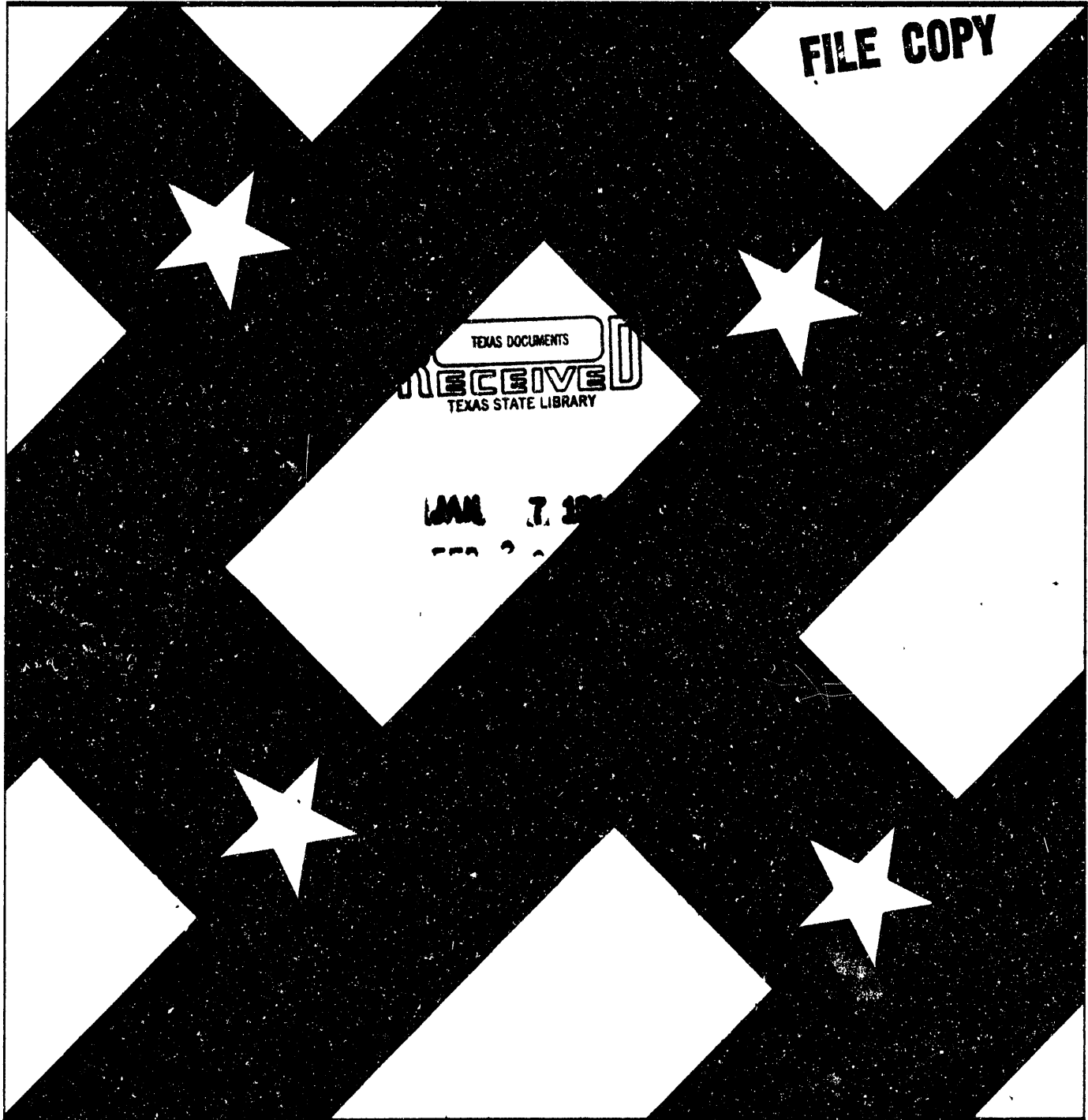


Texas Register

Volume 10, Number 94, December 20, 1985

Pages 4867-4922



Highlights

The Texas Department of Health adopts an emergency section concerning message therapists.
 Effective date - December 16.....page 4878

The General Land Office adopts an emergency amendment concerning rules, practice,

and procedure for land leases and trades.
 Effective date - December 13.....page 4881

The Railroad Commission of Texas proposes a new section concerning rail safety.
 Earliest possible date of adoption
 January 20.....page 4883

Office of
 the Secretary
 of State

Texas Register

The *Texas Register* (ISSN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State.

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Information Available: The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

Governor—appointments, executive orders, and proclamations

Secretary of State—summaries of opinions based on election laws

State Ethics Advisory Commission—summaries of requests for opinions and opinions

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

Emergency Rules—rules adopted by state agencies on an emergency basis

Proposed Rules—rules proposed for adoption

Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Rules—rules adopted following a 30-day public comment period

Open Meetings—notices of open meetings

The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature

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

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, 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 6 (1981) is cited as follows: 6 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: "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 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, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule number, 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 rule 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 the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).

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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §8, the *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 December 9

Bandera County River Authority

For a term to expire January 31, 1991:

Phillip F. Becker
Route 1, Box 700
Bandera, Texas 78003

Mr. Becker is replacing Nick Johnson of Bandera, who no longer qualifies.

Texas Commission for the Deaf

For a term to expire January 31, 1991:

Ann M. Phillips
10136 Robin Hill Lane
Dallas, Texas 75238

Ms. Phillips is replacing Mrs. John White, Sr. of San Antonio, whose term expired.

State Board of Veterinary Medical Examiners

For a term to expire August 26, 1991:

Mary E. Mainster
446 Calumet
San Antonio, Texas 78209

Dr. Mainster is replacing Billy R. Trimmier of San Antonio, whose term expired.

Texas Music Commission

For a term to expire February 1, 1987:

Mike Tolleson
2106 East MLK Boulevard
Austin, Texas 78702

Mr. Tolleson is being appointed pursuant to Senate Bill 140, 69th Legislature, 1985.

For terms to expire February 1, 1989:

Don Ross Malone
7440 Lochwood Court
Fort Worth, Texas 76179

Manual E. Rangel
9506 Coolbrook
San Antonio, Texas 78250

Red Steagall
Route 1, Box 621
Azle, Texas 76020

Mr. Malone, Mr. Rangel, and Mr. Steagall are being appointed pursuant to Senate Bill 140, 69th Legislature, 1985.

For terms to expire February 1, 1991:

Trammell S. Crow
9239 Hathaway
Dallas, Texas 75220

Randy McCall
800 Oxeye Train
Austin, Texas 78746

Anthony "Lucky" Tomblin
Route 3, Box 76
San Marcos, Texas 78666

Mr. Crow, Mr. McCall, and Mr. Tomblin are being appointed pursuant to Senate Bill 140, 69th Legislature, 1985.

Board of Vocational Nurse Examiners

For a term to expire September 6, 1991:

Sharon Johnson
Route 2, Box 179
Taylor, Texas 76574

Ms. Johnson is replacing Elizabeth Cooper of Wichita Falls, whose term expired.

Issued in Austin, Texas, on December 9, 1985.

TRD-8511750 Mark White
Governor of Texas

★ ★ ★

Appointments Made December 10

Galveston Bar and Houston Ship Channel

For a term to expire March 10, 1989:

Captain Lance A. Miller
1306 El Dorado
Houston, Texas 77062

Captain Miller is being reappointed.

Board of Vocational Nurse Examiners

For a term to expire September 6, 1991:

Annie Mae Parker
55 Woodland Point
Belton, Texas 76513

Ms. Parker is replacing Bobbie Jo Haney of Fort Worth, whose term expired.

Texas State Board of Plumbing Examiners

For a term to expire September 5, 1991:

William D. Pickens
5306 Winding Way
Houston, Texas 77091

Mr. Pickens is being reappointed.

Public Building Authority

For a term to expire February 1, 1991:

Gerald J. Goff
2901 Bonnie Road
Austin, Texas 78703

Texas Youth Commission

For a term to expire August 31, 1991:

Reverend Floyd Williams
3761 Parkwood
Houston, Texas 77021

Reverend Williams is being reappointed.

Task Force on Border Economic Development

For a term to continue at the pleasure of this Governor:

Henry B. Ellis
765 Meadowlark
El Paso, Texas 79922

Mr. Ellis is being appointed pursuant to House Concurrent Resolution 138, 69th Legislature, 1985.

Issued in Austin, Texas, on December 10, 1985.

TRD-8511750 Mark White
Governor of Texas

★ ★ ★

Texas Board of Architectural Examiners

For a term to expire January 31, 1991:

Bobbie Joe Wise, Jr.
4855 Corian Oak
San Antonio, Texas 78219

Mr. Wise is replacing Paul Anthony Hesson of San Antonio, whose term expired.

Issued in Austin, Texas, on December 10, 1985.

TRD-8511820 Mark White
Governor of Texas

★ ★ ★

Appointments Made December 11

Galveston Bar and Houston Ship Channel

For a term to expire May 12, 1989:

Captain Charles H. Picton
213 Merrie Way
Houston, Texas 77024

Captain Picton is being reappointed.

Nonresident Violator Compact Administrator

For a term to expire February 1, 1987:

George Griffin
1708 Aggie Lane
Austin, Texas 78757

Mr. Griffin is being reappointed.

Home Health Services Advisory Council

For a term to expire January 31, 1987:

Reverend C. Elliott Means
3406 Maywood
San Antonio, Texas 78230

Reverend Means is being reappointed.

State Human Rights Commission

For terms to expire September 24, 1991:

Maxine Lee
7630 Park View Circle
Austin, Texas 78731

Mallory Robinson
12510 Overcup Drive
Houston, Texas 77024

Ms. Lee and Ms. Robinson are being reappointed.

Issued in Austin, Texas, on December 11, 1985.

TRD-8511759

Mark White
Governor of Texas

★ ★ ★

Appointments Made December 12

Central Colorado River Authority

For terms to expire February 1, 1991:

O. R. Lawlis
1404 West Hill Lane
Coleman, Texas 76834

Mr. Lawlis is replacing Bill D. Sneed of Coleman, whose term expired.

Louis Pittard
Route 2, Box 35
Gouldbusk, Texas 76845

Mr. Pittard is being reappointed.

Law Enforcement Officer Standards and Education

For a term to expire August 30, 1991:

Roger P. Dickey
933 Kenwood
Abilene, Texas 79601

Mr. Dickey is replacing David Lee Collier of Houston, whose term expired.

Texas Tourist Development Board

For a term to expire August 23, 1991:

John Mosty
107 Madison
San Antonio, Texas 78204

Mr. Mosty is replacing William E. Ochse of San Antonio, whose term expired.

Issued in Austin, Texas, on December 12, 1985.

TRD-8511820

Mark White
Governor of Texas

★ ★ ★

Executive Order MW-35

Creating the Governor's Former Prisoners-Of-War Advisory Council.

WHEREAS, many of the citizens of this State have unselfishly served their nation in periods of armed conflict; and

WHEREAS, many of our citizens have been captured by enemy forces and have been forced to endure periods of deprivation, isolation, hardship, and suffering at the hands of the enemy; and

WHEREAS, upon release from confinement, these brave citizens have frequently experienced serious difficulties in readjusting to their civilian lives; and

WHEREAS, it is important that these former service personnel be provided with and have access to any and all relevant state and federal benefits to which they may be entitled; and

WHEREAS, the State of Texas is committed to enriching the lives and well-being of all its citizens;

NOW, THEREFORE, I, Mark White, governor of Texas, under the authority vested in me, do hereby create and establish the Governor's Former Prisoners-of-War Advisory Council, hereafter referred to as the COUNCIL. The purpose of the COUNCIL will be to advise the Governor of Texas regarding the needs of former prisoners-of-war for the aid and advancement of the well-being of Texas' former prisoners-of-war.

The COUNCIL shall consist of seven (7) members appointed by the Governor who shall serve for a period of two years, at the pleasure of the Governor, and who shall receive no salary, per diem or reimbursement for expenses incurred in connection with service on the COUNCIL. The Governor shall designate a chairperson and vice-chairperson from the membership of the COUNCIL who shall hold such positions at the pleasure of the Governor. The COUNCIL shall consist of persons who are former prisoners-of-war and contain representatives of World War II, the Korean War, and the Vietnam War.

