012. Emergency Services: Written Plan; Policies and Procedures; Adequate Medical Records; Facilities; Responsibility for Services.

(a) Each private mental hospital shall have a well-defined written plan for providing emergency services, including physical as well as psychiatric emergencies based on the need and the capability of the facility. This plan shall:

(1) describe the procedures whereby an ill or injured person can be assessed and either treated or referred to another facility, as appropriate;

(2) be reviewed and updated at least annually; and

(3) describe emergency procedures and life saving procedures.

(b) Each private mental hospital shall have written policies and procedures concerning the extent of treatment to be provided in the emergency situations. These policies and procedures shall:

(1) be approved by the medical staff and by the administration of the private mental hospital;

(2) be reviewed at least annually, revised as necessary, and dated to indicate the time of last review.

(c) All information relative to emergency care shall be included in the patient's clinical record.

(d) A review of emergency medical records shall be conducted annually by each private mental hospital in order to evaluate the quality of emergency medical care being provided. The emergency service should maintain a log, file, or register. The information in the register should be minimal, containing only those items necessary for reference. However, it should contain at least the name, date, time of arrival, clinical record number, and nature of injury of each patient served, type of treatment rendered, and disposition of patient.

(e) Facilities for physical and/or psychiatric emergency service shall be such as to insure the effective care of the patient.

(f) Wherever the emergency service is provided, the private mental hospital and the medical staff shall be responsible for insuring that the emergency patient care provided meets the same standards of care prevailing in the private mental hospital itself.

.013. Social Work Services: Provision of Services, Functions Performed; Social Work Staff and Qualifications; Service Records.

(a) Each private mental hospital must have a written description and organizational plan for the provision of psychiatric social work services.

(b) If the private mental hospital has a social service department, that department should perform the following functions:

(1) secure information about patient's development and current life situation to provide psychosocial data for diagnosis and treatment planning;

(2) direct therapeutic services to patients, patient groups, or families to assist patients with their social functioning needs as part of the treatment planning;

(3) participate in interdisciplinary conferences concerning diagnostic formulation, treatment planning, and progress reviews;

(4) identification or development of community resources to facilitate the smooth movement of patients in and out of the hospital from preadmission to aftercare.

(c) If the private mental hospital has a social services department, or if social reviews are provided on a contractual basis, the supervisor of social services must have a master of social work degree from an accredited school of social work. Social work staff must be numerically adequate to perform the stated functions.

(d) Entries in patient records by social work personnel should include:

- (1) the psychosocial and developmental study information for appropriate patients;
- (2) social work therapies with patients;
- (3) home environmental studies where indicated;
- (4) contacts or cooperative activities with community agencies;
- (5) social service summaries; and
- (6) follow-up reports on discharged patients.

.014. Psychological Services: Provision of Services; Functions Performed; Psychology Staff and Qualifications.

(a) Each private mental hospital must have a written description and organizational plan for the provision of clinical psychological services.

(b) If the private mental hospital has a psychology department, that department should perform the following functions:

- (1) assist in diagnosis developed as a result of psychological testing and interviewing;
- (2) provision of patient therapy, research, program development, and training;
- (3) participate in interdisciplinary conferences concerning diagnostic formulation, treatment planning, and progress reviews.

(c) If the private mental hospital has a psychology department or if psychological services are provided on a contractual basis, the supervisor of psychological services must be provided by a psychologist licensed by the Texas State Board of Examiners of Psychologists.

(d) All psychological services provided should be recorded in the patient's clinical record.

.015. Activity Services; Patient Library.

(a) Each private mental hospital shall provide for and have a written plan describing the organization of and arrangement for the provision of rehabilitation and occupational therapies.

(b) Activity services provided by a private mental hospital shall:

- (1) be under the supervision of a psychiatrist, and directed by an individual who has demonstrated competence and experience or training in directing activity therapies;
- (2) be adequate in number and qualifications to conduct the services to meet the patient's needs;
- (3) be carried out in adequate facilities, space, and equipment.

(c) Activity therapies shall be available to patients on a daily basis and shall be based on evaluation and assessment that result in specific individual goals that are coordinated with the overall treatment plan for each patient.

(d) A library for patient's use shall be readily available.

.016. Chaplain Service. Religious and spiritual services shall be made available to those patients requesting such services.

.017. External Disasters: Written Plan; Contents of Plan.

(a) Each private mental hospital shall have a written plan for the proper and timely care of casualties arising from external disasters and shall periodically rehearse such plan. The following regulations regarding external disaster plans shall be followed:

(1) To meet its responsibilities for emergency casualty care at the time of a disaster, each private mental hospital shall develop a disaster plan based on its capabilities.

(2) The plan should be developed in conjunction with other emergency facilities in the community so that adequate logistical provisions are made for the organization of the private mental hospital's activities in coordination with those of other facilities. A private mental hospital's participation may range from providing first aid, or preparing casualties for transfer elsewhere, to administering definitive care.

(3) Planning may include consultation with local civil authorities and with representatives of medical agencies in order to cooperatively establish an effective chain of command at the disaster site and to make appropriate jurisdictional provisions. Such cooperative planning should result in provisions for disaster-site triage and for the distribution of patients that makes the most efficient use of available facilities and services.

(4) The hospital has the responsibility for informing the community of its potential and its limitation in the event of a community disaster. The extent of the hospital's resources should be clearly identified for local police, rescue squads, and ambulance teams.

(5) The disaster plan shall be rehearsed at least twice a year, preferably as part of a coordinated effort in which other community emergency service agencies participate. The drill shall involve the medical staff, as well as administrative, nursing, and other hospital personnel. Actual movement or evacuation of patients is optional. There shall be a written report and evaluation of all drills.

(6) The disaster plan should make provision within the private mental hospital for:

- (A) an efficient system of notifying and assigning personnel;
- (B) unified medical command;
- (C) availability of adequate basic utilities and supplies, including gas, water, food, and essential medical and supportive materials;
- (D) conversion of all usable space into clearly defined areas for efficient triage, for patient observation, and for immediate care;
- (E) prompt transfer of casualties, when necessary, and after preliminary medical or surgical services have been rendered, to the facility most appropriate for administering definitive care;
- (F) a special disaster medical record, such as an appropriate tag, shall accompany the casualty as he is moved;
- (G) procedures for the prompt discharge or transfer of patients in the private mental hospital who can be moved without jeopardy;

(H) procedures for maintaining security in order to keep unauthorized persons out of the triage area; and

(I) arrangements for a public information center and the assignment of public relations liaison duties to a qualified individual. Arrangements with communications media will help to provide an organized dissemination of information

.018. Internal Disasters: Written Plan; Contents of Plan. Each private mental hospital shall have a written plan for the proper and timely care of casualties arising from internal disasters and shall periodically rehearse such plan. The following regulations regarding internal disaster plans shall be followed:

(1) Fire and internal disaster plans that incorporate evacuation procedures should be developed with the assistance of qualified fire, safety, and other appropriate experts. Among the provisions should be:

(A) plans for the assignment of personnel to specific tasks and responsibilities;

(B) instructions relating to the use of alarm systems and signals;

(C) information concerning methods of fire containment;

(D) systems for notification of appropriate persons;

(E) information concerning the location of fire-fighting equipment;

(F) specification of evacuation routes and procedures; and

(G) other provisions as the local situation dictates.

(2) These plans shall be made available to all private mental hospital personnel and shall be posted throughout the private mental hospital.

(3) Fire drills shall be held at least quarterly and drills for other internal disaster circumstances shall be held at least twice a year for each shift of personnel and under varied conditions in order to:

(A) insure that all personnel on all tours of duty are trained to perform assigned tasks;

(B) insure that all personnel on all tours of duty are familiar with the use and operation of the fire-fighting equipment in the private mental hospital; and

(C) evaluate the effectiveness of the plan.

(4) The actual evacuation of patients to safe areas during a drill is optional. There should be a written report and evaluation of all drills.

(5) Each private mental hospital shall insure that it has fire protection services provided by the local fire department or by the private mental hospital itself. In areas in which it is not precluded by law, each private mental hospital's automatic and manually activated fire alarm systems should have a direct line to the municipal circuit of the local fire department or a connection either to a remote receiver or through a central station as approved by NFPA.

.019. Patient Education and Vocational Rehabilitation Services: Written Plan; Sufficient and Appropriate Staff; Written Policies and Procedures; Adequate Documentation; Appropriate Space and Equipment; Staff Development.

(a) Each private mental hospital shall have a written plan describing the organization of patient education and vocational rehabilitation services or the arrangements for the provision of such services to meet the needs of its patients. The written plan shall:

(1) provide for great flexibility of program choice;

(2) specify the organization, philosophy, and methods of the facility's education and vocational rehabilitation resources and/or those utilized within the community;

(3) relate these services to the therapeutic goals, scope, and organization of the psychiatric facility;

(4) specify lines of responsibility;

(5) define the roles of the education and vocational rehabilitation services personnel, the methods of personnel utilization, and interdisciplinary collaboration within the facility; and

(6) describe arrangements for the provision of education and vocational rehabilitation services provided outside the psychiatric facility, including the responsibilities and mechanisms for continuing effective liaison and coordination of programs and therapeutic efforts.

(b) There shall be available a sufficient number of appropriately qualified staff and necessary supporting personnel to provide patient education services

(c) There shall be available a sufficient number of appropriately qualified staff and necessary supporting personnel to provide vocational rehabilitation services

(d) There shall be written policies and procedures for the provision of patient education and vocational rehabilitation services. These policies shall identify purposes, specific objectives, and methods for each type of service.

(e) There shall be documentation of effective implementation of all patient education and vocational rehabilitation services provided to each patient. There shall be an evaluation of each patient's education and vocational rehabilitation needs, including academic, intellectual, vocational and social appraisal, and appraisal of speech, hearing and sight, and other special physical considerations.

(f) There shall be appropriate and adequate space and equipment for the patient education and vocational rehabilitation services to be provided effectively and efficiently in pleasant and functional surroundings, readily accessible to the patients of the psychiatric facility.

(g) There shall be a staff development program for patient education and vocational rehabilitation services personnel.

.020. Medical Staff: Responsibility for Quality of Care; Qualifications.

(a) Each private mental hospital must have an organized medical staff which is responsible to the governing body of the private mental hospital for the quality of medical and overall psychiatric care provided to patients and for the ethical and professional services of its members.

(b) Members of the medical staff who are responsible for the diagnosis and treatment of psychiatric disorders must be certified or eligible for certification by the American Board of Psychiatry and Neurology. Physicians who do not meet these qualifications must be under the supervision of a qualified staff psychiatrist.

.021. Medical Staff: Responsibilities and Duties.

(a) The governing body of each private mental hospital must delegate the responsibility of medical functions, which includes psychiatric functions to the medical staff, including recommendations as to the professional qualifications of all physicians who practice in the private mental hospital. The medical staff is responsible for the quality of all categories of medical care rendered to patients in the private mental hospital.

(b) Maintaining high standards of medical care will depend upon the character of the staff and the effectiveness of its organization to carry out the following duties:

- (1) selection of persons recommended for staff appointments and hospital privileges;
- (2) constant analysis and review of the clinical work done in the private mental hospital through its various committees;
- (3) support of medical staff and hospital policies;
- (4) maintenance of adequate medical records;
- (5) procurement of autopsies.

(c) Attending physicians are responsible for requesting consultations when indicated. It is the duty of the private mental hospital staff through its medical director and chiefs of services and executive committee to make certain that members of the staff do not fail the matter of calling consultants as needed.

.022. Medical Staff: Programs; Plans; Policies; Professional Personnel Meetings.

(a) Each medical staff member must be able to show evidence of participation in continuing medical education as recommended by his or her discipline designed to keep them informed of new developments and new skills in medicine.

(b) In each private mental hospital where electroconvulsive therapy is utilized, a written plan of administration and recovery care shall be developed by the medical staff with the consultation and approval of an anesthesiologist (M.D.) consultant.

(c) Each private mental hospital must have a written procedure whereby an ill or injured person can be assessed and either treated or referred to an appropriate facility as indicated. This service will also be provided for any ill or injured person who is present at the private mental hospital.

(d) There should be regular multidisciplinary meetings including physicians, social workers, psychologists, occupational therapists, and nurses who can plan and implement treatment goals for psychiatric patients.

.023. Medical Staff: Membership; Appointment Procedure; Qualifications; Privileges; Active Staff; Other Categories of the Staff.

(a) Medical staff appointments for a private mental hospital shall be made by the active staff and approved by the governing body prior to being admitted to the staff. The prevailing custom is for a term of one year, with reappointments continued so long as qualifications remain satisfactory.

