Ca

Texas Register

Volume 17, Number 29, April 21, 1992 Pages 2821-2897

In This Issue...

CONTENTS CONTINUED INSIDE

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except February 28, November 6, December 1, December 29, 1992. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711. Subscriptions costs: one year - printed, $95 and electronic, $90; six-month - printed, $75 and electronic, $70. Single copies of most issues are available at $5 per copy.

POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824.

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

Governor - Appointments, executive orders, and proclamations

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

Secretary of State - opinions based on the election laws

Texas Ethics Commission - summaries of requests for opinions and opinions

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

Proposed Sections - sections proposed for adoption

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings - notices of open meetings

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

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

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

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "17 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 17 TexReg 3"

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

Texas Administrative Code

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

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

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

Texas Register Art Project

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

Texas Register Publications

a section of the
Office of the Secretary of State
P. O. Box 13824
Austin, Texas 78711-3824
(512) 463-5561
Fax (512) 463-5569

Secretary of State
John Hannah, Jr.

Director
Dan Procter

Assistant Director
Dee Wright

Circulation/Marketing
Jill S. Dahnert
Roberta Knight

TAC Editor
Dana Blanton

TAC Typographer
Madeline Chrisner

Documents Section Supervisor
Patty Moore

Documents Editors
Lisa Martin
Janiene Allen

Open Meetings Clerk
Brenda Bernal

Production Section Supervisor
Ann Franklin

Production Editors/Typographers
Janice Rhea
Carla Carter

Texas Department of Health

HIV and STD Control

Licensure and Regulation of Marriage and Family Therapists

Long-Term Care

Comptroller of Public Accounts

Tax Administration

Employees Retirement System of Texas

Flexible Benefits

Texas Department on Aging

Memorandum of Understanding Between TDoA, TDHS, TDH, and Texas MH/MR

State Board of Insurance

Open Meetings

In Addition Sections

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made April 13, 1992

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1997: Ann E. Wright, Ph.D., 18635 Point Lookout, Houston, Texas 77058. Dr. Wright is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1995: Wayne A. Wiatrowski, Ph.D. , 8 Inkwood Manor, San Antonio, Texas 78248. Dr. Wiatrowski is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1997: Lester J. Peters, M.D., 4111 Solway, Houston, Texas 77025. Dr. Peters is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1995: Paul H. Murphy, Ph.D., 8823 Concho Lane, Houston, Texas 77036. Dr. Murphy is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1993: David Lee Goff, Ph.D., 531 Sonnet, San Antonio, Texas 78216. Dr. Goff is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1993: Stewart C. Bushong, Sc.D., 3001 Carnegie, Houston, Texas 77005. Dr. Bushong is being appointed to a new position pursuant to Senate Bill 521, 72nd Legislature.

To be a member of the **Texas Board of Licensure for Professional Medical Physicists** for a term to expire February 1, 1995: Ralph Blumhardt, M.D., 11202 Whisper Spring, San Antonio, Texas 78230. Dr. Blumhardt is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

Issued in Austin, Texas, on April 14, 1992.

TRD-9205201 Ann W. Richards
Governor of Texas

♦ ♦ ♦

TEXAS IS UPON YOU

DALLAS TX
WWJH
8th Grad
Anna Zaner

Name: Anna Zaner
Grade: 8
School: Westwood Jr. High, Richardson ISD

Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Letter Opinions

LO-92-002 (RQ-272) Request from Terry D. McEachern, District Attorney, 64th and 242nd Judicial Districts, Plainview, concerning whether the 5. 0% increase limitation on the salaries of assistant county auditors imposed by the Local Government Code, §111.013 applies to the amount budgeted from one fiscal year to the next or to the amount of salary actually paid.

Summary of Opinion. The Local Government Code, §111.013, imposes a limitation of 5.0% on increases in the amount budgeted from one fiscal year to the next for the salary of an assistant county auditor. The amount of salary actually paid the assistant auditor is not relevant to the operation of this statute.

TRD-9205174

♦ ♦ ♦

Open Records Decisions

ORD-600 (RQ-103) Request from J. Kirk Brown, General Counsel, Texas Department of Criminal Justice, Huntsville, concerning availability under Open Records Act of personnel records of employees of the Texas Department of Criminal Justice.

Summary of Decision. The Institutional Division of the Texas Department of Criminal Justice received requests under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, for information in the personnel files of certain employees. Several categories of information were found to be excepted from public disclosure.

The Open Records Act, §3(a)(17)(B), adopted by House Bill 729 of the 72nd Legislative Session and effective May 8, 1991, excepts from disclosure the home addresses, home telephone number, or social security numbers of employees of the Texas Department of Criminal Justice. It also excepts the home or employment address or telephone numbers or the names or social security numbers of family members of employees of the department. This information is excepted from disclosure wherever it appears in the personnel files.

The result of a personality test given by the Department of Criminal Justice to an employee is excepted from public disclosure by a constitutional right of privacy. The score on an intelligence test given to an employee is excepted from public disclosure by a common-law right of privacy.

Information about on-the-job injuries in medical records created by or under the supervision of a physician or maintained by a physician is excepted from public disclosure by Texas Civil Statutes, Article 4495b, §5.08(b). Whether or not a report by the injured person or a witness to the accident contains private information depends on the nature of the injury and other facts included in the report.

The W-4 forms completed by employees are excepted from disclosure by the United States Code, Title 26, §6103(a).

TexFlex forms, showing the employee's decision about participation in this benefit program, concern a private financial decision to allocate compensation to optional benefits provided by a third party; thus these forms are excepted from public disclosure by a common-law right of privacy. Forms authorizing the direct deposit of the employee's paycheck also document a private decision as to allocation of compensation to a third party and are excepted from disclosure.

Authorizations for social security leveling include facts about the employee's receipt of compensation from the state as his employer and are not excepted from disclosure by a right of privacy.

The employee's participation in the group insurance program is in part a transaction with the state. Information on his application form relevant to his enrollment for basic and dependent health coverage offered pursuant to the Insurance Code, Article 3.50-2, is not excepted from disclosure by a common-law right of privacy. Certain information on the form is excepted from disclosure by the Open Records Act, §3(a)(17)(B). The remaining information on optional coverages, dependent information, and designation of a beneficiary of his life insurance is excepted from disclosure by a right of privacy.

Employee services option forms, which offer the employee laundry services and barber shop services at prison facilities in exchange for a small fee, relate to a transaction between the employee and the governmental body and are therefore not excepted from disclosure by a right of privacy.

Information in personnel evaluation forms that consists of opinion, advice, and recommendation used in the decisional process within the agency is excepted from disclosure by the Open Records Act, §3(a)(11).

TRD-9205168

ORD-601 (RQ-2168) Request from Norman J. Gordon, Attorney At Law, Diamond, Rash, Leslie, Smith and Samaniego, El Paso, concerning whether the El Paso Housing Finance Corporation is a governmental body under the Texas Open Records Act.

Summary of Decision. The El Paso Finance Corporation is a governmental body under the Texas Open Records Act, §2(1)(G).

TRD-9205167

ORD-602 (RQ-228) Request from Laura Peterson House, Locke Purnell Rain Harrell, Dallas concerning whether the Dallas Museum of Art is a "governmental body" under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §2(1)(G), and related questions.

Summary of Decision. The Dallas Museum of Art is a "governmental body" within the meaning of the Texas Open Records Act only to the extent that it receives support from the City of Dallas and the State of Texas. Thus, only documents relating to those sections of the museum that are supported by the city or state are public documents subject to the Open Records Act. Documents related to areas of the DMA that are not supported with public funds are not subject to the Open Records Act.

TRD-9205166

ORD-603 (RQ-91) Request from Robert A. MacLean, M.D., Acting Commissioner, Texas Department of Health, Austin, concerning whether an individual has a right

under the Open Records Act, §3B to inspect information about himself in the records of a Department of Health investigation of a complaint against a home health services agency.

Summary of Decision. The Open Records Act, §3B does not affect the availability of information developed in a Department of Health investigation of complaints about a home health agency under the Health and Safety Code, §142. 009. Such information is confidential under the Health and Safety Code, §142. 009(d) and excepted from public disclosure under the Open Records Act, §3(a)(1) .

TRD-9205184

♦ ♦ ♦

Opinions

DM-86 (RQ-70) Request from Richard Barajas, District Attorney, 83rd Judicial District of Texas, Fort Stockton, concerning responsibility of a sheriff with regard to a private detention facility operated under contract with a county.

Summary of Opinion. The only duty of a sheriff with regard to a detention facility operated by a private vendor pursuant to a contract with his county is to exercise "regular, on-site monitoring" of the facility. The Commission on Jail Standards has a continuing duty under the Government Code, Chapter 511 to monitor a private detention facility for compliance with its standards. If a facility fails to comply with the one-year deadline for certification of its jailers by the Commission on Law Enforcement Officer Standards and Education, the Commission on Jail Standards may conclude that the facility "does not comply with state law" under Chapter 511, and apply certain remedies against the facility.

TRD-9205183

DM-87 (RQ-35) Request from James Warren Smith, Jr., Frio County Attorney, Pearsall, concerning responsibility for transporting juveniles between juvenile court and the county's juvenile detention center, and related questions.

Summary of Opinion. A county judge is not expressly empowered to order a sheriff or constable to transport persons to and from juvenile court. Unless it transfers the amount from another budgeted item, a county of less than 225,000 population may amend its budget to provide funds for transportation of juveniles only if the commissioners court finds that there exists a "grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget throught the use of reasonably diligent though and attention."

TRD-9205182

DM-88 (RQ-256) Request from George Pierce, Chairman, Committee on Urban Affairs, Texas House of Representatives, Austin, concerning whether Texas Civil Statutes, Article 601f, pertaining to payments for goods and services contracted for by state agencies or political subdivisions, applies to construction contracts.

Summary of Opinion. Texas Civil Statutes, Article 601f, a statute pertaining to the payment of goods and services contracted for by state agencies and political subdivisions, applies to construction contracts.

TRD-9205181

DM-89 (RQ-119) Request from John W. Segrest, Criminal District Attorney, McLennan County, Waco, concerning whether a candidate is eligible to the office of alderman in a Type B general law city if the candidate meets the requirements of the Local Government Code, §23.024(a), but not the requirements of the Election Code, §141.001(a)(4).

Summary of Opinion. The Local Government Code, §23.024 does not exclusively govern eligibility to elective office in a Type B general law city and does not conflict with the Election Code, §141.001(a)(4). A candidate who does not meet the requirements of §141.001(a)(4) is not eligible to an elective office in a Type B general law city.

TRD-9205180

DM-90 (RQ-251) Request from A. J. (Jack) Hartel, Liberty County Attorney, Liberty, concerning authority of a navigation district to enter into a tax abatement agreement.

Summary of Opinion. The authority of the Chambers-Liberty Counties Navigation District to enter into a tax abatement agreement pertaining to land that is the subject of a county tax abatement agreement expired 90 days after the date of the execution of the county agreement.

TRD-9205179

DM-91 (RQ-246) Request from Linda Vaclavik, Executive Director, Texas Advisory Board of Occupational Therapy, Austin, concerning whether the term "physician" in the Occupational Therapy Title Act, Texas Civil Statutes, Article 8851, includes chiropractors.

Summary of Opinion. The term "physician" in Texas Civil Statutes, Article 8851, §15(b)(6) and §27, the Occupational Therapy Title Act, refers to persons licensed by the State Board of Medical Examiners under Texas Civil Statutes, Article 4495b, not to health-care practitioners licensed under other statutes.

TRD-9205178

DM-92 (RQ-173) Request from Charles E. Nemir, P.E., Executive Director, State Board of Registration for Professional Engineers, Austin, concerning whether increase in renewal fees is applicable to registered engineers who are at least 65 years of age.

Summary of Opinion. The State Board of Registration for Professional Engineers may, for purposes of setting reduced fees for licensees at least 65 years of age, consider the $200 fee increase imposed by Texas Civil Statutes, Article 3271a, §13B, as part of the fee subject to reduction.

TRD-9205177

DM-93 (RQ-184) Request from Lionel R. Meno, Commissioner of Education, Texas Education Agency, Austin, concerning constitutionality of Rider 30 to the General Appropriations Bill for the 1991-1992 biennium.

Summary of Opinion. The separate provisions of Rider 30 to the appropriation of the Central Education Agency contained in the General Appropriations Act for the 1991-1992 fiscal biennium attempt to amend or enact general law and are therefore invalid under the Texas Constitution, Article III, §35(a).

TRD-9205176

DM-94 (RQ-77) Request from Stephen C. Howard, Orange County Attorney, Orange, concerning whether a county may tax property as new property upon expiration of a tax abatement contract.

Summary of Opinion. The value of improvements to real property exempted for a period of years pursuant to a tax abatement agreement is not "[n] ew property value" for purposes of the Property Tax Code, Chapter 26, unless the improvements were made after January 1 of the preceding tax year.

TRD-9205195

DM-95 (RQ-252) Request from Gary Watkins, Chairman, Committee on Higher Education, Texas House of Representatives, Austin, concerning whether a city council violates the Open Meetings Act when a majority of the council signs a letter that has not been authorized in an open meeting.

Summary of Opinion. If a quorum of a governmental body agrees on a joint statement on a matter of governmental business or policy, the deliberation by which that agreement is reached is subject to the requirements of the Open Meetings Act, and those requirements are not necessarily avoided by avoiding the physical gathering of a quorum in one place at one time. Whether any specific behavior or pattern of behavior constitutes a violation of the Act must ultimately be determined by a trier of fact.

TRD-9205194

DM-96 (RQ-227) Request from James F. Hury, Jr., Chairman, Ways and Means

Committee, Texas House of Representatives, Austin, concerning authority of a commissioners court to designate an agent to invest county funds.

Summary of Opinion. A commissioners court may not remove a county treasurer entirely from the process of investing county funds, but it may designate which funds are to be invested and direct the treasurer to invest those funds in accordance with the Public Funds Investment Act, Texas Civil Statutes, Article 842a-2. A commissioners court may, by express written authority, delegate its designative and directive functions to another county officer or employee, including one or more individual commissions.

TRD-9205193

DM-97 (RQ-178) Request from Chet Brooks, Chairman, Committee on Health and Human Services, Texas State Senate, Austin, concerning whether Texas' procedure whereby a man voluntarily can establish paternity of a child born out of wedlock "legitimates" the child.

Summary of Opinion. The procedure for establishing "voluntary paternity" under the Family Code, §§13.21-13.24 is essentially the same as the procedure for "voluntary legitimation" under the pre-1989 version of §§13. 21-13.24, and both procedures produce the same result. A child born out of wedlock whose paternity has been establish pursuant to the Family Code, §§13. 21-13.24 is entitled to the same parent-child relationship and the same rights under Texas law as a child born in wedlock.

TRD-9205192

DM-98 (RQ-158) Request from A. J. Hartel, Liberty County Attorney, Liberty, concerning whether health care professionals employed on a part-time basis by a county to provide medical services to inmates in a county jail are entitled to indemnification and legal representation under the Civil Practice and Remedies Code, §§104.001, 104.004, and 110.002.

Summary of Opinion. Health care professionals employed on a part-time basis by the Liberty County jail to provide medical services to county jail inmates are not entitled to indemnification or legal representation under the Civil Practice and Remedies Code, Chapter 104.

The determination whether a particular health care professional employed on a part-time basis by the Liberty County Jail to provide medical care to inmates is entitled to indemnification under the Civil Practice and Remedies Code, Chapter 110 depends upon the overall nature of his or her practice and involves questions of fact which cannot be resolved in the opinion process. If a health care professional provides medical care to indigent inmates pursuant to a contract to provide such care in compliance with the Indigent Health Care and Treatment Act, such care constitutes "charity care or services" for purposes of §110.001(1), and counts toward the 10% patient encounter minimum required for indemnification under that chapter. Treatment of such inmates under a contract where the health care professional agrees to render medical care in exchange for a flat fee and a per patient fee, regardless of the patient's payment source, would not necessarily qualify as "charity care or services."

TRD-9205191

DM-99 (RQ-220) Request from James L. Pledger, Commissioner, Texas Savings and Loan Department, Austin, concerning whether certain governmental entities may lawfully deposit funds in the demand accounts of state and federal savings and loan associations and savings banks.

Summary of Opinion. Municipalities, counties, independent school districts, and institutions of higher learning are not authorized to deposit funds in the demand accounts of savings and loan associations.

TRD-9205190

DM-100 (RQ-201) Request from Georgia Flint, Acting Commissioner, Texas Department of Insurance, Austin, concerning whether an insurance company released from supervision or conservatorship may deduct from its premium tax liability fees paid for cost of rehabilitation.

Summary of Opinion. Rehabilitation fees assessed insurance companies rehabilitated by the State Board of Insurance under the Insurance Code, Article 21.28-A are not within the premium tax credit allowed by Insurance Code, Article 4.10, §13 for "examination and evaluation fees."

TRD-9205189

DM-101 (RQ-267) Request from Lawrence R. Jacobi, Jr., P.E., General Manager, Texas Low-Level Radioactive Waste Disposal Authority, Austin, concerning whether the board of directors of the Texas Low-Level Radioactive Waste Disposal Authority may designate by rule for use as impact assistance allocation not less than 10% of the planning and implementation fees assessed and deposited to the low-level waste fund and related questions.

Summary of Opinion. The board of directors of the Texas Low-Level Radioactive Waste Disposal Authority may not designate by rule for use as impact assistance allocation a percentage of the planning and implementation fees assessed and deposited to the low-level waste fund pursuant to the Health and Safety Code, Chapter 402, Subchapter J.

TRD-9205188

DM-102 (RQ-263) Request from Merrill L. Hartman, Chairman, Court Reporters Certification Board, Austin, concerning whether a certified shorthand reporter in the State of Texas may contract with a company to fulfill all of the company's shorthand reporting needs.

Summary of Opinion. Neither Texas statutes nor rules promulgated by the Texas Supreme Court preclude a certified shorthand reporter in the State of Texas from contracting with a company to provide all of the shorthand reporting services the company requires. The Government Code, §52.029 lists various types of behavior for which the Court Reporters Certification Board may sanction a certified shorthand reporter, including fraud and unprofessional conduct, but the determination of whether a certified shorthand reporter in a particular contractual arrangement is committing any of the proscribed types of behavior is a determination the Court Reporters Certification Board must make according to the procedures set forth in the Government Code, §§52.027-52.030 and Part IV of the Standards and Rules for Certification of Certified Shorthand Reporters, promulgated by the Supreme Court of Texas.

TRD-9205187

DM-103 (RQ-273) Request from Terry D. McEachern, Hale County District Attorney, Plainview, concerning whether a juvenile board may order an increase in the compensation paid to county judge members of the board in excess of the compensation ordered by the commissioners court under the Human Resources Code, §152.0411.

Summary of Opinion. The juvenile board of Castro, Hale, and Swisher Counties has no authority to set the salaries of its members.

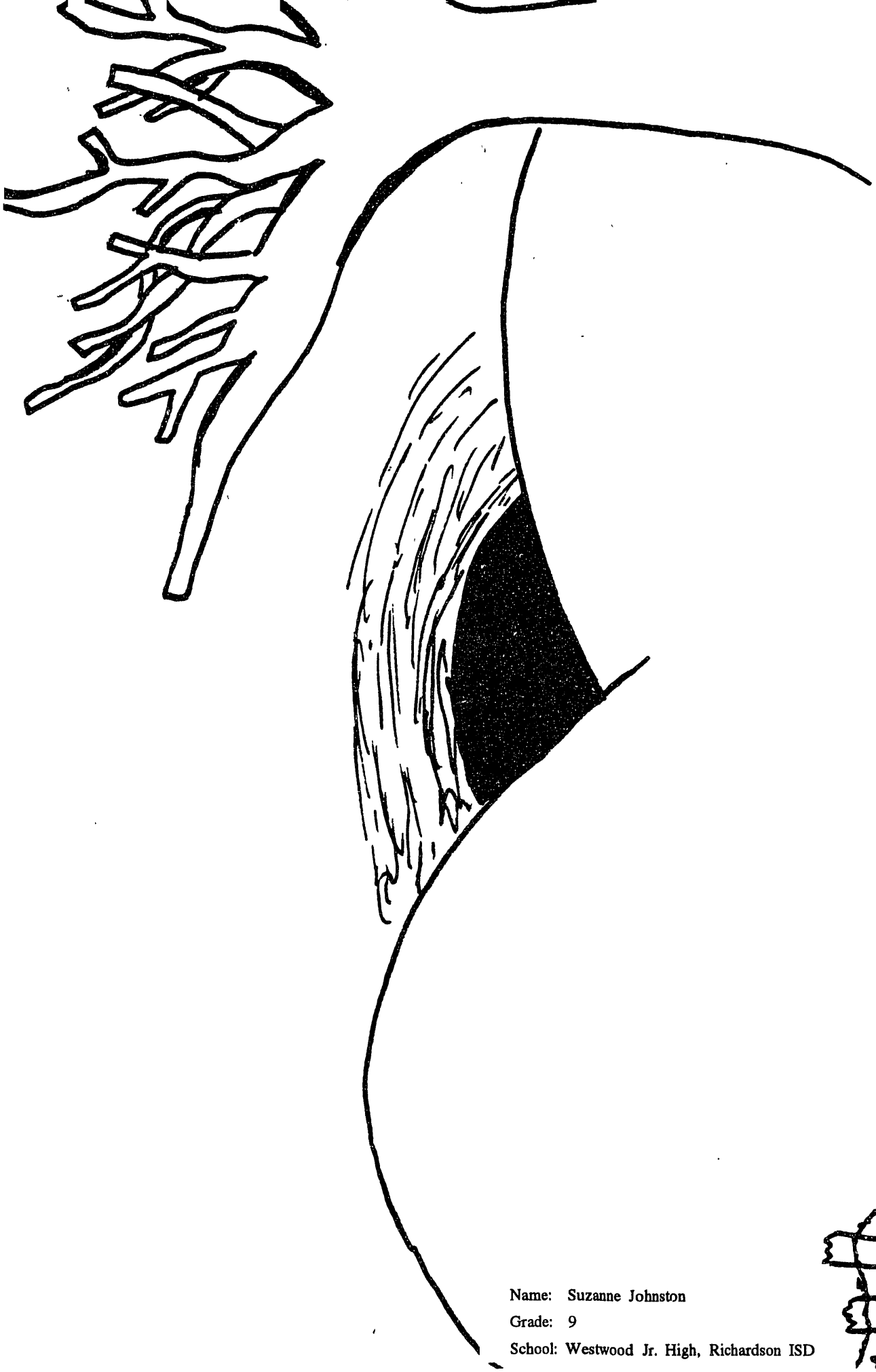
TRD-9205185

DM-104 (RQ-277) Request from Debra Danburg, Chair, Committee on Elections, Texas House of Representatives, Austin, concerning completion of a life sentence.

Summary of Opinion. A life sentence continues until the time of a convicted person's death. The fact that a person sentenced to life may be released on parole does not constitute completion of his sentence.

TRD-9205186

♦ ♦ ♦



Name: Suzanne Johnston

Grade: 9

School: Westwood Jr. High, Richardson ISD

Texas Ethics Commission

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

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

Request for Opinions

AOR-19. The Texas Ethics Commission has been asked to respond to several questions regarding the application of the Government Code, Chapter 305, to bank officers and employees.

The first question is whether a bank officer or employee must register as a lobbyist if he responds to questions from bank examiners and engages in discussions regarding loan quality.

The second question is whether a bank officer or employee would be engaging in lobbying activity if he submitted to the state Banking Department a charter application or a notice of change in control and included information intended to persuade the agency that the agency should take certain action in regard to the application or notice.

AOR-20. The Texas Ethics Commission has been asked to consider whether Texas Civil Statutes, Article 6252-9d, requires the disclosure of information that is made confidential by rules of the federal Securities and Exchange Commission or by the Texas Public Accountancy Act, Texas Civil Statutes, Article 41a-1, §26.

AOR-21. The Texas Ethics Commission has been asked to consider whether, under Title 15 of the Election Code, a specific-purpose committee may accept political contributions or make political expenditures for a proposed constitutional amendment if the legislature had not enacted legislation proposing a specific constitutional amendment.

The requestor has also asked whether a specific-purpose committee that supports or opposes measures only may accept corporate contributions.

AOR-22. The Texas Ethics Commission has been asked to consider the application of the Government Code, Chapter 305, to several different fact situations.

In the first situation, the requestor, a private company, would like to donate surplus equipment to the Texas Parks and Wildlife Department. The requestor asks whether the Government Code, Chapter 305, would permit such a donation, and, if so, whether the donation would be reportable under Chapter 305.

In the second situation, the requestor would like to present an educational seminar to the personnel of the Texas Railroad Commission. Again, the requestor asks whether Chapter 305 would permit the presentation, and, if so, whether the presentation would be reportable under Chapter 305.

The requestor's third question is whether Chapter 305 permits the requestor to make grants to state universities and, if so, whether such grants would be reportable expenditures.

The requestor's final question is whether it may purchase meals for university employees and whether such meals would be reportable expenditures under Chapter 305.