The COUNCIL shall have as its principal charge the achievement of the following:

(a) To aid the Governor in determining those areas of particular need and concern to Texas' former prisoners-of-war; and

- (b) To study the adequacy of state services which specifically relate to Texas' former prisoners-of-war; and
- (c) To report to the Governor from time to time regarding the needs of Texas' former prisoners-of-war, along with recommendations as to how best these needs might be addressed.

The COUNCIL shall convene at least semi-annually and at the call of the chair. A majority shall constitute a quorum for the purpose of conducting the business of the COUNCIL. A vote of the majority of the members present shall be sufficient for all action of the COUNCIL.

All agencies of state and local governments are hereby directed to cooperate with and assist the COUNCIL in the performance of its duties.

This executive order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

Issued in Austin, Texas, on November 22, 1985.

TRD-8511775

Mark White
Governor of Texas

Attorney General

Description of attorney general submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general 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 may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Requests for Opinions

RQ-715. Request from Senator Carlos F. Truan, Chairman, Health Services Subcommittee, Austin, concerning whether an individual must resign a noncompensated state position to run for a county office.
TRD-8511740

★ ★ ★

RQ-716. Request from Vernon M. Arrell, Commissioner, Texas Rehabilitation Commission, Austin, concerning whether riders to the General Appropriations Act are applicable to nonexempt employees who work in excess of 40 hours per week.
TRD-8511741

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RQ-717. Request from Senator Carl A. Parker, Chairman, Education Committee, Austin, concerning whether the Coordinating Board must approve the expenditure of proposition II funds on two campuses of the Lamar University.
TRD-8511742

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RQ-718. Request from Representative Al Luna, Chairman, Science and Technology Committee, House of Representatives, Austin, concerning the residence of persons who winter in Texas, for purposes of voting, operating a motor vehicle and paying taxes thereon, private and marital property rights.
TRD-8511743

★ ★ ★

RQ-719. Request from Lawrence F. Alwin, CPA, State Auditor, Austin, concerning compensatory time and/or overtime pay for state employees after April 15, 1986.
TRD-8511744

★ ★ ★

RQ-720. Request from Henry Wade, District Attorney, Dallas, concerning whether a county may by auction lease courthouse space to be used by a private cafeteria.
TRD-8511745

★ ★ ★

RQ-721. Request from E. Bruce Curry, District Attorney, Bandera, Gillespie, Kendall, Kerr Counties, Kerrville, concerning whether a county may lease the right to cross county right-of-way to a pipeline company.
TRD-8511746

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RQ-722. Request from Senator Chet Brooks, Chairman, Health and Human Resources Committee, Austin, concerning whether a class D pharmacy may be operated in the premises of a physician's office which is located in a minor emergency center.
TRD-8511747

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RQ-723. Request from O. L. McCotter, Director, Texas Department of Corrections, Huntsville, concerning the validity of Texas Civil Statutes, Article 6166x-1, regarding good time credit.
TRD-8511748

★ ★ ★

RQ-724. Request from Guy James Gray, Criminal District Attorney, Jasper, concerning the applicability of Texas Civil Statutes, Article 2351a-6, to rural fire prevention districts created after September 1, 1985.
TRD-8511749

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RQ-725. Request from Charles D. Houston, District Attorney, 155th Judicial District, Bellville, concerning the validity of a contract for the operation of a county-owned hospital.
TRD-8511750

★ ★ ★

RQ-726. Request from Henry Wade, Harris County District Attorney, Dallas, concerning whether the county clerk or the district clerk serves as clerk of the county and statutory county courts.
TRD-8511751

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Opinions

JM-384 (RQ-503). Request from F. Duncan Thomas, District Attorney, Greenville, concerning whether certain fees may be charged by a district clerk.

Summary of Opinion. The initial fee of \$75 for filing a suit in district court covers the services performed by the district clerk during the course of the suit except for the service for which a fee is expressly provided (Government Code, §51.317).
TRD-8511832

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JM-385 (RQ-600). Request from Henry Wade, Criminal District Attorney, Dallas, concerning whether a county purchasing agent may contract with a nonprofit agency for blind or severely handicapped persons without taking competitive bids.

Summary of Opinion. A county is not required to comply with the competitive bidding procedure outlined in the County Purchasing Act when the contract involves a nonprofit agency for the blind or severely handicapped persons. However, the county must comply with the Human Resources Code, §22.014, before awarding a contract to these nonprofit agencies.
TRD-8511826

★ ★ ★

JM-386 (RQ-591). Request from Terral R. Smith, Chairman, Committee on Criminal Jurisprudence, Texas House of Representatives, Austin, concerning whether an alderman of a general law city may serve as a member of that city's police reserve.

Summary of Opinion. Texas Civil Statutes, Article 998a, gives the city council considerable supervisory authority over members of the police reserve force and makes the force accountable to the city council. The common law doctrine of incompatibility therefore bars an alderman on the city council of a general law city from also serving as a member of the city's police reserve.
TRD-8511831

★ ★ ★

JM-387 (RQ-660). Request from Mike Driscoll, Harris County attorney, Houston,

concerning the constitutionality of House Bill 2370, 69th Legislature, 1985, Chapter 568, which applies to counties and areas of counties outside the boundaries of cities of 1.5 million or more residents.

Summary of Opinion. The title of the 69th Legislature, 1985, Chapter 568, is not violative of the Texas Constitution, Article III, §35.

TRD-8511830

★ ★ ★

JM-388 (RQ-596). Request from Vernon M. Arrell, Commissioner, Texas Rehabilitation Commission, Austin, concerning whether a client of the Texas Rehabilitation Commission is ineligible for benefits under the Hinson-Hazelwood Act, the Texas Education Code, §54.203.

Summary of Opinion. A person is not automatically ineligible for benefits under the Hinson-Hazelwood Act, the Texas Education Code, §54.203, because of his status as a client of the Texas Rehabilitation

Commission.
TRD-8511828

★ ★ ★

JM-389 (RQ-621). Request from Lloyd Criss, Chairman, Committee on Labor and Employment Relations, Texas House of Representatives, Austin, concerning whether the City of Galveston may remove persons appointed to a city board, and related questions.

Summary of Opinion. The City of Galveston does not have authority to shorten the two-year term of members of the Park Board of Trustees established by the city pursuant to Texas Civil Statutes, Article 6081g-1. No statute, city ordinance, or charter provision authorizes the City of Galveston to remove members of the Park Board of Trustees at will and without good cause.

TRD-8511829

★ ★ ★

JM-390 (RQ-549). Request from Patrick H. Simmons, District-County Attorney, Groesbeck, concerning the constitutionality of Senate Bill 270, 50th Legislature, 1947, Chapter 53, creating a special road district for Limestone County.

Summary of Opinion. The provisions of the 50th Legislature, 1947, Chapter 53, that prohibit the creating of indebtedness against the county road and bridge fund of Limestone County and create civil and criminal penalties for members of the Limestone County Commissioners Court who vote to create such indebtedness are constitutionally impermissible local laws insofar as they subtract from powers granted by the general laws. The provisions of the Limestone County law that establish the position of Limestone County engineer provide for an employee who is under the supervision and control of the county commissioners court. Therefore, those provisions are constitutional.

TRD-8511827

★ ★ ★

Emergency

Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule 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 rules. New language added to an existing rule is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a rule.

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 141. Massage Therapists

★ 25 TAC §§141.2, 141.4-141.6, 141.9, 141.13

The Texas Department of Health adopts on an emergency basis new §§141.2, 141.4-141.6, 141.9, and 141.13, concerning massage therapy schools and massage therapy instructors. The new sections are intended to implement the requirements of House Bill 2012, 69th Legislature, 1985, concerning massage therapy schools and massage therapy instructors. The new sections cover definitions, registration requirements, application procedures, massage therapy schools, and massage therapy instructors.

The new sections are adopted on an emergency basis because House Bill 2012, 69th Legislature, 1985, required the department, beginning September 1, 1985, to adopt rules covering the registration of individuals as massage therapists who have completed specified massage therapy studies by massage therapy instructors or by massage therapy schools recognized by the department. Therefore, in order to implement this statutory requirement as soon as possible after September 1, 1985, the board is adopting these new sections on an emergency basis. In addition, these emergency new sections are replacing the emergency rules published in the October 25, 1985, issue of the *Texas Register* (10 TexReg 4155). The replaced emergency sections are being withdrawn.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4512k, §2 and §7, which provide the Texas Board of Health with the authority to adopt rules concerning massage therapy schools and massage therapy instructors; and Article 6252-13a, §5(d), which authorize the board to adopt rules on an emergency basis.

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

Act—Texas Civil Statutes, Article 4512k, relating to the regulation of massage therapists and massage establishments.

Advisory council—The Advisory Council on Massage Therapy.

Anatomy—The study of the structure of the human body including the following areas: bones, joints, and muscles, the skin; blood and blood vessels, cells, tissues and membranes; the heart; the brain, spinal cord, and nerves; the lymphatic system; the digestive system; the respiratory system; the urinary system; the reproductive system; glands and hormones.

Apprentice—A person who is studying under the direct supervision of a massage therapy instructor in the techniques of Swedish massage and/or hydrotherapy.

Board—The Texas Board of Health.
Business practices and professional ethics standards—The study of standard bookkeeping and accounting practices, office practices, and advertising, and the study of ethical practices established by law, the department, the advisory council, and the recognized professional association for massage therapists.

Department—The Texas Department of Health.

Health and hygiene—The study of recognized methods of sanitation and cleanliness including prophylaxis or disease prevention as applied to massage therapy services; and current knowledge of elements of healthy life styles.

Hydrotherapy—The use of generally accepted methods of water by external application for its pressure effect or as a means of applying physical energy to the tissues, which includes the use of ice and steam.

Massage establishment—Any place of business in which massage therapy is practiced by a massage therapist.

Massage therapist—An individual who practices or administers massage therapy to a patron of either gender for compensation. The term includes a therapeutic massage practitioner, massagist, massage technician, masseur, masseuse, myo-therapist, or any derivation of those titles.

Massage therapy—A health care service; the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower, or cabinet baths.

Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, myo-therapy, or any derivation of those terms. As used in the Act, the terms "therapy" and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Massage therapy instructor—An individual who has already acquired the status of massage therapist, who has practiced massage therapy for a minimum of four years, and who is instructing one or more apprentices in massage therapy.

Official forms—Forms required and provided by the department for the purpose of complying with the provisions of the Act and these sections.

Person—An individual, corporation, association, or other legal entity.

Physiology—The study of the normal vital processes of the human body including the processes of cells, tissues, and organs including the contractibility of muscle tissue; coordination through the nervous system; digestion; circulatory reproduction and secretions.

Recognized massage therapy school—A school recognized by the department as meeting the curriculum requirements as set out in §141.5(c)(6)(A) of this title (relating to Registration Requirements) and the standards set forth §141.9 of this title (relating to Massage Therapy Schools Recognized by the Department).

Registration—The procedure by which the department accepts, processes, and approves applications for registration as a massage therapist, and as a part thereof, including the furnishing and replacement/duplication of certificates and identification cards.

State approved educational institution—An institution which is either approved by the Texas Education Agency or which is an institution of higher education as defined in the Texas Education Code, Chapter 51, Texas Civil Statutes.

Swedish gymnastics—Means joint range of motion, nonspecific stretches, and passive and active exercise; or any combination of these.

Swedish massage therapy techniques—The study of massage techniques including the use of rubbing, kneading, and stroking the superficial parts of the body and Swedish gymnastics as stated in the

Massage Therapy Regulation Act, Texas Civil Statutes, Article 4512k, §1(1).

§141.4. Fees.

(a) The board has established reasonable and necessary fees to cover registration activities required by the Act and by these sections.