(b) Members of the medical staff of a private mental hospital must be licensed and be qualified professionally and ethically for the positions to which they are appointed.

(c) The privileges of each member of the medical staff of a private mental hospital shall be determined on the basis of professional qualifications and demonstrated ability.

(d) Regardless of any other categories of staff who have privileges in the private mental hospital, there shall be an active staff, properly organized, which shall perform all the organizational duties pertaining to the medical staff. The organizational duties of the active staff shall include:

- (1) maintenance of high quality in all medical/psychiatric care and treatment in the hospital;
- (2) organization of the medical staff, including adoption of rules and regulations which must be approved by the governing body of the private mental hospital, for its government, election of its officers, and recommendations to the

governing body upon all appointments to the medical staff and grants of hospital privileges;

(3) other recommendations to the governing body of the private mental hospital upon matters within the purview of the medical staff.

(e) In larger private mental hospitals and in some smaller private mental hospitals, the medical staff may include one or more of the following categories in addition to the active staff, but this in no way modifies the duties and responsibilities of the active staff:

(1) "Honorary staff." The honorary staff shall be former active staff, retired or emeritus, and other physicians of reputation whom it is desired to honor.

(2) "Consulting staff." The consulting staff shall be recognized specialists willing to serve in such capacity. A member of the consulting staff may also be a member of the active staff, but only if the two appointments are made.

(3) "Courtesy staff." The courtesy staff shall be members who use the hospital infrequently or less experienced members undergoing a period of probation before being considered for appointment to the active staff.

.024. Medical Staff: Organization; Officers; Bylaws; Committees.

(a) The medical staff of each private mental hospital shall have such officers as may be necessary for the government of the medical staff. Officers shall be members of the active staff and shall be elected by the active staff.

(b) Medical staff bylaws to govern and enable the medical staff to carry out its responsibilities in accordance with these rules shall be adopted.

(c) The complexity of committee organization of the medical staff depends upon the size and composition of the medical staff of the individual private mental hospital. A small medical staff may wish to function as a committee of the whole. Others may wish to combine committee functions in two or three committees. The structure of committee organization is a decision to be made by the medical staff so long as the following required committee functions are carried out:

(1) The executive committee shall coordinate the activities and general policies of the various departments; act for the medical staff as a whole under such limitations as may be imposed by the medical staff, and receive and act upon the reports of the medical records and such other committees as the medical staff may designate. The executive committee shall meet at least once a month and shall maintain a permanent record of its proceedings and actions.

(2) The credentials committee shall review applications for appointment and reappointment to all categories of the medical staff. The credentials committee shall delineate the privileges to be extended to the applicant and make appropriate recommendations according to the procedure outlined in the private mental hospital's medical staff bylaws.

(3) The joint conference committee shall be a medico-administrative advisory committee and the official means of liaison among the medical staff, the governing body, and the administrator. In the absence of a joint conference committee, a formal means of liaison between the governing board and the medical staff must be established.

(4) The medical records committee shall supervise the maintenance of medical records at the required standard of completeness. On the basis of documented evidence, the medical records committee shall also review and evaluate the quality of medical care given the patient. The medical

records committee shall meet at least once a month and shall submit a monthly report in writing to the executive committee.

.025. Medical Staff: Meetings.

(a) The improvement in care and treatment of private mental hospital patients is the responsibility of the medical staff. To accomplish this, meetings of the medical staff are required to review, analyze, and evaluate the clinical work of its members.

(b) The medical staff shall meet monthly.

(c) Attendance requirements for all medical staff meetings shall be determined by the executive committee and shall be stated in the medical staff bylaws. The requirements for each individual member of the medical staff and for the total attendance at each meeting shall be clearly stated in the bylaws of the medical staff. Records of attendance shall be kept.

(d) Adequate minutes of all meetings shall be kept.

(e) The method adopted to insure adequate evaluation of clinical practice in the hospital shall be determined by the medical staff and clearly stated in the medical staff bylaws.

.026. Nursing Services.

(a) Each private mental hospital shall have:

(1) a nursing service under the direction of a registered nurse who:

(A) has a graduate degree in psychiatric nursing, or
(B) has at least three years experience in psychiatric nursing;

(2) on duty at all times an RN with either a graduate degree in psychiatric nursing or one year of experience in psychiatric nursing;

(3) an appropriate number of licensed professional nursing personnel on duty at all times to plan, assign, supervise, and evaluate nursing care, as well as to assure that patients receive the care that requires the judgment and specialized skills of a registered nurse.

(b) The nursing services department of each private mental hospital shall:

(1) organize a departmental written plan including administrative authority with delineation of responsibilities and duties of each category of nursing personnel.

(2) establish working relationships with other services of the hospital, both administrative and professional.

(3) provide a sufficient number of licensed vocational nurses, mental health workers, and other ancillary nursing personnel to meet the needs of the patients.

(4) have regularly scheduled monthly meetings of professional nursing staff to discuss patient care, inservice training, nursing service problems, and administrative problems. Minutes of all meetings shall be kept.

(5) develop a mechanism to assure nursing proficiencies required to perform special procedures and/or therapies. This should be based on educational experience and especially on present skills and knowledge. Registered nurses requesting these privileges should demonstrate these skills in a supervised setting to determine if they are proficient to perform these procedures independently. This documentation should be maintained in each employee's folder.

(c) Each private mental hospital shall formulate written policies and procedures that are reviewed and revised at least annually and include the following:

(1) nursing philosophy and objectives;

(2) personnel policies;

(3) procedures:

(A) movement of patients;

(B) management of patients;

(C) nursing (medically oriented);

(D) charting;

(E) program description;

(4) emergency and safety, include both medical and psychiatric emergencies.

.027. Patient Rights: Written Statement and Interpretation of Rights; Restrictions on Rights.

(a) Upon admission of every patient to a private mental hospital, the head of the hospital, or his designee, shall inform the patient and any relative or friend who accompanies him to the hospital, in simple, nontechnical language all of his patient rights.

(b) documentation that the patient was given notification of his rights must be kept in the patient's clinical record.

(c) Written copies of patient rights shall be prominently displayed at all times in patient's dayrooms, recreation rooms, and other gathering places within the private mental hospital frequented by patients in social activities.

(d) Except to the extent that the attending psychiatrist determines and documents in the individual patient's clinical record that it is necessary for the welfare of the patient to impose restrictions, each patient in a private mental hospital has the following rights:

(1) to receive visitors;

(2) to have religious freedom in accordance with the principles, tenets, or teachings of any established church, if requested by the patient or if requested by his next of kin or guardian;

(3) to communicate with persons outside the private mental hospital;

(4) to communicate by uncensored and sealed mail with legal counsel, the courts, the Attorney General of the State of Texas, his or her family, and the Texas Department of Mental Health and Mental Retardation;

(5) to receive and place telephone calls;

(6) to wear his or her own clothes and to keep and use his or her own personal possessions;

(7) to inspect and obtain a copy of his or her clinical records.

(e) Any restriction imposed by the attending psychiatrist on the exercise of the rights enumerated in subsection (d) of this rule for the welfare of a particular patient and the reasons for the restriction shall be made a part of the clinical record of that patient. Every restriction must be reviewed at least every 30 days and there must be documentation in the patient's record regarding reasons for continuing of or removal of a restriction.

(f) Each patient in a private mental hospital has, without restriction, the following rights:

(1) to not be subjected to research except with his or her informed consent;

(2) to not receive a lobotomy except with his or her informed consent;

(3) to be treated and addressed with respect and dignity, and to not be subjected to patient abuse;

(4) to not be subjected to the use of behavior modification techniques except with his or her informed consent;

(5) the right to habeas corpus, which is not affected by admission to a private mental hospital as a voluntary or involuntary patient;

(6) to not be required to perform labor for the benefit of the private mental hospital;

(7) to not be deemed by the private mental hospital as incompetent to manage personal affairs, contract, hold a professional, occupational, or vehicle operator's license, marry and obtain a divorce, or make a will solely because of admission or commitment to a private mental hospital. A legal determination of incompetency generally requires a judicial action separate from the admission or commitment of a person to a private mental hospital;

(8) if the patient is a voluntarily admitted patient, to leave the private mental hospital 96 hours after filing with the head of the private mental hospital a written request for his or her release, signed by the patient or by someone on his or her behalf and with his or her consent; provided, however, that the patient may be detained for longer than 96 hours pursuant to a court order that has been obtained within the 96-hour period.

(g) A private mental hospital shall not deem a patient's civil rights and legal capacity to be affected by his or her voluntary admission to a private mental hospital.

.028. Patient Rights: Use of Restraint or Seclusion. A patient in a private mental hospital shall not be subjected to the use of restraint or seclusion except within the following provisions:

(1) The use of restraint or seclusion is authorized only upon the written and signed order of a licensed physician entered into the patient's clinical record. A telephone order that is signed and dated within 24 hours by the appropriate physician is an acceptable policy.

(2) The patient's clinical record shall state the reasons for the issuance of the order and shall also state the behavior necessary for release from seclusion or restraint.

(3) Restraint or seclusion of a patient shall be maintained only so long as he or she is exhibiting unacceptable behavior.

(4) In the event the patient resists the use of restraint or seclusion, only such force as is reasonable and necessary shall be used to implement restraint or seclusion.

(5) A patient in physical restraint or seclusion shall be checked at least every 15 minutes, and a record of the checks shall be made in the patient's clinical record.

(6) An order for restraint or seclusion is valid for only 24 hours. If a patient has been in restraint or seclusion for a 24-hour period, a new order for restraint or seclusion must be issued by a physician. The new order must also state the reasons for its issuance and must be entered into the patient's clinical record.

(7) In order for a room to be used as a seclusion room, the room must have:

- (A) no exposed electrical outlets;
- (B) variable and adequate lighting;
- (C) an observation window through which an observer can see the entire room;
- (D) detention screens on all outside windows;
- (E) no fixtures on which a patient can harm himself.

.029. Patient Rights: Confidentiality.

(a) Private mental hospital records which directly or indirectly identify a patient, former patient, or proposed patient shall be kept confidential except where:

(1) Consent is given by the individual identified, his legal guardian, or his parent if he is a minor. If the patient is deceased, consent may be given by the executor or administrator of his estate. If there is no appointment of an executor or administrator, consent may be given by the deceased patient's spouse, or, if none, by any adult person related to the deceased patient within the first degree of consanguinity.

(2) Disclosure may be necessary to carry out the provisions of the Texas Mental Health Code.

(3) A court directs upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest.

(4) The head of the private mental hospital determines that disclosure would be in the best interest of the patient.

(b) Nothing in subsection (a) of this rule shall preclude disclosure of information as to the patient's current condition to members of his family or to his relatives or friends.

(c) Disclosure of information concerning alcohol and drug abuse patients is governed by Part 2 of Title 42 of the Code of Federal Regulations.

.030. License Application Process.

(a) All correspondence with reference to an application for a new license to operate a private mental hospital is to be directed to the commissioner of the Texas Department of Mental Health and Mental Retardation.

(b) An application fee and a license fee shall accompany the application for a license. See exhibit A which is attached to this rule. If the department denies the license, only the license fee shall be returned. The application fee is \$25. The annual license fee payable on August 31 of each year is \$50.

(c) After receipt of proper application for license and the required fee, the department shall make such investigation as it deems desirable. If the department finds that the premises are suitable and that the applicant is qualified to operate a mental hospital in accordance with the requirements and standards established by law and by the department, the department shall issue a license authorizing the designated licensee to operate a mental hospital on the premises described and for the bed capacity specified in the license.

(d) However, if operation of the mental hospital involves acquisition, construction, or modification of a facility, a change in bed capacity, provision of new services, or expansion of existing services for which a certificate of need or an exemption certificate is required under the Texas Health Planning and Development Act, the department shall not issue the license unless and until the certificate of need or the exemption certificate has been granted to that applicant under that act.

(e) Subject to the applicable provisions of the Texas Health Planning and Development Act, the authorized bed capacity may be increased at any time upon the approval of the department and may be reduced at any time by notifying the department.

(f) A license issued by the department is not transferable or assignable.

(g) A license remains in effect until suspended or revoked by the department or surrendered by the licensee.

(h) The department may require every licensee to make annual, periodical, and special reports and to keep such records as it considers necessary to insure compliance with the provisions of this Code and the rules, regulations, and standards of the department.

(i) The department may make such investigations as it deems necessary and proper to obtain compliance with the provisions of this Code and such rules, regulations, and standards as the department prescribes.

(j) Any duly authorized agent of the department may at any reasonable time enter upon the premises of any private mental hospital to inspect the facilities and conditions, to observe the program for care and treatment, to question employees of the hospital, and may have access for the purpose of examination and transcription to such records and documents as are relevant to the investigation.