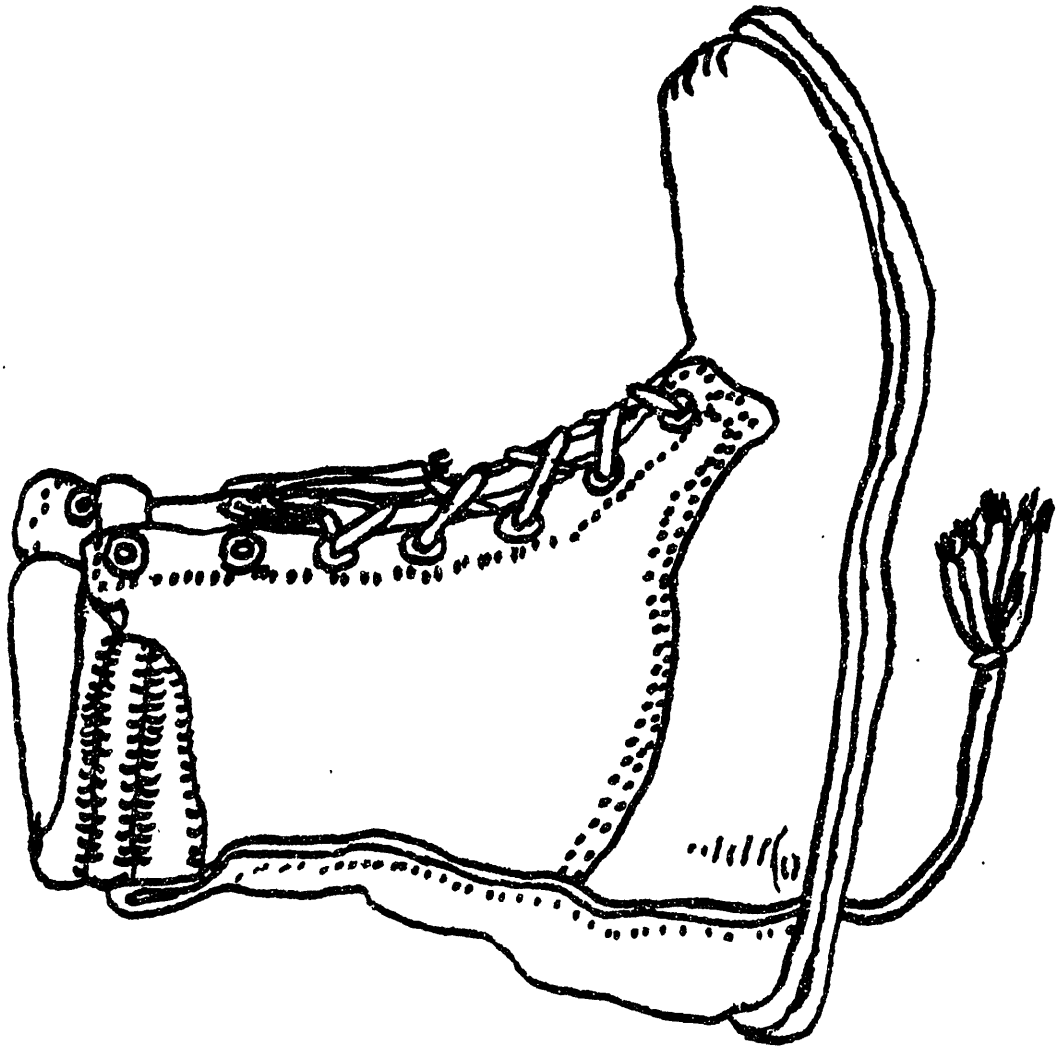
Issued in Austin, Texas, on April 2, 1992.

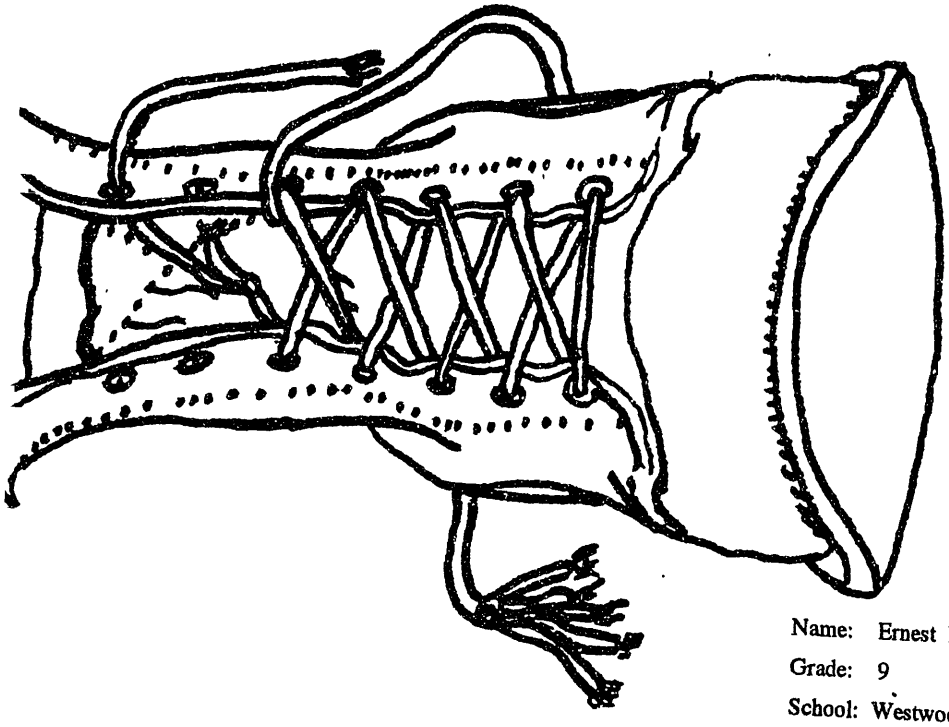
TRD-9205086 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: April 13, 1992

For further information, please call: (512) 463-5800

♦ ♦ ♦





Name: Ernest Escolar

Grade: 9

School: Westwood Jr. High, Richardson ISD

Ernest Escolar
9th W W J.H.
RICHARDSON ISD
DALLAS, TEXAS

Emergency Sections

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

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Subchapter A. Introduction

• 25 TAC §128.1, §128.2

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §128.1 and §128.2, for a 60-day period effective April 14, 1992. The text of new §128.2 and §128.2 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205230 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter B. The Board

• 25 TAC §§128.11-128.20

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.11-128.20, for a 60-day period effective April 14, 1992. The text of new §§128.11-128.20 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205231 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 24, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter C. Code of Ethics

• 25 TAC §§128.41-128.51

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.41-128.51, for a 60-day period effective April 14, 1992. The text of new §§128.41-128.51 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205232 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter D. Application Procedures

• 25 TAC §§128.71-128.73

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.71-128.73, for a 60-day period effective April 14, 1992. The text of new §§128.71-128.73 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205233 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter E. Criteria for Determining Fitness of Applicants for Examination and Licensure

• 25 TAC §§128.91-128.94

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.91-128.94, for a 60-day period effective April 14, 1992. The text of new §§128.91-128.94 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205234 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter F. Academic Requirements for Examination and Licensure

• 25 TAC §§128.111-128.114

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.111-128.114, for a 60-day period effective April 14, 1992. The text of new §§128.111-128.114 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas on April 14, 1992.

TRD-9205235 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter G. Experience Requirements for Examination and Licensure

• 25 TAC §§128.141-128.144

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.141-128.144, for a 60-day period effective April 14, 1992. The text of new §§128.141-128.144 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205236 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter H. Licensure Examinations

• 25 TAC §§128.171-128.174

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.171-128.174, for a 60-day period effective April 14, 1992. The text of new §§128.171-128.174 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205237 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter I. Issuance of License

• 25 TAC §§128.201-128.203

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.201-128.203, for a 60-day period effective April 14, 1992. The text of new §§128.201-128.203 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205238 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter J. License Renewal and Inactive Status

• 25 TAC §§128.231-128.237

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.231-128.237, for a 60-day period effective April 14, 1992. The text of new §§128.231-128.237 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205239 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter K. Continuing Education Requirements

• 25 TAC §128.261

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §128.261, for a 60-day period effective April 14, 1992. The text of new §128.261 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205240 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter L. Complaints and Violations

• 25 TAC §§128.291-128.295

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.291-128.295, for a 60-day period effective April 14, 1992. The text of new §§128.291-128.295 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205241 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter M. Licensing of Persons with Criminal Backgrounds

• 25 TAC §128.321, §128.322

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §128.321 and §128.322, for a 60-day period effective April 14, 1992. The text of new §128.321 and §128.322 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205242 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Subchapter N. Formal Hearings

• 25 TAC §§128.331-128.339

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§128.331-128.339, for a 60-day period effective April 14, 1992. The text of new §§128.331-128.339 was originally published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205243 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 14, 1992

Expiration date: May 4, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Chapter 133. Hospital Licensing

Standards

• 25 TAC §133.21

The Texas Department of Health is renewing the effectiveness of the emergency adoption of amended §133.21, for a 60-day period effective April 28, 1992. The text of amended §133.21 was originally published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 88).

Issued in Austin, Texas, on April 14, 1992.

TRD-9205229 Dan LaFleur
Liaison Officer
Texas Department of Health

Effective date: April 28, 1992

Expiration date: June 27, 1992

For further information, please call: (512) 458-7236

♦ ♦ ♦

Proposed Sections

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

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

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 4. Currency Exchange

Subchapter A. General

• 7 TAC §4.7

The Finance Commission of Texas proposes new §4.7, concerning bond requirements and deposits in lieu of bond under the Currency Exchange Act. The Currency Exchange Act empowers the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of that Act. The new section provides a general framework with respect to how the bond amount will be calculated. The new section also provides for deposits of cash or certain securities in lieu of posting a bond.

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

Brian R. Herick, assistant general counsel, has determined that the proposed rule will have no local employment impact.

Mr. Herrick, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the orderly administration of the Currency Exchange Act and ensure that the purposes of the Act are substantially fulfilled. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Brian R. Herrick, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, §7, Article 350, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

§4.7. Bond Requirements; Deposit in Lieu of Bond.

(a) Currency exchange. Licensees engaged exclusively in the business of currency exchange shall post a bond of $25,000.

(b) Currency transmission. Licensees engaged in currency transmission or both currency exchange and transmission activities shall post a bond equal to the greater of $50,000 or 1.0% of their total yearly dollar volume of currency transmission business (rounded to the nearest thousand dollars), but in no event will the bond be more than $1 million.

(c) Multiple offices. One bond may be used to cover multiple licenses held by or multiple offices owned by one person. The required bond amount, however, may be increased by the commissioner in increments of up to $10,000 for each additional license held or location owned by the licensee.

(d) Exception. Notwithstanding the foregoing, the commissioner may require a bond in excess of the amount set forth previously if, in the opinion of the commissioner, unusual circumstances exist, which give rise to an increased risk to the general public or an increased level of regulatory concern.

(e) Review. The commissioner shall review the bond amount each year when the licensee's license is renewed. The bond amount will be set based on volume of business in the previous four calendar quarters. The commissioner may review and reset the bond amount at any time if there is a change in the manner in which the licensee conducts business or a change in the ownership or management structure of licensee's business, including any change in principal.

(f) Deposit in lieu of bond.

(1) A licensee, with the prior permission of the commissioner, may deposit cash (in United States currency) or cash equivalent instruments or securities, in an amount greater than or equal to the amount of the required bond, in a restricted account or under a safekeeping arrangement with the Texas Safekeeping Trust Company in lieu of the bond required under the Act, §10. The value of any cash equivalent instruments or securities shall be determined by using the lower of the principal amount or market value thereof.

(2) The term "cash equivalent instruments or securities" as used in this subsection shall include the following:

(A) Certificates of deposit in United States dollars issued by a financial institution located in this or any other state and fully insured by the Federal Deposit Insurance Corporation;

(B) direct obligations of the United States Government; and

(C) other securities or investments approved by the commissioner.

(3) Securities deposited in lieu of posting a bond shall be held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon. The licensee, with the prior approval of the commissioner, shall have the right to substitute other securities for those deposited, and shall be required to do so upon written order of the commissioner for good cause.

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

Issued in Austin, Texas, on April 13, 1992.

TRD-9205080 Ann Graham
General Counsel
Texas Department of Banking

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 475-1300

♦ ♦ ♦

• 7 TAC §4.8

The Finance Commission of Texas proposes new §4.8, concerning custody and use of criminal history information received during the application process for licensing under the Currency Exchange Act. The Currency Exchange Act empowers the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of that Act. The proposed rule restricts access to and use of criminal history information of applicants under the Act and their principals.

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

Mr. Herrick, assistnat general counsel, has determined that the proposed rule will have no local employment impact.

Mr. Herrick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the orderly administration of the Currency Exchange Act and ensure that the purposes of the Act are substantially fulfilled. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Brian R. Herrick, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 350, §7 and §9, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

§4.8. Custody of Criminal History Information.

(a) Purpose. The Currency Exchange Act, §9 requires that the commissioner adopt rules governing the custody and use of criminal history information received by the commissioner during the application process and over the course of exercising his duties in administering the Act.

(b) Access to criminal history information. Access to criminal history information maintained by the Department of Banking pursuant to or in connection with its regulatory duties under the Currency Exchange Act shall be limited to the following personnel:

(1) banking commissioner;

(2) deputy banking commissioner;

(3) any attorney employed by the Department of Banking or attorney general to assist in the administration or enforcement of the Act;

(4) director, special audits division;

(5) any examiner acting under the direction of the director of the special audits division; and

(6) any person officially appointed to act on behalf or in the stead of any of the persons in paragraphs (1)-(5) of this subsection.

(c) Use of criminal history information. The use of criminal history information maintained by the Department of Banking pursuant to or in connection with the Currency Exchange Act shall be limited to the legitimate needs of the commissioner or department in administering or enforcing the provisions of the Act. Except as otherwise provided in the Act, such information may not be disclosed to any person or agency, absent a court order.

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

Issued in Austin, Texas, on April 13, 1992.

TRD-9205081 Ann Graham
General Counsel
Texas Department of Banking

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 475-1300

♦ ♦ ♦

TITLE 13. CULTURAL RESOURCES

Part IV. Texas Antiquities Committee

Chapter 45. State Archeological Landmarks

Protection of State Archeological Landmarks

• 13 TAC §45.4

The Texas Antiquities Committee (committee) proposes an amendment to §45. 4, concerning state land tracts designated by the committee as containing state archeological landmarks in Texas' submerged lands. The proposed amendment increases the number of sensitive state land tracts within which a state archeological landmark exists or which is likely to exist in Texas' submerged lands. Periodic review and update of designated state land tracts is the result of ongoing agency research and is required by subsection (f) of this section (concerning state land tracts designated by the committee as containing state archeological landmarks in Texas submerged lands).

J. Barto Arnold III, staff director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Arnold also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure the protection of sunken or abandoned pre-20th Century ships and wrecks of the sea located in Texas' waters. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kathleen McLaughlin-Neyland, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The amendment is proposed under the Natural Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and by House Bill 2056, 70th Legislature, 1987), §191.052, which provides the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

§45.4. State Land Tracts Designated by the Committee as Containing State Archeological Landmarks in Texas' Submerged Lands.

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

(d) The following designated state land tracts in Texas' submerged lands are areas in which pre-20th Century shipwrecks have been recorded by reference to geographic features, but without precise location. The committee designates these land tracts as areas in which there is a substantial probability of finding state archeological landmarks in Texas' submerged lands because of these records and the location of the tracts at passes and bay entrances which historically have been very active:

(1) (No change.)

(2) Galveston Bay:

54	98 A	122	134 A
61	113 A	122 B	135 A
82 A	114 A	123	136 A
86 A	115 A	124	137
87 A	116 A	125	137 A
92	117 A	126 A	138 A
93	119	127 A	139 A
94	120	132 A	197
95	121	133 A	198
199	245	285	359
200	246	286	360
226	263	287	361
227	264	308	362
228	265	309	
244	266	330	

(13)-(14) (No change.)

(15) **Tabbs Bay:**

11	12	13

(e)-(g) (No change.)

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

Issued in Austin, Texas, on April 13, 1992.

TRD-9205074

Kathleen McLaughlin-Neyland
Certifying Official
Texas Antiquities Committee

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 463-6098

♦ ♦ ♦

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Licensing and Regulation

Chapter 67. Auctioneers

• 16 TAC §67.94

(Editor's note: Due to an error published in the April 3, 1992, issue of the Texas Register (17 TexReg 2370), §67.94 is being republished in this issue of the Texas Register. The Texas Department of Licensing and Regulation submitted a closing bracket (]) after subsection (a) indicating the deletion of the subsection, however the closing bracket was inadvertently omitted which indicated that the entire rule was being deleted instead of just the subsection (a) (Note: subsections (b)-(e) are being deleted)) .

§67.94. Sanctions–Revocation, Suspension, or Denial because of a Criminal Conviction.

[(a)] Pursuant to Texas Civil Statutes, Article 6252-13c, the commissioner, after a hearing, may suspend, revoke, or deny an existing license, or disqualify a person from receiving a license, because that person has felony or misdemeanor conviction that directly relates to the duties and responsibilities involved in performing the duties of an auctioneer. The commissioner may also, after hearing, suspend, revoke, or deny a license because of a person's felony probation revocation, parole revocation, or revocation of mandatory supervision.

[(b) In determining whether a criminal conviction directly relates to the activities of being an auctioneer, the commissioner shall consider:

[(1) the nature and seriousness of the crime;

[(2) the relationship of the crime to the safe performance as an auctioneer;

[(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person was previously involved; and

[(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of being an auctioneer.

[(c) In determining the present fitness of a person who has been convicted of a crime, the commissioner shall also consider:

[(1) the extent and nature of the person's past criminal activity;

[(2) the age of the person at the time of the commission of the crime;

[(3) the amount of time that has elasped since the person's last criminal activity;

[(4) the conduct and work activity of the person prior to and following the criminal activity;

[(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

[(6) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or has custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

[(d) It shall be the responsibility of the applicant, to the extent possible, to secure and provide the department the recommendations of the prosecution, law enforcement, and correctional authorities as required.

[(e) The applicant shall also furnish proof, in such form as may be required by the department, that he or she has maintained a record of steady employment, has supported his dependents per court order, has otherwise maintained a record of good conduct, and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.]

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

Issued in Austin, Texas, on March 26, 1992.

TRD-9204294 Larry E. Kosta
Acting Executive Director
Texas Department of Licensing and Regulation

Earliest possible date of adoption: May 4, 1992

For further information, please call: (512) 463-3127

♦ ♦ ♦

Part VIII. Texas Racing Commission

Chapter 303. General Provisions

Subchapter F. Licensing Persons with Criminal Backgrounds

• 16 TAC §303.202

The Texas Racing Commission proposes an amendment to §303.202, concerning guidelines. The amendment clarifies the guidelines the commission will use to revoke, suspend, or deny a license for past criminal activity.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the commission's licensing program is conducted in accordance with applicable state laws. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before May 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §7.04, which authorize the commission to revoke, suspend, or deny an occupational license for past criminal activity; and Texas Civil Statutes, Articles 6252-13d, which authorize the commission to adopt guidelines for licensing persons with criminal backgrounds.

§303.202. Guidelines.

(a) In accordance with state law, the commission has developed guidelines relating to the suspension, revocation, or denial of occupational licenses based on criminal background. The offenses that the commission **has determined** [considers] are directly related to **the occupational licenses issued by the commission are** [a person's present fitness to perform the duties and responsibilities associated with a license issued by the commission include]:

(1) (No change.)

(2) an offense [under the laws of this state or another state] relating to racing, pari-mutuel wagering, or gambling;

(3) (No change.)

(4) **a criminal homicide offense, such as those described by the Penal Code, Chapter 19** [murder];

(5) **a burglary offense, such as those described by the Penal Code, Chapter 30;**

(6) **a robbery offense, such as those described by the Penal Code, Chapter 29;**

(7) (No change.)

(8) **a theft offense, such as those described by the Penal Code, Chapter 31;**

(9) an offense relating to the possession, manufacture, or delivery of a controlled substance, a dangerous drug, or an abusable glue or aerosol paint; [and]

(10) arson; **and**[.]

(11) a felony offense of driving while intoxicated.

(b) The commission has considered the following factors in determining whether or not a particular offense directly relates to a particular occupational license:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(c) Based on the factors described in subsection (b) of this section, the commission has determined that the offenses described in subsection (a) of this section are directly related to the following occupational licenses. (An "X" on the chart means the offense directly relates to the license.)

	Cool Out	Kennel Helper	Pony Person	Tooth Floater	Jockey	Apprentice Jockey	Valet	Jockey Agent	Mutuel Clerk	Mutuel - Other	Tote Technician	Concessionaire/ Vendor Employee	Admissions Person	Parking Attendant	Association Office Staff	Medical Staff	Association Chaplain	Maintenance	Food Service	Announcer	Chart-Writer	Stable Foreman
Offense for which fraud, dishonesty, or deceit is an essential element.					X	X	X	X	X	X	X	X	X	X							X	X
Offense under law of Texas or another state relating to gambling, pari-mutuel wagering or racing.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Offense involving moral turpitude.					X	X	X	X													X	X
Criminal homicide	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X	X	X	X	X	X	X	X													X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X	X				X			X	X
Possession, delivery or manufacture of a controlled substance, dangerous drug or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Driving While Intoxicated								X														X

denial2.drw

	Official	Association Judge	Veterinarian	Security Officer																		
Offense for which fraud,	X	X	X	X																		
Offense under law of Texas or another state relating to gambling, pari-mutuel wagering or racing.	X	X	X	X																		
Offense involving moral turpitude.	X	X	X	X																		
Criminal homicide	X	X	X	X																		
Burglary	X	X	X	X																		
Robbery	X	X	X	X																		
Cruelty to Animals	X	X	X	X																		
Theft	X	X	X	X																		
Possession, delivery or manufacture of a controlled substance, dangerous drug or abusable glue	X	X	X	X																		
Arson	X	X	X	X																		
Driving While Intoxicated	X	X	X	X																		

denial3.drw

	Owner	Kennel Owner	Trainer	Asst. Trainer	Owner/Trainer	Asst. Trainer/Owner	Kennel Owner/Owner	Kennel Owner/Trainer	Box Person	Asst. Starter	Outrider	Leadout	Test Tech	Entry Clerk	Association Officer/Director	Association-Other	Vendor/Concessionaire	Farrier/Plater Blacksmith	Tattooer	Exercise Rider	Groom	Veterinarian Asst.
Offense for which fraud, dishonesty, or deceit is an essential element.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X			X
Offense under law of Texas or another state relating to gambling, pari-mutuel wagering or racing.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Offense involving moral turpitude.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X					X
Criminal homicide	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Burglary	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Robbery	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cruelty to Animals	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Theft	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Possession, delivery or manufacture of a controlled substance, dangerous drug or abusable glue	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Arson	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Driving While Intoxicated	X	X	X		X		X	X										X				

denial.drw

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

Issued in Austin, Texas on April 3, 1992.

TRD-9205091 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 794-8461

♦ ♦ ♦

Chapter 309. Operation of Racetracks

Subchapter C. Greyhound Racetracks

Operations

• 16 TAC §309.360

The Texas Racing Commission proposes new §309.360, concerning educational opportunities. The section requires greyhound racetracks to conduct seminars and training programs for occupational licensees and to maintain a trainer's library.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the participants in pari-mutuel greyhound racing have educational opportunities at the racetracks. The costs to a greyhound racetrack for complying with the section will vary depending on the type of equipment provided and the types of programs developed and conducted. The estimated cost of compliance is approximately $5,000-$15,000. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before May 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of racetracks.

§309.360. Educational Opportunities.

(a) At least once every three years, an association shall conduct a seminar designed to enhance the ability of the occupational licensees working at the association's racetrack to perform their duties. The association shall videotape the seminar and provide a copy of the videotape to each pari-mutuel greyhound racetrack in this state.

(b) An association shall provide a trainer's library that contains the latest information on the proper care and handling of greyhounds, information on state-of-the-art equipment for racing, training, and caring for greyhounds, and videotapes or other audio-visual information and adequate equipment for viewing the videotapes or information. The association shall ensure the library is well-maintained and supplied and is open for use by the occupational licensees at all times that occupational licensees are present on association grounds. The association shall publicize the availability of the library and the materials contained in the library and shall encourage its use by occupational licensees.

(c) An association shall develop and implement a training program for leadouts.

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

Issued in Austin, Texas, on April 3, 1992.

TRD-9205092 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 794-8461

♦ ♦ ♦

TITLE 25. HEALTH SERVICE

Part V. Center for Rural Health Initiatives

Chapter 500. Executive Committee for the Center for Rural Health Initiatives

Subchapter C. Rural Health Clinic Development Program

• 25 TAC §§500.61-500.70

The Center for Rural Health Initiatives proposes new §§500.61-500.70, concerning the requirements for the Rural Health Clinic Development Program.

The new sections define terms used, eligibility requirements, the loan application process, and the terms of the loan agreement. The new sections define what a Rural Health Clinic must do in order to qualify and receive assistance through the Rural Health Clinic Development Program.

Stephen Seale, Chief Accountant III, Budget Division, has determined that there will be fiscal implications. The annual cost to state government is expected to be $500,000 for the loan fund and administrative costs.

Mr. Seale also has determined that the public benefit anticipated as a result of enforcing the section is assistance in bringing health services to rural citizens of Texas. The cost for small businesses which choose to participate in the loan program would be the interest on the loan. For a loan of the same size and period, the interest would be the same for a small or large business. There is no anticipated economic cost to persons who are required to comply with the sections. There is no anticipated impact on local employment.

Comments on the proposal may be submitted by May 15, 1992, to Melissa Kemp, Center for Rural Health Initiatives, P.O. Drawer 1708, Austin, Texas 78767-1708, (512) 479-8891.

The new sections are proposed under Texas Civil Statutes, Article 4414b-1, §4, which authorize the Center for Rural Health Initiatives to administer the Rural Health Clinic Development Program and Texas Civil Statutes, Article 4414b-1., §5.1(g), which authorize the Executive Committee of the Center for Rural Health Initiatives to adopt rules as necessary to implement the program.

§500.61. Purpose and Scope.

(a) The purpose of the Rural Health Clinic Development Program is to offer financial assistance in the development of Rural Health Clinics (RHCs) that are in the certification process or have been certified for less than 12 months. The objective of the program is to assist new RHCs with the initial start up costs that can be recovered through efficient and effective management.