(b) The schedule of fees for registration as a massage therapist is as follows:

- (1) application processing fee—\$50;
- (2) registration fee—\$60 (prorated at \$5.00 per month);
- (3) renewal fee—\$60;
- (4) registration certificate replacement fee—\$10;
- (5) registration identification card replacement fee—\$10;
- (6) penalty for late renewal—\$30; and
- (7) annual fee for massage therapy schools recognized by the department—\$150.

§141.5. Registration Requirements.

(a) Purpose. The purpose of this section is to set forth the requirements for registration as a state registered massage therapist.

(b) Grandfather period. A person making application for registration before January 1, 1986, under the grandfather clause of the Act, §15, shall meet the requirements of this subsection if the applicant:

(1) has been engaged in the professional practice of massage therapy as set forth in §141.2 of this title (relating to Definitions) on September 1, 1985; and such practice of massage therapy as set out in §141.2 of this title (relating to Definitions) for not less than a total of two years—two years being defined as not less than a total of 24 months of practice prior to September 1, 1985. The applicant must provide proof of employment in massage therapy professionally practiced with or without compensation for a minimum of 36 hours per month documented by submitting to the department the properly completed official forms and application fee. In addition to an affidavit certifying to the 36 hours per month, the department may require the applicant to submit additional supporting documentation. The department will consider a person who files an application form and fee before January 1, 1986, as meeting the deadline for registration under the grandfather clause as set forth in this section; or

(2) has a bona-fide diploma from a school of massage therapy approved by an American or foreign governmental body authorized by law, statute, or other legally recognized provision, or by the American Massage Therapy Association or any foreign school of massage therapy recognized by the American Massage Therapy Association as having a curriculum which is equivalent or exceeds the curriculum in association-approved schools (supervised mas-

sage therapy experience as an apprentice may be applied to the two-year requirement in this paragraph up to one year); or

(3) is a member in good standing in the American Massage Therapy Association.

(c) General registration requirements beginning January 1, 1986.

(1) The department shall accept as meeting registration requirements studies in massage therapy provided by either:

(A) a massage therapy instructor as defined in the Act; or

(B) a recognized massage therapy school as defined in §141.2 of this title (relating to Definitions); or

(C) a state-approved educational institution as defined in §141.2 of this title (relating to Definitions); or

(D) by any combination of instructors or schools as set out in subparagraphs (A)-(C) of this paragraph.

(2) Degrees, certificates, diplomas, and course work received at other institutions, American or foreign, shall be acceptable only if such studies could be counted as transfer credit at schools and institutions as set out in paragraph (1)(B) or (C) of this subsection and the curriculum or course of studies meets the criteria set out by the Act and these sections.

(3) The relevance to the registration requirements of massage therapy studies, the titles of which are not self-explanatory, must be substantiated through course descriptions, school catalogs or bulletins, or by other means acceptable to the department.

(4) The department shall accept no course which the applicant's transcript or educational record indicates was not completed with a passing grade or for credit, or for which relevance to the registration requirements has not been satisfactorily demonstrated.

(5) In the event that a deficiency is present in massage therapy studies, the applicant may have up to one year from the date of the department's notice thereof in which to complete additional course work acceptable to the department before the applicant will be required to pay additional application fees and meet the current requirements for registration.

(6) Persons qualifying for registration as a massage therapist must meet at least one of the following conditions:

(A) possess a minimum of a 250 clock-hour supervised course of instruction in massage studies provided by a massage therapy instructor, recognized school, or a combination of both. Of these 250 hours, the following subjects, as further defined in §141.2 of this title (relating to Definitions) must be included in the curriculum for the minimum number of clock hours specified, as follows:

(i) Swedish massage therapy techniques—125 hours;

(ii) human anatomy—50 hours;

(iii) human physiology—25 hours;

(iv) hydrotherapy—25 hours;

(v) business practices and professional ethics—five hours; and

(vi) human health and hygiene—20 hours; or

(B) hold at the time of application to the department a valid license, registration, certificate, or permit as a massage therapist issued by another state or country whose minimum standards/requirements are equivalent to or exceed the registration requirements of the department which are in effect at the time of application (and with whom the department has entered into a reciprocity agreement); or

(C) have engaged in the professional practice of massage therapy as set out in §141.2 of this title (relating to Definitions) for not less than five years in another state or country whose minimum standards/requirements are not equivalent to the registration requirements of the department which are in effect at the time of application. Applicants must provide proof of employment in massage therapy on a prescribed form furnished by the department. Five years shall be defined as not less than a total of 60 months during the 10 year period preceding the date of application.

(D) If the applicant has taken a course of instruction, or portion thereof, provided by a massage therapy instructor, the applicant must possess at the time of application a copy of the receipt of the affidavit which the instructor has submitted to the applicant as required by §141.13 of this title (relating to Massage Therapy Instructors).

(d) Exemptions. Apprentices, as defined in §141.2 of this title (relating to Definitions) are exempt for a period not to exceed one year.

§141.6. Application Procedures.

(a) Purpose. The purpose of this section is to set forth the application procedures for registration as a massage therapist.

(b) General.

(1) Unless otherwise indicated, an applicant must submit to the department all required information and documentation of credentials on official forms.

(2) The department will not consider an application as officially submitted until the applicant submits the application fee payable to the Texas Department of Health. The fee must accompany the application form. See fee schedule in §141.4 of this title (relating to Fees.)

(3) The department will send a notice listing the additional materials required to an applicant who has not submitted a complete application. An application not completed within 30 days after the date of the department's notice may be denied.

(c) Required application materials.

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

(A) specific information regarding personal data, social security number, birth month and day, place of employment, other state licenses and certifications held, certain misdemeanor and felony convictions, educational and training background, and work experience;

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

(C) a statement that if the applicant is or intends to become a massage therapy instructor, he or she:

(i) will comply with the Act and these sections covering massage therapy instructors, including all requirements concerning curriculum and courses of instruction;

(ii) understands that non-compliance with the requirements of the Act and these sections for massage therapy instructors subjects the person to a civil penalty not to exceed \$500 and any other legal remedy provided by law; and

(iii) understands that applicants who have studied under a massage therapy instructor, who is not qualified under this Act, will not meet the requirements for registration;

(D) the applicant's permission to the department to seek any information or references necessary to determine or verify the applicant's qualifications;

(E) a statement that the applicant, if issued a registration certificate and identification card, shall return the registration certificate and identification card to the department upon the revocation or suspension of the registration;

(F) a statement that the applicant understands that application fees submitted in the registration process are non-refundable;

(G) a statement that the applicant understands that materials submitted in the registration process become the property of the department and are non-returnable;

(H) a statement that the applicant understands that it is a misdemeanor to falsify any information submitted to the department; and

(I) the applicant's signature which has been dated and notarized.

(2) Employment/practice documentation report form for the grandfather period (expires December 31, 1985). The department-approved employment/practice documentation form for submitting documentation for two or five years prior to September 1, 1985, shall contain:

(A) the name of the applicant;

(B) the name and address of the organization or institution where the experience was gained or practice was performed (a separate form should be used for each one);

(C) the number of hours worked/practiced each month and the inclusive dates of employment/practice;

(D) the type of setting, the clients served, and the type of work performed;

(E) the applicant's job title during employment/practice; and

(F) a notarized statement(s) of employment/practice verification signed by an employer or by an officer or manager of the organization(s), agency(ies), institution(s), or two or more clients to document that the appropriate years of experience were gained or practice was performed.

(3) Transcripts and educational records.

(A) Persons making application on or after January 1, 1986, who qualify by successful completion of a supervised course of instruction as set forth in §141.5 of this title (relating to Registration Requirements) must submit official transcripts or other official copies of the student's education record satisfactory to the department.

(B) Persons who have taken a course of instruction or portion of a course of instruction provided by a massage therapy instructor must possess at the time of application a copy of the receipt of the affidavit which the instructor has submitted to the applicant as required by §141.13 of this title (relating to Massage Therapy Instructors).

(4) Other documents. Vitae, resumes, and other documentation of the applicant's qualifications may be submitted but not substituted for the required documentation.

(5) Denied applications.

(A) The department shall deny the application if the person:

(i) does not complete the requirements in §141.5 of this title (relating to the Registration Requirements), if applicable; or

(ii) failed to remit any applicable fees required in §141.4 of this title (relating to Fees); or

(iii) failed or refused to properly complete or submit any application form(s) or endorsements, or has concealed or deliberately presented false information on the application form, or any other form or document required to verify the applicant's qualifications for registration; or

(iv) has been in violation of the Act, or any applicable provision of this title; or

(v) has been convicted of crimes or offenses involving prostitution or sexual offenses or been convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a registered massage therapist as set out in §141.10 of this title (relating to Registration of Persons with Criminal Backgrounds).

(B) If after review, the department determines that the application should be denied, the department will send the applicant written notice of the reason for the proposed decision and of the opportunity

for a formal hearing. The formal hearing shall be conducted according to the formal hearing procedures in §141.12 of this title (relating to Appeals Procedures). Within 10 days after receipt of the written notice, the applicant shall give written notice to the department that the applicant either waives the hearing, or wants the hearing. If the applicant fails to respond within 10 days after receipt of the notice of opportunity, or if the applicant notifies the department that the hearing be waived, the applicant is deemed to have waived the hearing. If the hearing has been waived, the department shall deny the application.

(C) An applicant whose application has been denied under subparagraph (A) (i)-(iv) of this paragraph shall be permitted to re-apply after a period of not less than one year from the date of the disapproval and shall submit with the reapplication all applicable fees and forms and proof satisfactory to the board of compliance with all rules of the board and the provisions of the Act in effect at the time of reapplication.

(D) An applicant whose application has been denied under subparagraph (A)(v) of this paragraph because of a conviction of a crime is ineligible for registration as a massage therapist for a period of five years.

§141.9. *Massage Therapy Schools Recognized by the Department.*

(a) Purpose. This section sets forth the guidelines by which a massage therapy school may be recognized by the department.

(b) General. After January 1, 1986, the department shall recognize only those establishments or organizations which meet the following criteria as a massage therapy schools.

(1) Minimum standards for operation.

(A) Each school shall designate one person as the director of the school who is responsible for the school program and curriculum, the organization of classes, the maintenance of the school facilities, the maintenance of proper administrative records, and all other procedures related to the administration of the school.

(B) All instructors of a recognized massage therapy school shall meet the definition of a massage therapy instructor as defined in §141.2 of this title (relating to Definitions).

(C) A recognized massage therapy school shall have written admission requirements, tuition and fee schedules, a refund policy, a student conduct policy, conditions for dismissal and re-entrance, attendance requirements, and curriculum and course requirements which shall be made available to every student and prospective student before registration.

(D) A recognized massage therapy school shall offer as a minimum the curriculum requirements as set forth in

§141.5 of this title (relating to Registration Requirements).

(2) Minimum standards for facility sanitation.

(A) A recognized massage therapy school shall be properly lighted and adequately ventilated, shall have adequate hot and cold water under pressure.

(B) A recognized massage therapy school shall keep floors, walls, and ceilings clean.

(C) A recognized massage therapy school shall be physically separate and apart from any living, dining, or sleeping compartments.

(D) A recognized massage therapy school shall not permit the use of any equipment that has not been cleaned and disinfected since the last use. All instructors and students shall wash their hands with soap and hot water before providing massage therapy of any kind.

(E) A recognized massage therapy school shall use individual towels for each person providing massage services. No towels or washcloths shall be used without being properly laundered and sanitized.

(F) A recognized massage therapy school shall keep all creams, lotions, and fluids in clean and closed containers.

(G) A recognized massage therapy school shall not knowingly allow a person who is affected with a communicable disease to work or be employed in the provision of massage therapy.

§141.13. Massage Therapy Instructor. One of the conditions which a person may meet to qualify for registration as a massage therapist is to possess a minimum of 250 clock-hours of supervised course instruction, or portion thereof, in massage studies provided by a massage therapy instructor. See §141.5(c)(6)(A) of this title (relating to Registration Requirements). In order for the applicant to know that the instructor is a massage therapy instructor and supervises a course of instruction, or portion thereof, as required by the Act, a massage therapy instructor shall meet the following requirements.

(1) The instructor shall be a massage therapy instructor as defined in the Act and in §141.2 of this title (relating to Definitions).