(k) The department may maintain an action in the name of the State of Texas for injunction or any other process against any person or political subdivision to restrain the unlicensed operation of a mental hospital.

Doc. No. 799188

Client (Patient) Care

Departmental Procedures for Therapeutic Utilization of Electroconvulsive Therapy (ECT) 302.04.05

Under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rules 302.04.05.005-.008, and .012-.014 to read as follows:

.005. *Indications and Contraindications for the Use of ECT.*

(a) The major indications for the therapeutic use of ECT are:

- (1)-(2) (No change.)
- (3) Schizophrenia.
- (A)-(C) (No change.)
- (D) Schizophrenia, paranoid type.

(4) In carefully selected cases, electroconvulsive therapy may be used in the treatment of patients with other conditions wherein depression is an overwhelming problem or in which an acutely ill patient with florid symptomatology has proven refractory to neuroleptic medications.

(b) (No change.)

.006. *Medical Evaluation Required Prior to ECT.*

(a) Except where the patient suffers a psychiatric disorder of such severity as to constitute an immediate threat to life or health and where immediate ECT is the medical treatment of choice, and thorough evaluation of the patient's physical status and a review of pertinent laboratory findings shall be done at least one week prior to the initiation of a course of ECT and shall be recorded in the patient's permanent medical record. Physical evaluation shall include a neurological examination. Other determinations shall include but not be limited to the following:

- (1) Laboratory:
 - (A)-(B) (No change.)

(C) Two hour post prandial blood glucose

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

(2) X-rays:

(A)-(D) (No change.)

(E) Lumbar spine

(3) Electrocardiogram

(b) (No change.)

.007. *Consultation Required.*

(a) Before initiating a course of ECT, it shall be the responsibility of the attending physician to obtain consultation from a fully qualified psychiatrist, licensed to practice medicine in Texas.

(b)-(c) (no change.)

.008. *Limitations on Use of ECT: on Persons under the Age of 16; on Number of ECTs Per Year; on Number of ECTs in a Series of Treatment.*

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

(c) The number of ECTs to be given in any treatment series shall be limited to 10 treatments in a series for depression and 15 treatments in a series for schizophrenia. In those cases where it is considered clinically advantageous to exceed these numbers of treatments in any given series, the attending physician shall obtain a second consultative opinion from a fully qualified psychiatrist who is not affiliated with the department except in a consultative capacity. The deputy commissioner for mental health services, after consideration of the recommendation of the consulting psychiatrist and the attending physician, shall make a written statement as to whether such procedures are approved.

.012. *Requirements for Consent to ECT.*

(a) It is required that any patient, voluntary or involuntary, adult or minor, competent or incompetent, shall be given full explanation of ECT consistent with the specific items cited in .003(b)(1)-(5) of these rules.

(b) Informed consent by adult patients. No adult patient shall be given ECT unless:

- (1) informed consent has been obtained from the patient,
- (2) informed consent has been obtained from the guardian of the person of the patient, or
- (3) an emergency exists.

(c) Informed consent by minor patients. No minor patient shall be given ECT unless:

- (1) informed consent has been obtained from the patient and from the patient's parent, managing conservator, or the legal guardian of the person of the patient; or
- (2) an emergency exists.

(d) Emergency. When an emergency exists and informed consent cannot be obtained, the superintendent or director may order ECT upon the advice and consent of three psychiatrists, at least one of whom must principally be engaged in the private practice of medicine.

(e) Informed consent must be in writing and must be made a part of the patient's permanent record.

.013. *ECT in Outpatient Basis.* If ECT is to be given to patients on an outpatient basis, the same rules and regulations that govern ECT with inpatients must be followed.

.014. *Distribution.*

(a) These rules shall be distributed to members of the Texas Board of Mental Health and Mental Retardation; assistant commissioners, deputy commissioners, directors and

section chiefs of Central Office; and superintendents and directors of all department facilities.

(b) The superintendent or director shall provide copies of these rules to:

- (1) clinical directors
- (2) staff physicians

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

Doc. No. 799189

Restraint and Seclusion 302.04.06

Pursuant to the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has amended Rules 302.04.06.003, .004 and .006 to read as follows:

.003. Definitions.

(a) (No change.)

(b) "Restraint" means the application of any physical device, or the application of physical body pressure by another person, to the body of a patient or resident in such a way as to limit or control the physical activity of the patient or resident. The various techniques for prevention and management of aggressive behavior, such as but not limited to take-down procedures, are considered to be a form of restraint.

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

.004. Conditions for Use of Restraint or Seclusion.

(a)-(e) (No change.)

(f) Whenever physical restraint, drug restraint, or seclusion is utilized more than twice in any given month on a patient or resident, the patient or resident's interdisciplinary team shall develop a behavior modification program and/or design other types of therapeutic intervention to alleviate the problem behavior.

.006. Procedures Required to Initiate and Monitor Restraint and Seclusion Unless Excepted by Rule .005 of These Rules.

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

(c) No order for drug restraint, physical restraint, or seclusion shall be in force for longer than 24 hours in mental health facilities and for longer than 12 hours in mental retardation facilities. Reinstatement of such restraint or seclusion within any 24-hour or 12-hour period does not require a physician's order. Standing or "p.r.n." orders are not valid.

(d)-(j) (No change.)

Doc. No. 799190

Admissions, Transfers, Furloughs, and Discharges—State Mental Health Facilities 302.04.23

Under the authority contained in Article 5547-202, Section 2.11(b), Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has amended rules 302.04.23.003, .041, .051, .054, .058, and .061 to read as follows:

.003. Definitions. In these rules:

(a)-(e) (No change.)

(f) "Voluntary resident" means a person who has been admitted to a mental retardation facility of the Texas Department of Mental Health and Mental Retardation in accordance with the state statutory provisions governing the voluntary admissions of residents to mental retardation facilities of the department.

(g) (No change.)

(h) "Involuntary resident" means a person who has been committed to the jurisdiction of the Texas Department of Mental Health and Mental Retardation in accordance with the state statutory provisions governing the involuntary admissions of residents to the jurisdiction of the department.

(i)-(m) (No change.)

.041. Contraindications to Admissions to State Hospitals: Voluntary Applicants, Involuntary Commitments, and Emergency Commitments.

(a) With reference to voluntary applicants, the following are contraindications to admission to state hospitals:

(1) (No change.)

(2) a voluntary applicant who, in the opinion of the admitting physician, is too toxic, confused, or disoriented to understand that his application may result in his admission for treatment in a mental hospital;

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

(5) a voluntary minor, if parent, guardian, or county judge does not sign application, or if the minor himself does not consent;

(6) (No change.)

(7) a minor drug patient over 13 years of age.

(b) All persons subject to the following judicial orders will be accepted by the state hospital:

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

After the involuntarily committed patient has been admitted and thorough psychiatric evaluation of his condition has been conducted, if one or more of the contraindications to admission to state hospitals enumerated in subsection (a) of this rule are present and applicable, the involuntarily committed patient will be discharged.

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

(e) A superintendent shall not admit nor detain any person for emergency observation and treatment under an emergency order unless:

(1) a warrant has been obtained from a magistrate ordering the apprehension and taking into custody of such person to be admitted, or an order of protective custody has been issued pursuant to Section 66 of the Texas Mental Health Code, Article 5547-1 et seq., Vernon's Annotated Civil Statutes; and

(2) a written and certified opinion is made by the medical officer (the admitting physician) on duty at the state hospital, that after a preliminary examination, the person has symptoms of mental illness and is likely to cause injury to himself or others if not immediately restrained.

(f) Whenever an admission is refused, an alternate disposition should be recommended in accordance with the needs of the person.

.051. Transfers between State Schools and State Hospitals.

(a) Transfers of involuntary patients or residents for an indefinite period.

(1) Transfer of an involuntary patient from a state hospital to a state school thought to be indefinite in nature

shall be made pursuant to Article 5547-75A, Vernon's Annotated Civil Statutes. In making the finding required by the statute, "That the patient has symptoms of mental retardation to the extent that training, education, rehabilitation, care, treatment and supervision in a State school for the mentally retarded would be in the best interest of the patient," the following criteria should be applied:

- (A) the patient is not psychotic;
- (B) the patient has been found to be mentally retarded;
- (C) no proper resources are available in the community.

(2) The transfer thought to be indefinite in nature of an involuntarily committed resident from a state school to a state hospital shall be made pursuant to Article 5547-300, Section 46, Vernon's Annotated Civil Statutes.

(b) Transfer of involuntary residents for short-term period.

(1) When an involuntarily committed resident is in need of emergency medical, dental, or psychiatric care for a period not to exceed 30 consecutive days, he may be transferred to a state mental health facility in accordance with the provisions contained in Article 5547-300, Section 46, Vernon's Annotated Civil Statutes.

(2) When an involuntarily committed resident is in need of obtaining medical or dental treatment at a state hospital on a temporary basis, the transfer to obtain that treatment can also be effected by complying with the provisions of Article 5547-300, Section 46, Vernon's Annotated Civil Statutes.

(3) The state school from which a resident was received for short-term treatment or evaluation pursuant to subsections (b)(1) or (b)(2) of this rule should promptly receive that resident back when such treatment or evaluation is completed.

(c) Transfer of voluntary residents or patients. Persons admitted on a voluntary basis to either a state school for the mentally retarded or a state hospital for the mentally ill should be handled differently from persons involuntarily committed with regard to transfer. If the transfer is to be indefinite in nature from either a state school to a state hospital or vice versa, the person admitted on a voluntary basis should be discharged from the original institution and properly admitted to the second. If the transfer is only temporary, appropriate consent for the transfer should be obtained from or on behalf of the voluntary patient or resident.

(d) Interested relatives and the guardian should be notified of the transfer by the transferring facility.

(e) If the superintendent of the transferring facility has been notified by a prosecuting attorney that the person to be transferred has criminal charges pending, the prosecutor shall be informed of the transfer by the transferring facility.

(f) Each patient or resident, whether voluntary or involuntary, should participate in the planning for his or her transfer to the extent possible.

(g) Copies of medical records or relevant parts thereof should be transferred with the patient or resident.

(h) Transfers under this rule shall only be made after coordination between the heads of both facilities involved.

.054. Transfers from a Nonsecurity Facility to Maximum Security.

- (a) (No change.)
- (b) Any transfer from a nonsecurity facility to maximum security should be made in accordance with all applica-

ble procedures contained in Rule .050 of these rules which governs transfers from one state mental health facility to another and with the provisions of the Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Review Boards (Rusk State Hospital Maximum Security Unit) for Making a Determination of Manifest Dangerousness, 302.04.10, and Transfer of Court-Committed Patients to Rusk State Hospital Maximum Security Unit, 302.04.18.

.058. Furlough: Specific Provisions.

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

(e) Employees of the department shall not be allowed to take patients of a state mental health facility home or to any other location off the facility's grounds for holidays, weekends, or any other furlough period, unless the employee is performing a working hour job designated activity. An employee, during the employee's nonworking hours, may take patients off the grounds of a facility for a meal, shopping, work, or similar activities only if the employee has:

(1) approval by the patient's treatment team; and

(2) approval by the superintendent or director (or his or her designee).

The superintendent or director of a state mental health facility may, in his or her sound judgment and discretion, waive the prohibition contained in this subsection (e) in individual cases where the circumstances warrant, such as but not necessarily limited to when the employee and the patient are related to each other.

.061. References. Reference is made to the following statutes and rules:

(a)-(e) (No change.)

(f) Article 5547-300, Section 46, Vernon's Annotated Civil Statutes;

(g) Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Transfer of Court-Committed Patients to Rusk State Hospital Maximum Security Unit, 302.04.18.

(h)-(l) (No change.)

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799191

John J. Kavanagh, M.D.

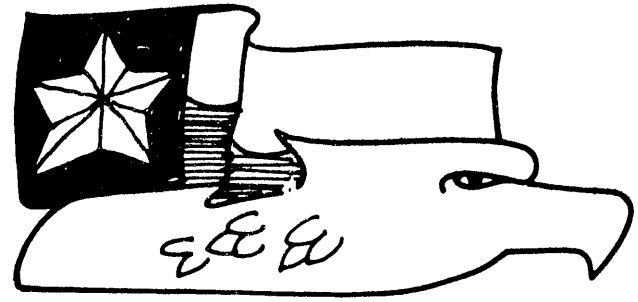
Commissioner

Texas Department of Mental Health and
Mental Retardation

Effective Date: December 24, 1979

Proposal Publication Date: October 9, 1979

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



Texas State Board of Public Accountancy

Definitions 401.41.00

The Texas State Board of Public Accountancy (the board) has adopted the following rules as originally proposed in the September 25, 1979, issue of the *Texas Register* (4 TexReg 3497), because the Public Accountancy Act of 1979 which became effective on September 1, 1979, required changes in the board's rules previously in force. The following permanent rules supersede the emergency rules bearing the same rule numbers which were adopted on September 1, 1979.