(b) The Executive Committee of the Center for Rural Health Initiatives, as the governing body of the center, shall have overall responsibility for the Rural Health Clinic Development Program.

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

Applicant–An entity which plans to submit or has submitted an application for funds to the Center for Rural Health Clinic Development Program.

Application–A written request for Rural Health Clinic Development funds in the format as required by the Center.

Center–The Center for Rural Health Initiatives.

Cosigner–The individual and/or entity responsible for the loan in the event the clinic defaults the loan.

Executive committee–The executive committee of the Center for Rural Health Initiatives.

Executive director–The executive director of the Center for Rural Health Initiatives.

Prime interest rate–The rate of interest which banks charge to their most credit worthy customers. The rate is determined by the leading commercial banks and is published daily in the Wall Street Journal.

Review committee–The Rural Health Clinic Development Program Review Committee is responsible for reviewing each application and making recommendations for funding to the executive director. The review committee, selected by the executive director with the consent of the executive committee, includes, but is not limited to a:

(A) member of the Center's executive committee;

(B) member of the Center's advisory board;

(C) Center staff member;

(D) TDH staff member; and

(E) representative from the private sector.

RFA–Request for application.

Rural health clinic–A clinic that meets certification requirements as specified in §500.63(1) and (2) of this title (relating to Documents Adopted by Reference).

UG&CMS–Uniform Grant and Contract Management Standards adopted by the Governor's Office of Budget and Planning (§§5.141-5.167) under authority of Texas Civil Statutes, Article 4413(32g).

TDH–Texas Department of Health.

§500.63. Documents Adopted by Reference. The following documents are adopted by reference and may be viewed during normal business hours at the Center for Rural Health Initiatives, 211 East Seventh Street, Suite 915, Austin, Texas, 78767-1708.

(1) Rural Health Clinic Services Act, Public Law 95-210, as amended.

(2) Part 491, 42 Code of Federal Regulation, Chapter IV, Subpart A, Rural Health Clinics Certification, (10-1-89 Edition).

§500.64. Eligibility Requirements.

(a) An applicant requesting funding through the Rural Health Clinic Development Program must:

(1) be in one of the following phases of the process for certification as a Rural Health Clinic as specified in §500.63 of this title (relating to Documents Adopted by Reference):

(A) completed a feasibility study;

(B) submitted a completed certification application packet to the Texas Department of Health (TDH);

(C) requested a certification survey;

(2) have received approval recommendation by TDH as a certified Rural Health Clinic and is awaiting final certification by the United States Department of Health and Human Services; or

(3) have been certified by the United States Department of Health and Human Services as a Rural Health Clinic provided the loan application date is within 12 months of the date of certification.

§500.65. Procedure to Apply for Funds.

(a) Application cycle. At least annually the Center for Rural Health Initiatives will publish notice of availability of funds.

(b) Issuing office. The Request for Application (RFA) is issued by the Center and applicants request applications from the Center.

(c) Purpose. The RFA provides the applicant with essential information and forms to enable him or her to apply for financial assistance.

(d) Application submission.

(1) The Center's office must receive the application within 60 calendar days of the notice of the RFA.

(2) Applicants must submit typed original and two copies of the loan application to the Center.

(3) The application must be on the forms and in the format prescribed by the Center.

(4) The Center shall return late or incomplete applications to the applicant with an explanation. All complete applications submitted within the specified time frame will be considered for funding.

(e) Bankrupt. An applicant who has filed under the Federal Bankruptcy Code and the matter is in the process of being adjudicated or that has been adjudicated bankrupt is not eligible.

§500.66. Application Requirements. Applications must be in the format prescribed and contain the following information:

(1) a description of the organization which includes:

(A) full name and address;

(B) name, title, and telephone number of contact person;

(C) name, address, and telephone number of the entity that owns the RHC;

(D) public or private nonprofit status with proof of incorporation with Secretary of State office if private nonprofit;

(E) name of person responsible for the Rural Health Clinic;

(F) name of the financial officer responsible for the loan;

(G) name of the person authorized to sign legal contracts for the organization; and

(H) days and hours of clinic operation;

(2) a needs assessment which will include:

(A) community profile;

(B) demographic profile of the service area;

(C) health resources available in the community;

(D) cultural and social/economic health status;

(E) description of health problems;

(F) description of the service area and service population; and accounting entity;

(G) medical community profile;

(3) a financial plan which will include:

(A) summary of feasibility study;

(B) listing of other funding sources;

(C) financial statement signed by an auditor or accounting entity;

(D) projected first year budget estimates; and

(E) name of cosigner;

(4) a budget for the loan request:

(A) allowable costs which may include, but are not limited to, the following:

(i) building renovation;

(ii) computer hardware and software;

(iii) lab equipment required for RHC certification

(iv) exam table;

(v) emergency drug box;

(vi) medical equipment required for RHC certification;

(vii) refrigerator required for drug/vaccine storage;

(viii) supplies;

(ix) personnel salaries and fringe benefits;

(x) staff and job related training; and

(xi) contract physician services;

(B) nonallowable costs may include, but are not limited to, the following:

(i) construction of a new building;

(ii) purchase of land or a building;

(iii) vehicles; or

(iv) consulting the cost of a feasibility study;

(5) an authorization to investigate credit; and

(6) letters of support.

§500.67. Evaluation of Application.

(a) The review committee will conduct a review of each complete application to determine the level of funding need based on the following criteria.

(1) The applicant has demonstrated the financial feasibility of the clinic based on feasibility study summary.

(2) The applicant has fully identified and documented the need for funding based on the percentage of Medicaid/Medicare recipients, service area demographics, availability of primary care services, and the health needs of the service area population.

(3) The applicant has demonstrated that the clinic will ensure an increase in access to health services for Medicaid/Medicare recipients.

(4) The applicant is financially stable as documented by the financial statement.

(5) The applicant has demonstrated a networking system of health care resources as documented by the medical community profile, health resources available, and letters of support.

(b) An application that contains false information to increase the likelihood of receiving funding is denied consideration for the duration of the application period.

(c) The review committee will reserve the right to conduct an on-site visit of the applicant's facility.

(d) The review committee, through a ranking of relative need, will recommend loan amounts to be awarded for the executive director's consideration for selection.

(e) The executive director will reserve the option based on the recommendation of the review committee to negotiate the amount to be awarded with the applicant.

(f) The executive director may limit the award amounts based on the availability of funds.

§500.68. Loan Award.

(a) The executive director of the Center for Rural Health Initiatives reviews the recommendations and announces the projects selected for funding.

(b) The Center will notify applicants in writing within 60 days of the application deadline of the approval or denial of the application with the loan agreement being executed within 10 working days of approval.

(c) Any applicant who is denied funds under this program may file a written request for an administrative review and redetermination of the denial. The request shall be mailed to the Center, P.O. Drawer 1708, 211 East Seventh Street, Suite 915, Austin, Texas 78767-1708. Upon receipt of this request, the Center staff shall conduct an administrative review and this decision will be final. A written notice of the decision either upholding or overruling the denial will be mailed to the applicant.

(d) Loan awards will be unsecured loans limited up to $50,000.

(e) The executive committee will receive notification of applicants funded at the next scheduled meeting.

§500.69. Loan Interest Rate. The interest rate shall be fixed at prime rate at the day of closing as defined in §500.62 of this title (relating to Definitions), with a floor of 6.0% and a ceiling of 12%.

§500.70. Loan Agreement.

(a) An approved applicant will enter into a loan agreement with the center prior to the allocation of funds.

(b) The loan agreement shall:

(1) contain provisions requiring compliance with the requirements of these sections and the program standards in accordance with the UG&CMS fiscal requirements for the administering, accounting, auditing, and recovering of funds;

(2) specify the interest rate on the loan as specified in §500.69 of this title (relating to Loan Interest Rate) on the date which the loan agreement is signed; and

(3) specify the following loan payment schedule.

(A) If full payment of the loan is made within six months from the date which the loan was issued, the payment is the total principal without interest.

(B) If full payment of the loan is made within nine months from the date which the loan was issued, the payment is the principal plus the fixed prime interest rate, as defined in §500.69 of this title (relating to Loan Interest Rate), minus 2.0% simple interest.

(C) If full payment of the loan is made after nine months, the payment is the principal plus the fixed prime interest rate as defined in §500.69 of this title (relating to Loan Interest Rate).

(D) The total principal and applicable interest must be paid no later than 12 months from the date which the loan was issued.

(E) In all cases of default, the loan recipient will be responsible for the payment of the principal plus the fixed prime interest rate, as defined in §500.69 of this title (relating to Loan Interest Rate) and any other collection costs.

(F) The executive director with the consent of the review committee shall reserve the option to renegotiate the

terms of the loan if the loan recipient is unable to fulfill the obligations of the loan agreement.

(G) The executive director will submit an annual report to the executive committee 30 days prior to the end of the fiscal year.

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

Issued in Austin, Texas, on April 13, 1992.

TRD-9205103 Bryan P. Sperry
Executive Director
Center for Rural Health Initiatives

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 479-8891

♦ ♦ ♦

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Program Planning

• 37 TAC §87.13, §87.17

The Texas Youth Commission (TYC) proposes amendments to §87.13 and §87. 17, concerning special treatment programs and youth commitment to mental health facilities. The amendment to §87.13 reflects an expansion of the category of special needs youth to include those youth who have offense specific treatment needs. Also, in both §87.13 and §87.17, the title of the chief of counseling has been changed to chief of mental health services.

John Franks, director of fiscal affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Franks also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more effective mental health services for youth committed to TYC. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendments are proposed under the Human Resources Code, §61.076, which provides the Texas Youth Commission with the authority to provide any psychiatric treatment that is necessary as a means of correcting the socially harmful tendencies of a child committed to the agency.

§87.13. Special Treatment Programs.

(a) (No change.)

(b) Rules.

(1) Youth eligible for special programs are special needs youth, [i.e., youth] who **have** [possess] psychological needs, **or offense specific treatment needs** which cannot be met by the facility's regular program.

(2) (No change.)

(3) Proposals for the development of new special programs:

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

(C) are submitted to the chief of **mental health services** [counseling] for review.

(4) Implementation of programs must be approved by the chief of **mental health services** [counseling] and the director of institutions or the director of community service as appropriate.

§87.17. Commitment to Mental Health Facilities.

(a) (No change.)

(b) Rules.

(1) (No change.)

(2) General commitment procedures.

(A)-(D) (No change.)

(E) TYC staff informs the chief of **mental health services** [counseling] of the referral to TDMHMR by electronic mail.

(F)-(H) (No change.)

(I) The casemanager or (parole officer) assigned to the region in which the TDMHMR facility is located continues to update the youth's individual case plan quarterly, [and] prior to release, and recommends a placement to the centralized placement unit.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205129 Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 483-5244

♦ ♦ ♦

Chapter 91. Discipline and Control

Control

• 37 TAC §91.53

The Texas Youth Commission (TYC) proposes amendments to §91.53, concerning the search of a youth or a youth's room in a TYC residential facility. The amendment states that staff must follow precautionary guidelines in accordance with workplace guidelines. Also, the definition of body cavity is included in relation to search and seizure.

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

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient and safe search and seizure procedures. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The new section is proposed under the Human Resources Code, §61.034, which provide the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

§91.53. Search

(a) Policy. Designated staff may conduct a search of a Texas Youth Commission (TYC) youth or a youth's room in a TYC residential facility for the purpose of finding and seizing contraband in compliance with General Operating Policy (GOP) 61.01, §89.1 of this title, [() concerning basic youth rights[)].

(b) Rules.

(1) Searches, except body cavity searches, to detect and deter possession of contraband or to protect persons may be conducted with or without probable cause so long as searches are conducted at a reasonable time and in a reasonable manner.

(A) Room searches.

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

***(iv)* Staff will follow precautionary guidelines in accordance with Workplace Guidelines, HLS-760.**

(B) (No change.)

(2) Body cavity searches are permissible only on probable cause that the youth possesses contraband and shall be conducted only by medical personnel. **Body cavity is defined as the vagina or rectum for purposes of required a medical staff to perform the exam.**

(3) (No change.)

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

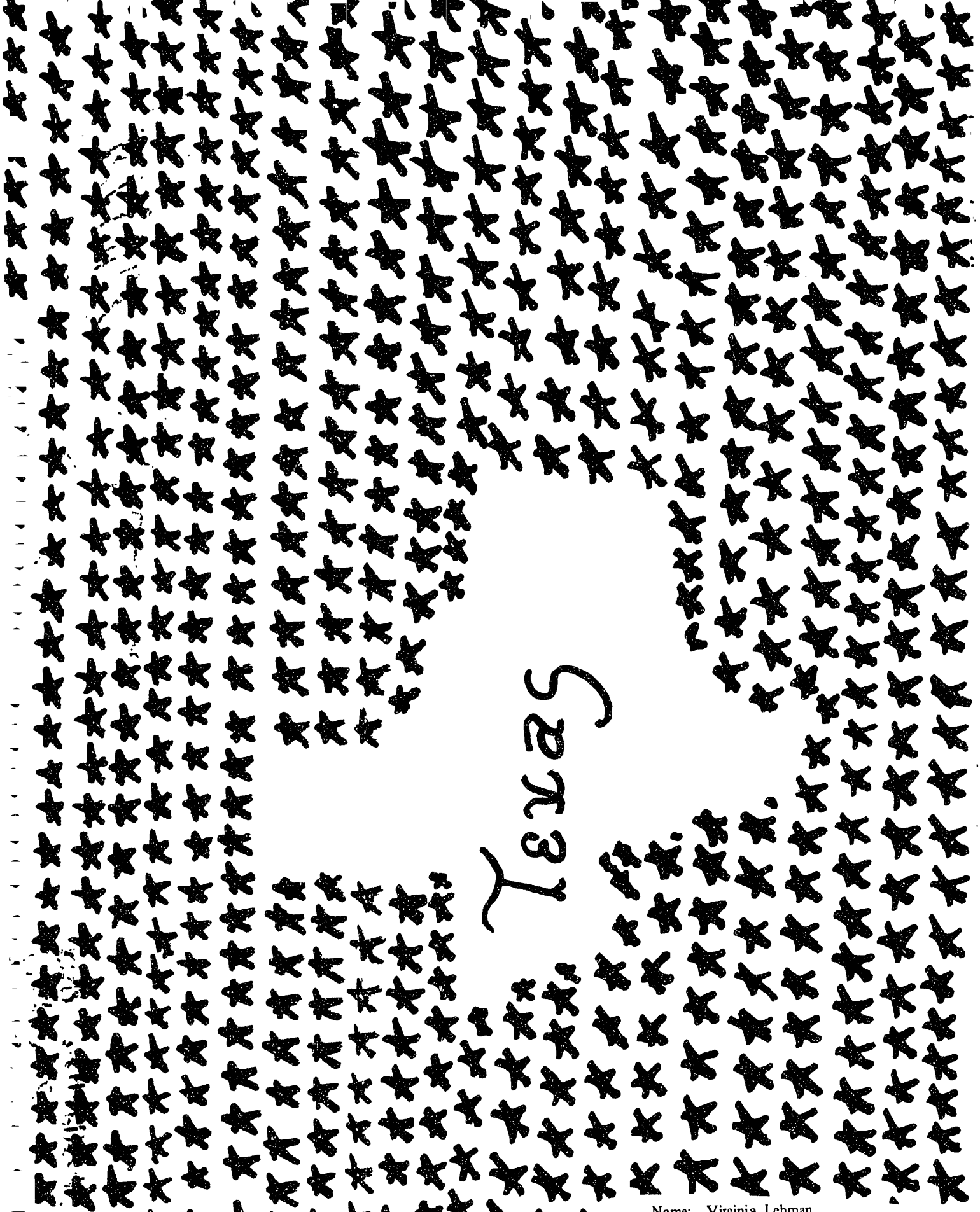
Issued in Austin, Texas, on April 10, 1992.

TRD-9205128 Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: May 22, 1992

For further information, please call: (512) 483-5244

♦ ♦ ♦



Name: Virginia Lehman

Grade: 9

School: Westwood Jr. High, Richardson ISD

Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filling or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 5. Interior Designers

Subchapter H. Rules of Conduct

• 22 TAC §5.154

The Texas Board of Architectural Examiners has withdrawn from consideration for permanent adoption a proposed new §5.154 which appeared in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7432). The effective date of this withdrawal is April 13, 1992.

Issued in Austin, Texas, on April 13, 1992.

TRD-9205125 Joyce M. Franke
Administrative Technician II
Texas Board of Architectural Examiners

Effective date: April 13, 1992

For further information, please call: (512) 458-1363

♦ ♦ ♦

The Texas Board of Architectural Examiners has withdrawn the emergency effectiveness of new §5.154, concerning the rules of conduct. The text of the emergency §5.154 appeared in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7417). The effective date of this withdrawal is April 13, 1992.

Issued in Austin, Texas, on April 13, 1992

TRD-9205124 Joyce M. Franke
Administrative Technician II
Texas Board of Architectural Examiners

Effective date: April 13, 1992

For further information, please call: (512) 458-1363

♦ ♦ ♦

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 128. Licensure and Regulation of Marriage and Family Therapists

Subchapter K. Continuing Education Requirements.

• 25 TAC §§128.262-128.270

The Texas Department of Health withdraws proposed new §§128.262- 128. 270, which were published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7603).

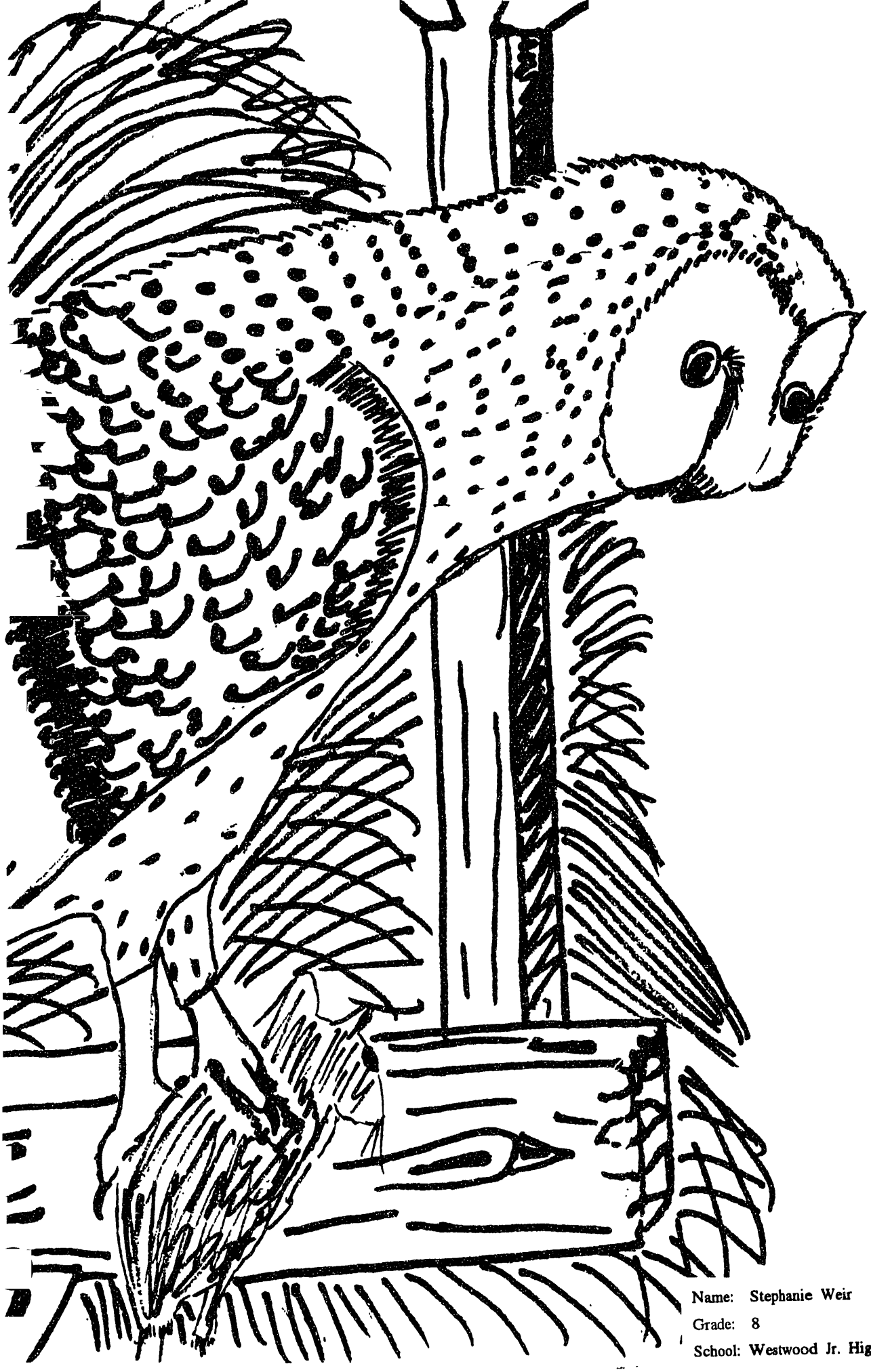
Issued in Austin, Texas, on April 14, 1992.

TRD-9205256 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: April 14, 1992

For further information, please call: (512) 459-2912

♦ ♦ ♦



Name: Stephanie Weir

Grade: 8

School: Westwood Jr. High, Richardson ISD

Adopted Sections

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

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

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 4. Currency Exchange

Subchapter B. General

• 7 TAC §4.02

The Finance Commission of Texas adopts new §4.02, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 90).

The banking commissioner is charged with the duty of administering and enforcing the Currency Exchange Act. The commissioner, at all times, needs to know who each licensee's owners and principal employees are, in order to ensure continued compliance with the provisions of the Act. This will allow the commissioner to discharge his duty to keep disreputable elements out of these industries.

The rule concerns the addition of a new principal (as defined in the Currency Exchange Act, §1) by a currency exchange or transmission business licensed under the Currency Exchange Act. This new section requires that licensees notify the commissioner of the addition of a new principal and submit the necessary application information relating to that principal.

No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 350, §7, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

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

Issued in Austin, Texas on April 13, 1992.

TRD-9205076 Ann Graham
General Counsel
Department of Banking

Effective date: May 4, 1992

Proposal publication date: January 7, 1992

For further information, please call: (512) 475-1300

♦ ♦ ♦

• 7 TAC §4.03

The Finance Commission of Texas adopts new §4.03, with changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 90).

The Currency Exchange Act requires that licensees comply with applicable federal laws and regulations. These businesses must maintain certain basic business records with respect to the regulated activities in accordance with Title 31 of the United States Code and Title 31 of the Code of Federal Regulations. The rule requires that each licensee maintain separate records for Texas operations and make those records accessible to the Department of Banking, which will allow the department to perform the exam required by the Act. Licensees will be required to submit quarterly reports of their activities to the commissioner, which allows the department to monitor licensees off-site, between examinations. Statistical data generated from the quarterly reports can be used by the department, lawmakers, and federal and state law enforcement authorities.

This new section requires that licensees maintain records required under federal law, make them accessible to the Department of Banking, and file quarterly reports with the Department of Banking on forms to be prescribed by the commissioner.

No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 350, §7, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act, including rules with respect to recordkeeping and reporting by licensees.

§4.03. Reporting and Recordkeeping.

(a) Licensees shall maintain separate accounting books and records in Texas relating to their operations. All books and records maintained by licensees in accordance with this section shall be located where they are readily accessible to the Department of Banking.

(b) Licensees shall maintain records of any filings made pursuant to or documentation required under any applicable federal law or regulation, including, but not limited to, the requirements set forth in Title 31 United States Code, §5313, and Title 31 Code of Federal Regulation, Part 103.

(c) Each licensee shall, in a form prescribed by the Banking Commissioner, file quarterly written reports to the Department of Banking.

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

Issued in Austin, Texas on April 13, 1992.

TRD-9205077 Ann Graham
General Counsel
Department of Banking

Effective date: May 4, 1992

Proposal publication date: January 7, 1992

For further information, please call: (512) 475-1300

♦ ♦ ♦

• 7 TAC §4.04

The Finance Commission of Texas adopts new §4.04, with changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 90).

The banking commissioner is charged with the duty of administering and enforcing the Currency Exchange Act. The commissioner, at all times, needs to know where licensees are conducting business, in order to ensure continued compliance with the provisions of the Act and allow the department to monitor their activities and examine their business operations.

This rule requires that the department be given advance notification of a change in the business location of a licensee. The purpose of the rule is to allow the department to keep a current record of where each licensee is conducting business. The rule also requires that the licensee identify the landlord or owner of the new location.

No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 350, §7, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

§4.04. Change of Location. Each licensee shall give the banking commissioner 30 days' prior, written notification of any change in any location from which it conducts any of its currency exchange or transmission activities, including the identify of the new location, the name of the lessor or owner of the new location, and the estimated date of the change.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on April 13, 1992.

TRD-9205078 Ann Graham
General Counsel
Department of Banking

Effective date: May 4, 1992

Proposal publication date: January 7, 1992

For further information, please call: (512) 475-1300

♦ ♦ ♦

Subchapter A. General

• 7 TAC §4.05

The Finance Commission of Texas, Banking Section, adopts new §4.05, with changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 91).

This rule requires that persons who propose to acquire control of the voting securities of a corporate licensee file an application with the commissioner for his review and approval. The focus of the rule is to allow the commissioner to perform the necessary background investigation before a new person becomes a substantial owner of the business. A license issued under the Act is not transferable or assignable. However, a corporation, unlike other entities, continues in existence regardless of how often its stock is bought or sold. Without this rule, control of a license could effectively be transferred from one party to another without the commissioner's knowledge.

The new section requires that an application for acquisition of control of a corporate licensee be filed, in advance, with the commissioner. The new section would also provide the processing time for the application and allow for a hearing in the event the application is denied.