(2) The instructor shall submit to the department an affidavit that the instructor is a massage therapy instructor as defined in the Act. The instructor shall include with this submission a copy of the instructor's course of instruction, or portion thereof, as required by the Act.

(3) The department shall give the instructor a written receipt for the affidavit and course of instruction, or portion thereof. The instructor shall present to any applicant a copy of this receipt prior to the beginning of any course of instruction.

Issued in Austin, Texas, on December 16, 1985.

TRD-8511851

Robert A. MacLean
Deputy Commissioner
of Professional
Services
Texas Department of
Health

Effective date: December 16, 1985

Expiration date: April 15, 1986

For further information, please call
(512) 458-7531.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office Chapter 13. Land Resources Rules, Practice, and Procedure for Land Leases and Trades

★31 TAC §13.1

The General Land Office adopts on an emergency basis an amendment to §13.1, concerning leases. The lease term restrictions are deleted due to changes made by the 69th Legislature, 1985, which lifted all maximum lease terms. Because expanded leasing programs have increased General Land Office costs, a leasing fee is imposed to compensate the General Land Office for staff evaluations and consulting costs.

The amendment is adopted on an emergency basis due to an impending increase in the asset management division's activity. The emergency adoption is also necessary in order to fulfill obligations given to the division by the 69th Legislature, 1985.

This amendment is appearing only in emergency form in this issue of the *Texas Register*. A complete revision of §13.1 is being drafted and will soon be proposed for permanent adoption.

The amendment is adopted on an emergency basis under the Natural Resources Code, §31.064, which provides the commissioner of the General Land Office with the authority to set and collect fees for various services performed by the General Land Office.

§13.1 Leases.

(a) **Lease fee.** The General Land Office will charge commercial lease applicants a fee to offset the costs of evaluating the lease proposals. The fee shall be 1½% of the fair market value of the property being leased, determined at the time the lease is executed. The commissioner may waive all or a part of this fee. [Term. Unsold permanent free school land may be leased by the commissioner of the General Land Office for agricultural and other purposes for a

term of not more than 10 years, for not less than \$.05 per acre, but land so leased is subject to sale or trade.]

(b)-(i) No change.

Issued in Austin, Texas, on December 13, 1985.

TRD-8511818

Garry Mauro
Commissioner
General Land Office

Effective date: December 13, 1985

Expiration date: April 12, 1986

For further information, please call
(512) 475-6740.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts Chapter 3. Tax Administration Subchapter L. Motor Fuels Tax

★34 TAC §3.190

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.190 for a 60-day period effective December 14, 1985. The text of the amended §3.190 was originally published in the August 23, 1985, issue of the *Texas Register* (10 TexReg 3202).

Issued in Austin, Texas, on December 13, 1985.

TRD-8511783

Bob Bullock
Comptroller of Public
Accounts

Effective date: December 14, 1985

Expiration date: February 13, 1986

For further information, please call
(512) 463-4806.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 16. ICF/SNF Compliance with State and Local Laws

★40 TAC §16.1503

The Texas Department of Human Services is renewing the effectiveness of the emergency adoption of amended §16.1503 for a 60-day period effective December 30, 1985. The text of the amended §16.1503 was originally published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3292).

Issued in Austin, Texas, on December 16, 1985.

TRD-8511835

Cathy Rossberg
Administrator
Texas Department of
Human Services

Effective date: December 30, 1985

Expiration date: March 1, 1986

For further information, please call
(512) 450-3766.

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★ 40 TAC §16.1511

The Texas Department of Human Services is renewing the effectiveness of the emergency adoption of amended §16.1511 for a 60-day period effective December 31, 1985. The text of the amended §16.1511 was originally published in the December 13, 1985, issue of the *Texas Register* (10 TexReg 4770).

Issued in Austin, Texas, on December 16, 1985.

TRD-8511836

Cathy Rossberg
Administrator
Texas Department of
Human Services

Effective date: December 31, 1985

Expiration date: March 2, 1986

For further information, please call
(512) 450-3766.

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Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *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 rule. Also, in the case of substantive rules, 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 rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter AA. Rail Safety

★ 16 TAC §5.622

The Railroad Commission of Texas proposes new §5.622, concerning a requirement for the placement of a caboose as the last car on freight trains operating in Texas. The caboose must be occupied by at least one employee of the train crew and be equipped with an operable two-way radio. Certain described freight trains, including those operating within railroad yards, are exempt from the requirement, and railroads may apply for exceptions.

Mark E. Foster, hearings examiner, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Foster 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 safety factors which are attributable to the caboose and train personnel located at the rear of each train communicating information and observations to the engineer. There is no anticipated economic cost to individuals who are required to comply with the proposed section because presently cabooses are used on trains operating in Texas.

Comments on the proposal may be submitted to Mike Calhoun, Assistant Director (Rail Planning and Safety), Transportation Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*. Notice is hereby given that a public hearing on the proposed rule will be held in the offices of the Railroad Commission

of Texas, 1701 North Congress Avenue, Austin, Texas, on January 21 and 22, 1986 at 9 a.m.

The new section is proposed under Texas Civil Statutes, Article 6448a, which imposes upon the commission the duty to regulate all matters affecting the safety of railroad operations.

§5.622. Requirement of Cabooses on Trains Operating in Texas.

(a) Each railroad company operating in the State of Texas shall place a caboose occupied by at least one employee on the train crew as the last car on any freight train that is required by the Federal Railroad Administration rules (49 Code of Federal Regulations Part 232) to have its air system and cars inspected by qualified inspecting employees or certified federal inspectors.

(b) Each caboose must be equipped with an operable radio system which will enable two-way communication between the caboose and the head of the train.

(c) A caboose is not required on freight trains:

(1) operating within a railroad yard;

(2) of less than 2,000 feet in overall length operating within an automatic block signal system or within centralized traffic control limits, unless it contains cars required to be placarded under the federal hazardous materials regulation (49 Code of Federal Regulations Part 172, Subpart F); or

(3) operating on Interstate Commerce Commission Class III line haul railroads.

(d) Any railroad company may apply for an exception from the caboose requirement on a form to be prescribed by the commission. Such application shall be governed by the rules contained in Chapter 5, Subchapter U of this title (relating to General and Special Rules of Practice and Procedure), as they may be from time to time amended. The commission may approve such application for exception for good cause shown.

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 December 11, 1985.

TRD-8511762

Walter Earl Lille
Special Counsel
Railroad Commission
of Texas

Earliest possible date of adoption:
January 20, 1986

For further information, please call
(512) 463-7149.

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TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 61. School Districts

Subchapter A. Operational Basis

★ 19 TAC §61.2

The Texas Education Agency proposes the repeal of §61.2, concerning school district annual performance report. A new §61.2, which splits the report into four parts for greater usefulness is proposed for permanent adoption in this issue of the *Texas Register*.

Lynn M. Moak deputy commissioner for research and information, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small business as a result of the repeal.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be a more useful annual performance report. There is no anticipated economic cost to the individuals as a result of the repeal.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public

hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This repeal is proposed under the Texas Education Code, §21.256, which requires the State Board of Education to prescribe the form and content for the local school district annual performance report.

§61.2 School District Annual Performance Report.

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 December 13, 1985.

TRD-8511814 W. N. Kirby
Commissioner of
Education

Earliest possible date of adoption:
February 8, 1986

For further information, please call
(512) 463-9212.

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★ 19 TAC §61.2

The Texas Education Agency proposes new §61.2, concerning school district annual performance report. The Texas Education Code, §21.258, requires each local school district to publish an annual performance report. The current section concerning such reports required one report which was addressed both to the local community and to the Central Education Agency. This double focus resulted in many cases in a document which was too detailed to be easily understood by the general public, in a format which was not particularly convenient for state-level data collection purposes.

The proposed new section divides the report into four sections: a local performance report, addressed to the local public, with required elements of performance evaluation and planning; a statistical report related to district performance, to be filed with the Central Education Agency; an annual financial and budget report; and campus data relating to specific subjects.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an annual performance report which is more useful both for the general public in each school district and for state-level data collection purposes. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This new section is proposed under the authority of the Texas Education Code, §21.258, which requires the State Board of Education to prescribe the form and content of the local school district annual performance report.

§61.2. School District Annual Performance Report.

(a) General information concerning the annual performance report.

(1) The annual performance report is established to meet five primary purposes:

(A) presentation by the local district of an evaluation of the district's performance to the community;

(B) reporting statewide performance trends to education policy makers;

(C) to assess the progress toward accomplishing the goals and objectives of the State Board of Education;

(D) as a critical element in the accreditation, program development, and compliance process; and

(E) the presentation of campus level information.

(2) The annual performance report consists of four distinct sections:

(A) the district annual performance report to the residents of the district;

(B) the statistical performance report to the Central Education Agency;

(C) the financial performance report to the Central Education Agency; and

(D) campus level performance information.

(3) The commissioner shall approve and provide appropriate information and guidance for the completion of districts' annual performance report.

(b) Detailed information concerning the annual performance report.

(1) District annual performance report.

(A) The district annual performance report is the district's official review of activities and performance for the prior school year and plans for the current school year. It shall include, but not be limited to, a performance evaluation of the activities of the district for the immediately prior school year. It shall also reflect district plans for the future, as well as the results of implementation of prior plans. Appropriate references shall be made to the degree of past and future attainment of the goals and objectives contained in the long range educational plan of the State Board of Education. Both narrative and appropriate local statistical presentations may be included which address:

- (i) student performance;
- (ii) curriculum;
- (iii) teaching;
- (iv) organization;
- (v) finance;
- (vi) community involvement;
- (vii) innovation; and
- (viii) communication.

(B) Specific requirements for the district annual performance report shall be prescribed by the commissioner.

(C) The district performance report shall be adopted by each school board as the official review of district activities at its regularly scheduled meeting in October of the following school year.

(D) Each school board of trustees shall undertake the necessary steps to ensure local availability of the district annual performance report to the professional staff and residents of the district.

(E) Two copies of the district annual performance report shall be transmitted to the Central Education Agency no later than November 1 of the following school year.

(2) Statistical performance report.

(A) A statistical performance report will be made by each district to the Central Education Agency no later than August 1 following the close of the school year.

(B) This report shall provide performance data in a standardized format which will allow for performance comparisons based on size, socioeconomic, and other community and district characteristics. The report shall include information relating to:

- (i) school programs;
- (ii) dropouts;
- (iii) test scores;
- (iv) compensatory education programs;
- (v) bilingual education programs;
- (vi) school discipline;
- (vii) school facilities; and
- (viii) other appropriate areas.

(C) Specific requirements for the statistical performance report shall be prescribed by the commissioner.

(3) Financial performance report.

(A) A financial performance report shall be submitted by each district to the Central Education Agency no later than November 1 of the following school year.

(B) This financial report shall be submitted in a computer readable form if possible, and shall contain both end-of-year data for the past year and budgeted information for the current year at the minimum required level defined by Bulletin 679.

(C) The report shall include information on:

- (i) the financial balance sheet;
- (ii) fund balances;
- (iii) revenue by source and fund; and
- (iv) expenditures by fund, function, program, and campus, where appropriate.

(D) Specific requirements for the financial performance report shall be prescribed by the commissioner.

(4) Campus level performance information.

(A) Specific campus level reports by the district to the residents of the district, whether done during the school year or as a part of the district annual performance report, shall be forwarded to the Central Education Agency by December 1 of the following school year.

(B) Campus level reporting shall include reports on the following areas:

- (i) evaluations of the quality of education;
- (ii) scores on tests with national norms;
- (iii) reports of performance trends improvement or lack of improvement;
- (iv) statements of costs for instruction, instructional administration, and campus administration;
- (v) attendance data and drop-out rates;
- (vi) reports on discipline;
- (vii) data on employees, trends in employment, and turnover; and
- (viii) teacher ratios by grade groupings and by program.

(C) Specific requirements for the campus level performance information shall be prescribed by the commissioner.

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 December 13, 1985.

TRD-8511813 W. N. Kirby
Commissioner of
Education

Earliest possible date of adoption:

February 8, 1986
For further information, please call
(512) 463-9212.