The following rules are adopted under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. Definitions. For the purposes of these rules, and unless otherwise clearly indicated by the context, the following definitions will prevail.

(1) "Act" means the Public Accountancy Act of 1979.

(2) "Board" means the Texas State Board of Public Accountancy.

(3) "Client" means the person or entity which retains a licensee for the performance of professional services.

(4) "Corporation" means a professional public accounting corporation organized under the Texas Professional Corporation Act, as amended (Article 1528e, Vernon's Texas Civil Statutes), or an equivalent law of another state, territory, or foreign country.

(5) "Financial statement" means a statement and related footnotes that purport to show financial position at a specified time or changes in financial position during a specified period of time, including a statement that uses the cash or other incomplete basis of accounting. The term includes a balance sheet, statement of income, statement of retained earnings, statement of changes in financial position, and statement of changes in owners' equity, or any combination thereof, but does not include incidental financial data included in a management advisory or consulting services report to support recommendations to a client, nor does it include a tax return and supporting schedules.

(6) "Firm" means a sole proprietorship, partnership, or professional corporation engaged in the practice of public accountancy.

(7) "Licensee" means an individual, partnership, or corporation holding a license issued by the board pursuant to the Public Accountancy Act of 1979. The term includes each firm of which a licensee is a partner, officer, or shareholder, and each partner, officer, or shareholder of a firm which is a licensee.

(8) "Person" means an individual, sole proprietorship, partnership, corporation, or other entity.

(9) "Practice of public accountancy" means performing or offering to perform for a person, one or more types of services requiring accounting or auditing skills, including the use of such skills in preparing tax returns or providing advice on federal, state, and other tax matters, or performing or offering to perform management advisory or consulting services, or any other service performed by professional accountants for the public.

.200. Gender and Number. The masculine shall be construed to include the feminine or neuter and vice versa, and

the singular shall be construed to include the plural and vice versa.

Doc. No. 799177

The Board 401.42.00

The Texas State Board of Public Accountancy (the board) has adopted the following rules as originally proposed in the September 25, 1979, issue of the *Texas Register* (4 TexReg 3498), because the Public Accountancy Act of 1979 which became effective on September 1, 1979, required changes in the board's rules previously in force. The following permanent rules supersede the emergency rules bearing the same rule numbers which were adopted on September 1, 1979.

The following rules are adopted under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. Headquarters of the Board. The headquarters and administrative offices of the board shall be at 940 American Bank Tower, Austin, Texas 78701.

.200. Organization of the Board. The board shall elect from its members a chairman, a vice-chairman, a secretary, and a treasurer, who shall be elected at the annual meeting of the board. The officers of the board shall take office on the first day of the month following the annual meeting for a period of one year. A majority of the members appointed and serving on the board shall constitute a quorum and no business shall be transacted by the board in the absence of a quorum.

.300. Chairman of the Board. The chairman shall be the executive officer of the board. When present, the chairman shall preside at all meetings. The chairman shall appoint such committees as the board may authorize and may delegate the signing of official documents. The chairman shall have overall responsibility for correspondence relating to enforcement; shall serve as the official spokesman of the board; and shall have such other responsibilities as assigned and such other authority as conferred by the board.

.400. Vice-Chairman of the Board. The vice-chairman, in the absence of the chairman, shall perform the duties of the chairman as specified above and shall perform such other duties as the board shall designate.

.500. Secretary of the Board. The secretary shall be responsible for the permanent records of the meetings and transactions of the board, the maintenance of an attendance record, and the maintenance of records of all examinations, registrations, and license applications. The secretary shall also be responsible for the maintenance of a record of certificates issued to all certified public accountants, and of all persons registered as public accountants, together with all necessary information relative thereto. The secretary shall, as directed by the board, cause to be printed and published for public distribution a roster containing the names, arranged alphabetically, of all licensees licensed by the board, the names of the members of the State Board of Public Accountancy, and such other matters as may be deemed proper by the board. The secretary shall perform such other duties as in the judgment of the board are necessary.

.600. Treasurer of the Board. The treasurer shall supervise the maintenance of appropriate financial records for the

board and the preparation of the annual reports to the governor and Legislative Budget Board, and shall perform such other duties as in the judgment of the board are necessary.

.700. *Vacancies in the Board.* If for any reason a vacancy shall occur in the board, the chairman shall provide a notice to the governor and ask for the appointment of a new member to fill the unexpired term. If the vacancy shall occur in any of the offices of the board, the board shall elect from its own membership at the first regular or special meeting following the vacancy a new officer to serve for the balance of the unexpired term.

.800. *Board Meetings.*

(a) Board meetings shall be open to the public. The chairman shall give written notice of board meetings as required by law.

(b) Board meetings shall take place at the headquarters of the board or, if the convenience of the public or the parties to a hearing will be better served thereby, at such place as the board may designate.

(c) An annual meeting shall be held each year, not earlier than January 31 and not later than April 30, and written notice of at least 10 days shall be given to each member of the time and place of such meeting.

(d) Special meetings may be held upon the call of the chairman, or upon call of a majority of the members of the board, after reasonable notice.

.900. *Order of Business.*

(a) The executive director, in conjunction with the chairman, shall prepare a written agenda for each board meeting and distribute a copy of the agenda to each board member.

(b) Conduct of board meetings shall be guided by *Roberts' Rules of Order*, except that no board action shall be invalidated by reason of failure to comply with those rules.

Doc. No. 799178

Employees of the Board 401.43.00

The Texas State Board of Public Accountancy (the board) has adopted the following rules as originally proposed in the September 25, 1979, issue of the *Texas Register* (4 TexReg 3199), because the Public Accountancy Act of 1979 which became effective on September 1, 1979, required changes in the board's rules previously in force. The following permanent rules supersede the emergency rules bearing the same rule numbers which were adopted on September 1, 1979.

The following rules are adopted under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. *Executive Director.* The board shall employ an executive director who will serve at the will of the board. The executive director shall be the administrator of the board office and shall employ the staff necessary to conduct the activities of the board. The executive director shall also be responsible for the operation of the agency in accordance with board policy, state and federal law, and duties established by the board. The executive director is empowered to make preliminary interpretations of the Act or of these rules, except that any interpretation by the executive director shall not be binding upon the board.

.200. *Staff.* The board, through the executive director, shall employ such staff as is necessary for the conduct of its affairs. Applications for employment by the board shall notify prospective employees that no employee of the board may be related within the second degree of affinity or within the second degree of consanguinity to a person who is an officer, employee, or paid consultant of a trade association of the profession of public accountancy.

.300. *Independent Contractors.* The board may, from time to time, employ independent contractors, including investigators, to perform services prescribed by the board. The basis for compensation of independent contractors shall be stated in the contract of employment.

.400. *Confidentiality.* Members of the board, the executive director, members of the board staff, and independent contractors retained by the board shall not disclose any confidential client information which comes to their attention from licensees except as may be required by law.

Doc. No. 799179

Licenses 401.48.00

The Texas State Board of Public Accountancy (the board), has adopted the following rules as originally proposed in the September 25, 1979, issue of the *Texas Register* (4 TexReg 3199), because the Public Accountancy Act of 1979 which became effective on September 1, 1979, required changes in the board's rules previously in force. The following permanent rules supersede the emergency rules bearing the same rule numbers which were adopted on September 1, 1979.

The following rules are adopted under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. *Annual License.* With the exception of an individual who is practicing public accountancy in Texas on a temporary basis incident to his regular practice outside the state, all individuals certified by this board, and all individuals, partnerships, and corporations registered with the board must obtain a license to practice public accountancy and must renew that license annually on or before December 31 of each calendar year.

.200. *Initial License.* Each individual or firm which is certified or registered after the effective date of the Act shall upon approval of his application for certification or registration, pay the annual license fee for the year in which certification or registration is granted. The initial license will expire on December 31 of the year in which it is issued.

.300. *License Renewal for Individuals.* Prior to December 1 of each year, the executive director shall mail license renewal forms to all individuals licensed under the Act. The licensee shall return the notice with the appropriate renewal fee on or before December 31 and failure to do so shall automatically cancel the license.

.400. *Renewal of License of Firm.* At the same time that renewal notices are mailed to individuals certified or registered under the Act, the executive director shall mail to each firm registered under the Act an annual renewal form, stating the appropriate renewal fee. The firm shall return the renewal fee and appropriate documents to the executive director on or before December 31 of that year, and failure to

do so shall automatically cancel the license of the firm. The annual license of a firm shall not be renewed until such time as all members of the firm who are certified or registered under this Act shall have renewed their individual licenses.

.500. Reinstatement.

(a) A licensee whose annual license has been cancelled for failure to pay the annual renewal fee on or before December 31 may secure reinstatement of the license at any time within the next calendar year upon payment of the delinquent license fee, together with a penalty of \$20.

(b) After expiration of the next calendar year, a licensee whose license has been cancelled for failure to timely pay the annual renewal fee may secure reinstatement of his license only upon application and examination satisfactory to the board together with the payment of delinquent fees and a penalty to be assessed by the board. An application for reinstatement shall be made under oath and shall state that the licensee has never been charged or convicted by any court or other body of any crime, misdemeanor, or discreditable act of which the board has not been notified. Application shall also include a statement explaining why the licensee failed to obtain timely an annual license.

.600. No Waiver of Fee for Penalty. The board shall have no authority and may not waive the collection of any fee or penalty.

Doc. No. 799180

Temporary Practice in Texas 401.49.00

The Texas State Board of Public Accountancy (the board) has adopted the following rules which were proposed in the September 25, 1979, issue of the *Texas Register* (4 TexReg 3199), because the Public Accountancy Act of 1979 which became effective on September 1, 1979, required changes in the Board's rules previously in force. The following permanent rules supersede the emergency rules bearing the same rule numbers which were adopted on September 1, 1979. The board changed the wording of Rule 401.49.00.100 in order to clarify that an out of state member of a firm registered in Texas who enters Texas to practice public accountancy on a temporary basis is not engaged in a practice incident to his regular practice outside of Texas, but rather is engaged in practice incident to his practice within Texas. The change does not constitute a substantive change between the rule as adopted and as proposed in that the change does not impose a different or additional standard of conduct upon persons regulated by the board. Rather, the change merely clarifies the standards contained in the proposed rule in order to assure a better understanding of the rule by the public and to facilitate compliance with the rule by persons regulated by the board.

The following rules are adopted under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. Temporary Practice. Temporary practice shall mean the practice of public accountancy in this state on a temporary basis incident to a regular practice outside this state by a certified public accountant or registered public accountant of another state or any accountant who holds a certificate, degree, or license in a foreign country, constituting a recognized qualification for the practice of public accountancy,

and who is not a member, partner, shareholder, or employee of a firm registered in this state

.200. Application for Temporary Permit. A person temporarily practicing within this state shall make application to the board, notifying the board of his incidental temporary practice and requesting the issuance of a temporary permit. Application shall be made on a form prescribed by the board and submitted to the executive director. The application shall include the identity of the person seeking a temporary permit, the name of the state or country having permanent regulatory authority over the applicant, and authorization for the board to secure such information as it deems advisable from that regulatory authority. Upon approval of the application and payment of the requisite fee, the board shall issue a temporary permit to be valid for a period of not more than 180 days.

Doc. No. 799181

Fee Schedule 401.51.00

The Texas State Board of Public Accountancy (the board) has adopted the following rules which were proposed in the September 25, 1979, issue of the *Texas Register* (4 TexReg 3200), because the Public Accountancy Act of 1979 which became effective on September 1, 1979, required changes in the board's rules previously in force. The following permanent rules supersede the emergency rules bearing the same rule numbers which were adopted on September 1, 1979. Due to the fact that these rules will not become effective until a few days before January 1, 1980, the board amended the proposed rules to reflect the 1980 changes. None of the changes made by the board constitute substantive changes between the rules as adopted and as they were proposed in that none of the changes would impose a different or additional standard of conduct upon persons regulated by the board.

The following rules are adopted under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. License Fees. The annual fee for a license issued pursuant to the Act shall be \$20.

.200. Examination Fees. The fee for the initial examination conducted pursuant to the Act shall be \$75. The fee for any subsequent examination shall be \$15 per subject. For the purposes of this rule, accounting practice shall be deemed as two subjects.