No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 350, §7, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

§4.05. Acquisition of Control of Corporate Licensee.

(a) No person may acquire control of a corporate licensee if, after acquisition, the person would own or possess the power to vote 10% or more of the voting securities of the licensee, directly or indirectly, unless an application is filed with the banking commissioner for his review of the proposed transaction and for his action, if any, as provided in this section.

(b) The application shall be on a form prescribed by the banking commissioner and shall be made under oath. The application shall, except to the extent expressly waived by the banking commissioner, contain the following information:

(1) the identity, personal history, business background, and experience relating to the currency exchange or transmission business, and a description of any material, pending legal or administrative proceedings to which the applicant is a party;

(2) any plans or proposals which any acquiring party making the acquisition may have to make major changes in its business or corporate structure or management; and

(3) such other information that the commissioner orders to be included in the particular application being filed.

(c) The applicant shall pay the appropriate filing fee when he files the application. A person proposing to acquire voting securities subject to the provisions of this section includes an individual, two or more individuals acting in concert, any type of partnership, corporation, syndicate, trust, or any other organization, or any combination of the foregoing, and the information required by the banking commissioner may be required of each member of the group, as directed by the banking commissioner.

(d) The banking commissioner shall issue an order denying an application if he finds that the application does not meet the statutory requirements of the Currency Exchange Act.

(e) If an application filed under this section is not denied by the banking commissioner within 30 days after it is filed, the transaction may be consummated. The banking commissioner, before the expiration of the 30-day period, may give the applicant written notice that the application will not be denied, in which case the transaction may be consummated. Any agreement entered into by the applicants and the banking commissioner as a condition that the application will not be denied is enforceable against the licensee and will be considered an agreement under the provisions of the Currency Exchange Act for all purposes.

(f) If the banking commissioner issues an order denying an application, the applicant is entitled to a hearing if he so requests, in writing, no later than 30 days after the application is filed or the 20th day after the day the application is denied. Any such hearing shall be conducted in accordance with the Currency Exchange Act, §21.

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

Issued in Austin, Texas on April 13, 1992.

TRD-9205079 Ann Graham
General Counsel
Department of Banking

Effective date: May 4, 1992

Proposal publication date: January 7, 1992

For further information, please call: (512) 475-1300

♦ ♦ ♦

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 5. Interior Designers

Subchapter A. Scope; Definitions

• 22 TAC §§5.1-5.18

The Texas Board of Architectural Examiners adopts new §§5.1-5.18, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7429).

The new sections are concerning the scope and definitions of the rules and explain their purpose and legal authority. The definitions for the terms used in the rules are stated as well as the duties of the officers and board members.

The sections will function to clarify the rules and assure that the composition of the board is in compliance with state law.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205113 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter B. Registration

• 22 TAC §§5.31-5.39

The Texas Board of Architectural Examiners adopts new §§5.31-5.39. Section 5.31 and §5.38 are adopted with changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7429). Sections 5.32-5.37 and 5.39 are adopted without changes and will not be republished.

The requirements and procedures for registration are explained in these new sections. Section 5.31 was changed to correct an oversight in subsection (c) in that it would properly eliminate the Table of Equivalents from consideration regarding subsection (a). The change in §5.38 added language in order to clarify subsection (c).

The effect of these new sections will be to bring the registration and regulation of interior designers in compliance with the new state law.

Comments were received requesting that the board change the eligibility requirement for registration, §5.31(b)(1), to give other interior design degrees the same credit evaluation as those from a FIDER accredited program, which accreditation is accepted as the professional standard of institutions of higher learning.

The names of groups and assocations making comments against the section are as follows: The Art Institute of Dallas; and The Art Institute of Houston.

The board disagreed with these comments and acted to keep the eligibility language in place in order to work toward upgrading the qualifications of the profession in keeping with board philosophy and also that of the strategic plan of the State of Texas.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

§5.31. Eligibility.

(a) The board shall accept for interior designer registration without examination:

(1) an applicant who files an application with this board no later than August 31, 1992, and who prior to September 1, 1991, had six or more years total experience credits as a full-time:

(A) principal in an organization which offers or performs interior design services;

(B) employee with interior design responsibilities in organizations which offer or perform interior design services;

(C) teacher of interior design courses in a FIDER accredited program(s); or

(D) principal, employee, and/or teacher as described in subparagraphs (A), (B), and/or (C) of this paragraph or any combination thereof;

(2) an applicant who files an application with this board no later than August 31, 1992, and who, prior to August 31, 1991, had been:

(A) a principal in an organization(s) which offered or performed interior design services;

(B) an employee with interior design responsibilities in an organization(s) which was offering or performing interior design services;

(C) a teacher of interior design courses in a FIDER accredited program(s); and

(D) who subsequently completes a combined total of six or more years credits in subparagraphs (A), (B), or (C) of this paragraph.

(b) The board shall accept for interior designer registration by examination an applicant who files an application showing evidence of having:

(1) a degree in interior design from a FIDER accredited program; and, one or more years of experience credit in interior design; or

(2) a combined total of six or more years of interior design education and/or experience credits including at least one year of each.

(c) Education and experience credits in subsection (b) of this section shall be evaluated in accordance with the latest edition of the "Table of Equivalents."

§5.38. Reciprocal Transfer.

(a) Individuals holding certificates of registration in other states, nations, or territories applying for registration in Texas by reciprocal transfer, shall be considered upon transmittal of their written application on a form provided by the board. Acceptance of the information submitted will be subject to confirmation by the applicant's state from which he or she is applying.

(b) Criteria for reciprocal registration as described in subsection (a) of this section includes:

(1) certification by state boards in which candidate holds current registration that the applicant is in good standing with the jurisdiction that granted the applicant a license or registration;

(2) the requirements for licensing or registration in the other jurisdiction are substantially equivalent to those of this state.

(c) Application fees for registration in Texas, as stated in Subchapter E of this chapter (relating to Fees), must be submitted with the NCIDQ certification record and/or application.

(d) Approval of applications for registration by reciprocal transfer will be by letter confirming the board action. The fee for registration, after approval of application, as stated in Subchapter E of this chapter (relating to Fees), must be remitted within 60 days after notification of the approval.

(e) Rejections of applications for registration by reciprocal transfer will be by letter explaining the reasons and outlining procedures under which reconsideration may be possible.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205117 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter C. Examinations

• 22 TAC §§5.51-5.60

The Texas Board of Architectural Examiners adopts new §§5.51-5.60, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7429).

The new sections explain the requirements and procedures for examinations.

The anticipated result of these new sections will be the assurance of a standard of competence of registered interior designers.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205118 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter D. Certification and Annual Registration

• 22 TAC §§5.71-5.80

The Texas Board of Architectural Examiners adopts new §§5.71-5.80, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7430).

The new sections are needed to explain the requirements and procedures regarding certification and annual registration.

The function of these new sections will be to serve as a procedural explanation of the certification and annual registration of interior designers.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205119 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter E. Fees

• 22 TAC §§5.91-5.99

The Texas Board of Architectural Examiners adopts new §§5.91-5.99. Section 5.97 is adopted with changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7430). Sections 5.91-5.96, 5.98, and 5.99 are adopted without changes and will not be republished.

The new sections describe the fees and related procedures regarding registration of interior designers. Section 5.97 was changed to correct an oversight; language was added to include the $25 application fee for reciprocal applicants. This fee did appear in the chart submitted and published for the proposed preamble public benefit-cost note.

The function of these sections is to recover the cost of registration services from those who apply for registration.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

§5.97. Reciprocal Transfer Fee. Applicants requesting registration in Texas by reciprocity from other states must remit an application fee in the amount of $25. This fee is not refundable. If the application is approved, a certificate of registration will be issued upon receipt of an initial registration fee in the amount of $100.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205120 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter F. The Interior Designer's Seal

• 22 TAC §§5.111-5.114

The Texas Board of Architectural Examiners adopts new §§5.111-5.114, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7431).

The requirements and procedures regarding the design and use of the interior designer seal are set forth in these new sections.

The purpose of these new sections is to establish procedures for identifying professional documents prepared under the supervision of an interior designer.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205121 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter G. Titles and Firm Names

• 22 TAC §§5.131, 5.132

The Texas Board of Architectural Examiners adopts new §§5.131 and 5.132, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7432).

The new sections proclaim the legal use of professional title and the performance of professional services.

The function of these new sections is to clarify the conditions under which interior design services may be offered or performed.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205122 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter H. Rules of Conduct

• 22 TAC §§5.151-5.153, 5.155, 5.156

The Texas Board of Architectural Examiners adopts new §§5.151-5.153, 5. 155, and 5.156, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7432).

The new sections provide guidelines for the performance of professional services by interior designers.

The effect of these new sections will be to promote a clearer understanding of standards of professional performance regulated by the board and the procedures followed when investigating a complaint of alleged violation of those standards by an interior designer.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205123 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter I. Charges Against Interior Designers: Action

• 22 TAC §§5.171-5.187

The Texas Board of Architectural Examiners adopts new §§5.171-5.187, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7432).

The new sections define complaints and the procedures to implement enforcement of the law.

The new sections will function to provide a clearer understanding of the disciplinary actions available to the board and the procedures to be followed when determining whether disciplinary action is warranted.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205126 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Subchapter J. Violations by Unregistered Persons

• 22 TAC §§5.201-5.205

The Texas Board of Architectural Examiners adopts new §§5.201-5.205, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7433).

The new sections describe the authority and procedures of the board to enforce alleged violations of the interior designer registration law by unregistered persons.

The new sections will function to provide a clearer understanding of the scope of authority and procedures to be followed by the board when enforcing complaints of alleged violations of the interior designer registration law by unregistered persons.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on April 10, 1992.

TRD-9205127 Robert H. Norris, AIA
Executive Director
Texas Board of Architectural Examiners

Effective date: May 4, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 458-1363

♦ ♦ ♦

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.2

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.2, concerning release of patient or client information, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1872).

The amendment will update board requirements concerning the release of patient or client information so that the rule reflects current requirements of the law. The 72nd Legislature repealed relevant law sections and transferred requirements to other code sections.

The amendment will clarify to psychologists and the public that the board requires psychologist to comply with all state and federal laws requiring the psychologists to reveal patient/client information.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205205 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of Psychologists

Effective date: May 5, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 835-2036

♦ ♦ ♦

• 22 TAC §465.30

The Texas State Board of Examiners of Psychologists adopts new §465.30, concerning marriage and family therapy, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1872).

Psychologists receive training in their doctoral programs to perform marriage and family therapy.

The new section will put the public on notice that psychologists are trained in marriage and family therapy within their doctoral programs.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205206 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of Examiners of Psychologists

Effective date: May 5, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 835-2036

♦ ♦ ♦

• 22 TAC §465.31

The Texas State Board of Examiners of Psychologists adopts new §465.31, concerning marriage and family therapy, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1872).

Psychologists receive training in their doctoral programs to treat alcohol and substance abuse issues.

The new section will put the public on notice that psychologists are trained in alcohol and substance abuse treatment within their doctoral programs.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205207 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of Examiners of Psychologists

Effective date: May 5, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 835-2036

♦ ♦ ♦

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter B. HIV Education Grant Program

General Provisions

• 25 TAC §98.67

The Texas Department of Health (department) adopts an amendment to §98.67, concerning State HIV Education, Prevention, and Risk Reduction Advisory Committee, without changes to the proposed text as published in the March 3, 1992, issue of the *Texas Register* (17 TexReg 1589).

The amendment updates membership requirements regarding the State HIV Education, Prevention, and Risk Reduction Advisory Committee by modifying the membership category, "Texas Youth Commission" to encompass local correctional facilities, such as jails.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Health and Safety Code (code), §85.044, which provides the Board of Health (board) with the authority to establish an advisory committee to assist the board in the implementation of the state HIV Education Grant Program; §11.016, which provides the board with authority to appoint advisory committees; and §12.001, which provides the board with authority to adopt rules to implement its duties.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205216 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: March 3, 1992

For further information, please call: (512)458-7463

♦ ♦ ♦

Chapter 128. Licensure and Regulation of Marriage and Family Therapists

Subchapter A. Introduction.

The Texas Department of Health (department) adopts new §§128.1, 128.2, 128.11-128.20, 128.41-128.51, 128.71-128.73, 128.91-128.94, 128.111-128.114, 128.141-128.144, 128.171-128.174, 128.201-128.203, 128.231-128.237, 128.261, 128.291-128.295, 128.321, 128.322, and 128.331-128.339, concerning licensed marriage and family therapists. Sections 128.1, 128.2, 128.14, 128.15, 128.19, 128.20, 128.43, 128.73, 128.113, 128.114, 128.142-128.144, 128.172, 128.174, 128.202, 128.203, 128.232, 128.234, 128.235, and 128.261 are adopted with changes to the proposed text as published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7590). Sections 128.11-128.13, 128.16-128.18, 128.41, 128.42, 128.44-128.51, 128.71, 128.72, 128.91-128.94, 128.111, 128.112, 128.141, 128.171, 128.173, 128.201, 128.231, 128.233, 128.236, 128.237, 128.291-128.295, 128.321, 128.322, and 128.331-128.339 are adopted without changes and will not be republished. The department is withdrawing proposed §§128.262-128.270 because they are going to be rewritten and reproposed at a later date in the *Texas Register*.

The new sections implement the Licensed Marriage and Family Therapists Act, Acts 1991, 72nd Legislature, Chapter 824 (Senate Bill 181), concerning the licensure and regulation of marriage and family therapists. The new sections will cover the following areas: purpose; definitions; procedure and duties of the Texas State Board of Examiners of Marriage and Family Therapists; a code of ethics for therapists; application procedures for examination and licensure; criteria for determining fitness of applicants for examination and licensure; academic and experience requirements for examination and licensure; licensure examinations; issuance of licenses; license renewal and inactive status; continuing education requirements; complaints and violations; licensing persons with criminal backgrounds; and hearing procedures for denial, suspension, or revocation of licenses.

The following comments were received during the comment period.

COMMENT: Concerning §128.2, a commenter suggested that the term "Grandfather clause" be included in the definitions.

RESPONSE: The department agrees and has included the term "Grandfather period" in the definitions.

COMMENT: Concerning §128.2, a commenter suggested that the terms "individual supervision" and "group supervision" be included in the definitions.

RESPONSE: The department agrees and has included the terms in the definitions.

COMMENT: Concerning §128.2, a commenter suggested that, in the definition of "marriage and family therapy," the term "married couples" be replaced with the term "couples."

RESPONSE: The department disagrees as this definition comes from Texas Civil Statutes, Article 4512c-1.

COMMENT: Concerning §128.2, a commenter recommended that the definition of "revoke/revocation" be deleted for clarification purposes.

RESPONSE: The department agrees and has deleted the definition.

COMMENT: Concerning §128.2, a commenter suggested that the term "supervision" be included in the definitions.

RESPONSE: The department agrees and has added the definition.

COMMENT: Concerning §128.14(a), a commenter suggested that the term "sexual orientation" be added to the subsection.

RESPONSE: The department disagrees as there are no applicable state or federal laws that discuss sexual orientation in regards to impartiality or discrimination.

COMMENT: Concerning §128.15, a commenter suggested that the term "disabled" be used instead of the term "handicapped."

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning §128.19(b)(2), a commenter suggested that the fixed fee of $30 for the licensure examination be deleted and replaced with language which gives the department flexibility to adjust the fee. The reason is that the department contracts with vendors to give examinations and their examination fees will vary; the change will enable vendors with varying examination fees to participate in the program.

RESPONSE: The department agrees and has made the appropriate change.

COMMENT: Concerning §128.20, a commenter suggested that a provision be added which gives a license applicant 30 days to file a completed application in the case when deficiencies exist in the application or documentation. The commenter believes that such a provision is required in order for the rule to be in compliance with Texas Civil Statutes, Article 6252-13b.1.

RESPONSE: The department agrees and has made the change by adding a new subsection (d) to include the appropriate provision. The remaining subsections have been renumbered.

COMMENT: Concerning §128.43(k), a commenter suggested that the terms "intern" and "supervisee" be added to the subsection for clarification.

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning §128.73(b)(7), a commenter suggested that the wording "whether individuals, families or couples" be used instead of the wording "and therapy methods used."

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning §128.73(d)(2), a commenter suggested that the term "references" be clarified.

RESPONSE: The department agreed and has appropriately clarified subparagraphs (A)-(C) in the paragraph.

COMMENT: Concerning §128.113(a)(1) and (2), a commenter requested clarification as regards types of training programs in marriage and family therapy or related mental health fields or departments in which these marriage and family training programs are housed.

RESPONSE: The department believes that the paragraphs, as written, are sufficiently clear and has made no change to the language.

COMMENT: Concerning §128.113(c)(1) and (2), a commenter suggested that graduates of doctoral programs should be allowed to count clinical or supervised hours accrued during the doctoral program.

RESPONSE: The department disagrees because the language in the paragraphs is based on explicit language in Texas Civil Statutes, Article 4512c-1. Accordingly, the department has made no change.

COMMENT: Concerning §128.113(d), a commenter suggested that the subsection is inappropriate to these rules.

RESPONSE: The department agrees and has deleted the subsection. The remaining subsection has been renumbered.

COMMENT: Concerning proposed §128.114(a), a commenter requested that the phrase "substantial equivalent course work" be clarified.

RESPONSE: The department agrees and has restructured the format of the rule and modified the language in final §128.114 for clarification.

COMMENT: Concerning §128.142(b) and (c), a commenter requested clarification of the experience requirements.

RESPONSE: The department agrees and has appropriately clarified the subsections.

COMMENT: Concerning proposed §128.143(a) and (b), a commenter requested clarification of the supervisor requirements.

RESPONSE: The department agrees and has appropriately clarified the subsections by deleting proposed subsection (b) and making proposed subsection (c) the final subsection (b).

COMMENT: Concerning §128.172, a commenter suggested that the provision be changed to say "The board, or its designee, shall administer licensure examinations at least semi-annually or as often as deemed necessary."

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning §128.174, a commenter recommended that the examination requirements and procedures be clarified.

RESPONSE: The department agrees and has made appropriate clarifying changes.

COMMENT: Concerning §128.202(b) and (d), a commenter requested that a 30-day time period for issuance of a license and issuance of a duplicate license, if requested, be added to comply with Texas Civil Statutes, Article 6252-13b.1.

RESPONSE: The department agrees and made appropriate changes.

COMMENT: Concerning §128.203(a), a commenter recommended that the second sentence in the subsection be deleted for clarification purposes.

RESPONSE: The department agrees and has deleted the sentence.

COMMENT: Concerning §128.234(a) and (d), a commenter recommended that the subsections be modified concerning time periods in order to comply with the requirements of Texas Civil Statutes (TCS), Article 6252-12b.1.

RESPONSE: The department agrees and has made appropriate changes.

COMMENT: Concerning §128.235, a commenter recommended that the words "a final notice will be sent 30 days after the expiration date" be added to comply with the requirements of TCS, Article 6252-13b.1.

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

COMMENT: Concerning §128.261, a commenter suggested that continuing education may be a problem during the grandfather period as programs have not been approved.

RESPONSE: The department agrees and has added appropriate language to eliminate the problem. The department also has decided to withdraw proposed §§128.262-128.270 concerning continuing education in order to rewrite these sections and repropose them later in the *Texas Register*.

In addition to changes made as a result of comments received, the department has made minor editoral changes for clarification purposes to §128.1 and §128.2, §128.14(a), §128.73(b)(4) and (d), §128.203(d)(3), and §128. 232(e).

None of the commenters were totally for or against the sections, but they had recommendations and suggestions regarding changes. Comments were received from American Association for Marriage and Family Therapy, Center for Adolescent and Family Care, Department of Veteran Affairs, East Texas State University, Hardin-Simmons University, Marriage and Family Therapy Certifying Association, National Association of Social Workers/Texas Chapter, Texas Association for Counseling and Development, Texas State Board of Examiners of Psychologists, Texas Tech University, and University of Houston-Clear Lake.

• 25 TAC §128.1, §128.2

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.1. Purpose. The purpose of these sections is to implement the provisions in the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, concerning the licensure and regulation of marriage and family therapists.

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

Act–The Licensed Marriage and Family Therapist Act relating to the licensing and regulation of marriage and family therapists, (Act) Texas Civil Statutes, 4512c-1.

APTRA–The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

Board–The Texas State Board of Examiners of Marriage and Family Therapists.

Board of Health–The Texas Board of Health.

Contested case–A proceeding in accordance with APTRA and this chapter, including, but not limited to, rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.

Department–The Texas Department of Health.

Formal hearing–A hearing or proceeding in accordance with this chapter, including a contested case as defined in this section to address the issues of a contested case.

Grandfather period–The period during which eligible applicants may apply for licensure without examination based on education, experience, and other licensure or certification. This period shall be from September 1, 1991 through September 1, 1993.

Group supervision–Supervision of no more than six individuals in a clinical setting.

Hearing examiner–An attorney duly designated and appointed by the chairperson of the board who conducts hearings under this chapter on behalf of the board.

Individual supervision–Supervision of no more than two individuals in a clinical setting.

Investigator–A professional complaint investigator employed by the Texas Department of Health.

Licensed marriage and family therapist–An individual who offers to provide marriage and family therapy for compensation.

Licensee–Any person licensed by the Texas State Board of Examiners of Marriage and Family Therapists.

Marriage and family therapy–The rendering of professional therapeutic services to individuals, families, or married couples, singly or in groups, and involves the professional application of family systems, theories, and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction within the context of marriage or family systems.

Month–A calendar month.

Party–Each person, governmental agency, or officer or employee of a governmental agency named by the hearing examiner as having a justiciable interest in the matter being considered, or any person, governmental agency, or officer or employee of a governmental agency meeting the requirements of a party as prescribed by applicable law.

Person–An individual, corporation, partnership, or other legal entity.

Pleading–Any written allegation filed by a party concerning its claim or position.

Rules–The rules in this chapter covering the designated policies and procedures of operation for the board and for individuals affected by the Act.

Supervision–The guidance or management of an individual or group in a clinical setting.

Therapist–A Texas licensed marriage and family therapist.

Waiver–The suspension of educational, professional, and/or examination requirements for applicants who meet the criteria for licensure under special conditions.

Year–A calendar year.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205246 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter B. The Board

• 25 TAC §§128.11-128.20

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.14. Impartiality and Nondiscrimination.

(a) The board shall make no decision in the discharge of its statutory authority with regard to any person's race, religion, color, sex, national origin, age, or disability.

(b) Any board member who is unable to be impartial in the determination of an applicant's eligibility for licensure or specialty or in a disciplinary action against a licensee shall so declare this to the board and shall not participate in any board proceedings involving that applicant or licensee.

§128.15. Policy on Disabled Applicants.

(a) The board recognizes that disabled applicants may encounter unusual problems in applying for licensure and will make an effort to accommodate these applicants.

(b) The board, on an individual basis, may consider requests for special arrangements for disabled applicants including assistance in taking the examination provided that such requests are reasonable and do not violate this Act and this chapter.

§128.19. Fees.

(a) The board of health has established the following fees for licenses, license renewals, examinations, and all other administrative expenses under the Act.

(b) The schedule of fees shall be as follows:

(1) application fee-$30;

(2) licensure examination fee-the then-current fee assessed by the Texas Department of Health (department) or its designee for the examination;

(3) licensure fee-$36;

(4) renewal fee-$30;

(5) late renewal fee-$60;

(6) inactive status (administrative) fee-$75; and

(7) duplicate license fee-$10;

(c) All fees are not refundable.

(d) Remittances submitted to the board in payment of fees may be in the form of a cashier's check, or money order. Personal checks will not be accepted.

(e) The board shall make periodic reviews of its fee schedule and make any adjustments necessary to provide funds to meets its expenses without creating an unnecessary surplus. All fee changes shall be made through rule making procedures.

§128.20. Processing Applications.

(a) The board shall investigate each application and other evidence submitted.

(b) The board shall notify each applicant whether the application has been accepted or rejected not later than the 30th day before the date of the examination.

(c) Within 90 days of receipt of a completed application from a person seeking licensure without examination or under the Act, §30, the board shall notify the applicant that:

(1) the applicant may be licensed without examination;

(2) an examination is required; or

(3) the application is denied.

(d) Within 30 days of receipt of a completed application from a person seeking licensure, the board shall notify the applicant of any deficiencies that exist.

(e) A notice under subsection (c) of this section to an applicant who is required to take an examination must state the reason for requiring the examination, the time and manner of conducting the examination, and the acts required of the applicant in connection with the examination.

(f) A notice that an application is rejected must state the reason for the rejection.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205247 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter C. Code of Ethics.

• 25 TAC §§128. 41-128.51

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12. 001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.43. Relationships with Clients.

(a) A therapist shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship.

(b) A therapist shall inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the therapeutic relationship is entered.

(c) A therapist shall provide therapeutic services only in the context of a professional relationship and not by means of newspaper articles, radio or television programs, mail, or means of a similar nature.

(d) No commission or rebate or any other form of remuneration shall be given or received by a therapist for the referral of clients for professional services.

(e) A therapist shall not use relationships with clients to promote, for personal gain or for the profit of an agency, commercial enterprises of any kind.

(f) Under normal circumstances a therapist shall not be involved in the therapy of family members, intimate friends, close associates, or others whose welfare might be jeopardized by such a dual relationship.

(g) Under normal circumstances a therapist shall not offer professional services to a person concurrently receiving therapy assistance from another professional except with the knowledge of that professional.

(h) A therapist shall personally take reasonable action to inform responsible authorities and appropriate individuals in cases where a client's condition indicates a clear and imminent danger to the client or others.

(i) In group therapy settings, the therapist shall take reasonable precautions to protect individuals from physical or emotional trauma resulting from interaction within the group.

(j) A therapist shall not engage in activities that seek to meet the therapist's personal needs at the expense of a client.