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Chapter 65. Nonpublic Elementary and Secondary Schools

Subchapter A. General Operations

★ 19 TAC §65.4

The Texas Education Agency proposes the repeal of §65.4, concerning accreditation of nonpublic elementary and secondary schools. The section provided for optional accreditation of such schools by the Texas Education Agency. Proposed new §97.7 will provide instead for the commissioner of education to review the standards of other accrediting bodies which accredit nonpublic schools in Texas and to recognize those bodies when he finds that their standards are comparable to state standards. Since the Texas Education Agency will no longer accredit nonpublic schools, §65.4 is proposed for repeal.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

The effect on state government is an estimated reduction in cost of \$100,000 each year in 1985-1989. The resources devoted to accrediting private schools are \$100,000 per year. These resources are being utilized currently in the accrediting process of public schools in Texas.

There is no anticipated effect on local government or small businesses for the first five-year period the rule will be in effect.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also have 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 recognize the accreditation of private schools by accrediting bodies which have standards comparable to state standards. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This repeal is proposed under the Texas Education Code, §11.26(c)(5), which authorizes the State Board of Education to make rules for the accreditation of school districts.

§65.4. Accreditation.

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 December 13, 1985.

TRD-8511815 W. N. Kirby
Commissioner of
Education

Earliest possible date of adoption:
February 8, 1986
For further information, please call
(512) 463-9212.

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TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 291. Pharmacies Community Pharmacy (Class A)

★ 22 TAC §291.31, §291.34

The Texas State Board of Pharmacy proposes amendments to §291.31 and §291.34, concerning community pharmacy (class A). These amendments further define procedures required in the recordkeeping requirements of refills of prescriptions maintained in a data processing system and the transfer of prescription information.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Brinkley 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 to further ensure the public health, safety, and welfare by specifying requirements for records to be maintained in a Class A Pharmacy. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, Texas State Board of Pharmacy, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4542a-1, §29, which provide the Texas State Board of

Pharmacy with the authority to establish by rule the standards that each pharmacy and its employees or personnel involved in the practice of pharmacy shall meet to qualify for the licensing or re-licensing as a pharmacy in each classification.

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

Downtime—Period of time during which a data processing system is not operable.

§291.34. *Records.*

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

(d) Refills of prescriptions maintained in a data processing system.

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

(6) If a pharmacy which uses a data processing system experiences downtime, the following is applicable:

(A) an auxiliary procedure is required to be implemented to [must] ensure that refills are authorized by the original prescription order and that the maximum number of refills has not been exceeded [,] or authorization from the prescribing practitioner shall be obtained prior to dispensing a refill; and

(B) [that] all of the appropriate data (shall be) retained for on-line data entry as soon as the data processing system is available for use again.

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

(i) [Telephonic] transfer of prescription information. The [telephonic] transfer of original prescription information, [for dangerous drugs and controlled substances listed in Schedules III, IV, or V] for the purpose of refill dispensing, is permissible between pharmacies [on a one-time basis, as respects controlled substances, and without limitation up to the number of originally authorized refills, as respects dangerous drugs,] subject to the following requirements:

(1) the transfer of original prescription information for controlled substances listed in Schedules III, IV, or V is permissible [communicated directly] between pharmacies on a one-time basis [two licensed pharmacists];

(2) the transfer of original prescription information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills;

(3) the transfer is communicated directly between two licensed pharmacists or as required in paragraph (7) of this subsection;

(4)[2] both the original of the transferred prescription are maintained for a period of two years from the date of last refill:

(5)[3] the pharmacist transferring the prescription information shall:

(A) write the word "void" on the face of the invalidated prescription; and

(B) (No change.)

(6)[4] The pharmacist receiving the transferred prescription information shall:

(A) write the word "transfer" on the face of the transferred prescription; and

(B) (No change.)

(7) Electronic transfer of prescription information between pharmacies. Pharmacies electronically accessing the same prescription records may electronically transfer prescription information if the following requirements are met.

(A) prescriptions may not be transferred during periods of downtime; copies of the prescription may be provided for informational purpose only;

(B) the original prescription shall be invalidated in the data processing system for purposes of filling or refilling, but shall be maintained in the data processing system for refill history purposes;

(C) if the data processing system has the capacity to store all the information required in paragraphs (5) and (6) of this subsection, the pharmacist is not required to record this information on the original or transferred prescription;

(D) the data processing system is required to have a mechanism to prohibit the transfer of controlled substance prescriptions which have been previously transferred;

(E) the data processing system is required to have a mechanism to send a message to the transferring pharmacy containing the following information:

(i) the fact that the prescription was transferred;

(ii) the unique identification number of the prescription transferred;

(iii) the name of the pharmacy to which it was transferred; and

(iv) the date and time of the transfer.

(F) a pharmacist is the transferring pharmacy is required to review the message and document the review by signing and dating a hard copy of the message or a log book containing the information required on the message as soon as practical, but in no event more than 72 hours from the time the such transfer; and

(G) pharmacies not owned by the same person may electronically access the same prescription records, provided the owner or chief executive officer or each pharmacy signs an agreement allowing access to such prescription records.

(j) (No change.)

(k) confidentiality. A pharmacist shall provide adequate security of prescription records to prevent indiscriminate or unauthorized access to confidential health information.

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 December 11, 1985.

TRD-8511778

Fred S. Brinkley
Executive Director/
Secretary
Texas State Board
of Pharmacy

Earliest possible date of adoption:
January 20, 1986
For further information, please call
(512) 478-9827.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Crippled Children's Services Program

★25 TAC §37.90

The Texas Department of Health proposes an amendment to §37.90, concerning approved providers and facilities. The amendment clarifies the criteria and procedures used to select physicians and dentists to participate in the program.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of criteria and procedures to simplify and expedite the process of approving providers to treat children eligible for program services. There is no anticipated cost to individuals who are required to comply with the amendments as proposed

Comments on the proposal may be submitted to Janet S. Barkley-Booher, Chief, Crippled Children's Services Bureau, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Public comments will be received for 30 days after this proposed amendment has been published in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4419c, §8, which provide the Texas Board of Health with the authority to adopt rules concerning the criteria and procedures used to select physicians and dentists to participate in the Crippled Children's Program.

§37.90. Approved Providers and Facilities. All approved providers must agree to abide by program rules and regulations, to accept program fees as payment in full, and not to discriminate against patients on the basis of insurance or Medicaid status. The following groups of providers must be processed through an application process to determine their desire to participate within the program's rules as approved by the board and to determine their qualifications in relation to the criteria for participation as decided by the board.

(1) Physicians and dentists. To be approved for program participation the person must submit a fully completed application and attach the documents as requested on the form. [Criteria and stipulations include but are not limited to:]

(A) **Criteria.** To be approved for program participation, a person must: [a valid license to practice medicine or dentistry in Texas;]

(i) have a Texas medical/dental practice license;

(ii) have practiced in Texas for a minimum of one year;

(iii) be certified by the American Board of Medical Specialists, or by American dental specialty boards, in the specialty area in which the physician/dentist will participate in the Crippled Children's Program;

(iv) be an active provider with the Texas Medicaid program and agree to accept Medicaid payments; and

(v) agree to abide by the rules of the Crippled Children's Program.

(B) **Procedures.** [board certification in a recognized specialty of The American Board of Medical Specialties, or certification by American Dental Specialty Boards (this requirement may be waived by the program only in exceptional situations, for example, medical emergencies and geographic coverage).]

(i) Applications will be reviewed by the program to assure that:

(I) all parts of the application form have been completed, including a signature and date;

(II) all of the eligibility criteria have been met;

(III) copies of documents verifying the applicant's American board or sub-board certification and state practice license are attached; if no sub-board exists for a specialty area, documentation of the applicant's training and curriculum vitae must be attached.

(ii) Review of the application will result in approval or denial. An incomplete application will be returned to the applicant with explanation of information required. The program may consider a temporary approval status when geographic need for services exists, or if the applicant does not meet eligibility requirements. The one year practice requirement may be waived in extenuating circumstances.

(I) Physicians/dentists who are board eligible but not yet board certified must meet the following criteria in order for a temporary approval to be considered:

(-a-) have completed their specialty training; and

(-b-) are fully eligible for certification by the American specialty boards but are awaiting completion of board examinations.

(II) Temporary approval shall be granted for a 12-month period and may be renewed pending satisfactory progress, as determined by the program, toward completion of the board examination.

(iii) Within 15 days of the program's receipt of the provider application, a letter will be sent to the applicant stating the result of the review process.

(iv) Any physician/dentist who disagrees with the result of the program's review, may appeal the decision through one of the following processes:

(I) administrative review;

(II) review by the program's General Advisory Committee; and/or

(III) due process hearing.

(C) **Update activities.** In an effort to maintain the accuracy and currency of provider information, the program will formally update its listing of approved providers at least once every year. Those providers that have not received any program payment for services rendered during the previous two-year period will be given the option of withdrawing from program approved status, becoming inactive, or updating information to remain active. If updated information is not received within 60 days of the date of notification, the provider will be considered inactive. This action will not remove a provider's approval, but reinstatement to active status will be made at the provider's request as soon as current information is given to the program. [an established practice located within Texas;]

(i) Updated information may include, but is not limited to, the following:

(I) current address, telephone number, and state comptroller's vendor identification number;

(II) name(s) of those hospitals where current privileges are held;

(III) notification of any additional specialty medical or dental board certifications with supporting documents attached; and

(IV) a copy of the current license to practice medicine or dentistry in Texas.

(ii) The provider will be given a current copy of program rules to review at the time reinstatement is requested.

[(D) a specialty practice in the state for at least one year (in exceptional situations, this requirement may be waived);]

(2)-(7) (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 December 16, 1985.

TRD-8511848

Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:

January 31, 1986

For further information, please call
(512) 465-2680.

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Chapter 97. Communicable Diseases

Control of Communicable Diseases

★25 TAC §97.11

The Texas Department of Health proposes new §97.11, concerning acquired immune deficiency syndrome (AIDS) as a quarantinable disease. This section provides for the medical isolation and restriction of certain individuals diagnosed as having AIDS.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering the section. The effect on local government for the first five-year period the section will be in effect will be an estimated additional cost of \$340-\$540 per patient, per day, each year for the years 1986-1990.

Mr. Seale 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 reduce the transmission of AIDS. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Charles E. Alexander, M.D., Chief, Bureau of Epidemiology, Texas Department of Health, 1100 West 49th Street, Austin, Texas. Comments will be accepted for 30 days after publication of the rule in the *Texas Register*. In addition, a public hearing will be held at 9 a.m., on Monday, January 13, 1986, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin, Texas.

The new section is proposed under the Texas Communicable Disease Prevention and Control Act, Texas Civil Statutes, Article 4419b-1, §§2.02, 4.01, and 4.02, which provide the Texas Board of Health with the authority to adopt rules to control and prevent communicable diseases.

§97.11. Acquired Immune Deficiency Syndrome as a Quarantinable Disease.

(a) Acquired Immune Deficiency Syndrome (AIDS) is declared to be a communicable disease which, under certain circumstances, presents a threat to the public health if not immediately controlled. For the purpose of this section, a person is considered infected with AIDS when that person has had a reliably diagnosed disease that is at least moderately indicative of an underlying cellular immune deficiency but who, at the same time, has had no known underlying cause of cellular immune deficiency nor any other cause of reduced resistance reported to be associated with that disease. Diseases that are at least moderately indicative of underlying cellular immune deficiency are listed in five etiological categories. The specific manifestation and acceptable means of diagnosis are as follows.

(1) Protozoal and helminthic infections.

(A) cryptosporidiosis diarrhea (more than one month), (histology or stool microscopy);

(B) *pneumocystis carinii pneumonia* (PCP) (histology, microscopy of touch preparation or bronchial washing);

(C) toxoplasmosis (pulmonary or CNS), (histology or microscopy of touch preparation).

(2) Fungal infections.

(A) candidiasis (esophageal), (endoscopy or autopsy with visualization or direct culture of lesion);

(B) cryptococcosis (blood, multiple organs, meningial; exclude pulmonary), (culture, histology, India ink prep of CSF, antigen detection).