.300. Fee for Certification by Reciprocity. The fee for the issuance of a certificate as a certified public accountant to a person under the provisions for reciprocity shall be \$75.

.400. Registration Fee for Foreign Accountants. The fee for the registration of a certified public accountant of another state or territory or the holder of a certificate, license, or degree issued by a foreign country shall be \$75.

.500. Temporary Permit Fee. The fee for the issuance of a temporary permit to practice public accountancy in this state incident to the regular practice outside of this state shall be \$10.

.600. Other Charges. Any costs incurred by the board upon application for or demand of any document, record, or action of the board which the board is not required to provide

or do by the Act or by these rules shall be borne directly by the person making the request or demand.

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799182 Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy

Effective Date: December 24, 1979
Proposal Publication Date: September 25, 1979
For further information, please call (512) 476-8971.

Office of the Secretary of State Elections

Suffrage 004.30.05.315

The secretary of state adopts the repeal of Rule 004.30.05.315, as amended, entitled Voter Registration Application/Change Form. This rule is being repealed because it prescribed a form for voter registration applications that is being changed.

Pursuant to the authority of Articles 1.03 and 5.13a, Vernon's Texas Election Code, the secretary of state has repealed Rule 004.30.05.315.

Doc. No. 799233

004.30.05.336

The secretary of state adopts Rule 004.30.05.336, which prescribes the Voter Registration Application form. Under Article 5.13a of the Election Code, the secretary of state is obligated to prescribe a Voter Registration Application form for use in connection with the postage-free voter registration Application program. The adopted form fully complies with the requirements of Article 5.13b, Vernon's Texas Election Code.

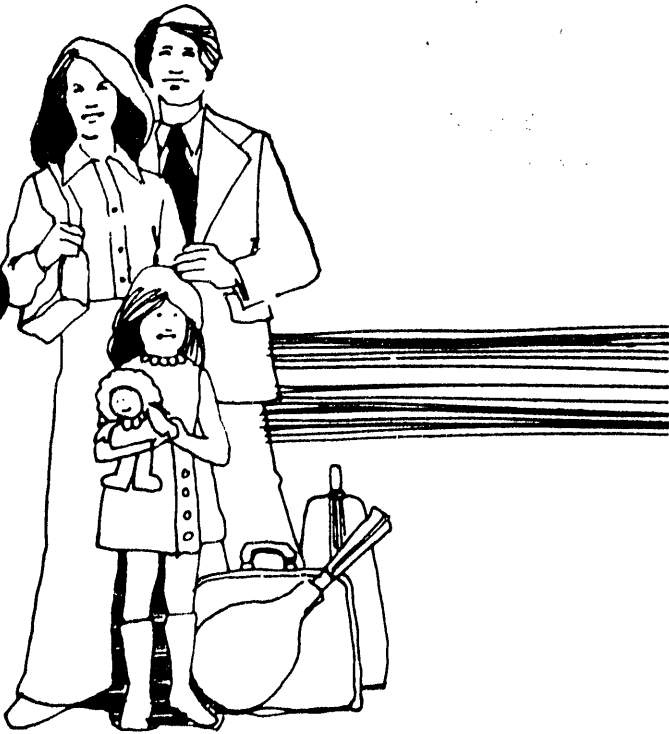
This rule is promulgated under the authority of Articles 1.03 and 5.13a, Vernon's Texas Election Code.

.336. *Voter Registration Application Form.* The secretary of state adopts by reference the Voter Registration Application form that is attached hereto and made a part hereof for all purposes. The form is published by and available from the Elections Division, Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on December 5, 1979.

Doc. No. 799234 George W. Strake, Jr.
Secretary of State

Effective Date: December 26, 1979
Proposal Publication Date: November 2, 1979
For further information, please call (512) 475-3091.



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 Department of Agriculture

Tuesday, February 26, 1980, 10 a.m. The Agricultural Protective Act Division of the Texas Department of Agriculture will meet at the Texas Department of Agriculture Building, Expressway 83, two blocks west of Morningside Road, San Juan, to discuss allegations against Joseph F. Byrnes, Edinburg, in account with Juan Gonzalez, McAllen.

Additional information may be obtained from Bobby Champion, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-4304.

Filed December 3, 1979, 4:30 p.m.
Doc No. 799193

Tuesday, March 11, 1980, 10 a.m. The Agricultural Protective Act Division of the Texas Department of Agriculture will meet at the Texas Department of Agriculture Building, 2800 Northeast Loop 410, Suite 301, San Antonio, to discuss allegations against Rudy Mendez, San Antonio, in account with Griffin and Brand Sales Agency, Hereford.

Additional information may be obtained from Bobby Champion, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-4304.

Filed December 3, 1979, 4:30 p.m.
Doc. No. 799194

Texas Air Control Board

Friday, December 14, 1979, 8:30 a.m. The Regulation Committee of the Texas Air Control Board will meet in Room 209, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will review and prepare a recommendation for the board regarding adoption of amendments to Regulation II (sulfur compounds).

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

Filed: December 4, 1979, 1:55 p.m.
Doc. No. 799223

Friday, December 14, 1979, 9:30 a.m. The Texas Air Control Board will meet in the auditorium, 6330 Highway 290 East, Austin. According to the agenda summary, the board will consider the following items: reports; amendments to Regulation II (sulfur compounds); status of state implementation plan revisions; appeal of denial of hearing request: Permit Application C-7780, Val-Tex Asphalt Company; and hearing examiner's report.

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

Filed: December 4, 1979, 1:55 p.m.
Doc. No. 799224

Texas Alcoholic Beverage Commission

Monday, December 17, 1979, 10 a.m. The Texas Alcoholic Beverage Commission will meet in Room 210, Jefferson Building, 1600 West 38th Street, Austin, to receive the administrator's report from each division and approve the affidavit of destruction of tested alcoholic beverages.

Additional information may be obtained from W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, telephone (512) 458-2500.

Filed: December 4, 1979, 3 p.m.
Doc. No. 799229

Battleship Texas Commission

Thursday, December 6, 1979, 2 p.m. The Battleship Texas Commission met in emergency session on board the Battleship Texas, San Jacinto State Park, La Porte, to consider a report on progress of moving of office to ship; operating procedures; and a report on bids for work to be done on ship.

Additional information may be obtained from Larry Smith, 3527 Battleground Road, Highway 134, La Porte, Texas 77571, telephone (713) 479-2411.

Filed: December 6, 1979, 11:39 a.m.
Doc. No. 799256

State Commission for the Blind

Friday, December 14, 1979, 10 a.m. The Board of Directors of the State Commission for the Blind will meet in Room 511, Stokes Building, 314 West 11th Street, Austin. According to the agenda summary, the board will consider the following items: introduction of new members; status of Visual Research Foundation fund transfer; and 1979 fiscal year activity reports.

Additional information may be obtained from Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, telephone (512) 475-6810.

Filed: December 5, 1979, 1:53 p.m.
Doc. No. 799243

Texas Education Agency

Thursday, December 13, 1979, 10 a.m.-2 p.m. The Steering Committee for the Curriculum Study Panel of the Texas Education Agency will meet in the board room, 150 East Riverside Drive, Austin, to consider a review and discussion of a preliminary task force document about the present curriculum in Texas public schools; exploration of considerations for the curriculum study; and a review and discussion of a proposed plan for regional forums to be conducted around the state in April and May 1980. The committee was established in response to House Concurrent Resolution 90, passed by the 66th Legislature, and includes members of the State Board of Education, the House Committee on Public Education, the Senate Education Committee, and the Governor's Advisory Committee on Education.

Additional information may be obtained from J. B. Morgan, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-7077.

Filed: December 5, 1979, 2:29 p.m.
Doc. No. 799248

Employees Retirement System of Texas

Monday, December 17, 1979, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at 18th and Brazos, Austin, to consider the following items: report of Building Committee concerning award of contract for renovation of quarters previously occupied by the Employees Retirement System; report on retirement of members of system since board meeting of September 6, 1979; report on Article 6228a, occupational deaths; report on Article 6228f, beneficiaries; report on investment of retirement funds; report on consulting actuary (Rudd and Wisdom); report on Uniform Group Insurance Program; discussion of communications concerning establishment of credit for service not previously established by annuitants who are ineligible for employee membership in the system; and in executive session, personnel matters.

Additional information may be obtained from Joseph N. Murphy, Jr., Box 13207, Austin, Texas 78711, telephone (512) 476-6431.

Filed: December 4, 1979, 4:20 p.m.
Doc. No. 799225

General Land Office

Tuesday, December 11, 1979, 9 a.m.-12:30 p.m. The Texas Port Study Advisory Committee of the General Land Office has cancelled a meeting scheduled for the Ramada Inn Hobby Airport, 7777 Airport Boulevard, Houston. The meeting will be rescheduled at a later date.

Additional information may be obtained from Stephen Stubbs, 1700 North Congress Avenue, Austin, Texas 78701, telephone (512) 475-1166.

Filed: December 6, 1979, 10:07 a.m.
Doc. No. 799255

Texas Department of Health

Thursday, December 13, 1979, 9 a.m.-noon. The Veterinary Public Health Division of the Texas Department of Health will meet in the auditorium, 1100 West 49th Street, Austin, to conduct a public hearing on the proposed set of rules on rabies control and eradication published in the Proposed Rules section of this issue of the *Register*.

Additional information may be obtained from Foy V. McCasland, D.V.M., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7221.

Filed: December 4, 1979, 10:53 a.m.
Doc. No. 799209

Thursday, December 20, 1979, 8:30 a.m. The Radiation Control Branch of the Texas Department of Health will meet in the first floor auditorium, 1100 West 49th Street, Austin. According to the agenda summary, the branch will consider the following items: purpose and scope of meeting; Department of Transportation regulations and U.S. Nuclear Regulatory Commission's impact on enforcement, history, and current policy; Texas Radiation Control Branch impact on transport; low specific activity shipments including what burial sites will accept; Type A shipments including what burial sites will accept; and Type B shipments including what burial sites will accept.

Additional information may be obtained from Joseph M. Nanus, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7341.

Filed: December 3, 1979, 1:59 p.m.
Doc. No. 799170

Texas Health Facilities Commission

Thursday, December 13, 1979, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, The Jefferson Building, 1600 West 38th Street, Suite 305, Austin. According to the agenda summary, the commission will consider an application for transfer of exemption certificate by Memorial Hospital System, Houston, AH79-0927-019T (111379); and an application for a certificate of need by St. Joseph Hospital, Fort Worth, AH79-0627-005.

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

Filed: December 5, 1979, 11:26 a.m.
Doc. No. 799237

State Board of Insurance

Monday, December 10, 1979, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance met in emergency session in Room 342, 1110 San Jacinto, Austin, to consider whether any and all insurance agent's licenses held by Robert Christian Stabile, Denton, should be suspended or revoked and whether any and all pending insurance agent's license applications should be denied (Docket 5847). This hearing was rescheduled from October 15, 1979.

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

Filed: December 3, 1979, 4:07 p.m.
Doc. No. 799197

Tuesday, December 11, 1979, 9 a.m. The State Board of Insurance will meet in the hearing room of the Department of Highways and Public Transportation Building, 6th and Brazos Streets, Austin, to consider Docket 1140, amendments to Workers' Compensation Insurance Manual rules, endorsements, and policy forms, and workers' compensation and employers' liability rates and rating values, including U.S. longshoremen's and harbor workers' rates other than stevedoring and rating plans.

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

Filed: December 3, 1979, 4:07 p.m.
Doc. No. 799198

Tuesday, December 11, 1979. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, at the times indicated below to consider the following dockets:

10 a.m. Docket 5898, stock purchase, United American Insurance Company, Dallas

1:30 p.m. Docket 5899, protest of the proposed name, "National Liberty Life Insurance Company of America," National Liberty Life Insurance Company of America, Fraser, Pennsylvania

2 p.m. Docket 5882, application of Security Southwest Life Insurance Company, El Paso, for an extension of time within which to sell real estate (rescheduled from November 28, 1979)

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

Filed: December 3, 1979, 4:07 p.m.
Doc. Nos. 799199-799201

Wednesday, December 12, 1979. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, at the times indicated below to consider the following dockets:

10 a.m. Docket 5900, application of S&H Insurance Company, Los Angeles, California, for admission to Texas

2 p.m. Docket 5901, application for approval of revaluation of home office property by United Bankers Life Insurance Company, Dallas

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

Filed: December 3, 1979, 4:08 p.m.
Doc. Nos. 799202-799203

Thursday, December 13, 1979. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, at the times indicated below to consider the following dockets:

10 a.m. Docket 5902, application of Amalgamated Labor Life Insurance Company, Chicago, Illinois, for admission to Texas

2 p.m. Docket 5903, application of Individual Assurance Company, Kansas City, Missouri, for admission to Texas

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

Filed: December 3, 1979, 4:08 p.m.
Doc. Nos. 799204-799205

Friday, December 14, 1979, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, to consider whether American Life and Casualty Insurance Company, Fargo, North Dakota, may market group annuity policy Form 1102 to a savings and loan as group annuity policyholder with the members of the savings and loan as group annuitants (Docket 5904).