(k) A therapist shall not engage in sexual intercourse, sexual contact, deviate sexual intercourse, or sexual intimacies of any kind, including, but not limited to, kissing or fondling with any client, intern, supervisee, or with a person who has been a client, intern, or supervisee within the past two years. "Sexual intercourse," "sexual contact," and "deviate sexual intercourse" shall mean the activities or behaviors described in the Texas Penal Code, §21.01. A therapist shall not provide therapeutic services to a person with whom the therapist has had a sexual relationship.

(l) A therapist shall keep accurate records of therapeutic services to include, but not be limited to, dates of services, types of services, progress or case notes, and billing information.

(m) A therapist shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual agreement. Supervisory relationships between a therapist and any other person used by the therapist to provide services to a client shall be clearly explained to the client and shall be so reflected on billing documents.

(n) A therapist shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from it.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205248 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter D. Application Procedures.

• 25 TAC §§128.71-128.73

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.73. Required Application Materials.

(a) Application form. The application form shall contain:

(1) specific information regarding personal data, employment and type of practice, other state licenses and certifications held, felony or misdemeanor convictions, educational background including direct clinical experience, supervised experience, and references;

(2) a statement that the applicant has read the Act and board rules and agrees to abide by them;

(3) the applicant's permission to the board to seek any information or references it deems necessary to determine the applicant's qualifications;

(4) a statement that the applicant, if issued a license, shall return the license to the board upon the revocation or suspension of the license;

(5) a statement that the applicant understands that the fees submitted in the licensure process are nonrefundable;

(6) the applicant's dated and notarized signature; and

(7) the signature of the supervisor or agency or school official who can formally attest to the applicant's direct clinical experience.

(b) Supervised experience form. The supervised experience form must be completed by the applicant's supervisor and contain:

(1) the name of the applicant;

(2) the name, address, degree, licensure status, and credentials of the applicant's supervisor;

(3) the name and address of the agency or organization where the experience was gained;

(4) the inclusive dates and types of supervised experience and the total number of hours of practice;

(5) the number of hours of direct, on-site, weekly supervision given to the applicant, the total number of supervisory hours received by the applicant in the experience, and the types of supervision used;

(6) the applicant's employment status during supervised experience;

(7) the types of clients seen (whether individuals, families, or couples) ;

(8) the supervisor's evaluation of the applicant's therapeutic skills and competence for independent or private practice; and

(9) the supervisor's notarized signature.

(c) Graduate or doctorate transcripts. An applicant must have the official transcript(s) showing all relevant graduate or doctoral work sent directly to the board by the applicant's school(s).

(d) References. An applicant must have references submitted by three persons who can attest to the applicant's therapy skills and professional standards of practice.

(1) The references shall be persons who are not named elsewhere in the applicant's application and are not current members of the board.

(2) References must include:

(A) one graduate instructor in a university, college, or professional setting;

(B) one licensed marriage and family therapist; and

(C) one licensed or certified professional in a related mental health field which may include an additional licensed marriage and family therapist.

(e) Other documents. Vita, resume, and other documentation of the applicant's credentials may be submitted.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205249 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date:May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter E. Criteria for Determining Fitness of Applicants for Examination and Licensure

• 25 TAC §§128.91-128.94

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205250 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter F. Academic Requirements for Examination and Licensure

• 25 TAC §§128.111-128.114

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.113. Academic Requirements.

(a) Persons applying for examinations and licensure must have:

(1) a master's or doctorate degree in marriage and family therapy or in a related mental health field with coursework and training equivalent to a graduate degree in marriage and family therapy.

(2) a planned graduate program in therapy or its substantial equivalent of at least 45 semester hours which an applicant completed at an accredited school. The 45 semester hours may be coursework taken in the required graduate degree program.

(b) A graduate degree under subsection (a)(1) of this section or the substantial equivalent of a planned graduate program in therapy must be any planned graduate program of at least 45 semester hours which was designed to train a person to provide direct services to assist individuals, families, or couples in a therapeutic relationship in the resolution of cognitive, affective, behavioral, or relational dysfunctions within the context of marriage or family systems.

(c) After receipt of a degree meeting the requirements of subsection (a)(1) of this section, the applicant must have completed two years of work experience in marriage and family therapist services that must:

(1) include at least 1,000 hours of direct clinical services to individuals, couples, or families, of which at least 500 hours must be direct clinical services to couples or families; and

(2) be supervised in a manner acceptable to the board, including at least 200 hours of supervision of the provision of direct clinical services by the applicant, of which at least 100 hours must be supervised on an individual basis.

(d) No direct clinical services course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward the 1,000 clock-hour requirement.

§128.114. Academic Course Content. An applicant having a graduate degree in a mental health related field must have substantial equivalent course work in each of the following areas:

(1) theoretical foundations of marital and family therapy: one-three courses;

(2) assessment and treatment in marital and family therapy: four-five courses;

(3) human development, gender, multicultural issues, and family studies: two-four courses;

(4) ethics and professional studies: one course;

(5) research: one course; and

(6) supervised clinical practicum: 12 months/nine hours.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 14, 1992.

TRD-9205251 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter G. Experience Requirements for Examination and Licensure

• 25 TAC §§128.141-128.144

The new sections are adopted under the Licensed Marriage and Family Therapists, which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.142. Experience Requirements.

(a) Applicants for examination must have completed two years of work experience acceptable to the board.

(b) Applicants must complete the required 200 clock hours of supervised clinical experience and 1,000 hours of direct clinical services to individuals, couples, or families.

(c) Experience shall be acceptable to the board if:

(1) it was begun and completed after the completion of a graduate degree in marriage and family therapy or its substantial equivalent degree;

(2) it consisted primarily of the provision of direct therapeutic services in the practice of marriage and family therapy to assist individuals, couples, and families; and

(3) the experience was under the direct supervision of a supervisor acceptable to the board.

§128.143. Supervisor Requirements.

(a) A supervisor acceptable to the board must be licensed by the board for at least 24 months or eligible for licensure by the board for at least 24 months.

(b) A supervisor must be approved by the board by submitting a notarized board form as well as other documentation of credentials. Supervised experience will not be approved until all required documentation has been received.

§128.144. Other Conditions for Supervised Experience.

(a) A person who is in the process of completing the 24 months or 200 hours of supervised experience may not practice within his or her own private independent practice of therapy as part of such months or hours and may not count the months or hours spent in the person's private independent practice of therapy as part of the supervised experience; however, the person may be employed in his or her supervisor's private practice of therapy as part of the internship.

(b) A supervisor may not be employed by the person whom he or she is supervising.

(c) A supervisor may not be related within the second degree by affinity or within the third degree by consanguinity to an intern.

(d) During the period of supervised experience, an intern may be employed on a salary basis or be used within an established supervisory setting. The established settings must be structured with clearly defined job descriptions and areas of responsibility. The board may require that the applicant provide documentation of all work experience.

(e) During internship, the full professional responsibility for the therapeutic activities of an intern shall rest with the intern's official supervisor.

(f) All supervised experience submitted in fulfillment of the board's requirements must have been on a formal basis by contract or other specific arrangement prior to the period of supervision. Supervisory arrangements must include all specific conditions agreed to by the supervisor and intern.

(g) If an intern enters into contracts with both a supervisor and an organization with which the supervisor is employed or affiliated:

(1) the therapeutic services will be performed on the site(s) of the organization;

(2) no payment for services are to be made directly by a client to the intern;

(3) clients records remain the property of the organization;

(4) liability remains with the organization and/or the supervisor; and

(5) there are no financial arrangements between the organization and intern that have been made that extend beyond the period of supervision.

(h) Group supervised experience of an applicant for examination may count toward an applicant's experience requirement only if the supervision group consisted of no more than six interns.

(i) Individual supervision of an applicant shall count toward the applicant's experience requirement only if the supervisor oversaw no more than eight persons at any one time either in group or individual supervision for the inclusive dates of the applicant's supervised experience.

(j) An applicant may have no more than two supervisors unless board approval is received for further supervisors. The applicant's former supervisor or agency must submit a notarized statement explaining the reasons for the change of supervisor.

(k) A person beginning internship may assure that the internship meets the requirements of the board by submitting an application, a copy of the signed supervisory contract, and a notarized statement from the supervisor or official document from an agency or other organization outlining the details of the internship to which the board will reply. The documents and fee submitted will be considered part of the application for examination and licensure and will not need to be resubmitted. A supervisor must comply with the provisions of §128.42 of this title (relating to Professional Representation) and of §128.43 of this title (relating to Relationships With Clients).

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205252 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter H. Licensure Examinations

• 25 TAC §§128.171-128.174

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the

Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.172. Frequency. The board, or its designee, shall administer licensure examinations at least semi-annually as often as deemed necessary.

§128.174. Examination.

(a) The examination shall be a written examination prescribed by the board.

(b) An applicant shall apply to take the examination on a form prescribed by the board. The examination application must be accompanied by the examination fee stated in §128.19(b)(2) of this title (relating to Fees).

(c) The board, or its designee, shall determine the times and places for licensing examinations and give reasonable public notice.

(d) Examination results shall be as follows.

(1) If the examination is graded or reviewed by the board, the examinee shall be notified of the results of the examination within 30 days of the examination date.

(2) If the examination is graded or reviewed by a national testing service, the board shall notify each examinee within 15 days of the date which the board receives the results from the national testing service.

(3) If the examination results will be delayed more than 90 days after the examination date, the board shall notify each examinee of the reason for the delay within 90 days of the examination date.

(e) Procedures for failure of an applicant to pass an examination are as follows.

(1) An applicant who fails an examination may retake the examination after payment of an additional examination fee.

(A) The applicant must be reexamined within 12 months of the unsuccessful examination.

(B) If the applicant fails the second examination, the board may require the applicant to submit evidence of satisfactory completion of additional courses of study prescribed by the board.

(2) The board shall furnish the person who failed the examination with an analysis of that person's performance on the examination if so requested in writing by the examinee.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205253 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter I. Issuance of License

• 25 TAC §§128. 201-128.203

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12. 001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.202. Issuance of Licenses.

(a) The board will send each applicant whose application has been approved and who has passed the examination, if applicable, a licensure form to complete and return with the licensure fee.

(b) Upon receiving an applicant's licensure form and fee, the board shall issue the person a license containing a license number within 30 days.

(c) The board will replace a lost, damaged, or destroyed license certificate upon a written request from the therapist and payment of the license replacement fee. Requests must include a notarized statement detailing the loss or destruction of the therapist's original license or be accompanied by the damaged certificate.

(d) Upon the written request and payment of the license certificate duplicate fee by a licensee, the board will provide a licensee with a duplicate license within 30 days for a second place of practice which is designated in a licensee's file.

§128.203. Reciprocity.

(a) The board may grant a license without examination to a person who holds, at the time of application, a license or certificate issued by another state or territory that is acceptable to the board if the minimum requirements for the license or certificate are substantially the same as or exceed the licensing requirements of the board which are in effect at the time of application.

(b) The board shall consider only states and territories of the United States as acceptable for the purposes of licensure by reciprocity.

(c) In the case of licensing by reciprocity, the board shall waive only the examination requirement for licensure. Required application materials must be provided, and the application and licensure fees must be paid by the applicant. The board may accept an official copy of an applicant's file sent directly from the state board that issued the original license.

(d) An applicant applying for licensure by reciprocity must submit:

(1) a copy of a current license or certificate by which the reciprocal licensure is requested;

(2) a copy of the statute and rules of the agency issuing the license and the name and address of the licensing agency;

(3) evidence that the applicant successfully passed a state licensing examination, if applicable;

(4) a statement concerning complaints status; and

(5) evidence of good standing from the state board.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205254 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter J. License Renewal and Inactive Status

• 25 TAC §§128.231-128.237

The new sections are adopted under the Licensed Marriage and Family Therapist Act,

Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.232. General.

(a) A therapist must renew licensure annually.

(b) Each therapist is responsible for renewing licensure and paying the renewal fee before the expiration date and shall not be excused from paying late renewal fees or renewal penalty fees.

(c) The board shall deny the renewal of a license of a therapist who is in violation of the Act or this chapter at the time of application for renewal.

(d) A therapist must have fulfilled continuing education requirements prescribed by the board rule in order to renew licensure.

(e) A therapist whose license is not renewed due to failure to meet all requirements for licensure renewal shall return his or her license certificate to the board and shall not advertise or represent himself or herself as a licensed marriage and family therapist in any manner.

§128.234. License Renewal.

(a) At least 45 days prior to the expiration date of a person's license, the board will send notice to the licensee of the expiration date of the license, the amount of the renewal fee due, and a licensure renewal form which the licensee or the licensee's authorized representative must complete and return to the board with the required fee. A second notice will be sent 15 days prior to the expiration date of a person's license.

(b) The licensure renewal form shall require the licensee to provide current addresses, telephone numbers, and other information such as continuing education completed and type of practice.

(c) The board shall not consider a license to be renewed until it receives the completed license renewal form and the renewal fee, and the licensee has complied with applicable continuing education requirements. No renewal fee shall be received and accepted by the board until the licensee has met the applicable continuing education requirements.

(d) The board shall issue a renewal card to a licensee who has met all requirements for renewal within 30 days. The licensee must display the renewal card in association with the license.

(e) The license of a person who made a timely request for renewal of his or her license does not expire until the application for renewal is finally determined by the board, or in case the application is denied or the terms of the new license limited, until the last day for seeking review of the board's order or a later date fixed by order of a reviewing court.

(f) The board will not process the licensure renewal of a licensee who is a party to a formal license revocation or suspension proceedings. A formal proceeding commences when the notice described in Subchapter L of this chapter (relating to Complaints and Violations) is mailed by the board.

(1) A licensee whose license is not revoked or suspended as a result of formal proceedings shall be renewed provided that all other requirements are met.

(2) In the case of delay in the licensure renewal process because of formal licensure suspension or revocation proceedings, late renewal penalty fees shall not apply.

§128.235. Late Renewal.

(a) A person who renews a license after the expiration date but on or within 90 days after the expiration date shall pay the appropriate late renewal fee. A final notice will be sent 30 days after the expiration date.

(b) The board shall revoke the license of any person who has not renewed by paying the required fees on or within 90 days of the expiration date.

(1) The board shall revoke an unrenewed license by a majority vote at a regular meeting and no formal hearing will be scheduled unless the revocation is contested.

(2) Upon the expiration and revocation of a person's license for failure to renew, the board may notify the person by certified mail and may require the person to return the license card and certificate to the board.

(c) A person whose license has been revoked for failure to pay the renewal fee or whose license was not renewed on or within 90 days of the expiration date may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205255 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter K. Continuing Education Requirements

• 25 TAC §128.261

The new section is adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

§128.261. Purpose. The purpose of this section is to establish the continuing education requirements for the renewal of licensure which a therapist must complete periodically toward furthering of professional development in marriage and family therapy. These requirements are intended to maintain and improve the quality of professional services in marriage and family therapy provided to the public and keep the therapist knowledgeable of current research, techniques, and practice and provide other resources which will improve skill and competence in marriage and family therapy. Continuing education shall be submitted to the board on a voluntary basis beginning September 1, 1993. Continuing education shall be submitted to the board on a mandatory basis beginning September 1, 1995. Requirements for the submittal of all continuing education hours, number of hours required, reporting periods and acceptable continuing education documentation shall be forthcoming.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205265 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter L. Complaints and Violations

• 25 TAC §§128.291-128.295

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205257 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter M. Licensing of Persons with Criminal Backgrounds.

• 25 TAC §128.321, §128.322

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205258 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Subchapter N. Formal Hearings

• 25 TAC §§128. 331-128.339

The new sections are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code, §12. 001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections affect Texas Civil Statutes, Article 4512c-1, §13.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205259 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 24, 1991

For further information, please call: (512) 459-2912

♦ ♦ ♦

Chapter 145. Long-Term Care

The Texas Department of Health (department) adopts amendments to §§145.23, 145.35, 145.55, 145.193, 145.214, 145.273, and 145.334, concerning long-term care, without changes to the proposed text as published in the February 4, 1992, issue of the *Texas Register* (17 TexReg 926). The amended sections concern physical plant, environment and construction standards for licensed-only nursing homes, custodial care homes, maternity homes, adult day care and adult day health care facilities, facilities serving persons with mental retardation and related conditions, and personal care facilities.

The amendments update the sections by requiring long-term care facilities to comply with the following requirements: provisions of the Americans with Disabilities Act of 1990, Public Law 101-336; federal regulations implementing the Act in Title 28, Code of Federal Regulations, Part 35; provisions concerning architectural barriers in the Texas Civil Statutes, Article 9102; and rules implementing Article 9102 by the Texas Department of Licensing and Regulation in Title 16, Texas Administrative Code, Chapter 6.

No comments were received regarding adoption of the amendments.

Subchapter B. Minimum Standards for Nursing Homes

• 25 TAC §145.23

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long-term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205209 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

Subchapter C. Minimum Standards for Custodial Care Homes

• 25 TAC §145.35

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long-term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205210 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

Subchapter D. Minimum Standards for Maternity Homes

• 25 TAC §145.55

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long-term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205211 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

Subchapter M. Minimum Licensing Standards for Adult Day Care and Adult Day Health Care Facilities

• 25 TAC §145.193

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long-term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205212 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

Subchapter N. Minimum Licensing Standards for Facilities Serving Persons with Mental Retardation and Related Conditions in Texas

• 25 TAC §145.214

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long-term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205214 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

Subchapter Q. Planning and Construction for Nursing Homes.

• 25 TAC §145.273

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect Chapter 242 of the Health and Safety Code.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205214 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

Subchapter S. Minimum Licensing Standards for Personal Care Facilities

• 25 TAC §§145.321, 145.322, 145.324-145.327, 145.333

The Texas Department of Health (department) adopts amendments to §145. 321, §145.322, §§145.324-145.327, and §145.333, concerning minimum licensing standards for personal care facilities, without change to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7437).

The amendments implement the requirements of Senate Bill 865, 72nd Legislature, 1991; update statutory references to the Health and Safety Code, Chapter 247; and incorporate existing department policy concerning personal care facilities into the sections.

No comments received were regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, §§247. 025-247.026, which provides the Texas Board of Health (board) with the authority to adopt minimum standards to protect the health and safety of a personal care facility resident; §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health; and Senate Bill 865, Article II, 72nd Legislature, 1991, which provides the department with the authority to develop a resident's bill of rights and a providers' bill of rights in personal care facilities.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205208 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: December 20, 1992

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

♦ ♦ ♦

Subchapter S. Minimum Licensing Standards for Personal Care Homes

• 25 TAC §145.334

The amendment is adopted under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to

adopt rules concerning minimum standards for long-term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205215 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: May 5, 1992

Proposal publication date: February 7, 1992

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

♦ ♦ ♦

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter Q. Franchise Tax

• 34 TAC §3.416

The Comptroller of Public Accounts adopts the repeal of §3.416, concerning title insurance holding company tax credits, without changes to the proposed text as published in the February 18, 1992, issue of the *Texas Register* (17 TexReg 1378).

The section is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.566, concerning title insurance holding companies.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

Issued in Austin, Texas, on April 14, 1992.

TRD-9205228 Martin Cherry
Chief, General Law Section
Comptroller of Public Accounts

Effective date: May 5, 1992

Proposal publication date: February 18, 1992

For further information, please call: (512) 463-4028

♦ ♦ ♦

Subchapter V. Franchise Tax

• 34 TAC §3.566

The Comptroller of Public Accounts adopts new §3.566, concerning title insurance holding companies, with changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7706).

The new section replaces 34 TAC §3.416, concerning the same subject matter, which is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. This new section explains the franchise tax credits available to title insurance holding companies.

A comment was received on the new section from Stewart Title Guaranty Company of Austin. The company was concerned that subsection (e) of the proposed new section was not worded correctly to be in conformity with the Insurance Code, Article 9.59, §16(b). It was the taxpayer's contention that §16(b) provides a credit toward all franchise taxes imposed by the Tax Code, Chapter 171. It was the taxpayer's interpretation that proposed subsection (e) entitled "Additional tax" was intended to avoid a possible double credit, due to filing time differences.

After a discussion with the taxpayer, it was decided to change the section by deleting subsection (e) on additional tax, reformatting subsection (d) into two parts and addressing credit for premiums in subsection (d)(2). The taxpayer concurred with the changes.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.566. Title Insurance Holding Companies.

(a) Controlled company. For franchise tax purposes controlled company has the same meaning as defined in the Insurance Code, Article 21.49-1.

(b) Eligibility. A title insurance holding company that is subject to the Insurance Code, Article 21.49-1, and which controls one or more domestic title insurance companies that are subject to the tax on premiums under the Insurance Code, Article 9.59, is entitled to a credit against its franchise tax imposed by the Tax Code, Chapter 171.

(c) Calculation of the credit.

(1) The credit for each controlled domestic title company is computed by multiplying the amount of tax on premiums paid by that company in the most recent calendar year ending before the franchise tax report is due, by the percentage of ownership of the title insurance holding company in the controlled domestic title insurance company.

(2) The percentage of ownership of a controlled domestic title insurance company is determined as of the accounting year-end upon which taxable capital is based.

(d) Limitations.

(1) No portion of a credit may be used on a report for another period.

(2) A corporation may not take credit for the same tax on premiums more than once.

(e) Effective date. The tax credits provided by the Insurance Code, Article 9.59, apply to the reporting and calculation of franchise taxes for each initial, second, and regular annual period beginning on or after January 1, 1990.

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

Issued in Austin, Texas, on April 13, 1992.

TRD-9205107 Martin Cherry
Chief, General Law Section
Comptroller of Public Accounts

Effective date: May 4, 1992

Proposal publication date: December 27, 1991

For further information, please call: (512) 463-4028

♦ ♦ ♦

Part IV. Employees Retirement System of Texas

Chapter 85. Flexible Benefits

• 34 TAC §§85.1, 85.3, 85.5, 85.7, 85.9, 85.13, 85.15, 85.19

The Employees Retirement System of Texas adopts amendments to §§85.1, 85. 3, 85.5, 85.7, 85.9, 85.13, 85.15, and 85.19. Section 85.3 is adopted with changes to the proposed text as published in the February 21, 1992, issue of the *Texas Register* (17 TexReg 13). Sections 85.1, 85.5, 85.7, 85.9, 85.13, 85. 15, and 85.19 are adopted without changes and will not be republished.

The adopted amendments will implement legislation passed during the 72nd Legislative Session which allows employees of institutions of higher education to participate in the Flexible Benefits Program.

Amendments concerning definitions, eligibility and participation, benefits, enrollment, payment of claims from reimbursement accounts, funding, termination and amendment of plan, and termination of coverage have been made which will allow employees of institutions of higher education to participate in the Flexible Benefits Program.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Insurance Code, Article 3.50-2, §4(k), which provides the Employees Retirement System of Texas with the authority to promulgate all rules and regulations necessary to implement and to administer a Flexible Benefits (Cafeteria Plan) Program for state employees.

§85.3. Eligibility and Participation.

(a) Premium conversion.

(1) Eligibility. Any employee participating in the Uniform Group Insurance Program under the Texas Insurance Code, Article 3.50-2, who has insurance premium expenses, which exceed the state's and institution's contribution for insurance, shall be automatically enrolled in the premium conversion plan, unless the employee elects not to participate.

(2) Participation.

(A) An employee who is eligible under subsection (a) (1) of this section may elect not to participate in premium conversion by completing and submitting a TexFlex election form during the annual enrollment period or within 30 days from the first active duty date.

(B) An employee who, prior to the beginning of a plan year or within 30 days from the first active duty date, makes an application to increase insurance coverage under the Uniform Group Insurance Program, the premium for which will exceed the State of Texas' and the institution's total contributions for premium costs, may elect not to participate in premium conversion by completing and submitting a TexFlex election form during the annual enrollment period or within 30 days from the first active duty date.

(C) An employee who is otherwise eligible to participate in the Uniform Group Insurance Program but who did not decline participation in premium conversion prior to the beginning of a plan year or who elected to participate and who has a change in family status as defined in §85. 7(c)(1)(A) of this title (relating to Enrollment) after the beginning of the plan year, may elect not to participate in premium conversion, if the change is consistent with the change in family status, by completing and submitting a TexFlex election form within 30 days from the date the family status change occurs.

(D) Annual enrollment period.

(i) Eligible active employees will have an opportunity to decline enrollment or change benefit options during the annual enrollment period. The annual enrollment period will be prior to the beginning of a new plan year.

(ii) Employees on approved leave of absence or extended sick leave without pay on the first day of a new plan year will be provided an opportunity to decline enrollment or to change benefit options within the first 30 days after return to active duty.

(3) Duration of participation.

(A) An employee's election to or not to participate in the premium conversion plan shall be irrevocable for the plan year, unless there is a change in family status as defined in §85.7(c)(1) (A) of this title (relating to Enrollment) and the change is consistent with the event.

(B) A terminated employee returning to state or institution of higher education employment or an employee returning to active duty from an approved leave of absence without pay, or transferring from one state agency or institution to another or between a state agency and institution of higher education as defined in these rules, within the same plan year, may not change and shall retain for the remainder of the plan year, the elections in existence on the participant's last active duty date.

(C) An employee who continues to remain eligible to participate in premium conversion shall be automatically enrolled for subsequent plan years unless the employee specifically declines participation in writing during the annual enrollment period or under the change in family status rules.

(D) An employee who is ineligible to participate or who is eligible and elects not to participate in premium conversion and who becomes or remains eligible to participate in a subsequent plan year, and who wishes to continue to decline participation must execute a new TexFlex election form annually during the annual enrollment period or under the change in family status rules.

(4) Effects on ability to change insurance coverage. An employee participating in the premium conversion plan may not change uniform group insurance coverages during the plan year, unless there is a change in family status and the change is consistent with the event.