(3) Bacterial infections. Nontuberculous mycobacteriosis (disseminated other than pulmonary and lymph node), (culture, specify species).

(4) Viral infections.

(A) cytomegalovirus infection (disseminated other than liver, lymph node), (histology only);

(B) herpes simplex virus infection (mucocutaneous more than one month, pulmonary, CNS, or disseminated), (culture, histology);

(C) progressive multifocal leukoencephalopathy (histology).

(5) Cancer.

(A) kaposi's sarcoma (KS) in persons under 60 (histology);

(B) primary lymphoma of the brain (histology).

(6) Other opportunistic infections/cancers with positive test for HTLV-III. In the absence of the previously mentioned diseases, any of the following diseases are considered indicative of AIDS if the patient has a positive test for HTLV-III/LAV, as defined in paragraph (8) of this subsection.

(A) disseminated histoplasmosis (not confined to lung or lymph nodes),

(culture, histology or antigen detection);

(B) isosporiasis, causing chronic diarrhea (over one month), (histology or stool microscopy);

(C) bronchial or pulmonary candidiasis (microscopy, visualization of characteristic white plaques on the bronchial mucosa; not by culture alone);

(D) non-Hodgkin's lymphoma of high grade pathologic type (diffuse, undifferentiated) and of B cell or unknown immunologic phenotype (biopsy).

(7) Pediatric (under 13 years of age) modifications.

(A) The diseases accepted are the same with the exclusion of congenital infections, e.g., toxoplasmosis or herpes simplex virus infection in the first month after birth or cytomegalovirus infection in the first six months after birth unless there is a positive test for HTLV-III/LAV, as defined in paragraph (8) of this subsection. In the absence of other diseases listed, a histologically confirmed diagnosis of chronic lymphoid interstitial pneumonitis will be accepted unless tests for HTLV-III/LAV are negative, as defined in paragraph (8) of this subsection.

(B) Specific conditions that must be excluded in a child are:

(i) primary immunodeficiency disease—severe combined immunodeficiency, DiGeorge Syndrome, Wiskott-Aldrich syndrome, ataxia-telangiectasia, or hypogammaglobulinemia with raised IgM; and and

(ii) secondary immunodeficiency associated with immunosuppressive therapy, lymphoreticular malignancy, or starvation.

(8) A positive test for HTLV-III/LAV may consist of a reactive test for antibodies to HTLV-III/LAV or a positive culture of patient's peripheral blood lymphocytes. If multiple antibody tests have inconsistent results, the result applied to the case definition should be that of the majority done by the ELISA, Immunofluorescence or Western blot methods. A positive culture, however, would overrule a negative antibody test.

(b) For the further purpose of this section, the term "quarantine" shall mean the medical isolation and restriction of activities of an individual with a diagnosis of AIDS to the extent necessary to prevent the transmission of the disease to an uninfected person. Persons diagnosed as having AIDS may be subjected to such quarantine, on an individual basis, and only under the following terms and conditions.

(1) The commissioner of health, or the designee of the commissioner of health, may institute quarantine proceedings under this section.

(2) A local health authority may institute quarantine proceedings under this section only with the consent and concurrence of the commissioner of health, or the

designee of the commissioner of health, in each individual case.

(3) Any affidavit or request for a warrant under this section pursuant to the procedures set out in Texas Civil Statutes, Article 4419b-1, §4.02(b), must specify the terms, conditions and method of the proposed quarantine.

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 December 16, 1985.

TRD-8511849

Robert A. MacLean
Deputy Commissioner
of Professional
Services
Texas Department of
Health

Proposed date of adoption:

January 31, 1986

For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 141. Massage Therapists

★ 25 TAC §§141.2, 141.4-141.6, 141.9, 141.13

The Texas Department of Health proposes new §§141.2, 141.4-141.6, 141.9, and 141.13, concerning massage therapy schools and massage therapy instructors. The new sections are intended to implement the requirements of House Bill 2012, 69th Legislature, 1985, concerning massage therapy schools and massage therapy instructors. The new sections cover definitions, registration requirements, application procedures, massage therapy schools and massage therapy instructors. The proposed new sections replace the sections which were proposed in the October 25, 1985, issue of the *Texas Register* (10 TexReg 4173). The replaced sections are being withdrawn. The remaining sections proposed in (10 TexReg 4173) are not affected. In addition, the proposed new sections are being adopted on an emergency basis in this issue of the *Texas Register*.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule will be in effect is an estimated additional cost of \$69,502 for the year 1986, \$70,625 for the year 1987, and \$92,565 each year for the years 1988-1990. There is also an estimated increase in revenue of \$132,000 for the year 1986 and \$72,000 each year for the years 1987-1990. There will be no effect on local government for the first five-year period the rule will be in effect. The cost of compliance with the rule for small businesses will be the fees as set out in the body of the rules. It is not anticipated that any large

businesses will be affected by these rules.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be assurance that massage therapy instructors and massage therapy schools are properly regulated as required by House Bill 2012. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be the fees as set out in the body of the rules.

Comments on the proposal may be submitted to Gerald Guthrie, Director Hospital and Professional Licensure Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for 30 days after the proposed rules are published in the *Texas Register*. In addition, a public hearing will be held in Classroom A of the Service Building, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, on Saturday, January 4, 1986, beginning at 9 a.m.

The new sections are proposed under Texas Civil Statutes, Article 4512k, §2 and §7, which provide the Texas Board of Health with the authority to adopt rules concerning massage therapy schools and massage therapy instructors.

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 December 16, 1985

TRD-8511852 Robert A. MacLean
Deputy Commissioner
of Professional
Services
Texas Department of
Health

Proposed date of adoption.
January 31, 1986
For further information, please call
(512) 458-7531.

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Chapter 295. Environmental Health Hazard Communication

★ 25 TAC §295.1-295.7

The Texas Department of Health proposes new §§295.1-295.7, concerning hazard communication. The new sections implement the requirements of House Bill 1112, 69th Legislature, 1985, that the Texas Board of Health adopt sections covering the provision of information on hazardous chemicals used in workplaces. The sections cover definitions, implementation responsibilities, labeling, a workplace notice, compliance deadlines, and training materials.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$20,000 per year for the years 1986-1990 in redirected effort by present agency personnel. There will be no effect on local government for the first five-year period the rule will be in effect. The cost of compliance with the rule for small businesses will be preparation of a workplace chemical list annually, which must be kept on file and a copy of which must be sent to the Texas Department of Health. The cost of compliance for small businesses will be \$2.00 per employee annually versus a cost of compliance for large businesses of \$1.00 per employee annually.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections will be lower injury and illness rates in industries, fire departments, and the public because of better informed employees and citizens. There is no anticipated cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William R. Elliott, Ph.D., Occupational Health Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7410. Comments will be received for 30 days after these proposed sections are published in the *Texas Register*. In addition, a public hearing will be held on the proposed new sections on Tuesday, January 21, 1986, beginning at 9 a.m. in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

The new sections are proposed under the Hazard Communication Act, Texas Civil Statutes, Article 5182b, §12, which authorize the Texas Board of Health to adopt sections covering hazard communication.

§295.1. Purpose and Scope.

(a) The purpose of these sections is to provide employees and the public with access to information relating to hazardous chemicals to which they may be exposed during their employment, to provide hazard information to emergency service personnel and the commissioner of health, and to provide persons with a mechanism to gain access to information relating to hazardous chemicals.

(b) In order to avoid confusion among employers and the public, the board shall implement the Hazard Communication Act, Texas Civil Statutes, Article 5182b, compatible with the Hazard Communication Standard (OSHA Standard) of the United States Department of Labor, Occupational Safety and Health Administra-

tion, 29 Code of Federal Regulations 1910.1200.

§295.2. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

Act—The Hazard Communication Act, Texas Civil Statutes, Article 5182b.

Appropriate hazard warning—Any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the health and physical hazards of the chemical(s) in the container(s).

Board—The Texas Board of Health.

Commissioner—The Texas commissioner of health.

Department—The Texas Department of Health.

Health hazard—A chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

Identity—Any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label, and the MSDS.

Label—Any written, printed or graphic material displayed on or affixed to containers of hazardous chemicals, which includes a common name referenceable to a material safety data sheet and workplace chemical list.

Physical hazard—A chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive), or water-reactive.

Work area—A room or defined space in a workplace where hazardous chemicals are produced or used and where employees are present.

Workplace—An establishment at one geographical location containing one or more work areas. Normally this would be a building or other structure, but it could be a complex of buildings if the work activities and hazardous chemicals within these buildings are similar.

§295.3. Responsibility for Implementation of Program. The commissioner's responsibilities under the Act are carried out through the Occupational Health Program, Texas Department of Health. Compliance documents and routine inquiries regarding

this Act shall be addressed, until further notice by the commissioner, to the Occupational Health Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

§295.4. Labeling.

(a) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked with the following information:

- (1) the identity of the hazardous chemical(s);
- (2) the appropriate hazard warnings; and
- (3) the name and address of the chemical manufacturer, importer, or other responsible party.

(b) Nonmanufacturing employers must label existing stocks of chemicals with the following information, if such stocks are not already appropriately labeled:

- (1) identity of the hazardous chemical(s); and
- (2) appropriate hazard warnings.

(c) Labeling of pipelines, valves, and other stationary conveyances is not required, provided that employees have ready access to documents or instruments to determine the contents of these conveyances at any time.

§295.5. Posting of Workplace Notice.

(a) Nonmanufacturing employers covered by the Act must keep posted a workplace notice specified in this section. The wording of the required workplace notice may be changed by the commissioner of health as needed. The wording of the workplace notice is as follows:

NOTICE TO EMPLOYEES

THE TEXAS HAZARD COMMUNICATION ACT OF 1985, TEXAS CIVIL STATUTES, ARTICLE 5182b, REQUIRES CERTAIN EMPLOYERS TO provide employees, local fire departments, the Texas Department of Health, and other interested persons with specific information on the hazards of chemicals in use. As required by law, your employer must provide you with certain information and training, starting January 1, 1986. A brief summary of the law follows

1. Employers must develop a list of hazardous chemicals used or stored in the workplace, each in excess of 55 gallons or 500 pounds. This list shall be updated by the employer as necessary, but at least annually. The list must be sent to the Texas Department of Health annually, to be made available to the general public on request.

2. Employees who may be exposed to hazardous chemicals shall be informed of the exposure by the employer and shall have ready access to the workplace chemical list and to the most current material safety data sheets, which detail physical and health hazards and other pertinent information. The employee must be able to determine from the list which chemicals are present in his or her work area.

3. Employees shall receive training by the employer on the hazards of the chemicals and on measures they can take to protect themselves from those hazards, and shall be provided with appropriate personal protective equipment. This training shall be provided at least annually and must be reported by the nonmanufacturing employer to the Texas Department of Health within 30 days of completion.

4. Employees shall not be required to work with hazardous chemicals from unlabeled containers, except portable containers for immediate use, the contents of which are known to the user.

5. Employers must provide the names and telephone numbers of knowledgeable company representatives to the local fire department. The employer shall provide workplace chemical lists, material safety data sheets, and permission for on-site inspections of chemicals on the lists to the fire department when requested.

6. The following chemicals are exempt from coverage by this act: articles that do not normally release hazardous chemicals, food, cosmetics, pesticides, hazardous waste, and some other materials. Most of these are covered by other acts. Manufacturers are exempt from some provisions of the State law since they are covered under similar rules adopted by the Federal Occupational Safety and Health Administration (OSHA).

7. Employees may file complaints with the Texas Department of Health, and may not be discharged or discriminated against in any manner for the exercise of any rights provided by this act.

EMPLOYERS MAY BE SUBJECT TO ADMINISTRATIVE, CIVIL, OR CRIMINAL PENALTIES RANGING FROM \$500 TO \$7,000 FOR VIOLATIONS OF THIS ACT.