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

Filed: December 3, 1979, 4:07 p.m.
Doc. No. 799206

Monday, December 17, 1979. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, at the times indicated below to consider the following dockets:

10 a.m. Docket 5905, application of Netter International Life Insurance Company, New York, for admission to Texas

2 p.m. Docket 5906, application of Certified Life Insurance Company of California, Sherman Oaks, California, for admission to Texas

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

Filed: December 3, 1979, 4:08 p.m.
Doc. Nos. 799207-799208

Tuesday, January 15, 1980, 10 a.m. The State Board of Insurance will meet in Room 142, 1110 San Jacinto, Austin, to have a conference with the staff concerning group marketing of automobile insurance for the elderly.

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

Filed: December 6, 1979, 9:28 a.m.
Doc. No. 799254

Texas Advisory Commission on Intergovernmental Relations

Friday, December 14, 1979, 9 a.m. The Special Committee for the Revision of Model Rules for Law Enforcement Officers of the Texas Advisory Commission on Intergovernmental Relations will meet in Room 301 of the State Capitol Building, Austin, to review two preliminarily revised chapters of the model rules and to discuss future meeting dates and possible hearings schedules.

Additional information may be obtained from Louise H. Winecup, 1700 North Congress, Room 622, Austin, Texas 78701, telephone (512) 475-3728.

Filed: December 3, 1979, 3:33 p.m.
Doc. No. 799196

Texas State Board of Library Examiners

Friday, December 14, 1979, 1 p.m. The Texas State Board of Library Examiners will meet in the Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin, to consider the report to the Texas Sunset Commission on the board.

Additional information may be obtained from Dorman H. Winfrey, P.O. Box 12927, Austin, Texas 78711, telephone (512) 475-2166.

Filed: December 5, 1979, 10:19 a.m.
Doc. No. 799235

Merit System Council

Thursday, December 13, 1979, 10 a.m. The Merit System Council will meet at 507 Brown Building, Austin, to discuss relocation of the council offices.

Additional information may be obtained from Leo F. Brockmann, P.O. Box 1389, Austin, Texas 78767, telephone (512) 477-9665.

Filed: December 3, 1979, 3:27 p.m.
Doc. No. 799195

State Board of Morticians

Wednesday, December 5, 1979, 9 a.m. The State Board of Morticians met in emergency session at 1513 South IH 35, Austin. According to the agenda summary, the board considered the following items: discussion by Mr. Kite of the funeral directors curriculum of the Dallas Institute of Mortuary Science; appearance by Mr. Todd for reciprocity from New Mexico; appearance by Mr. Taylor to request a funeral directors license; cancellation of a list of funeral homes not renewing by the November 30, 1979, deadline; report by Mr. Clayton on a complaint involving Worth Cox; and an apprentice's request for a funeral directors apprenticeship.

Additional information may be obtained from James W. McCammon, 1513 South IH 35, Austin, Texas 78741.

Filed: December 4, 1979, 1:54 p.m.
Doc. No. 799221

Natural Fibers and Food Protein Commission

Thursday, December 6, 1979, 11 a.m. The Industry Advisory Committee of the Natural Fibers and Food Protein Commission met in emergency session in the Sinclair Suite, Student Union Building, University of Texas at Austin campus, to review contracting agency annual reports for the period ending August 31, 1979.

Additional information may be obtained from J. L. VandLune, 17360 Coit Road, Dallas, Texas 75252, telephone (214) 231-5362, extension 254.

Filed: December 3, 1979, 2:22 p.m.
Doc. No. 799168

Board of Pardons and Paroles

Monday-Friday, December 17-21, 1979, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day to day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: December 4, 1979, 9:25 a.m.
Doc. No. 799216

Wednesday, December 19, 1979, 9 a.m. The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. According to the agenda, a parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: December 4, 1979, 9:25 a.m.
Doc. No. 799217

Texas Board of Private Investigators and Private Security Agencies

Thursday, December 13, 1979, 10 a.m. The Texas Board of Private Investigators and Private Security Agencies will meet in Room 127, 105 West Riverside Drive, Austin.

According to the agenda summary, the board will discuss and possibly take action on amendments to training curriculum and commissioned security officers' county cards. The board will also consider requests for waiver of board rule on denial cases and approval of staff action on new licenses, suspension orders, reinstatement orders, certificates for replacement managers, terminations, relocations, denials, and reprimands.

Additional information may be obtained from Clema D. Sanders, 501 South Congress, Suite 116, Austin, Texas 78704, telephone (512) 475-3944.

Filed: December 4, 1979, 10:08 a.m.
Doc. No. 799215

Thursday, December 13, 1979, 10 a.m. The Texas Board of Private Investigators and Private Security Agencies has made an addition to the agenda of a meeting to be held in Room 127, 105 West Riverside Drive, Austin. According to the agenda summary, the board will discuss and possibly take action on enforcement of licensing standards in addition to those items listed on the agenda as published above.

Additional information may be obtained from Clema D. Sanders, 501 South Congress, Suite 116, Austin, Texas 78704, telephone (512) 475-3944.

Filed: December 4, 1979, 2:59 p.m.
Doc. No. 799227

Public Utility Commission of Texas

Thursday, December 13, 1979, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in emergency session in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a prehearing in Docket 2776, the application of Tri-County Water Systems Company for approval of a sale to ABC Land and Development Company, Inc. The emergency prehearing has been called in order to expedite processing of the case.

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

Filed: December 5, 1979, 3:38 p.m.
Doc. No. 799244

Wednesday, December 19, 1979, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing in Docket 2850, the application of Glenn Water Supply, Inc., for a rate increase within Hill County. This hearing has been rescheduled from December 3, 1979.

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

Filed: December 5, 1979, 3:38 p.m.
Doc. No. 799245

Wednesday, January 16, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing in Docket 2934, the application of North Plains Electric Cooperative, Inc., for a rate increase within Hansford, Ochiltree, Lipscomb, Hemphill, Roberts, Wheeler, and Hutchinson Counties.

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

Filed: December 4, 1979, 1:55 p.m.
Doc. No. 799222

School Land Board

Wednesday, December 12, 1979, 10 a.m. The School Land Board will conduct a special meeting in Conference Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider the following items: pooling applications; applications for suspensions; pooling agreement amendments; application by Superior, Rutherford, and Cities Service to drill directional wells from state-owned surface locations to federal leases; nominations, terms, conditions, and procedures for the February 5, 1980, small tracts sale under Senate Bill 42; sale of small tract under Senate Bill 543, coastal public lands, including easements and amendment to easements; and coastal rate schedule.

Additional information may be obtained from Linda Fisher, Room 835, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701, telephone (512) 475-2071.

Filed: December 4, 1979, 4:30 p.m.
Doc. No. 799226

Structural Pest Control Board

Friday, December 14, 1979, 9 a.m. The Structural Pest Control Board will meet at 5555 North Lamar, Building H, Suite 123, Austin. According to the agenda summary, the board will hear a discussion by the attorney general's office of the Administrative Procedure Act; will consider the executive director's report; and set date for next exam. The board will also give to appointees a copy of House Resolution 167.

Additional information may be obtained from Charlie Chapman, 5555 North Lamar, Building H, Suite 123, Austin, Texas 78751, telephone (512) 454-3617.

Filed: December 3, 1979, 1:48 p.m.
Doc. No. 799171

Teachers Professional Practices Commission of Texas

Thursday, December 20, 1979, 9:30 a.m. A hearing panel of the Teachers Professional Practices Commission of Texas will meet in the second floor conference room, Riverside South Building, 158 East Riverside, Austin, to conduct a hearing before the commission as authorized under Section 13.213 of the Texas Education Code. The complaint is brought by one practicing professional against another for alleged violation of the Code of Ethics and Standard Practices for Texas Educators. The hearing will be closed.

Additional information may be obtained from William E. Reaves, 158 East Riverside, Austin, Texas, telephone (512) 475-6836.

Filed: December 5, 1979, 2:30 p.m.
Doc. No. 799247

Thursday, December 20, 1979, 1:30 p.m. (or immediately following the commission's closed hearing scheduled for 9:30 a.m.). The Ad Hoc Subcommittee on Rules of the Teachers Professional Practices Commission of Texas will meet in the second floor conference room, Riverside South Building, 158 East Riverside, Austin, to review and edit drafts of changes in the rules of procedure for hearing complaints before the Teachers Professional Practices Commission of Texas.

Additional information may be obtained from William E. Reaves, 158 East Riverside, Austin, Texas, telephone (512) 475-6836.

Filed: December 5, 1979, 2:30 p.m.
Doc. No. 799246

Texas Southern University

Thursday, December 6, 1979, 9 a.m. The Finance Committee of the Board of Regents of Texas Southern University met in emergency session in Room 117, Hannah Hall, 3201 Wheeler Avenue, Houston, to consider monthly financial reports of the administration.

Additional information may be obtained from Everett O. Bell, 3201 Wheeler Avenue, Houston, Texas 77004, telephone (713) 529-8911.

Filed: December 5, 1979, 2:44 p.m.
Doc. No. 799250

Texas State Technical Institute

Saturday, December 15, 1979, 9 a.m. and 2 p.m. The Board of Regents of Texas State Technical Institute will meet at the TSTI—Harlingen campus. According to the agenda summary, the board will consider the following items: report of TSTI—Harlingen campus; report of classes meeting with less than 10 students; designation of building not needed for education or training needs at TSTI—Amarillo; scholastic standards policy; budget change requests; lease agreements for Building 9413, 9411, 9519, 9521, 6500, and 7205 at TSTI—Amarillo; storm damage repair at TSTI—Amarillo; student service fees; plans and specifications and authorization to advertise for bids to remodel Building 1400, awarding of contract for mechanical system modification in Building 3400, awarding of contract for construction of Employment Skill Development Center at TSTI—Amarillo; acceptance of Electronics Technology Building at TSTI—Harlingen; awarding of contract for Provence Graphics Communication Technology Center and acceptance of Electronics Technology Center at TSTI—Waco; mandatory retirement policy; minimum wage rate for TSTI employees beginning January 1980; appeal of Allen Jackson; and president's recommendation—management objective to review rules and procedures. The board will also meet in executive session.

Additional information may be obtained from Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, telephone (817) 799-3611, extension 385.

Filed: December 3, 1979, 2:23 p.m.
Doc. No. 799167

Texas Water Commission

Wednesday, December 19, 1979, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider a water quality permit renewal by American Magnesium Company on Disposal Well Permit WDW-133, and an application by Waste Water, Inc., for a water quality permit (Permit WDW-167).

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: December 3, 1979, 2:51 p.m.
Doc. No. 799173

Thursday, January 10, 1980, 10 a.m. The Texas Water Commission will meet in the conference room annex, Houston-Galveston Area Council, 3701 West Alabama, Houston. According to the summarized agendas, the commission will consider the following applications:

application by Klein United Methodist Church, Spring, for a permit to allow for a discharge not to exceed an average flow of 1,000 gallons per day of domestic sewage effluent from the church sewage treatment plant which is located at the intersection of FM Road 2920 and Kuykendahl Road in Harris County

application by Diamond Shagrock Corporation, Deer Park, for an amendment to Permit 00305 to increase the volume of process wastewater and pollutant loadings discharged at Outfall 005 from its Deer Park Works to reflect an increase in production capacity from the plant which is located adjacent to the south bank of the Houston Ship Channel and adjacent to the east bank of Patrick Bayou in Harris County

application by Raymond A. Clark, doing business as Clark's Mobile Home Village, Houston, for a permit to authorize a new discharge of 60,000 gallons per day of treated domestic sewage effluent from the mobile home park located at 7407 Miller Road No. 2, at a point approximately four miles east of Houston in Harris County

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: December 3, 1979, 2:51 p.m.
Doc. Nos. 799174-799176

Tuesday, January 15, 1980, 2 p.m. The Texas Water Commission will meet at the Nueces County Center, East Main Street, Robstown. According to the agenda summary, the commission will conduct a hearing on an application by Texas Ecologists, Inc., Robstown, for an amendment to its

Class I Industrial Solid Waste Permit 39023, which would update the existing permit and establish more specific operational criteria to provide for the protection of ground and surface water resources of the area. The solid waste site is located approximately one-half mile south of the intersection of FM Road 893 and FM Road 2826, approximately 3-1/2 miles south of Robstown, Nueces County.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: December 4, 1979, 4:23 p.m.
Doc. No. 799228

Regional Agencies

Meetings Filed December 3, 1979

The Ark-Tex Council of Governments, Executive Committee, met at Brownigan's, Loop 286, Paris, on December 6, 1979, at 5 p.m. The Board of Directors met in the school cafeteria, Blossom, on December 6, 1979, at 7 p.m. Further information may be obtained from Laura Jacobus, P.O. Box 5307, Texarkana, Texas 75501, telephone (214) 794-3481.