(b) Dependent Care Reimbursement Plans.

(1) Eligibility. Any employee eligible to participate in the Uniform Group Insurance Program, except seasonal and temporary employees and graduate students, may elect to participate in the dependent care reimbursement plan. For plan year 1993 only, beginning September 1, 1992, those graduate students in institutions of higher education who have a dependent care account on August 31, 1992, are exempt from this rule.

(2) Participation.

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

(D) Annual enrollment period.

(i) Eligible active employees will have an opportunity to enroll or change benefit options during the annual enrollment period. The annual enrollment period will be prior to the beginning of a new plan year.

(ii) Employees on approved leave of absence or extended sick leave without pay on the first day of a new plan year will be provided an opportunity to enroll or to change benefit options within the first 30 days after return to active duty.

(3) Duration of participation.

(A) An employee's election to participate or to waive participation in the dependent care reimbursement plan shall be irrevocable for the plan year unless there is a change in family status as defined in §85.7(c)(1)C) of this title (relating to Enrollment).

(B) A terminated employee returning to state or institution of higher education employment or an employee returning to active duty from an approved leave of absence without pay, or transferring from one state agency or institution to another or between an agency and an institution of higher education as defined in these rules, within the same plan year, may not change and shall retain for the remainder of the plan year, the election in existence on the participant's last active duty date.

(c) Health care reimbursement plan.

(1) Eligibility.

(A) Any employee eligible to participate in the Uniform Group Insurance Program, except seasonal and temporary employees and graduate students, who has completed six continuous months of full-time State of Texas or an institution of higher education, as defined in these rules, employment and who is classified as a full-time regular employee on September 1 of a

new plan year or after the start of a plan year, may elect to participate in a health care reimbursement account. For plan year 1993 only, beginning September 1, 1992, those employees and graduate students in institutions of higher education who have a health care account on August 31, 1992, are exempt from this rule.

(B) An employee whose employment has been terminated, voluntarily or involuntarily, and who had a health care reimbursement account at the time of termination, must retain the health care reimbursement account for the applicable period of coverage. In addition, such a terminated employee may elect to enroll in a health care reimbursement account continuation coverage for the period as provided in the Public Health Service Act. A formal continuation coverage notification on a TexFlex election form provided by the Employees Retirement System of Texas must be completed and returned to the Employees Retirement System of Texas within 60 days from the date coverage is lost. Eligibility to participate is contingent upon pre-payment, on a monthly or annual basis, of the elected amount, plus a 2. 0% service charge on the elected amount, and the administrative fee for the plan year. Payments are due on the first day of each month and must be received no later than the 3Oth day of the month. Failure to pay will automatically cancel enrollment and future eligibility.

(C) An employee whose employment has been terminated, voluntarily or involuntarily except for those persons not eligible pursuant to subparagraph (A) of this paragraph, and who has health insurance continuation coverage under the Public Health Services Act on September 1, may elect to participate in a health care reimbursement account during annual enrollment. A formal election must be made on a TexFlex election form prior to the beginning of a new plan year. Eligibility to participate is contingent upon pre-payment, on a monthly or annual basis, of the elected amount, plus a 2.0% service charge on the elected amount, plus the administrative fee for the plan year. Payments are due on the first day of each month and must be received no later than the 30th day of the month. Failure to pay will automatically cancel enrollment and future eligibility.

(2) Participation.

(A) An employee who is eligible under paragraph (1) (A) and (C) of this subsection may elect to participate by completing and submitting a TexFlex election form during the annual enrollment period or upon becoming eligible after the start of a new plan year. The effective date of the election will be September 1 of the plan year or the first day of the month following the date of eligibility, unless the eligibility date is the first day of the month and the employee makes an election on the first day of the month.

(B) (No change.)

(C) A new hire after the start of a new plan year, who meets the eligibility requirements under paragraph(1)(A) of this subsection, may elect to participate in a health care reimbursement account prospectively for the remainder of the plan year.

(D) A change in family status, as defined in §85.7(c)(1)(B) of this title (relating to Enrollment) will permit an increase in the election amount during the plan year. A TexFlex election form must be submitted within 30 days from the date the change in family status event occurs. The effective date of change will be the first day of the following month, unless the change occurs on the first day of the month and the employee completes a TexFlex election form on the first day of the month and designates that to be the effective date.

(E) Eligible active employees and terminated employees with continuation health coverage under the Public Health Service Act on September 1, and terminated employees with a health care reimbursement account on August 31 will be eligible to enroll or to change benefit options during the annual enrollment period. The annual enrollment period will be prior to the beginning of a new plan year. Employees on approved leave of absence without pay during the annual enrollment period who return to work after the start of a new plan year, and who meet the eligibility requirement under paragraph(1)(A) of this subsection will have 30 days from the eligibility date to enroll.

(3) Duration of participation.

(A) An active or terminated employee's election to or not to participate in a health care reimbursement account shall be irrevocable for the plan year.

(B) An employee returning to active duty from an approved leave of absence without pay or transferring from one state agency or institution to another or between an agency and an institution of higher education as defined in these rules, within the same plan year, must retain the election in existence on the last active duty date or the date of transfer for the remainder of the plan year.

(C) An employee who is enrolled in a health care reimbursement account who terminates employment during the plan year must retain the health care account for the remainder of the plan year and prepay premiums or make monthly premium payments due for the remainder of the plan year, as described in paragraph(1)(B) of this subsection.

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

Issued in Austin, Texas, on April 13, 1992.

TRD-9205097 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Effective date: September 1, 1992

Proposal publication date: February 21, 1992

For further information, please call: (512) 867-3336

♦ ♦ ♦

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part IX. Texas Department on Aging

Chapter 251. Memorandum of Understanding between TDoA, TDHS, TDH, and Texas MH/MR

Policies and Procedures

• 40 TAC §251.13

The Texas Department on Aging adopts new §251.13, concerning policies and procedures, without changes to the proposed text as published in the February 7, 1992, issue of the *Texas Register* (17 TexReg 1076).

The purpose of the new section is to fulfill the requirements of Senate Bill 377, 72nd Legislature, 1991, which requires that the Texas Department on Aging, the Texas Department of Human Services, the Texas Department of Health, Texas Mental Health/Mental Retardation, adopt by rule an MOU which clearly outlines each agency's responsibilities in biennially revising and updating the Texas Long-Term Care State Plan for the Elderly.

The function of the new section is to establish the Texas Department on Aging's responsibility for reviewing issues concerning long-term care for the elderly, developing appropriate policy recommendations for the state, encouraging cooperative planning among public, private, and volunteer sectors for provision of LTC services, and to clarify how the four agencies named will work together for review, revision, and implementation of the Texas Long-Term Care State Plan for the Elderly.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with

the authority to promulgate rules governing the operation of the department.

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

Issued in Austin, Texas, on April 8, 1992.

TRD-9205093 Mary Sapp
Executive Director
Texas Department on Aging

Effective date: May 4, 1992

Proposal publication date: February 7, 1992

For further information, please call: (512) 444-2727

♦ ♦ ♦

Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 333 Guadalupe, Austin.)

On January 22, 1992, the State Board of Insurance adopted amendments to the Texas Automobile Rules and Rating Manual (the Manual).

The board has adopted physical damage rating symbols for certain new and/or adjusted 1990 and 1991 model private passenger automobiles. The symbols adopted were developed from Manufacturer list price data and adjusted in accordance with the prescribed vehicle series rating rule contained in the Symbol and Identification Section of the Manual for 1990 models and subsequent models. The symbols are for various models of the following makes: Acura, Audi, Alfa Romeo, Buick, BMW, Cadillac, Chevrolet, Chrysler, Daihatsu, Dodge, Eagle, Ford, Honda, Hyundai, Infiniti, Lexus, Jaguar, Lincoln, Mazda, Mercedes Benz, Mitsubishi, Mercury, Nissan, Oldsmobile, Peugeot, Plymouth, Pontiac, Saab, Saturn, Subaru, Suzuki, Toyota, Volkswagen, and Yugo. The amendments are to be effective on the 60th day after notice of this action is published in the adopted rule section of the *Texas Register.*

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

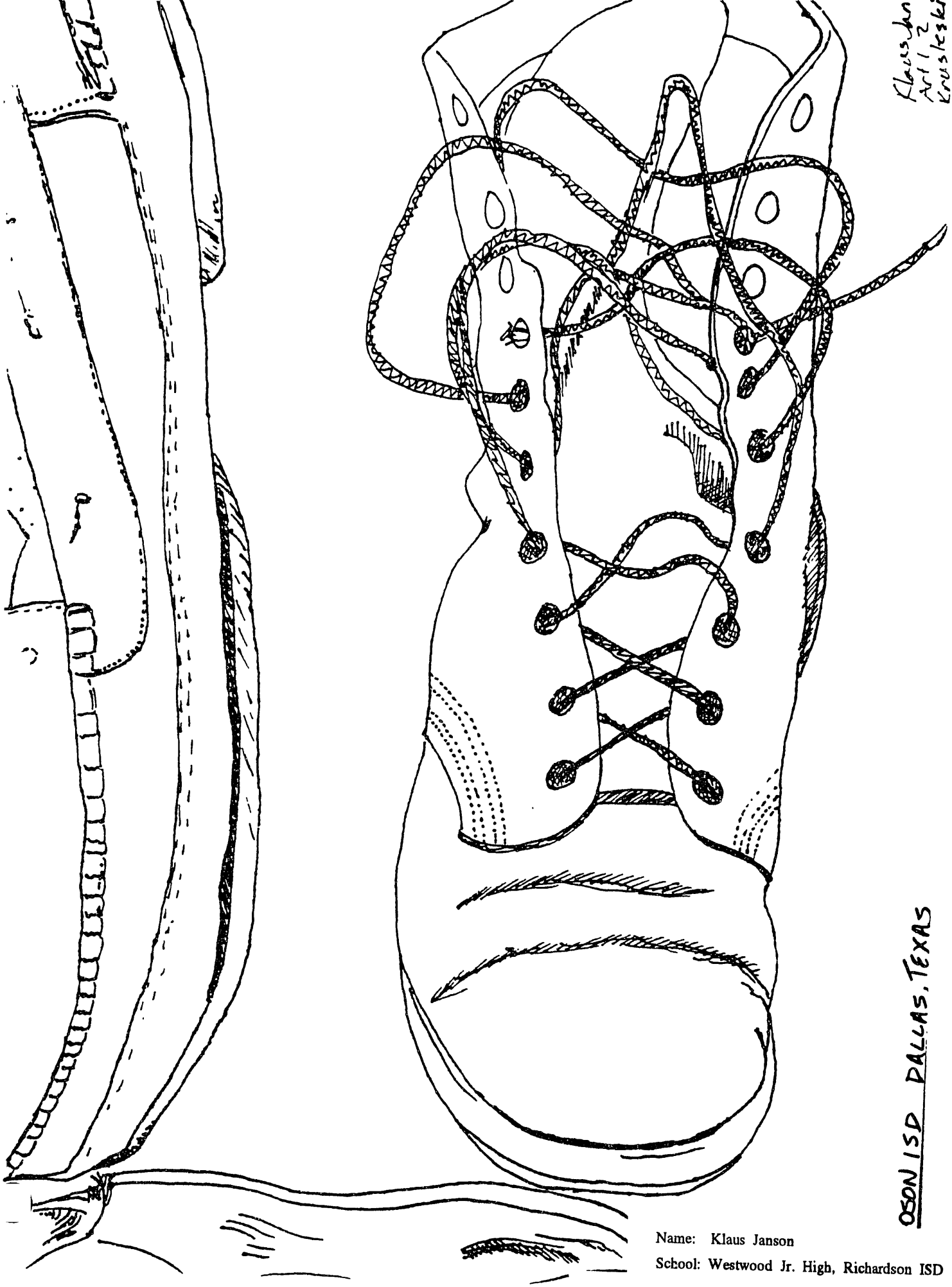
Issued in Austin, Texas, on April 15, 1992.

TRD-9205282 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Effective date: May 6, 1992

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

♦ ♦ ♦



Name: Klaus Janson

School: Westwood Jr. High, Richardson ISD

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register.*

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register.*

Texas State Board of Public Accountancy

Tuesday, April 21, 1992, 9 a.m. (Rescheduled from April 21, 1992) The Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the emergency revised agenda summary, the board will review and discuss Rule 501.40 (Licensing/Registration Requirements). The emergency status is necessary in order to implement prosection of major cases relating to audit failures of savings and loan institutions.

Contact: William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 14, 1992, 4 p.m.

TRD-9205221

♦ ♦ ♦

Texas Department of Agriculture

Thursday, June 11, 1992, 9 a.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §75.013(a) and §75.006(a) (Vernon's Supplement 1992) and 4 TAC §11.8(a)(4), §11.8(c)(1)(B) and §7. 34(e) by Kent Gabel.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: April 16, 1992, 9:09 a.m.

TRD-9205322

♦ ♦ ♦

Texas Bond Review Board

Thursday, April 23, 1992, 10 a.m. The Texas Bond Review Board will meet at the Reagan Building, Room 106, 105 West 15th Street, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes; consider proposed issues; discuss other business; and adjourn.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: April 15, 1992, 4:27 p.m.

TRD-9205313

♦ ♦ ♦

Texas Cancer Council

Wednesday, May 6, 1992, 9 a.m. The Board of Directors of the Texas Cancer Council will meet at the Dr. May Owen Board Room, Texas Medical Association, 401 West 15th Street, 10th Floor, Austin. According to the complete agenda, the board will call the meeting to order; adopt minutes; adopt rules/policies; election of council officers; FY 1992 initiatives and budget; FY 1992-1993 budget reduction requirements; contract amendments; new initiatives; six-year strategic plan; hear executive director's report; discuss other business items; and adjourn.

Contact: Emily Untermeyer, 211 East Seventh Street, Suite 710, Austin, Texas 78701, (512) 463-3190.

Filed: April 15, 1992, 8:53 a.m.

TRD-9205269

♦ ♦ ♦

Texas Department of Commerce

Wednesday, April 22, 1992, 1 p.m. The State Job Training Coordinating Council Executive Committee of the Texas Department of Commerce will meet at the First City Centre, 11th Floor Board Room, 816 Congress Avenue, Austin. According to the complete agenda, the committee will call the meeting to order; hear public comment; review, comment, and approval of Title III State Plan; update on Sunset recommendations relative to the Job Training Partnership Act (briefing); review, comment, and approval of Title IIB Substate Plans; update on implementation of Education Coordination Policy; review, comment and approval of the Governor's Coordination and Special Services Plan (GCSSP); and adjourn.

Contact: Alexa Ray, P.O. Box 12728, Austin, Texas 78711, (512) 320-9884.

Filed: April 14, 1992, 4:43 p.m.

TRD-9205264

♦ ♦ ♦

Criminal Justice Policy Council

Monday, April 27, 1992, 9 a.m. The Criminal Justice Policy Council will meet at the Tarrant County Junior College, Northeast Campus, 828 Harwood Road, Hurst. According to the revised agenda summary, the council will hold a public hearing. The 71st Texas Legislature established the new Criminal Justice Information System (CJIS), as codified in Chapter 60, Code of Criminal Procedure. Chapter 60 mandates enhancements to the existing Computerized Criminal History (CCH) system; creation of a new Corrections Tracking System (CTS); and establishes new reporting requirements for arrests and case dispositions. Chapter 60, Code of Criminal Procedure, also mandates the Criminal Justice Policy Council, in conjunction with the Department of Public Safety and the Department of Criminal Justice, to conduct regional public hearings on improvements to the proposed CJIS. The purpose is to allow state and local law enforcement officers, prosecutors, courts personnel and other interested parties to provide input on future CJIS development and design improvements.

Contact: Christine Burkhardt, P.O. Box 13332, Austin, Texas 78711-3332, (512) 463-1810.

Filed: April 15, 1992, 9:25 a.m.

TRD-9205278

Monday, May 11, 1992, 9 a.m. The Criminal Justice Policy Council will meet at the University Hilton, 4800 Calhoun, Houston. According to the revised agenda summary, the council will hold a public hearing. The 71st Texas Legislature established the new Criminal Justice Information System (CJIS), as codified in Chapter 60, Code of Criminal Procedure. Chapter 60 mandates enhancements to the existing Computerized Criminal History (CCH) system; creation of a new Corrections Tracking System (CTS); and establishes new reporting requirements for arrests and case dispositions. Chapter 60, Code of Criminal Procedure, also mandates the Criminal Justice Policy Council, in conjunction with the Department of Public Safety and the Department of Criminal Justice, to conduct regional public hearings on improvements to the proposed CJIS. The purpose is to allow state and local law enforcement officers, prosecutors, courts personnel, and other interested parties to provide input on future CJIS development and design improvements.

Contact: Christine Burkhardt, P.O. Box 13332, Austin, Texas 78711-3332, (512) 463-1810.

Filed: April 15, 1992, 9:25 a.m.

TRD-9205279

♦ ♦ ♦

Texas Ethics Commission

Thursday, April 23, 1992, 9:30 a.m. The Texas Ethics Commission will meet at 1101 Camino La Costa, Room 235, Austin. According to the agenda summary, after the commissioner's and executive director's comments, the commission will discuss approval of the March 7, 1992, meeting; discuss possible action to set future meeting dates; discussion and possible action on Advisory Opinion Requests, AOR 1, AOR 2, AOR 3, AOR 4, AOR 5, AOR 6, AOR 7, AOR 8, AOR 9, AOR 10, AOR 11, and AOR 13; discuss and possibly act on an opinion interpreting the scope of Article 6252-9b concerning state officers; discuss and possibly act on rule-making activities concerning all rules previously enacted by the commission; new rules relating to Chapter 302, Government Code; approval by the executive director of formats to be used for filing required reports; and establishing schedules required by Chapter 257 of Title 15, Election Code; discuss and possibly act on: code of conduct; budget for FY 1991-1992 and FY 1992-1993, electronic data base, and agency strategic plan; and hear public comments.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: April 15, 1992, 3:37 p.m.

TRD-9205312

♦ ♦ ♦

Texas Department of Insurance

Wednesday, April 22, 1992, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider personnel matters, including staff reorganization; making adjustments in employees' salaries; the appointment, evaluation, transfer, suspension, dismissal, promotion, or demotion of employees; and accepting employee resignations; also including pending and contemplated litigation and solvency matters in the Liquidation Division, under Article 6252-17, Section 2(e) , (g)(g) (r) and (1).

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: April 14, 1992, 12:49 p.m.

TRD-9205198

Wednesday, April 22, 1992, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider and possibly act on the consolidation of the Statutory Implementation Division with the Intergovernmental Affairs Division, to be renamed the Governmental Affairs Division; consider request by Old Republic Insurance Company for approval of forms, rules and rates for a guaranty bond and notice of guaranty agreement to beneficiary for use with policies of fire and other hazard insurance; and consider publication of proposed 28 TAC §19.802 concerning licensing fees and proposed new 28 TAC §§19.1701-19.1719 concerning health care utilization review agents.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: April 14, 1992, 12:49 p.m.

TRD-9205199

♦ ♦ ♦

Board of Law Examiners

Saturday, April 25, and Monday, April 27, 1992, 8:30 a.m. The Board of Law Examiners will meet at the Four Seasons Hotel, 99 San Jacinto, Austin. According to the agenda summary, the board will hold public hearings; conduct routine business; consider policy matters; consider the third year bar card program; hear from the executive director on agency operations; consider special requests; consider amendments to rules; consider communications from the public; review the MBE and discuss administration of the July 1992 bar exam; consider reports on litigation and prior hearings; and review a revised declaration form.

Contact: Rachael Martin, 510 South Congress Avenue, #116, Austin, Texas 78711, (512) 463-1621.

Filed: April 14, 1992, 4:03 p.m.

TRD-9205222

♦ ♦ ♦

Texas Department of Licensing and Regulation

Thursday, April 30, 1992, 9 a.m. (Rescheduled from April 9, 1992). The Inspections and Investigations, Talent Agencies of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Phyllis Lidenton doing business as D'Lyn Academy for violation of Vernon's Texas Civil Statutes, Articles 5221a-9 and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: April 16, 1992, 8:13 a.m.

TRD-9205315

Wednesday, May 6, 1992, 9 a.m. The Inspections and Investigations, Talent Agencies of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Paragon Capital Corporation doing business as Select Artists Talent and Modeling Agency for violation of Vernon's Texas Civil Statutes, Articles 5221a-9 and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: April 16, 1992, 8:13 a.m.

TRD-9205314

♦ ♦ ♦

Texas Department of Mental Health and Mental Retardation

Wednesday, April 22, 1992, 11 a.m. The Board of Human Resources Committee of the Texas Department of Mental Health and Mental Retardation will meet at the Dallas County MHMR Center, 1341 West Mockingbird Lane, Suite 1000-E, Dallas. According to the complete agenda, the committee will hear citizens' comments; and consider the appointment of the superintendent of Fort Worth State School. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: April 14, 1992, 4:22 p.m.

TRD-9205245

Wednesday, April 22, 1992, 11:15 a.m. The Board of the Texas Department of Mental Health and Mental Retardation will meet at the Dallas County MHMR Center, 1341 West Mockingbird Lane, Suite 1000-E, Dallas. According to the complete agenda, the board will call the meeting to order; hear citizens' comments (limited to three minutes); and consider the appointment of the superintendent of Fort Worth State School. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: April 14, 1992, 4:22 p.m.

TRD-9205244

♦ ♦ ♦

Public Utility Commission of Texas

Thursday, April 23, 1992, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10995-application of Sugar Land Telephone Company for approval of new optional service, Flexar Service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1992, 2:51 p.m.

TRD-9205304

Friday, April 24, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10757-application of Southwestern Bell Telephone Company to revise §5 of the general exchange tariff to add an optional feature for Plexar-I, alternate answering-outside systems.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1992, 2:52 p.m.

TRD-9205307

Monday, April 27, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10894-application of Gulf States Utilities Company to reconcile fuel costs, establish new fixed fuel factors, and recover its under-recovered fuel expense.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1992, 2:51 p.m.

TRD-9205305

Monday, May 18, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10894-application of Gulf States Utilities Company to reconcile fuel costs, establish new fixed fuel factors, and recover its under-recovered fuel expense.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1992, 2:51 p.m.

TRD-9205306

♦ ♦ ♦

Texas Real Estate Commission

Saturday-Sunday, May 2-3, 1992, 8 a.m. The Texas Real Estate Inspector Committee of the Texas Real Estate Commission will meet at the TREC Headquarters, Conference Room 235, 1101 Camino La Costa, Austin. According to the complete agenda, on Saturday, the committee will call the meeting to order; discuss approval of minutes of February 29-March 1, 1992 meeting; discuss and possible action to recommend adoption of 22 TAC §535.222, concerning inspection standards by the Texas Real Estate Commission; meet in executive session to review examination materials pursuant to Attorney General Opinion Number H-484; possible action to recommend changes in inspector examination program; discuss and possible action to recommend other action by the Texas Real Estate Commission to implement Texas Civil Statutes, Article 6573a, §23; date and place of next meeting. On Sunday, the committee will call the meeting to order; discuss and possible action on any agenda item from the previous day; and adjourn.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: April 16, 1992, 9:10 a.m.

TRD-9205324

♦ ♦ ♦

Texas Rehabilitation Commission

Thursday-Friday, April 23-24, 1992, 9 a.m. The Advocacy and Public Information Committee, Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 4240, Austin. According to the complete agenda, on Thursday the committee will call the meeting to order; discuss approval of minutes; discuss development of position statements: health care; employment; child care; community living; state policy legislation: facility review task force; health and human services restructuring; guardianship activities; Texas Respite Resource Network/Attendant Services Task Force; process to develop of Legislative platform; federal policy/legislation: VR reauthorization; CSLA; personal assistance service; other federal legislation; public information activities: update on supported employment video; hear staff report; and on Friday, a continuation of unfinished business from Thursday. (Please call Denese Holman, (512) 483-4087 if there is a need for an interpreter or materials for meeting).

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4081.

Filed: April 15, 1992, 12:07 p.m.

TRD-9205289

♦ ♦ ♦

Texans' War On Drugs, Inc.

Thursday, April 16, 1992, 9:30 a.m. The Board of Directors of the Texans' War On Drugs, Inc. met at the TWOD Conference Room, 11044-D Research Boulevard, Suite 200, Austin. According to the complete emergency revised agenda, the board will call the meeting to order; welcome guests; discuss approval of minutes of January 30, and February 18, 1992; financial update;

review and discuss business: acceptance of 1990-1991 audit report; resolution accepting Paul Eggers' resignation from board; meet in executive session to discuss candidates interviewed for the position of executive director; adjourn executive session; and act on matters discussed in executive session. The emergency status was necessary due to urgent personnel matters.

Contact: Janis Pittel, 11044-D Research Boulevard, Suite 200, Austin, Texas 78759, (512) 343-6950.

Filed: April 14, 1992, 12:49 p.m.

TRD-9205200

♦ ♦ ♦

Texas Appraiser Licensing and Certification Board

Friday, April 24, 1992, 9 a.m. The Texas Appraiser Licensing and Certification Board will meet at the TREC Headquarters, Conference Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the agenda summary, the board will call the meeting to order; consideration of the minutes of March 26-27, 1992 meeting; hear staff reports; discuss budgetary matters; report from the Education Subcommittee; discuss Appraiser Continuing Education; discussion and possible action: to publish an amendment to 22 TAC §153.15 relating to experience required for the state licensed classification; concerning broker's opinions of value or appraisals which do not meet or depart from USPAP standards; concerning applications, certification/licensing or other board procedures, policies and interpretations; discussion and possible response to recent federal proposals, adoptions and interpretations; discussion and possible action concerning the TALCB strategic plans for 1992-1998; to approve educational courses; hear comments and presentations from visitors; selection of date of subsequent meetings; and adjourn.