Further information may be obtained from: Occupational Health Program, Texas Department of Health, 1100 West 49th Street Austin, Texas 78756, phone: (512) 458-7410

(b) The workplace notice must measure at least 8½ inches by 11 inches and must be typed, typeset, or use mechanically produced lettering that is clearly legible. The letters must not be smaller than 12 characters per inch. The words "NOTICE TO EMPLOYEES" must be in bold capital letters at least ½-inch high. Other words spelled in capital letters must be reproduced in capital letters. The notice, as specified, must be produced by each employer until further notice by the commissioner.

§295.6. Compliance Deadlines.

(a) Manufacturing and nonmanufacturing employers covered by the Act or specified parts of the Act must send to the Occupational Health Program, Texas Department of Health, annually an up-to-date workplace chemical list for each of their workplaces in Texas, as specified in the Act, §2, Declaration of Purpose, and §6, Workplace Chemical List. These lists shall be maintained in a public file operated by the Occupational Health Program.

(b) The annual workplace chemical lists to be sent to the department are to be postmarked no later than as follows:

(1) manufacturers (Standard Industrial Classification Codes 20-39)—June 30;

(2) nonmanufacturers (Standard Industrial Classification Codes 46-49, 51, 75, 76, 80, 82, 84, state and local governments)—December 31 each year.

§295.7. Training. A department booklet outlining a training program shall be available by January 1, 1987, at a reasonable price. Other informational materials may be published and sold by the department at a reasonable price.

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 December 16, 1985.

TRD-8511853

Robert A. MacLean
Deputy Commissioner
of Professional
Services
Texas Department of
Health

Proposed date of adoption:

January 31, 1986

For further information, please call
(512) 458-7410.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

**Part I. Texas Department of Human Services
Chapter 15. Medicaid Eligibility
Subchapter GG. Resources for Individuals Related to the SSI Program**

★40 TAC §15.3226

The Texas Department of Human Services proposes new §15.3226 and an amendment to §15.3302 in its Medicaid Eligibility chapter. The Deficit Reduction Act of 1984 provided for the exclusion of Supplemental Security Income (SSI) and retirement, survivors, and disability insurance (RSDi) retroactive lump sum payments from countable resources for six months after the month received. New §15.3226 describes this exclusion. Section 15.3302 is being amended to delete the requirement of considering a lump sum payment as a resource beginning with the month after the month of receipt.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The estimated

additional costs to the state are \$67,605 in fiscal year 1986, \$122,942 in fiscal year 1987, \$130,415 in fiscal year 1988, \$138,045 in fiscal year 1989, and \$146,184 in fiscal year 1990. There are no fiscal implications for local government or small businesses.

Mr. Martin also has determined that for each year of the first five years the section is in effect the public benefit will be that individuals will remain eligible for Medicaid benefits after receiving lump sum payments. There is no anticipated economic cost to individuals required to comply with the section.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-702, Texas Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§15.3226. SSI and RSDI Retroactive Lump Sum Payments.

(a) The caseworker excludes SSI and RSDI retroactive lump sum payments from countable resources for six months after the month of receipt. The exclusion applies only to the payment. If the payment is spent, the exclusion no longer applies to items purchased with the payment unless those items are otherwise excludable. This is true even if the six-month period has not expired.

(b) The individual must keep money from retroactive SSI and RSDI payments identifiable from other resources. If it cannot be distinguished from other resources, the caseworker counts it toward the appropriate resource limit.

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 December 13, 1985.

TRD-8511845
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
January 31, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter HH. Income for Individuals Related to the SSI Program

★40 TAC §15.3302

The amendment is proposed under the Human Resources Code, Title 2, Chap-

ters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§15.3302. General Principles Concerning Income.

(a)-(e) (No change.)

(f) The caseworker considers any lump sum payment as income for the month in which it is received [and as a resource for the following months].

(g)-(h) (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 December 13, 1985.

TRD-8511846
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
January 31, 1986
For further information, please call
(512) 450-3766.

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**Chapter 73. Civil Rights
Subchapter PP. Hearing Procedure**

★40 TAC §73.4110 .

The Texas Department of Human Services (DHS) proposes an amendment to §73.4110 regarding the effect of an administrative determination of intentional program violation. In §73.4110, DHS proposes to add subsection (c) to clarify that if one hearing is held for several offenses, DHS may impose only one disqualification period.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Martin 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 a clearer understanding of the department's policy in assessing disqualification periods. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-695, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, mail code 153-E. Comments on the proposal must be submitted within 30 days of publication in this *Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§73.4110. Effect of an Administrative Determination of Intentional Program Violation.

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

(c) If one hearing is held for several offenses, DHS may impose only one disqualification period.

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 December 16, 1985.

TRD-8511833
Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
January 16, 1986
For further information, please call
(512) 450-3766.

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**Chapter 79. Legal Services
Subchapter M. Appeals Process**

★40 TAC §79.1207

The Texas Department of Human Services (DHS) proposes in its legal services chapter an amendment to §79.1207, concerning notification to clients when their benefits are terminated or reduced. Although the DHS must notify clients no later than the effective date of the action, §79.1207(b) includes the situations in which DHS may withhold assistance or services without giving clients 10 days advance notice. DHS proposes §79.1207(b)(10) as an additional situation and clarifies that benefits are not continued at the previous level if the clients appeal. DHS also proposes to amend §79.1207(c) to allow the department to immediately terminate any community care for aged and disabled nonprotective purchased services to the client when the client threatens his own health or safety or that of others in the facility.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Martin 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 that the DHS will be able to conclude certain case actions more quickly. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-695, Texas Department of Human Ser-

vices, P.O. Box 2960, Austin, Texas 78769, mail code 153-E. Comments on the proposal must be submitted within 30 days of publication in this *Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§79.1207. Notice Requirement—Proposed Termination or Reduction of Assistance.

(a) (No change.)

(b) DHS [DHR] may withhold assistance or services without the timely 10-day notice and continued benefits pending appeal, but it must send adequate notice not later than the effective date of the action, if:

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

(10) A protective or family self-support service is provided for a specific, time-limited period, and the recipient was informed in writing when it was initiated that the allowance or service terminates at the end of the specified period.

(c) DHS [DHR] may terminate services without advance notice to a person receiving nonprotective purchased community care for aged and disabled services [in a supervised living or emergency care facility] who threatens his own health or safety or that of others in the facility as explained in the Community Care for Aged and Disabled Handbook.

(d) (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 December 18, 1985.

TRD-8511834

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
January 18, 1986
For further information, please call
(512) 450-3786.

★ ★ ★

Withdrawn

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 141. Massage Therapists

★ 25 TAC §§141.2, 141.4-141.6, 141.9

The Texas Department of Health has withdrawn from consideration the emergency adoption and proposed adoption of new §§141.2, 141.4-141.6, and 141.9, concerning massage therapists. The text of the new sections appeared in the October 25, 1985, issue of the *Texas Register* (10 TexReg 4155 and 10 TexReg 4173).

These sections are being replaced by a new emergency adoption and proposal in this issue of the *Texas Register*.

Issued in Austin, Texas, on December 16, 1985.

TRD-8511850

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

Filed: December 16, 1985
For further information, please call
(512) 458-7531.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 1. Executive Administration

★ 31 TAC §1.91

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new section to §1.91, submitted by the General Land Office, has been automatically withdrawn, effective December 16, 1985. The new section as proposed appeared in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3289).

TRD-8511733
Filed: December 12, 1985

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Part X. Texas Water Development Board

Chapter 321. Grants Administration

Subchapter A. State Project Priority System

★ 31 TAC §§321.2, 321.4, 321.13, 321.14, 321.28, 321.29, 321.36, 321.44

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §§321.2, 321.4, 321.13, 321.14, 321.28, 321.29, 321.36, 321.44, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1887).

TRD-8511763
Filed: December 12, 1985

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Chapter 335. Industrial Solid Waste

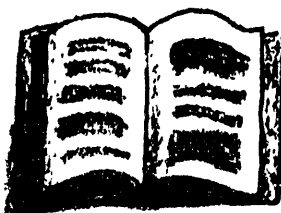
Subchapter A. Industrial Solid Waste Management in General

★ 31 TAC §§335.1, 335.2, 335.6, 335.16-335.24, 335.30

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §§335.1, 335.2, 335.6, 335.16-225.24, 335.30, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1898).

TRD-8511764
Filed: December 12, 1985

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Subchapter B. Hazardous Industrial Solid Waste Management-General Provisions

★ 31 TAC §§335.41-335.43, 335.45-335.47

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §§335.41-335.43, 335.45-335.47, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1907).

TRD-8511765
Filed: December 12, 1985

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Subchapter C. Standards Applicable to Generators of Hazardous Industrial Solid Waste

★ 31 TAC §§335.61, §335.69

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §335.61 and §335.69, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1911).

TRD-8511766
Filed: December 12, 1985

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Subchapter I. Groundwater Monitoring

★ 31 TAC §§335.193-335.195

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §§335.193-335.195, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1912).

TRD-8511767
Filed: December 12, 1985

Subchapter L. Use and Management of Containers

★31 TAC §335.247

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §335.247, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1913).

TRD-8511768
Filed: December 12, 1985

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Subchapter P. Land Treatment

★31 TAC §335.327

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §335.327, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The amendments as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1914).

TRD 8511769
Filed: December 12, 1985

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Subchapter X. Standards for the Management of Specific Wastes and Specific Types of Facilities

★31 TAC §§335.640-335.643

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §§335.640-335.643, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The new sections as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1915).

TRD-8511770
Filed: December 12, 1985

★ ★ ★

Hazardous Waste Burned for Energy Recovery

★31 TAC §§335.650, 335.652-335.656

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §§335.650, 335.652-335.656, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The new sections as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1917).

TRD-8511771
Filed: December 12, 1985

★ ★ ★

Recyclable Materials Utilized for Precious Metal Recovery

★31 TAC §335.680

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §335.680, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The new sections as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1919).

TRD-8511772
Filed: December 12, 1985

★ ★ ★

Spent Lead-Acid Batteries Being Reclaimed

★31 TAC §335.690

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §335.690, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 12, 1985. The new sections as proposed appeared in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1919).

TRD-8511773
Filed: December 12, 1985

★ ★ ★

Adopted

Rules An agency may take final action on a rule 30 days after a proposal has been published in the *Texas Register*. The rule 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 rule 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 rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility

Commission of Texas

Chapter 23. Substantive Rules Certification

★ 16 TAC §23.32

The Public Utility Commission of Texas adopts new §23.32, with changes to the proposed text published in the October 1, 1985, issue of the *Texas Register* (10 TexReg 3784).

This new section was mandated by the 69th Legislature, 1985, to set up guidelines establishing the obligations and limitations for users of automatic dial announcing devices.

The section sets the fee for a permit from this commission and sets forth the guidelines for the use of an automatic dial announcing device.

All comments were generally favorable. One individual did object to one fee of \$500 whether or not the user used one or many machines, but the Public Utility Regulatory Act set this. Southwestern Bell thought the commission should remind users that violations could subject the user to fines and penalties. Southwestern Bell also wanted a differentiation between methods of notification for disconnection depending on whether disconnection was due to a violation of the section or because of congestion or blockage of the network. GTE wanted to be able to immediately temporarily disconnect in the case of congestion or blockage, which the commission did not adopt. Southwestern Bell thought the telecommunication utility should authorize any installation of an automatic dial announcing device, which was not adopted. Another commenter would like to see numbers purged if requested by the called party.

Southwestern Bell Telephone Company, General Telephone Company of the Southwest, F. H. Ramer and Alan Smith made comments in favor of the new section.

In response to the comments, the agency states that the \$500 fee for one or many devices would need to be changed by the legislature. Immediate temporary disconnection because of congestion or

blockage was not adopted, but notification by telephone or hand delivery was adopted. It would be very difficult to purge and maintain purged lists of numbers, and it was felt that the complaint process could be used to control abuses.

The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

§23.32. Permits for Automatic Dial Announcing Devices.

(a) An automatic dial announcing device is any automatic equipment used for telephone solicitation or collection that:

(1) is capable of storing numbers to be called, or has a random or sequential number generator capable of producing numbers to be called; and

(2) is capable, alone or in conjunction with other equipment, to convey a pre-recorded or synthesized voice message to the number called.