The Brazos River Authority, Lake Management Committee of the Board of Directors, met in the lake supervisor's office, Possum Kingdom Lake, on December 7, 1979, at 10 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

The South Plains Health Systems, Inc., Board of Directors, will meet in the George M. Brewer Assembly Room, Methodist Hospital, 3615 19th Street, Lubbock, on December 20, 1979, at 7 p.m. Further information may be obtained from Ronald D. Warner, 1217 Avenue K, Lubbock, Texas 79401, telephone (806) 747-0181.

Doc No 799189

Meetings Filed December 4, 1979

The Central Texas Health Systems Agency, Inc., Board of Directors, will meet at the Driskill Hotel, 117 East 7th Street, Austin, on December 18, 1979, at 7:30 p.m. Further information may be obtained from Keith Markley, 1106 Clayton Lane, Suite 210 West, Austin, Texas 78723, telephone (512) 458-9161.

The Education Service Center, Region XIII, Board of Directors, met at 7703 North Lamar, Austin, on December 10, 1979, at 11 a.m. Further information may be obtained from Dr. Joe Parks, 7703 North Lamar, Austin, Texas 78752, telephone (512) 458-9131.

The Education Service Center, Region XIV, Board of Directors, will meet at 3001 North Third Street, Abilene, on December 13, 1979, at 3 p.m. Further information may be obtained from Dr. Thomas Lawrence, P.O. Box 3258, Abilene, Texas 79604, telephone (915) 677-2111.

Doc No. 799218

Meetings Filed December 5, 1979

The Brazos Valley MHMR Center, Board of Trustees, will meet at 202 East 27th Street, Bryan, on December 11, 1979, at 11 a.m. Further information may be obtained from Linda S. Davis, 202 East 27th Street, Bryan, Texas, telephone (713) 779-2000.

The Central Texas MHMR Center, Board of Trustees, will meet at 308 Lakeway Drive, Brownwood, on December 11, 1979, at 4 p.m. Further information may be obtained from Janie Clements, P.O. Box 250, Brownwood, Texas 76801, telephone (915) 646-9574, extension 35.

The Permian Basin Regional Planning Commission, Board of Directors, will meet at the Midland Regional Air Terminal, Midland, on December 12, 1979, at 1:30 p.m. Further information may be obtained from Ernie Crawford, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

The South Texas Health Systems Agency, Plan Development Committee of the Coastal Bend Subarea Advisory Council, will meet in the basement conference room, Gulfway National Bank, 6000 South Padre Island Drive, Corpus Christi, on December 13, 1979, at 6:30 p.m. Further information may be obtained from Douglas M. Wilkey, Texas A&I University, Station 1, Box 2376, Kingville, Texas 78363, telephone (512) 595-5545.

The Texas Municipal Power Agency, Board of Directors, will meet in Suite 319, 2225 East Randol Mill Road, Arlington, on December 13, 1979, at 9 a.m. Further information may be obtained from Joel T. Rodgers, 600 Arlington Downs Tower, Arlington, Texas 76011, telephone (817) 461-4400.

Doc. No 799249

Meetings Filed December 6, 1979

The Concho Valley Council of Governments, Executive Committee, will meet in the city commission chambers, City Hall Plaza, San Angelo, on December 12, 1979, at 7 p.m. Further information may be obtained from James F. Ridge, 17 South Chadbourne, Suite 200, San Angelo, Texas 76903, telephone (915) 653-1214.

The High Plains Underground Water Conservation District No. 1, Board of Directors, will meet at 2930 Avenue Q, Lubbock, on December 18, 1979, at 10 a.m. Further information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, telephone (806) 762-0181.

The North Texas MultiRegion Processing Center, Management Committee, will meet in the board room, Region X Education Service Center, 400 E. Spring Valley, Richardson, on December 13, 1979, at 10 a.m. Further information may be obtained from H. W. Goodgion, P.O. Box 1300, Richardson, Texas 75080, telephone (214) 231-6301.

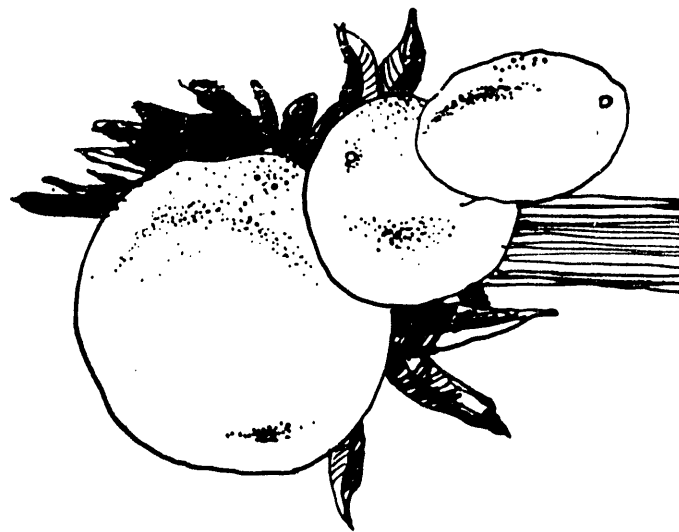
The Permian Basin Health Systems Agency Governing Body, will meet at the country club in Big Spring, on December 12, 1979, at 6:30 p.m. Further information may be obtained from Harley Reeves, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

The South Texas Health Systems Agency, Board of Directors, will meet in the Round Table Restaurant, 1418 S. 14th Street, Kingsville, on December 15, 1979, at 11:45 a.m. Further information may be obtained from Mario L. Vasquez, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

The Tri-Region Health Systems Agency, Facilities and Services Subcommittee, will meet in Santa Fe No. 2, Starlite Inn, 3425 South First, Abilene, on December 18, 1979, at 9:30 a.m. Further information may be obtained from Tri-Region Health Systems Agency, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

The Tri-Region Health Systems Agency, Plan Development Committee, will meet in Santa Fe No. 2, Starlite Inn, 3425 South First, Abilene, on December 18, 1979, at 11 a.m. Further information may be obtained from David Brown, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9418.

Doc. No. 799257



Department of Banking

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

Applications to Purchase Control of State Banks

On December 3, 1979, the banking commissioner received an application to acquire control of First State Bank in Hearne by Vincent D. Kickerillo, Kickerillo Company, and International Business Ventures, Inc., all of Houston.

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

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799214 Robert E. Stewart
Banking Commissioner

Filed: December 4, 1979, 11:47 a.m.
For further information, please call (512) 475-4451.

On December 3, 1979, the banking commissioner received an application to acquire control of Robinson State Bank in Robinson by Harvey T. Strasburger, Hill Country Oil Company, Inc., and Strasburger Enterprises, Inc., all of Temple.

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

Issued in Austin, Texas, on December 4, 1979.

Doc No 799236 Daniel A Flynn
Deputy Banking Commissioner

Filed December 5, 1979, 11:01 a.m.
For further information, please call (512) 475-4451.

State Commission for the Blind

Catalog of Products and Services from the Handicapped of Texas

The following products manufactured by handicapped citizens of the State of Texas are available for procurement by state agencies and applicable political subdivisions pursuant to Chapter 93, Title V, Human Resources Code:

- Class 055 79—back up horn or alarm
- Class 285 95—electrical extension cords, two lengths
- Class 345 92—safety vest, vinyl
- Class 485 42—disinfectant, pine oil concentrate
- Class 485 88—scouring pad, nylon
- Class 485 88—squeegee with handle, rubber blade
- Class 485 88—sponge scrubber
- Class 485 94—clip on dust pan, polystyrene
- Class 615 65—typewriter pad, sponge rubber
- Class 620-60—mechanical pencils, three models

Class 620-80—ball point pens, nine models with various points and colors

Class 620-90—marking pens, 10 models with various points and colors

*Class 365-10—floor machine pads, 13 sizes

*Class 485-10—gong brush, palmyra or plastic bristle

*Class 485-10—scrub brush, palmyra or plastic bristle

*Class 485-10—floor brush, tampico or plastic bristle

*Class 485-10—garage brush, palmyra or plastic bristle

*Class 485-10—threaded metal tip brush handles, wood

*Class 485-10—wood handle support braces and clamps

*Class 485-10—plastic broom, feathered tip, flora dora style

*Class 485-16—all-purpose heavy duty cleaner and degreaser

*Class 485-20—plastic broom, feathered tip, rainbow style

*Class 485-20—corn broom with plastic shoulders, four styles

*Available to political subdivisions only.

Freight. All orders are shipped FOB destination. Each item has a minimum order quantity, below which using agencies will be charged for direct freight costs.

Packaging. Products are properly packaged for shipping. Special packaging when required will be subject to price adjustment.

The general catalog containing ordering procedures and detailed information regarding specific products may be obtained from Texas Industries for the Blind and Handicapped, P.O. Box 1631, Austin, Texas 78767, telephone (512) 476-8368.

Issued in Austin, Texas, on November 28, 1979.

Doc. No. 799157 Evans N Wentz
Executive Director
State Commission for the Blind

Filed: December 3, 1979, 9 25 a.m.
For further information, please call (512) 475-7011.

East Texas Council of Governments

Consultant Proposal Request

Description of Services To Be Provided. In accordance with Article 6.95(1), Vernon's Texas Civil Statutes, the East Texas Council of Governments intends to invite offers from and contract with a private personnel management consultant. Services to be provided by the consultant include the development or revision of a variety of personnel management practices, including:

- (1) job classifications and pay plans;
- (2) personnel policies and procedures;
- (3) affirmative action plan;
- (4) recruiting procedures.

Services are to be provided to four cities and one county in the ETCOG region.

Funding for Project. This project is based on anticipated funding of approximately \$15,000 from the Texas Department of Community Affairs (TDCA) and the U.S. Civil Service Commission under the Intergovernmental Personnel Act.

All consultants interested in receiving a request for proposal which further describes the proposed project should contact Don R. Edmonds, executive director, East Texas Council of Governments, fifth floor, Allied Citizens Bank Building, Kilgore, Texas 75662, telephone (214) 984-8641. ETCOG will not accept offers from consultants after December 21, 1979.

Selection Procedures. Procedures for awarding the contract for the project are as follows:

- (1) ETCOG staff will evaluate the proposals and select the three most qualified consultants for further review.
- (2) All proposals selected by the ETCOG staff will be reviewed in detail by the participating local governments. Each consultant will be required to make a presentation of their proposal to the participants.
- (3) The participants will make a final recommendation to the ETCOG Executive Committee for final approval and contracting.

Selection of the consultant will be based upon responsiveness of written proposals to project requirements, results of interviews among consultants, and reasonableness of fee.

Issued in Kilgore, Texas, on November 29, 1979.

Doc. No. 799183 Don R. Edmonds
Executive Director
East Texas Council of Governments

Filed: December 3, 1979, 3:39 p.m.
For further information, please call (214) 984-8641.

State Board of Insurance

Consultant Proposal Request

Description of Services. The State Board of Insurance will contract with a consultant to

- (1) examine current agency policies and procedures for compliance with Administrative Procedure and Texas Register Act.
- (2) modify and/or implement needed changes in agency activities and procedures for compliance with Administrative Procedure and Texas Register Act.
- (3) establish monitoring system for continued compliance with Administrative Procedure and Texas Register Act.

Offers. Offers shall include a statement of the competence, knowledge, and qualifications of the offeror. In the selection of a consultant, reasonableness of the proposed fee will be considered. When other considerations are equal, preference will be given a consultant whose principal place of business is within the State of Texas.

Offerors should address their response to Tom Bond, director of information services, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786. Responses should be in envelopes clearly marked "Consultant Proposal Request."

Closing Date for Offers. January 4, 1980, at 5 p.m.

Issued in Austin, Texas, on December 4, 1979.

Doc. No. 799220 Tom Bond
Information Services
State Board of Insurance

Filed: December 4, 1979, 9:20 a.m.
For further information, please call (512) 475-4109.