Contact: Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

Filed: April 15, 1992, 11:44 a.m.

TRD-9205287

♦ ♦ ♦

Texas Council on Vocational Education

Thursday, May 7, 1992, 8:30 a.m. The Texas Council on Vocational Education will meet at the Sheraton Hotel, Red River Meeting Room, 500 North IH-35, Austin. According to the agenda summary, the council will allow thirty minutes at beginning of meeting for viewing of the Sex Equity Video entitled "More Voices, More Choices: and the SOICC Video entitled "Career Success." The Council will hear public comments/testimony on issues related to vocational education; hear a presentation by Macey Reasoner, Chair of the State Job Training Coordinating Council on the SJTCC and Smart Jobs; overview of JTPA by the Department of Commerce staff; discuss its responsibility to evaluate JTPA and Vocational Education Delivery Systems; discuss the council's 1992 retreat; hear presentations on the JTPA Local Delivery System; hear reports of meetings attended by council members and staff; and discuss other business.

Contact: Lynda S. Rife, P.O. Box 1886, Austin, Texas 78767, or 1717 West Sixth Street, Suite 360, Austin, Texas 78703, (512) 463-5490.

Filed: April 15, 1992, 9:20 a.m.

TRD-9205275

♦ ♦ ♦

University of Houston

Monday, April 20, 1992, 2 p.m. The Animal Care Committee of the University of Houston met at the University of Houston, S&R II, Room 201, 4800 Calhoun Boulevard, Houston. According to the agenda summary, the committee discussed and/or acted on the following: approval of March minutes; renewal protocols; AAALAC; faculty training course; update on security system; survival rodent surgery; and rat housing policy.

Contact: Julie T. Norris, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 749-3412.

Filed: April 15, 1992, 9:10 a.m.

TRD-9205270

♦ ♦ ♦

Texas Water Commission

Wednesday, April 15, 1992, 10 a.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time. The emergency action was necessary to protect the public's health, safety, and welfare due to the parties inability to reach an agreement and to forestall federal pre-emption of state control of water resources.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 14, 1992, 4:26 p.m.

TRD-9205260

Wednesday, April 15, 1992, 11 a.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission took various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time. The emergency action was necessary to protect the public's health, safety, and welfare due to the parties inability to reach an agreement and to forestall federal preemption of state control of water resources.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 15, 1992, 8:33 a.m.

TRD-9205266

♦ ♦ ♦

Texas Workers' Compensation Fund

Wednesday, April 22, 1992, 8:30 a.m. The Board of Directors of the Texas Workers' Compensation Fund will meet at the Driskill Hotel, Paramount Room, Sixth and Brazos Streets, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; review and discuss approval of minutes of March 25, 1992; hear staff reports: financial, finance committee report: audit selection process; investments, operational reports: operations; marketing, finance and administration; claims, approval of MIS contract; public relations, approval of rate filings and policy forms; meet in executive session to discuss claims and MIS contracts; rate filings and policy forms; employee benefits package; fraud investigation and referral; approval of employee benefits package; and approval of fraud investigation agreement.

Contact: Alana Foster, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3851.

Filed: April 14, 1992, 4:34 p.m.

TRD-9205263

♦ ♦ ♦

Regional Meetings

Meetings Filed April 14, 1992

The Atascosa County Appraisal District Agricultural Advisory Board will meet at Fourth and Avenue J, Atascosa County Appraisal District, Poteet, April 21, 1992, at 9 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (512) 742-3591. TRD-9205203.

The Bexar Appraisal District Board of Directors met at 535 South Main Street, San Antonio, April 20, 1992, at 5 p.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9205226.

The Central Plains Center for Mental Health and Mental Retardation Substance Abuse Board of Trustees will meet at 208 South Columbia, Plainview, April 23, 1992, at 5:30 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9205197.

The Education Service Center, Region XIII Board of Directors held an emergency meeting at the ESC, Region XIII, Room 205, 5701 Springdale Road, Austin, April 16, 1992, at 2 p.m. The emergency status was necessary due to personnel matters. Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9205196.

The Henderson County Appraisal District Board of Directors met at 1751 Enterprise, Athens, April 20, 1992, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9205227.

The Hunt County Appraisal District Board of Directors will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, April 23, 1992, at 6:30 p.m. Information may be obtained from Triena Rogers, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9205224.

The Hunt County Appraisal District Appraisal Review Board will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, April 28, 1992, at 9:30 a.m. Information may be obtained from Triena Rogers, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9205225.

The Lower Neches Valley Authority Personnel Committee will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, April 21, 1992, at 9:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9205219.

The Lower Neches Valley Authority Industrial Development Corporation will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, April 21, 1992, at 10:15 a.m. Information may be obtained from A. T. Hebert, Jr. , P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9205217.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, April 21, 1992, at 10: 30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9205218.

The Region III Education Service Center Board of Directors met at the Ramada Inn, 3901 Houston Highway, Victoria, April 20, 1992, at 11:30 a.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9205261.

The Region III Education Service Center Board of Directors met at 1905 Leary Lane, Victoria, April 20, 1992, at 1:30 p.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9205262.

The Scurry County Appraisal District Agricultural Advisory Committee met at 2612 College Avenue, Snyder, April 20, 1992, at 2 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9205223.

♦ ♦ ♦

Meetings Filed April 15, 1992

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 420, San Antonio, April 20, 1992, at 2 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9205280.

The Ark-Tex Council of Governments Executive Committee will meet at the Mt. Pleasant Country Club off Greenhill Road, Mt. Pleasant, April 23, 1992, at 5:30 p.m. Information may be obtained from Brenda Stone, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9205274.

The Brazos River Authority Board of Directors, Water Quality Committee met at the Universe Room, East Tower, Hyatt Regency DFW Hotel, Dallas-Fort Worth Airport, April 20, 1992, at 10 a.m. (Revised agenda). Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9205273.

The Coryell City Water Supply District Board of Directors will meet at the Coryell City Water Supply District Office, FM 929, Gatesville, April 23, 1992, at 7:30 p.m. Information may be obtained from Helen Swift, Route 2, P. O. Box 93, Gatesville, Texas 76528, (817) 865-6089. TRD-9205290.

The Dewitt County Appraisal District Board of Directors will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, April 21, 1992, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9205272.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, April 21, 1992, at 10 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015. TRD-9205271.

The Hood County Appraisal District Board of Directors will meet at 1902 West Pearl, District Office, Granbury, April 21, 1992, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9205291.

The Johnson County Rural Water Supply Corporation Committee will meet at the JCRWSC Office, Highway 171 South, Cleburne, April 21, 1992, at 8 a.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9205300.

The Johnson County Rural Water Supply Corporation Committee will meet at the JCRWSC Office, Highway 171 South, Cleburne, April 21, 1992, at 9 a.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9205301.

The Johnson County Rural Water Supply Corporation Committee will meet at the JCRWSC Office, Highway 171 South, Cleburne, April 22, 1992, at 10 a. m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9205302.

The Lamar County Appraisal District Board will meet at the Lamar County Appraisal District Office, 521 Bonham Street, Paris, April 21, 1992, at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (93) 785-7822. TRD-9205296.

The Mental Health and Mental Retardation Authority of Brazos Valley Board of Trustees will meet at the Robertson County MHMR Center, 1212 Brown Street, Hearne, April 23, 1992, at 1:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9205311.

The Region III Education Service Center Board of Directors met at 1905 Leary Lane, Victoria, April 20, 1992, at 1:30 p.m. (Re-

vised agenda). Information may be obtained from Dr. Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9205303.

The San Jacinto River Authority Board of Directors will meet at the Woodlands Executive Conference Center, 2301 North Millbend Road, Woodlands, April 22, 1992, at 12:30 p.m. Information may be obtained from James R. Adams, P. O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9205276.

The Trinity River Authority of Texas Board of Directors will meet at the Austin Hall, Sam Houston State University, 1700 University Avenue, Walker County, Huntsville, April 22, 1992, at 10:30 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9205288.

The West Central Texas Council of Governments Executive Committee will meet at 1025 East North 10th Street, Abilene, April 22, 1992, at 12:45 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9205299.

The Wise County Appraisal District Agricultural Advisory Board will meet at 206 South State Street, Decatur, April 21, 1992, at 7:30 p.m. Information may be obtained from Freddie Triplett, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9205298.

The Wood County Appraisal District Board of Directors held an emergency meeting at 217 North Main, Conference Room, Wood County Appraisal District, Quitman, April 16, 1992, at 7 p.m. The emergency status was necessary as date should have been 16th instead of 17th. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9205283.

♦ ♦ ♦

Meetings Filed April 16, 1992

The Garza County Appraisal District Appraisal Review Board will meet at the Appraisal District Office, 124 East Main, Post, April 21, 1992, at 2 p.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9205320.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, April 23, 1992, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9205321.

♦ ♦ ♦

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

State Banking Board

Notice of Hearing Cancellation

The hearing previously scheduled for Monday, April 20, 1992, for the change of domicile application by the Trust Management, Inc. Fort Worth, has been cancelled.

Issued in Austin, Texas, on April 10, 1992.

TRD-9205111 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 13, 1992

For further information, please call: (512) 475-1337

♦ ♦ ♦

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, Vernon's Texas Civil Statutes).

Types of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer (1)/Agricultural/ Commercial (2) thru $250,000	Commercial(2) over $250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	04/20/92-04/26/92	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on April 13, 1992.

TRD-9205277 Al Endsley
Consumer Credit Commissioner

Filed: April 15, 1992

For further information, please call: (512) 479-1280

♦ ♦ ♦

Texas Department of Criminal Justice

Correction of Error

The Texas Department of Criminal Justice adopted new 37 TAC§§165,6--165. 68, concerning State Aid Distribution and Monitoring. The rules were published in the April 7; 1992, issue of the *Texas Register* (17 TexReg 2473). Due to an error in the agency's submission, §§165.65-165.68 were noted in the preamble as adopted without change. This statement is incorrect. Changes were made for clarification or clerical purposes with the exception of §165.65(e) and §165.66(c), which contained substantive changes.

In §165.65(e) "CJAD" should read "TDCJ" at the end of the first sentence and beginning of the last sentence. The agency deleted the sentence beginning with "the specific formats..." It added "...on forms provided by TDCJ" to the end of the first sentence and substiuted "deemed" for "...the Board or CJAD deems..." in the last sentence.

In §165.66(c) the agency deleted "...not later than December 20 of each year, except for state fiscal year 1992."

The text of §§165.65-165.68, as adopted with changes should read as follows.

§165.65. Rules Governing Program Accountability and Audit.

(a) The Community Justice Assistance Division (CJAD) may withhold or delay payment to a county participating in the performance reward program, if CJAD determine the county is not in compliance with any or all of the regulation pertaining to the performance reward program.

(b) Counties receiving performance reward funds hall deposit those fund in a special fund of the county treasury to be used solely for the purposes of implementing the county's plan under the performance reward program.

(c) Counties participating in the performance reward program shall expend performance reward funds on those priority expenditure categories determined allowable by CJAD, before making other expenditures. The CJAD shall make available to eligible counties a list of allowable priority expenditure categories at the time it supplies the eligible counties with the format for the county plan and budget schedule. Counties who wish to make expenditures outside the list of allowable priority expenditures must

first seek approval from CJAD, before making the expenditures.

(d) Performance reward funds may be to expand existing programs, but shall not be expended to duplicate or supplant existing programs in the county.

(e) Counties participating in the performance reward program and receiving performance reward fund shall make quarterly financial and program status reports to TDCJ on forms provided by TDCJ. The TDCJ reserves the right to require the counties participating in the performance reward program to submit additional reports or information deemed appropriate

(f) Counties participating in and receiving performance reward program funds shall make their financial records of transactions involving performance reward funds available to representatives of the Texas Department of Criminal Justice (TDCJ) for financial audit purposes. Counties participating and receiving performance reward program funds shall make available to representatives of CJAD and TDCJ access to those programs and their records funded under the performance reward program in the county for the purposes of program monitoring and evaluation.

§165.66. Program Evaluation Standards.

(a) To be eligible for funding, a program must meet the following performance review standards of the Community Justice Assistance Division (CJAD). These standards, which are stated in greater detail in program documents which will be supplied by CJAD, include the following elements.

(1) The program description must be supported by data which demonstrates direct linkage to impacting jail and prison commitments, and must be written in concise and specific terms.

(2) The target population must be identified in a way that reflects the profile of offenders sentenced to the Institutional Division or to a jail in that county.

(3) Proposed outcomes must be specific applicable, measurable, and with stated time frames. The anticipated change in number of commitments should be reflected in this section.

(4) Implementation strategies must describe step-by-step program operations with stated time frames.

(5) Evaluation methodologies must describe how the program's impact on the target population and the county's jail and prison commitments will be measured.

(b) The CJAD reserves the right to accept, reject, or conditionally accept subject to modification the plan submitted.

(c) The CJAD will notify counties of its response to the county's plan.

§165.67. Required Cooperation With Institutional Division Employees. Counties which fail to fully cooperate with the Institutional Division (ID) of the Texas Department of Criminal Justice (TDCJ) are subject to termination of program funding. Any of the following acts, if done knowingly and willfully by any elected official, agent, or employee of the county shall be ground for termination of funding:

(1) failure to refer candidates for release on parole from jail in the manner required under guidelines to be established by the board; or

(2) failure to provide for each parole candidate a certified packet containing all documents the county would otherwise have been required to deliver to the director of the ID under the Texas Code of Criminal Procedure, Article 42.09, §8, plus three photograph and fingerprint cards; or

(3) failure to hold parole candidates until the candidates are denied parole or released on parole, unless to do so would mean the county failed to use all admissions allocated to the county under the Government Code, §499.071 and the allocation formula adopted by the board in 37 TAC §152, et seq; or

(4) failure to permit employees of TDCJ to have access to inmates or inmate records; or

(5) failure to provide employees of TDCJ with sufficient space to conduct their evaluations.

§165.68. Dispute Resolution Procedures .

(a) These dispute resolution procedures shall not be regarded as contested case proceedings under the Texas Administrative Procedures Act.

(b) If a staff member of the Texas Department of Criminal Justice believes that a county official, agent, or employee has knowingly committed any of the acts which are grounds for termination of funding, for failure to cooperate with the Institutional Division (ID), as set forward in §165.67 of this title (relating to Required Cooperation With Institutional Division Employees), that staff member shall contact the director of this ID or his designee. The director of the ID or his designee shall then contact the county judge or the chief district judge of the county alleged to be in violation to attempt to resolve the problem quickly and through informal means.

(c) If the director of the ID or his designee cannot quickly resolve the problem, the county judge shall be given written notice that future program funding will be suspended until the problem is corrected. Said notice shall further advise the county judge of his right to make a formal appeal to the board, and to request hearing before the board if the county deems such action to be necessary or appropriate.

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

Issued in Austin, Texas, on March 31, 1992.

TRD-9204490 Jackee Cox
General Counsel
Texas Department of Criminal Justice

Earliest possible date of adoption:

For further information, please call:

♦ ♦ ♦

Request for Proposal

Pursuant to authority granted by House Bill 2335, Article 1, 71st Legislature, and Government Code, §492.013, Texas Civil Statutes, the State of Texas and Texas Department of Criminal Justice (TDCJ), Institutional Division, hereby requests all interested parties to submit proposals

for professional engineering services concerning a groundwater assessment plan and report, as well as remedial action alternatives, remedial action plan, and oversight of remedial action. These items pertain to all pentachlorophenol wood treatment facilities. Plans, reports, and remedial actions are to be accomplished while satisfying the technical recommendations put forth by the Texas Water Commission in an agreed order, signed August 31, 1989. Further, the selected proposer will be charged with procuring sealed bids from contractors to carry out fieldwork as directed by the plans. These bids will be presented to the Texas Department of Criminal Justice for final decision. Deadline for submission for the request proposal is noon, June 2, 1992.

A site tour will be held on May 12, 1992, at 9:30 a.m. Any interested parties wishing to participate in this tour will meet at the TDCJ Administration Complex, Office 201, Spur 59, Huntsville.

For a complete copy of the Request for Proposal, contact: Tom Fordyce, Assistant Director, Environmental Affairs, Texas Department of Criminal Justice, Institutional Division, P.O. Box 99 (Spur 59), Room 212, Huntsville, Texas 77342-0099, (409) 294-2144.

The evaluation of the proposals will be based upon the expertise of the applicant, experience of applicant dealing with similar situations, projected time schedule for project, financial stability of applicant, efficiency of scope of services presented, and the requirements of applicable law.

Issued in Austin, Texas, on April 14, 1992.

TRD-9205268 Jackee Cox
General Counsel
Texas Department of Criminal Justice

Filed: April 15, 1992

For further information, please call: (512) 463-9988

♦ ♦ ♦

Texas Education Agency

Notice to Public-Availability of Elementary and Secondary Education Act Chapter 2 Evaluation of Program Effectiveness for School Year 1990-1991

Public Law 100-297, Title I, Chapter 2, required states to conduct a comprehensive effectiveness evaluation of state and local Chapter 2 programs for federal fiscal year 1990 and to make the evaluation available to the public. Chapter 2 of the Elementary and Secondary Education Act (ESEA) provides financial assistance to state and local educational agencies to improve elementary and secondary education through a variety of targeted programs and services for children attending both public and private nonprofit schools.

The Chapter 2 Evaluation of Program Effectiveness for School Year 1990-1991 is now available to the public through each regional education service center. Colleges and universities in Texas were also requested to file a copy of the report in their campus library. Parents, teachers, school administrators, private nonprofit school personnel, local community organizations, businesses, and other interested persons or agencies may review the copy on file or may copy the document at personal expense at any education service center or college/university library where the document is on file.

Interested persons or agencies may also request a copy at no charge from the Texas Education Agency, Document Control Center, Room 6-108, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

Issued in Austin, Texas, on April 14, 1992.

TRD-9205267 Lionel R. Meno
Commissioner of Education

Filed: April 15, 1992

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

♦ ♦ ♦

Employees Retirement System of Texas

Consultant Contract Award

This award for consulting services is being filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

The contract provides for communication consultation services for group insurance and flexible benefits programs under the new managed care plan for state employees and employees of institutions of higher education. The contract period is March 1, 1992, to August 31, 1992. The amount of the contract is not to exceed $146,000.

The consultant selected is The Wyatt Company, Suite 2400, Lock Box 58, 2121 San Jacinto Street, San Jacinto Tower, Dallas, Texas 75210.

Issued in Austin, Texas, on April 13, 1992.

TRD-9205096 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: April 13, 1992

For further information, please call: (512) 867-3336

♦ ♦ ♦

Texas Department of Health

Statewide Request for Proposal-Case Management Services

Texas Department of Health (TDH) is soliciting proposals for the provision of case management services to eligible children in selected areas of the state. Case management is the assessment of a client's overall services needs and the development and implementation of a course of action or plan for meeting those needs, which is family centered, community-based, culturally competent, comprehensive, and is intended to assist those clients who need a variety of services. The purpose of case management is to access, organize, and assure services and resources for clients through the activities of advocacy, mutual goal setting, monitoring and tracking, education, information and referral, and family empowerment. To be eligible for services, a resident must be under the age of 21, a resident of Texas, and have a special health need.

Case management services will be reimbursed through contractual arrangements with TDH, Bureau of Chronically Ill and Disabled Children's Services (CIDC). Contracts will be awarded for a one-year period from September 1, 1992-August 31, 1993. Contract awards will be based on available funding. Contracts will be in accordance with Texas law, TDH and CIDC policies, and the Uniform Grant and Contract Management Standards (UGCMS) manual, which is available from TDH, Grants

Management Division, 1100 West 49th Street, Austin, Texas 78756-3199.

Contracts will be awarded on the basis of the most cost-effective and professionally appropriate plan of operation. Proposals must contain service delivery systems that promote family-centered, community-based, culturally competent, coordinated care for children with special health needs and their families. Proposals will be evaluated on the following criteria: the extent to which the proposal will meet identified needs, specifically, unserved or underserved areas of the state, geographic diversity, and comprehensive care in a culturally competent environment; the cost of initiating or operating a program (cost effectiveness, allocation of direct services, elimination of duplication of services); the availability of other funding sources including parent payment, third party reimbursement, contributions, in-kind match and other grant monies; the assurance of community support as exhibited by letters of support, coordination of services among local agencies and resources, community volunteers, and parent advocacy groups; and equal distribution of resources across the state.

Proposal work plans must include: a defined service area, with a comprehensive needs assessment, and identification of available existing resources within the area; a detailed plan for the provision of cost-effective, culturally competent case management services. (The detailed plan includes, but is not limited to, defined case management goals with objectives and performance standards for meeting these goals; evidence of input from parents or parent groups in the development and implementation of services; specific professional responsibilities of staff members in providing case management services; a description of how the contractor will coordinate, or possibly subcontract, with existing resources in order to provide comprehensive services without duplicating existing services; a description of the client assessment process, service plan development, and the follow-up/monitoring of client needs; and priorities for service to be rendered and the basis for stated priorities); demonstrated ability, based on staff, experience, and organizational structure to perform case management; projected annual cost per client served, the number of individuals to be served, the number of client encounters by type of service, and the frequency of services provided each individual; documented evidence of support from local parent groups and the regional TDH/CIDC director of social work services, whose written input must accompany the proposal; and an evaluation plan to assess process and outcome measures of the program's performance objectives.

All income generated from third party payments and clients fees must be utilized by the contract recipient in accordance with TDH policy interpreting the UGCMS regulations. Proposal packets may be obtained by contacting Marjorie Simmons, Bureau of Chronically Ill and Disabled Children's Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179, (512) 458-7355. Proposals must be received in the CIDC office by 5 p.m. on Friday, June 12, 1992, or postmarked on or before Thursday, June 11, 1992. Proposals which do not meet this deadline will not be considered.

Issued in Austin, Texas, on April 7, 1992.

TRD-9205152 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: April 14, 1992

For further information, please call: (512) 458-7355.

♦ ♦ ♦

Statewide Request for Proposal-Direct Services Outreach Program

Texas Department of Health (TDH) is soliciting proposals for the provision of direct outreach services to eligible individuals in selected areas of the state. These services will include screening, diagnosis and evaluation services, treatment services, and referral services. An outreach clinic is a primary or secondary level health care facility adequately equipped and staffed by local and secondary or tertiary level (outreach) staff. The clinics must meet a recognized community need and be located a significant distance from tertiary centers of health care. The purpose of the Direct Services Outreach Program is to provide access to health services and resources for children with special health needs in unserved or underserved areas of the state.

Direct outreach services will be reimbursed through contractual arrangements with TDH, Bureau of Chronically Ill and Disabled Children's Services (CIDC). Contracts will be awarded for a one-year period from September 1, 1992-August 31, 1993. Contract awards will be based on available funding. Contracts will be in accordance with Texas law, TDH and CIDC policies, and the Uniform Grant and Contract Management Standards (UGCMS) manual, which is available from TDH, Grants Management Division, 1100 West 49th Street, Austin, Texas 78756-3199.

Contracts will be awarded on the basis of the most cost-effective and professionally appropriate plan of operation. Agencies must have a base of operation physically located in the geographic catchment area specified in the contract and provide services within the geographical limits of the contract. Proposals will be evaluated on the following criteria: documentation of community need for the outreach service; coordination with TDH regional office in the planning process; the extent to which the proposal will meet identified needs, specifically, unserved or underserved areas of the state; and comprehensive care in a culturally competent environment; the quality of the proposal's written statement of goals (operating plan), especially with regard to measurable and obtainable objectives; the cost of initiating or operating a program (cost effectiveness, allocation of direct services, elimination of duplication of services); the availability of other funding sources including parent payment, third party reimbursement, contributions, in-kind match, and other grant monies; the assurance of community support as exhibited by letters of support, and evidence of or a plan for coordination of services among local medical providers, local agencies, and resources (including the local health department), and regional TDH office; and the caliber and experience of the project staff.

Proposal work plans must include: a defined service area, with a comprehensive needs assessment, and identification of available existing resources within the area; a detailed plan for the provision of cost-effective, culturally competent services. (The detailed plan includes, but is not limited to, defined goals with objectives and performance standards for meeting these goals; specific professional responsibilities of staff members providing these services; a description of how the contractor will coordinate, or possibly subcontract, with existing resources in order to provide

comprehensive services without duplicating existing services; a description of the client assessment process, treatment/service plan development, and the follow-up/monitoring of client needs; and priorities for service to be rendered and the basis for stated priorities); demonstrated ability, based on staff, experience, and organizational structure to provide quality care; projected annual cost per client served, the number of individuals to be served, the number of client encounters by type of service, and the frequency of services provided each individual; documented support of the local medical community and the TDH regional office; and an evaluation plan to assess process and outcome measures of the program's performance objectives.

All income generated from third party payments and client fees must be utilized by the contract recipient in accordance with TDH policy interpreting the UGCMS regulations.

Proposal packets may be obtained by contacting Marjorie Simmons, Bureau of Chronically Ill and Disabled Children's Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179, (512) 458-7355.

Proposals must be received in the CIDC office by 5 p.m. on Friday, June 19, 1992, or postmarked on or before Thursday, June 18, 1992. Proposals which do not meet this deadline will not be considered.

Issued in Austin, Texas, on April 7, 1992.

TRD-9205112 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: April 14, 1992

For further information, please call: (512) 458-7355

♦ ♦ ♦

Statewide Request for Proposal-Epilepsy Services

Texas Department of Health (TDH) is soliciting proposals for the provision of epilepsy services to eligible individuals in selected areas of the state. Epilepsy means a variable symptom complex characterized by recurrent paroxysmal attacks of unconsciousness or impaired consciousness, usually with a succession of clonic or tonic muscular spasms or other abnormal behavior. The purpose of the Epilepsy Program is to assist individuals to achieve effective control of epilepsy and reduce the negative consequences for individuals, their families, and their community.

Epilepsy services will be reimbursed through contractual arrangements with TDH, Bureau of Chronically Ill and Disabled Children's Services (CIDC). Contracts will be awarded for a one-year period from September 1, 1992-August 31, 1993. Contract awards will be based on available funding. Contracts will be in accordance with Texas law, TDH and CIDC policies, and the Uniform Grant and Contract Management Standards (UGCMS) manual, which is available from TDH, Grants Management Division, 1100 West 49th Street, Austin, Texas 78756-3199.

Contracts will be awarded on the basis of the most cost-effective and professionally appropriate plan of operation. Proposals must contain service delivery systems that promote family-centered, community-based, culturally competent, coordinated care for persons with epilepsy and their families. Proposals will be evaluated on the following criteria: the extent to which the proposal will meet identified needs, specifically, unserved or underserved areas of the state, geographic diversity, and comprehensive care in a culturally competent environment; the quality of the proposal's written statement of goals (operating plan), especially with regard to measurable and obtainable objectives; the cost of initiating or operating a program (cost effectiveness, allocation of direct services, elimination of duplication of services); the availability of other funding sources including parent payment, third party reimbursement, contributions, in-kind match and other grant monies; the assurance of community support as exhibited by letters of support, coordination of services among local agencies and resources, and community volunteers; and equal distribution of resources across the state.

Proposal work plans must include: a defined service area, with a comprehensive needs assessment, and identification of available existing resources within the area; a detailed plan for the provision of cost-effective, culturally competent services. (The detailed plan includes, but is not limited to, the following: defined goals with objectives and performance standards for meeting these goals; specific professional responsibilities of staff members in providing epilepsy services; a description of how the contractor will coordinate, or possibly subcontract, with existing resources in order to provide comprehensive services without duplicating existing services; A description of the client assessment process, treatment/service plan development, and the follow-up/monitoring of client needs; and priorities for service to be rendered and the basis for stated priorities); demonstrated ability, based on staff, experience, and organizational structure to provide quality care; projected annual cost per client served, the number of individuals to be served, the number of client encounters by type of service, and the frequency of services provided each individual; documented support of local medical providers and the regional TDH/CIDC director of social work services, whose written input must accompany the proposal; and an evaluation plan to assess process and outcome measures of the program's performance objectives.

All income generated from third party payments and clients fees must be utilized by the contract recipient in accordance with TDH policy interpreting the UGCMS regulations. Proposal packets may be obtained by contacting Marjorie Simmons, Bureau of Chronically Ill and Disabled Children's Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179, (512) 458-7355. Proposals must be received in the CIDC office by 5 p.m. on Friday, June 12, 1992, or postmarked on or before Thursday, June 11, 1992. Proposals which do not meet this deadline will not be considered.

Issued in Austin, Texas, on April 7, 1992.

TRD-9205151 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: April 14, 1992

For further information, please call: (512) 458-7355

♦ ♦ ♦

Texas High-Speed Rail Authority

Notice of Intent to Prepare an Environmental Impact Statement

Notice. The Federal Railroad Administration (FRA) and the Texas High-Speed Rail Authority (THSRA) hereby give notice that they intend to prepare an environmental impact statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA) on the proposed Texas high-speed rail project (project). The EIS will evaluate the proposed project, the no-action alternative, and other reasonable alternatives identified in the scoping process. Scoping will be accomplished by correspondence with interested persons, organizations, and federal, state, and local agencies, and through public scoping meetings.

Alternatives. Reasonable alternatives to the proposed action will be included in the scope of environmental analysis for consideration by FRA and THSRA. These alternatives will include, but are not limited to, alternatives to the proposed route alignment, station locations, and operating procedures, the no-action alternative and any other alternatives identified in the scoping process. The no-action alternative could include short-term minor activities to improve the existing transportation conditions, such as safety and maintenance improvements.

Probable Effects. FRA and THSRA will evaluate all significant environmental, social, and economic impacts of the alternatives analyzed in the EIS. Impacts anticipated include, but are not necessarily limited to, changes in the natural environment (air and water quality, natural ecology possibly including rare and endangered species), changes in the social environment (agriculture, land use and neighborhoods, noise and vibration, aesthetics, historic/archaeological resources), human health (electromagnetic field effects), and changes in transportation patterns and safety. The impacts will be evaluated both for the construction period and for the long-term period of operation and for decommissioning. Measures to mitigate significant adverse impacts will be addressed.

Public Scoping Meetings. FRA and THSRA invite interested individuals, organizations, and federal, state, and local agencies to participate in defining the reasonable alternatives to be evaluated in the EIS and in identifying any significant social, economic, or environmental issues related to the alternatives. Scoping comments can be made verbally at the public scoping meetings or in writing. During scoping, comments should focus on identifying specific impacts to be evaluated and suggesting alternatives that are less costly or less environmentally damaging while achieving similar objectives. Comments may also identify issues which are not significant or which have been covered by prior environmental review. Scoping is not the time to indicate a preference for a particular alternative. There will be an opportunity to comment on preferences after the draft EIS is completed.

Public scoping meetings will be held between May 12 and June 25, 1992, in 38 counties. A list of scoping meeting dates and locations follows. These meetings will use an open house format between 2 p.m. and 10 p.m. during which time interested parties can discuss and comment on the proposed project and its alternatives. At 7 p.m., a group meeting will be convened which will include a brief presentation to include an overview of the proposed project and the EIS process. At this time there will be an opportunity to make comments in a group setting. All comments received throughout the day will be made a part of the administrative record for the EIS and will be evaluated as part of the scoping process.

Comments outside of scoping meetings. Written comments on the scope of alternatives and potential impacts should be sent to THSRA's EIS contractor, Woodward-Clyde Consultants, by July 13, 1992 at the following address: David B. Barrows or R. Clint Miller, Woodward-Clyde Consultants, P.O. Box 684594, Austin, Texas 78768-4594, (800) 998-7787.

Addition Information. An information packet describing the project and EIS process in more detail will be available at the public scoping meetings or from Woodward-Clyde Consultants at the address listed previously. Persons wishing to be placed on the mailing list to receive further information as the EIS process develops, contact Woodward-Clyde Consultants at the address listed previously. For other information, please contact Steven Polunsky, Texas High-Speed Rail Authority, Suite 1502, 823 Congress Avenue, Austin, Texas 78701, (512) 478-5484.

COUNTY	CITY	LOCATION STREET ADDRESS DIRECTIONS	DATE
Austin	Bellville	AUSTIN COUNTY FAIRGROUNDS WOMEN'S EXHIBIT BUILDING Highway 159 *On Highway 159 one mile east of Town Square*	June 3, 1992
Bastrop	Bastrop	AMERICAN LEGION HALL Loop 150 (across from State Park entrance) *Across from the State Park on edge of town*	June 18, 1992
Bell	Belton	BELL COUNTY EXPO CENTER 301 W. Loop 121 *Interstate 35 just south of town*	June 10, 1992
Bexar	San Antonio	CONVENTION CENTER 200 E. Market *At South Alamo downtown*	May 28, 1992
Brazos	Bryan	BRAZOS CENTER 3232 Briarcrest *Off Texas 6/East Bypass at FM 1179*	May 12, 1992
Burleson	Caldwell	CZECH SPJST HALL Highway 36 South *On 536 just outside city limits next to fairgrounds intersection 2 miles*	May 13, 1992
Caldwell	Lockhart	PLUM CREEK ELEMENTARY 710 Flores Street *Off of 183 (South of Austin)*	June 10, 1992
Colorado	Columbus	KNIGHTS OF COLUMBUS HALL 1136 Milam	June 2, 1992
Comal	New Braunfels	CIVIC CENTER 380 S. Seguin *Downtown 6 blocks off of 35*	May 27, 1992
Dallas	Dallas	CONVENTION CENTER 650 S. Griffin	June 16, 1992
Ellis	Waxahachie	SOUTHWESTERN COLLEGE 1200 Sycamore *5 blocks west of Ferris Avenue*	June 18, 1992
Falls	Westphalia	CHURCH OF THE VISITATION PARISH HALL On FM Road 317 on the edge of town	June 8, 1992

Falls	Marlin	KNIGHTS OF COLUMBUS HALL Highway 7 East *On the east edge of town*	June 9, 1992
Fayette	La Grange	KNIGHTS OF COLUMBUS HALL 190 S. Brown	June 11, 1992
Fort Bend	Richmond	B Building/COUNTY FAIRGROUNDS 4310 Highway 36 South *Located 1 mile from 59*	May 20, 1992
Freestone	Fairfield	VFW HALL 5872 VFW Street *Highway 488*	June 4, 1992
Gonzales	Gonzales	GONZALES HIGH SCHOOL CAFETERIA Sara Dewitt Drive *183 – first light – left–around bypass takes you to High School*	June 9, 1992
Grimes	Navasota	VFW Highway 105 West *Just out of Navasota on highway 105 West*	May 28, 1992
Guadalupe	Seguin	GUADALUPE COUNTY COLISEUM 810 S. Guadalupe *Before Starke Park in city limits*	May 26, 1992
Harris	Houston	MARRIOT WEST LOOP 1750 West Loop South	May 21, 1992
Hays	San Marcos	SAN MARCOS HIGH SCHOOL CAFETERIA 1301 S. Seguin Highway	June 17, 1992
Hill	Hillsboro	OUR LADY OF MERCY CATHOLIC CHURCH Fellowship Hall *Off Interstate 35, exit 368,* *North end of West access road*	June 23, 1992
Johnson	Cleburne	CIVIC CENTER 1501 W. Henderson	June 24, 1992
Lee	Giddings	AMERICAN LEGION HALL Highway 77 South *1 mile south of Giddings*	June 24, 1992
Leon	Centerville	COMMUNITY CENTER Lassiter Street *1/2 mile from downtown, south on Highway 75*	June 2, 1992
Limestone	Groesbeck	GROESBECK CIVIC CENTER 105 E. Navasota *Near downtown*	June 11, 1992

Madison	Madisonville	WOODBINE HOTEL 209 E. Madison *Down from Courthouse*	May 13, 1992
McLennan	Waco	CONVENTION CENTER 100 Washington Ave. *Corner of University Parks Drive & Washington Ave*	June 25, 1992
Milam	Cameron	VFW HALL VFW Post 2010, 807 N. Houston	June 23, 1992
Montgomery	Conroe	FIRST CHRISTIAN CHURCH 3500 Loop 336 West *On Loop 336 between 105 & 2854*	May 27, 1992
Navarro	Corsicana	CORSICANA HIGH SCHOOL West Highway 22	June 3, 1992
Robertson	Hearne	FIREMAN'S HALL Highway 190 West *From 485 -- 1 mile north*	May 14, 1992
Tarrant	Fort Worth	AMON G. CARTER EXHIBITS HALL 3301 Crestline Street	June 17, 1992
Travis	Austin	HILTON HOTEL 6000 Middle Fiskville Road *Off Interstate 35 and 290 in North Austin*	June 16, 1992
Walker	Huntsville	WALKER COUNTY FAIRGROUNDS Main Building *Highway 30*	May 26, 1992
Waller	Hempstead	PRAIRIE VIEW A&M UNIVERSITY ALUMNI CENTER, WEST WING On Highway 290 *3 1/2 miles east of Hempstead at the intersection with FM Road 1098*	May 19, 1992
Washington	Brenham	FIREMEN'S TRAINING CENTER 1306 W. Main *Off Loop 290*	May 14, 1992
Wharton	Wharton	CIVIC CENTER, MAIN HALL 1924 N. Fulton *6 blocks from Courthouse*	June 4, 1992
Williamson	Georgetown	SAN GABRIEL COMMUNITY CENTER San Gabriel Park Road *San Gabriel Park North of downtown*	June 25, 1992

[graphic]

Issued in Austin, Texas, on April 13, 1992.

TRD-9205116 Bob Neely
Executive Director
Texas High-Speed Rail Authority

Filed: April 13, 1992

For further information, please call: (512) 478-5484

♦ ♦ ♦

Texas Department of Human Services

Public Notice

(Editor's note: Due to technical problems the following public notices filed by the Texas Department of Human Services, on April 7, 1992, were inadvertently omitted from the April 17, 1992, issue of the Texas Register.)

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration, to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-04, Amendment Number 343. The amendment incorporates preprints addressing the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) issued under Health Care Financing Administration Program Memorandum 91-10. The amendment is effective October 1, 1991. If additional information is needed, please contact Cathy Rossberg, (512) 450-3766.

Issued in Austin, Texas, on April 7, 1992.

TRD-9204806 Nancy Murphy
Agency liaison, Policy and Document Support
Texas Department of Human Services

Filed: April 7, 1992

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

♦ ♦ ♦

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration, to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-05, Amendment Number 344. The amendment incorporates technical corrections requested by Dallas Regional Services Letter Number 92-3. The amendment is effective January 1, 1992. If additional information is needed, please contact Cathy Rossberg, (512) 450-3766.

Issued in Austin, Texas, on April 7, 1992.

TRD-9204807 Nancy Murphy
Agency liaison, Policy and Document Support
Texas Department of Human Services

Filed: April 7, 1992

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

♦ ♦ ♦

Texas Department of Insurance

Correction of Error

The Texas Department of Insurance submitted a notification under the Insurance Code, Chapter 5, Subchapter L, Article 5.96. The notice was published in the March 3, 1992, *Texas Register* (17 TexReg 1657).

The notification contained a reference to "a qualified entity" in the listing of "the most notable changes are as follows:" The reference should read: "Each reference in the policy forms to the Texas Automobile Insurance Service Office is revised to "the Department or a qualified entity."

♦ ♦ ♦

Public Utility Commission of Texas

Notice of Petition For Waiver of Substantive Rules 23.41(a)(5) and 23.46(a)

Notice is given to the public of the filing with the Public Utility Commission of Texas of a petition on April 8, 1992, to waive provisions of PUC Substantive Rules 23.41(a)(5) and 23.46(a).

Docket Title and Number: Application of South Plains Telephone Cooperative, Inc. for temporary wavier from requirements of Substantive Rule 23. 41(a)(5), Docket Number 11090 before the Public Utility Commission of Texas.

The Application: In Docket Number 11090, South Plains Telephone Cooperative, Inc. has filed a petition seeking waiver of provisions of PUC Substantive Rules 23.41(a)(5) and 23.46(a).

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Division at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf before May 4, 1992.

Issued in Austin, Texas, on April 13, 1992.

TRD-9205220 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: April 14, 1992

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

♦ ♦ ♦

Texas Water Commission

Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to City of Tomball (Permit 10616-01) on April 10, 1992, assessing $17,500 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Robert Martinez, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 14, 1992.

TRD-9205202 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: April 14, 1992

For further information, please call: (512) 463-7898.

♦ ♦ ♦

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to City of Trinidad on April 10, 1992, assessing $1,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laura Ray, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 14, 1992.

TRD-9205204 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: April 14, 1992

For further information, please call: (512) 463-7898.

♦ ♦ ♦

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of March 20, 1992-April 10, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain: the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, 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 30 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 contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

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.

Aldine Independent School District; the Orange Grove Wastewater Treatment Facilities; are in the southwest corner of the Orange Grove Elementary School campus at 4514 Mount Houston Road in Houston in Harris County; renewal; 12070-04.

City of Austin; the South Austin Regional Wastewater Treatment Facilities; are between Onion Creek and the Colorado River, approximately two miles west of their confluence, approximately two miles east of the FM Road 973 crossing of the Colorado River and two miles north of State Highway 71 in Travis County; renewal; 10543-12.

City of Bay City; the Boyd Prison Unit Wastewater Treatment Facilities; The plant site is to be approximately 4,000 feet east of State Highway 60 on the west side of Cottonwood Creek and approximately 9,200 feet south of State Highway 35 in Bay City in Matagorda County; new; 10123-04.

Phil Bradbury; a dairy; the diary is on the north side of FM Road 219 approximately 3 1/2 miles south of the intersection of FM Road 219 and U.S. Highway 281 in Hamilton County; new; 03460.

City of Beaumont; the Hillebrandt Bayou Wastewater Treatment Facilities; The plant site is at 5900 Lafin Road, approximately 3,000 feet south of the intersection of U.S. Highway 69 and State Highway 124 in Jefferson County; amendment; 10501-20.

Beechnut Municipal Utility District; the wastewater treatment facilities; are located approximately 1,250 feet northwest of the intersection of Eldridge Road and Beechnut Road and 3.4 miles southeast of the intersection of FM Road 1093 (Westheimer) and State Highway 6 in Harris County; renewal; 12258-01.

City of Bowie; the wastewater treatment facilities; are located east of the City of Bowie and approximately 1.5 miles east of the intersection of U.S. Highway 287 and State Highway 59 in Montague County; renewal; 10071-02.

City of Cactus; a municipal wastewater treatment plant; the plant site is approximately two miles north of the intersection of FM Road 281 and U.S. Highway 287 which is east of the City of Cactus in Moore County; amendment; 03436.

Canutillo Independent School District; the Canutillo Independent School District Sewage Treatment Plant; the plant site is to be on the east side of Bosque Road, approximately 4,100 feet north of the intersection of FM 259 and Bosque Road and approximately two miles northwest of the intersection of State Highway Spur Road 375 and Interstate Highway 10 in El Paso County; new; 11561-02.

Christian Tabernacle; the wastewater treatment facility; the plant site is to be approximately one mile northeast of the intersection of FM Road 526 an Wallisville Road in Harris County; new; 13581-01.

Harold A. Clark; the Atascocita Village Wastewater Treatment Facilities; are on Atascocita Road approximately 1,000 feet east of the intersection of Atascocita Road and Old Humble Road in Harris County; renewal; 11161-01.

Diana Water Supply Corporation; the wastewater treatment facilities; are approximately 1/4 mile east of the intersection of U.S. Highway 259 and FM Road 3245 on the north side of FM Road 3245 in Upshur County; amendment; 11199-01.

The Fort Worth Boat Club; the wastewater treatment facilities; the plant site is approximately two miles west of FM Road 1220 on Boat Club Road and on the east side of Eagle Mountain Reservoir in Tarrant County; renewal; 11123-01.

Gifford-Hill-American, Inc.; the applicant proposes to operate a facility which manufactures concrete pressure pipe; the plant site is to be at 11201 Spencer Road, 4,000 feet northwest of the intersection of Fisher Road and Brittmore Road, Harris County; new; 03461.

City of Goldthwaite; the wastewater treatment facilities; is approximately 2, 500 feet east of FM Road 3023 and 1,600 feet north of State Highway 16 in Mills County; amendment; 10459-01.

Harris County; the wastewater treatment facilities; are in the Harris County Alexander Deussen Park approximately one-third of the way up from the south boundary in the approximate middle of the park and south of Lake Houston in Harris County; renewal; 12213-01.

City of Jacksboro; the wastewater treatment facilities; are approximately 1, 500 feet north of U.S. Highway 281 and approximately 4,600 feet west of State Highway 148 in the City of Jacksboro in Jack County; renewal; 10994-01.

Jachem Jongsma; a dairy; the dairy is approximately 2.1 miles west of the intersection of State Highway 11 and FM Road 852, approximately 0.1 mile south of the intersection of County Road 4200 and FM Road 852, in Wood County; new; 03431.

City of Leander; the wastewater treatment facilities; are located just south of FM Road 2243, approximately 4,000 feet east of the intersection of U.S. Highway 183 and FM 2243 in Williamson County; renewal; 12644-01.

Rodney W. McNeal doing business as Tex Az Dairy; a dairy; the dairy is on the east side of FM Road 1702 approximately 1.5 miles south of the intersection of FM Road 1702 and FM Road 219 in Erath County; amendment; 03124.

Nauru Phosphate Royalties (Texas), Inc.; the proposed wastewater treatment facilities; the plant site is to be approximately 1,500 feet west of U.S. Highway 59, 1,200 feet south of intersection of FM Road 1314 with U.S. Highway 59 in Montgomery County; new; 13583-01.

City of New Summerfield; the wastewater treatment facilities; are to be on the west side of Haws Road, one mile north of U.S. Highway 79 near New Summerfield in Cherokee County; new; 13585-01.

Occidental Chemical Corporation; a plant which manufactures high density polyethylene; the plant site is approximately three miles south of the town of Wadsworth on the west side of State Highway 60, Matagorda County; amendment; 024821.

City of Orchard; the wastewater treatment facilities; the plant site is approximately 500 feet southeast of the intersection of State Highway 36 and FM Road 1489, approximately 2,500 feet southwest of the City of Orchard in Fort Bend County; amendment; 11545-01.

Otto Marine Enterprise, Inc.; a barge cleaning facility; the materials handled by this facility include recoverable petroleum products such as fuel oil, naphtha, gasoline, jet fuel, lube, and crankcase oil. The applicant shall handle only bilge and ballast water from barges containing these types of products; the plant site is to be immediately north of IH 10 and approximately 3/4 mile west-northwest of the intersection of IH 10 and Crosby-Lynchburg Road in Harris County; new; 03445.

Otto Marine Enterprise, Inc.; the company operates a barge cleaning facility. The materials handled by this facility include recoverable petroleum products such as fuel oil, naphtha, gasoline, jet fuel, lube, and crankcase oil. The applicant shall handle only bilge and ballast water from barges containing these types of products. The plant site is to be on Riverside Drive, approximately 1/4 mile south of IH-10 one mile west of the intersection of IH-10 and Crosby-Lynchburg Road in Harris County; new; 03448.

Pecan Grove Municipal Utility District; the wastewater treatment facilities; are at 1504 Skinner Lane (FM Road 359), approximately 1.5 miles north of U.S. Highway 90A and approximately 500 feet east of FM Road 359 in Fort Bend County; amendment; 11655-01.

Ryland Group, Inc.; the wastewater treatment facilities; are approximately 2, 200 feet east of the intersection of Hardy Road and Richey Road, north of the City of Houston in Harris County; renewal; 12320-01.

Sabine River Authority of Texas; the Wind Point Park wastewater treatment facility and irrigation site; are at Wind Point Park (via State Highway-Park Road 55) near Wichita Bay of Lake Tawakoni, approximately 4 1/2 miles southwest of the intersection (within the City of Lone Oak) of U.S. Highway 69 and FM Road 1571 in Hunt County: amendment; 10907-01.

Southwestern Public Service Company; wastewater treatment facility; the plant site is approximately two miles east of the U.S. Highway 84/State Highway 331 intersection which is southeast of the City of Lubbock, Lubbock County; amendment; 01312.

James J. Stavinoha; proposed Neptune Fish Farm; the plant site is to be in Chocolate Bayou, approximately four miles southeast of Liverpool and near County Road 203 in Brazoria County; new; 03428.

City of Teague and City of Fairfield; the proposed wastewater treatment facility which will serve a 100-bed prison unit; the plant site is to be approximately 3.4 miles southwest of the intersection of U.S. Highway 84 and Interstate Highway 45 and approximately 1.1 miles south of the intersection of U. S. Highway 84 and Boyd Prison Road in Freestone County; new; 13579-01.

Texas A&M University Power Plant; the Texas A&M Central Utilities Power Plant; is located between Asbury and Ireland Streets at the Ross Street intersection on the A&M Main Campus in the City of College Station, Brazos County; renewal; 02836.

Wadsworth Water Supply Corporation; the wastewater treatment facilities; are approximately 400 feet east of State Highway 60 and approximately 1,100 feet south of Laird Road in Matagorda County; amendment; 12618-01.

Westphalia Wastewater Works Association; the wastewater treatment facility will serve the Community of Westphalia; the plant site is to be adjacent to the east side of State Highway 320, approximately 1,500 feet south of the intersection of FM 431 and State Highway 320 near the Community of Westphalia in Falls County; new; 13571-01.

West Texas Utilities Company; a steam electric generating power plant; the plant site is on the north shore of Lake Pauline, approximately 4 1/2 miles southeast of the City of Quanah in Hardeman County, renewal; 00962.

Issued in Austin, Texas, on March 10, 1992.

TRD-9205084 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: April 13, 1992

For further information, please call: (512) 463-7906

♦ ♦ ♦

Public Notice

The Texas Water Commission has extended its deadline for receiving written comments on proposed amendments to 31 TAC §§331.2, 331.3, 331.42, 331.43, 331.45-331.47, 331.61-331.65, 331.67, 331.68, and 331.121, and new §§331.14 and 331.161-331.171. The original deadline of Thursday, April 23, 1992, at 5 p.m. has been changed and extended to Friday, April 24, 1992, at 5 p.m.

For further information, please contact Bob Warneke, Staff Attorney, Legal Division, 1700 North Congress Avenue, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 15, 1992.

TRD-9205281 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: April 15, 1992

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

♦ ♦ ♦

1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is $5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. Fore more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

❑ Change of Address

(Please print)

❑ Back Issues Requested

(Please specify dates)

❑**YES,** I want to learn about the latest changes in Texas regulations that may affect the daily operation of my business. Please begin my subscription to the *Texas Register* today.

Name .....

Organization .....

Address .....

City, ST Zip .....

I would like my subscription to be the ❑ printed ❑ electronic version.

I'm enclosing payment for ❑ 1 year ❑ 6 months ❑ 7 week trial

7 week trial subscription not available for electronic subscriptions.

Bill me for ❑ 1 year ❑ 6 months

Cost of a subscription is $90 yearly or $70 for six months for the electronic version. Cost for the printed version is $95 yearly or $75 for six months. Trial subscriptions cost $14. Please make checks payable to the Secretary of State. Subscription fees will not be refunded. Do not use this form to renew subscriptions. Return to *Texas Register*, P.O. Box 13824 Austin, TX 78711-3824. For more information, please call (512) 463-5561.

Second Class Postage

PAID

Austin, Texas

and additional entry offices

75365212 INTER-AGENCY
TEXAS STATE LIBRARY
PUBLICATIONS CLEARINGHOUSE 307
LIBRARY AND ARCHIVES BLDG
AUSTIN TX 78711