Public Utility Commission of Texas

Consultant Proposal Requests

Contract Programming

Description of Services To Be Performed. The Texas Public Utility Commission desires to hire a contract programmer for the period February 1, 1980, to September 30, 1980, on a full-time basis. This position will work under supervision of the system manager in performing the following tasks:

- (1) revise existing Fortran programs to improve readability and conform to structured programming;
- (2) enhance existing model by addition of calculations and new report formats;
- (3) modify existing model by changing current report formats and reducing data redundancy;
- (4) interface two existing models to one or more common data files;
- (5) develop a procedure for loading the common data files including editing and sequence checking of the data;
- (6) develop DEFCCM macros to run two models interactively;
- (7) prepare complete programmer/user documentation.

Contact Person. Interested individuals should contact Mike Heister at (512) 458-0216. This offer closes December 25, 1979.

Selection Criteria. Applicants should have extensive experience in writing Fortran programs, a demonstrated ability to work with little or no supervision, knowledge of UT 2D and DEFCCM, good written and verbal communication skills; ability to design problem solutions based on conversations with accountants and rate analysts. All work must be performed on site at the PUC offices, 7800 Shoal Creek Boulevard. Examples of prior work will be required.

Selection will be made on the basis of the above criteria.

Doc No 799239

Cost/Benefit Analysis for Electric Rate Standards

Description of Services To Be Performed. The Texas Public Utility Commission desires to contract with a person full-time to conduct a cost/benefit analysis for electric rate standards. The primary focus of the job will be to develop a cost/benefit analysis methodology by which to judge the appropriateness of implementing time differentiated rates and load management rates. The analyst will also be expected to apply the methodologies and to testify as to the results during rate cases for electric utilities. If time differentiated rates or load management rates are shown to be cost effective, the analyst will also participate in developing a methodology to calculate these rates. The analyst will also assist in the review and consideration of other rate standards set forth in the Public Utilities Regulatory Policies Act.

Selection Criteria. The applicants should have experience in performing cost/benefit analyses and should be willing to submit previous work of this nature. The applicants must have ability to write and communicate effectively and be willing to testify in adversary proceedings. A Master of Business Administration or Master of Arts in Economics is preferred. The analyst will be selected based on the criteria listed

above. The contract will expire on September 30, 1980. Renewal will be dependent on receipt of further Department of Energy funds and performance of contract person.

Closing Date and Contact Person. The closing date for receipt of applications is December 21, 1979. Contact Paul N. Smolen, Economic Research Division, Texas Public Utility Commission, at (512) 458-0207.

Issued in Austin, Texas, on December 5, 1979.

Doc. No. 799240 Phillip F. Ricketts
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 5, 1979, 11:36 a.m.
For further information, please call (512) 458-0207.

Senate

Special Committee on Delivery of Human Services in Texas

Subcommittee Studying Services for 0-17 Age Group

The Subcommittee Studying Services for the 0-17 Age Group will hold a public hearing on Friday, December 14, 1979, at 9:30 a.m. in the lieutenant governor's committee room in the State Capitol. The subcommittee will consider the report and proposed recommendations relating to a service system for troubled youth in Texas and hear public comments on the recommendations. The subcommittee will also consider recommendations relating to preventive health issues.

Doc. No. 799241

Subcommittee Studying Services for the 18-64 Age Group

The Subcommittee Studying Services for the 18-64 Age Group will meet on Wednesday, December 12, 1979, at 2 p.m. in the lieutenant governor's committee room at the State Capitol. The subcommittee will consider proposed recommendations regarding basic adult education programs, graduate medical residency programs, and composition and size of boards and commissions of Texas.

Issued in Austin, Texas, on December 5, 1979.

Doc. No. 799242 June Hoyer
Executive Director
Special Committee on Delivery of Human Services in Texas

Filed: December 5, 1979, 12:05 p.m.
For further information, please call (512) 475-1284.

Texas Water Commission

Applications for Waste Discharge Permit

Notice is given by the Texas Water Commission of notices of waste discharge permit applications issued the period of November 26-30, 1979.

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 November 30, 1979

Pilot Industries of Texas, Inc., Houston; sewage treatment plant; 11623 North Houston-Rosslyn Road; 01899; renewal

Texas Department of Highways and Public Transportation (IH-10 Rest Area), Houston; sewage treatment plant; 1/2 mile northeast of the intersection of IH-10 and Spur 330; 10842; renewal

Alvie Fritshce (Hickory Hollow Inn), Houston; sewage treatment plant; 400 feet north of 10219 Fairbanks-North Houston Road 1.25 miles west of FM Road 149; new permit

Harris County Water Control and Improvement District No. 50, Seabrook; sewage treatment plant; 1122 Cedar Lane northeast of its intersection with Hickory Drive; 10243; amendment

Greenhills Foundation, Cedar Hill; sewage treatment plant; southwest of Duncanville, 5,300 feet west and 1,300 feet south of the intersection of Wheatland Road and Clark Road; new permit

Georgia-Pacific Corporation, Lufkin; synthetic resins manufacturing plant; 1/4 mile east of U.S. Highway 59 on the north side of East Lufkin Avenue; 01737; amendment

City of Lufkin (Hurricane Creek Plant); sewage treatment plant; north of Hurricane Creek and west of FM Road 324; 10214; renewal

Issued in Austin, Texas, on December 3, 1979.

Doc. No. 799172 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: December 3, 1979, 2:50 p.m.
For further information, please call (512) 475-1311.

1980 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the 1980 issues of the *Texas Register*. For your reference, monthly deadline schedules will also be published during the year. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Friday of the preceding week and Monday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. Please note that issues published on January 29, April 29, July 29, and October 31 will be indexes; no other material will be published in these issues. The *Texas Register* will not be published on January 4, May 30, September 5, December 2, and December 30.

FOR ISSUE PUBLISHED ON:	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY NOON ON:	ALL NOTICES OF OPEN MEETINGS BY NOON ON:
*Tuesday, January 1 Friday, January 4 Tuesday, January 8 Friday, January 11 Tuesday, January 15 Friday, January 18 Tuesday, January 22 Friday, January 25 Tuesday, January 29	Friday, December 21 Wednesday, January 2 Friday, January 4 Wednesday, January 9 Friday, January 11 Wednesday, January 16 Friday, January 18	Thursday, December 27 Thursday, January 3 Monday, January 7 Thursday, January 10 Monday, January 14 Thursday, January 17 Monday, January 21
NO ISSUE PUBLISHED		
1979 CUMULATIVE INDEX		
Friday, February 1 Tuesday, February 5 Friday, February 8 Tuesday, February 12 Friday, February 15 Tuesday, February 19 *Friday, February 22 Tuesday, February 26 Friday, February 29	Friday, January 25 Wednesday, January 30 Friday, February 1 Wednesday, February 6 Friday, February 8 Wednesday, February 13 Thursday, February 14 Wednesday, February 20 Friday, February 22	Monday, January 28 Thursday, January 31 Monday, February 4 Thursday, February 7 Monday, February 11 Thursday, February 14 Friday, February 15 Thursday, February 21 Monday, February 25
Tuesday, March 4 Friday, March 7 Tuesday, March 11 Friday, March 14 Tuesday, March 18 Friday, March 21 Tuesday, March 25 Friday, March 28	Wednesday, February 27 Friday, February 29 Wednesday, March 5 Friday, March 7 Wednesday, March 12 Friday, March 14 Wednesday, March 19 Friday, March 21	Thursday, February 28 Monday, March 3 Thursday, March 6 Monday, March 10 Thursday, March 13 Monday, March 17 Thursday, March 20 Monday, March 24
Tuesday, April 1 Friday, April 4 Tuesday, April 8 Friday, April 11 Tuesday, April 15 Friday, April 18 Tuesday, April 22 *Friday, April 25 Tuesday, April 29	Wednesday, March 26 Friday, March 28 Wednesday, April 2 Friday, April 4 Wednesday, April 9 Friday, April 11 Wednesday, April 16 Thursday, April 17	Thursday, March 27 Monday, March 31 Thursday, April 3 Monday, April 7 Thursday, April 10 Monday, April 14 Thursday, April 17 Friday, April 18
1ST QUARTERLY INDEX		
Friday, May 2 Tuesday, May 6 Friday, May 9 Tuesday, May 13 Friday, May 16	Friday, April 25 Wednesday, April 30 Friday, May 2 Wednesday, May 7 Friday, May 9	Monday, April 28 Thursday, May 1 Monday, May 5 Thursday, May 8 Monday, May 12

Tuesday, May 20
Friday, May 23
Tuesday, May 27
Friday, May 30

Wednesday, May 14
Friday, May 16
Wednesday, May 21

Thursday, May 15
Monday, May 19
Thursday, May 22

NO ISSUE PUBLISHED

Tuesday, June 3
Friday, June 6
Tuesday, June 10
Friday, June 13
Tuesday, June 17
Friday, June 20
*Tuesday, June 24
Friday, June 27

Wednesday, May 28
Friday, May 30
Wednesday, June 4
Friday, June 6
Wednesday, June 11
Friday, June 13
Tuesday, June 17
Friday, June 20

Thursday, May 29
Monday, June 2
Thursday, June 5
Monday, June 9
Thursday, June 12
Monday, June 16
Wednesday, June 18
Monday, June 23

Tuesday, July 1
Friday, July 4
Tuesday, July 8
*Friday, July 11
Tuesday, July 15
Friday, July 18
Tuesday, July 22
Friday, July 25
Tuesday, July 29

Wednesday, June 25
Friday, June 27
Wednesday, July 2
Thursday, July 3
Wednesday, July 9
Friday, July 11
Wednesday, July 16
Friday, July 18

Thursday, June 26
Monday, June 30
Thursday, July 3
Monday, July 7
Thursday, July 10
Monday, July 14
Thursday, July 17
Monday, July 21

2ND QUARTERLY INDEX

Friday, August 1
Tuesday, August 5
Friday, August 8
Tuesday, August 12
Friday, August 15
Tuesday, August 19
Friday, August 22
Tuesday, August 26
Friday, August 29

Friday, July 25
Wednesday, July 30
Friday, August 1
Wednesday, August 6
Friday, August 8
Wednesday, August 13
Friday, August 15
Wednesday, August 20
Friday, August 22

Monday, July 28
Thursday, July 31
Monday, August 4
Thursday, August 7
Monday, August 11
Thursday, August 14
Monday, August 18
Thursday, August 21
Monday, August 25

*Tuesday, September 2
Friday, September 5
Tuesday, September 9
Friday, September 12
Tuesday, September 16
Friday, September 19
Tuesday, September 23
Friday, September 26
Tuesday, September 30

Tuesday, August 26
Wednesday, September 3
Friday, September 5
Wednesday, September 10
Friday, September 12
Wednesday, September 17
Friday, September 19
Wednesday, September 24

Thursday, August 28
Thursday, September 4
Monday, September 8
Thursday, September 11
Monday, September 15
Thursday, September 18
Monday, September 22
Thursday, September 25

NO ISSUE PUBLISHED

Friday, October 3
Tuesday, October 7
Friday, October 10
Tuesday, October 14
*Friday, October 17
Tuesday, October 21
Friday, October 24
Tuesday, October 28
Friday, October 31

Friday, September 26
Wednesday, October 1
Friday, October 3
Wednesday, October 8
Thursday, October 9
Wednesday, October 15
Friday, October 17
Wednesday, October 22

Monday, September 29
Thursday, October 2
Monday, October 6
Thursday, October 9
Friday, October 10
Thursday, October 16
Monday, October 20
Thursday, October 23

3RD QUARTERLY INDEX

Tuesday, November 4
Friday, November 7
Tuesday, November 11
Friday, November 14

Wednesday, October 29
Friday, October 31
Wednesday, November 5
Friday, November 7

Thursday, October 30
Monday, November 3
Thursday, November 6
Monday, November 10

Tuesday, November 18
 Friday, November 21
 Tuesday, November 25
 Friday, November 28

Wednesday, November 12
 Friday, November 14
 Wednesday, November 19
 Friday, November 21

Thursday, November 13
 Monday, November 17
 Thursday, November 20
 Monday, November 24

Tuesday, December 2
 *Friday, December 5
 Tuesday, December 9
 Friday, December 12
 Tuesday, December 16
 Friday, December 19
 Tuesday, December 23
 Friday, December 26
 Tuesday, December 30

NO ISSUE PUBLISHED

Wednesday, November 26
 Wednesday, December 3
 Friday, December 5
 Wednesday, December 10
 Friday, December 12
 Wednesday, December 17
 Friday, December 19

Monday, December 1
 Thursday, December 4
 Monday, December 8
 Thursday, December 11
 Monday, December 15
 Thursday, December 18
 Monday, December 22

NO ISSUE PUBLISHED