(b) Requirements for use. The following requirements are imposed on the user of an automatic dial announcing device:

(1) the user has obtained a permit from the commission and has given a copy of such permit, as written notice specifying the type of device to be connected, to each telecommunication utility over whose system the device is to be used;

(2) the device is not used for random number dialing or to dial numbers by successively increasing or decreasing integers;

(3) the message conveyed by the device, or a message delivered by a human, states the nature of the call and the name, address, and call-back telephone number of the person, company, or organization making the call;

(4) the device disconnects from the called person's line not later than 10 seconds after the called person hangs up;

(5) no calls shall be made to emergency telephone numbers of hospitals, fire departments, law enforcement offices, or other entities providing emergency service;

(6) for calls terminating in the State of Texas, the device is not to be used to make a call:

(A) on a Sunday before 1:30 p.m. or after 9 p.m., or before 9 a.m. or after 9 p.m. on a weekday or a Saturday, when the device is used for solicitation; or

(B) at any hour that collection calls would be prohibited under the Federal Fair Debt Collection Practices Act, 15 United States Code §801 *et seq.*, when the device is used for collection purposes; and

(7) a violation of any portion of this section shall subject the user to prosecution for a Class C misdemeanor as set forth in the Public Utility Regulatory Act, §87B(f).

(c) Disconnection. A telecommunication utility may disconnect or refuse to connect service to a person using or intending to use an automatic dial announcing device if the utility determines that the device is not capable of disconnecting from a called party's line as required in this section or that the device would cause or is causing network harm. The telecommunication utility shall disconnect service to the person on a determination by the commission or a court that the person is violating this section, and may reconnect service to the person only on a determination by the commission that the person will comply with this section. The utility shall give written notice, by mailing or hand delivery, if practicable, to the person using the device of its intent to disconnect service not later than the third day before the date of the disconnection, except that if the device is causing network congestion or blockage, the notice may be given by telephone or hand delivery, if practicable, on the day before the date of disconnection.

(d) Exception. This section does not apply to the use of an automatic dial announcing device to call a person who has given to the person making the call written permission to be called by an automatic dial announcing device, except that a telecommunication utility may disconnect service to a person using the device if the device is causing network harm.

(e) Form and fee. An application for a permit under this section to use one or more automatic dial announcing devices shall be on a form as prescribed by the commission and shall be accompanied by the payment of a fee of \$500 for each permit issued.

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 December 10, 1985.

TRD-8511728

Rhonda Colbert Ryan
Secretary
Public Utility
Commission of Texas

Effective date: January 1, 1986

Proposal publication date: October 1, 1985

For further information, please call
(512) 468-0100.

★ ★ ★

Quality of Service

★ 16. TAC §23.61

The Public Utility Commission of Texas adopts an amendment to §23.61, without changes to the proposed text published in the October 1, 1985, issue of the *Texas Register* (10 TexReg 3795).

An amendment to this section was made to delete that portion addressing automatic dial announcing devices which had been incorporated into new §23.32 with changes as mandated by the legislature.

No applicable comments were received regarding adoption of the amendment. IBM had wanted changes to the text not realizing the section was being deleted.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this 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 December 10, 1985.

TRD-8511727

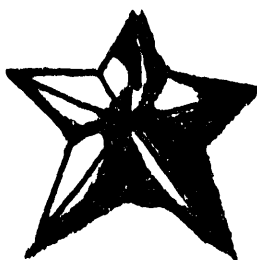
Rhonda Colbert Ryan
Secretary
Public Utility
Commission of Texas

Effective date: January 1, 1986

Proposal publication date: October 1, 1985

For further information, please call
(512) 468-0100.

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TITLE 19. EDUCATION

Part II. Texas Education

Agency

Chapter 89. Adaptations for

Special Populations

Subchapter G. Special Education

Clarification of Provisions in

Federal Regulations and State Law

★ 19 TAC §89.220

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency, 201 East Eleventh Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Education Agency adopts an amendment to §89.220, without changes to the proposed text published in the November 12, 1985, issue of the *Texas Register* (10 TexReg 4350).

The amendment brings the section into compliance with the declaratory judgment issued by the United States District Court in Austin, on October 14, 1983, concerning eligibility for special education services of students who have reached their 21st but not their 22nd birthday on September 1 of the school year.

Special education services shall be available in accordance with state and federal law and rules to eligible students who have reached their third birthday and have not reached their 22nd birthday on September 1 of the current school year. Services are available to eligible visually and auditorially handicapped students from birth.

No comments were received regarding adoption of the amendment.

This rule is adopted under the Texas Education Code, §16.005, which gives the State Board of Education the authority to make rules concerning the Foundation School Program; and §16.151, which includes provisions for special education programs as part of the Foundation School Program.

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 December 13, 1985.

TRD-8511816

W. N. Kirby
Commissioner of
Education

Effective date: December 25, 1985

Proposal publication date: November 12, 1985

For further information, please call
(512) 463-9682.

★ ★ ★

★ 19 TAC §89.254

The Texas Education Agency adopts an amendment to §89.254, concerning comprehensive services for the visually handicapped, without changes to the proposed text published in the November 12, 1985, issue of the *Texas Register* (10 TexReg 4350).

The amendment reflects the declaratory judgment issued by the United States District Court in Austin, on October 14, 1983. The court determined that handicapped students in Texas have a right to receive special education and related services from the public school system during the school year in which they reached their 21st birthday on September 1.

School districts may apply for state funds for supplemental services for the visually handicapped to meet unique needs after all available resources have been used. These funds may be used for students who have not reached their 22nd birthday on September 1 of the current scholastic year.

No comments were received regarding adoption of the amendment.

This amendment is adopted under the Texas Education Code, §16.005, which gives the State Board of Education the authority to make rules concerning the Foundation School Program; and §16.151, which includes provisions for special education programs as part of the Foundation School Program.

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 December 13, 1985.

TRD-8511817

W. N. Kirby
Commissioner of
Education

Effective date: January 3, 1986

Proposal publication date: November 12, 1985

For further information, please call
(512) 463-9212.

★ ★ ★

TITLE 37. PUBLIC

SAFETY AND

CORRECTIONS

Part I. Texas Department

of Public Safety

Chapter 3. Traffic Law

Enforcement

Accident Investigation

★ 37 TAC §3.8, §3.9

The Texas Department of Public Safety adopts amendments to §3.8 and §3.9, without changes to the proposed text

published in the November 5, 1985, issue of the *Texas Register* (10 TexReg 4264).

The amendment clarify the legal authority for approval of Texas motor vehicle traffic accident forms.

Subsection (b) of each rule is amended and adopts the current accident reports by reference. The department's authority to approve accident report forms is contained in Texas Civil Statutes, Article 6701d, §45(b). Language is added and deleted to clarify where forms are available for public inspection and provide a method to modify reports as administratively necessary.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6701d, §44 and §45, and Article 6701h, which authorize the Texas Department of Public Safety to require drivers involved in a reportable accident not investigated by a law enforcement office to submit a written report of such accident to the department within 10 days from date of accident. Also, to prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident report required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served.

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 December 9, 1986.

TRD-8511757 James B. Adams
Director
Texas Department
of Public Safety

Effective date: January 2, 1986
Proposal publication date: November 5, 1985
For further information, please call
(512) 465-2000.



Chapter 23. Vehicle Inspection Parameter Vehicle Emission Inspection and Maintenance Program

★37 TAC §23.91

The Texas Department of Public Safety adopts an amendment to §23.91, with changes to the proposed text published in the November 5, 1985, issue of the *Texas Register* (10 TexReg 4265).

Adoption of the amendment will reduce emissions of hydrocarbons and other pollutants from mobile sources that will result because of the large number of

emissions control systems operating properly and reduce long-term repair costs caused by misfueling.

The Texas Air Control Board, by board Order 85-8, has requested that the Texas Department of Public Safety establish a Parameter Motor Vehicle Emission Inspection and Maintenance Program for vehicles registered in Dallas, El Paso, or Tarrant County, because such counties do not meet National Ambient Air Quality Standards for ozone. The program will be designed to facilitate the compliance of Dallas, El Paso, and Tarrant Counties, and the continued compliance of Harris County, with the Federal Clean Air Act. The amendment would continue the existing requirement to inspect thermostatic air intake systems, exhaust gas recirculation systems, positive crankcase ventilation valves, air injection systems, and evaporative emission control system beginning with the 1968 model year passenger cars and light-duty trucks. In addition to those inspection items beginning with the 1980 model year passenger cars and light-duty trucks, the section would require inspection of choke systems, fuel inlet restrictors, catalytic converters, and for the presence of lead in exhaust pipes. For passenger cars and light-duty trucks beginning with the 1984 model year, the section would require, in addition to the previously listed inspection items, inspection for misfire, oxygen sensor, and emission-related recall and maintenance. An additional vehicle inspection fee of \$2.75 which would be retained by the vehicle inspection station, is proposed. Certain new vehicles which are sold in this state and which have not been previously registered would be subject to an initial inspection that expires at the end of two years.

No comments were received regarding adoption of these amendments.

The amendments are adopted under Texas Civil Statutes, Article 6701d, §141 (c-1) and §142 (c)-(h) which authorize the Public Safety Commission to establish a Parameter Motor Vehicle Emission Inspection and Maintenance Program for vehicles registered in any county in this state which do not meet National Ambient Air Quality Standards and for which the Texas Air Control Board has adopted a resolution requesting the Department of Public Safety to institute such a program. See also Texas Attorney General Opinion, JM-138, dated March 16, 1984.

§23.91. Vehicle Emission Inspection.

(a) All 1968 and later year model passenger cars and light-duty trucks currently registered and operated in Dallas, El Paso, Harris, or Tarrant County must be inspected, as part of, and at the time of, the required annual vehicle inspection, under the Parameter Vehicle Emission Inspection and Maintenance Program and the rules of the department applicable to the particular year model, provided that a passenger car or

light-duty truck that is sold in this state, has not been previously registered in this or another state, and on the date of sale is of the current or the immediately preceding model year is subject to an initial inspection that expires at the end of two years.

(b) Certified inspectors in Dallas, El Paso, Harris and Tarrant Counties must perform the parameter vehicle emission inspection and maintenance inspection on all 1968 and later model year passenger cars and light-duty trucks presented for inspection which are currently registered in Dallas, El Paso, Harris, or Tarrant County.

(c) Certified inspectors in all counties other than Dallas, El Paso, Harris, and Tarrant Counties must perform the parameter vehicle emission inspection on all 1968 and later model year passenger cars and light-duty trucks presented for inspection which are currently registered and operated in Dallas, El Paso, Harris, or Tarrant County, provided that the certified inspectors have completed the training for the Parameter Vehicle Emission Inspection and Maintenance Program and hold the department's current inspector's certificate for such training.

(d) In order to determine whether a vehicle is currently registered in Dallas, El Paso, Harris, or Tarrant County, certified inspectors in the counties named in paragraphs (1)-(4) of this subsection shall read the number code printed on the rear license plate validation sticker of each 1968 or later model year passenger car or light-duty truck presented for inspection. The certified inspector shall compare said validation sticker number to the list of number assigned to the county tax collector as required in paragraphs (1)-(4) of this subsection. The Texas Department of Public Safety will provide to each inspection station in the counties named in paragraphs (1)-(4) of this subsection a current list of validation sticker code numbers assigned to the appropriate county tax collector, which said list must be displayed in a manner as directed by the department. The procedures in this subsection shall be followed by:

(1) certified inspectors in Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, and Ellis Counties to determine whether a vehicle is registered in Dallas County;

(2) certified inspectors in El Paso and Hudspeth Counties to determine whether a vehicle is registered in El Paso County;

(3) certified inspectors in Harris, Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, and Waller Counties to determine whether a vehicle is registered in Harris County; and

(4) certified inspectors in Tarrant, Dallas, Ellis, Johnson, Parker, Wise, and Denton Counties to determine whether a vehicle is registered in Tarrant County.

(e) Vehicles having been inspected under the Parameter Vehicle Emission In-

spection and Maintenance Program and found to have met the requirements of such program in addition to all other vehicle inspection requirements will be passed by the certified inspector, who will thereafter affix to the windshield an inspection certificate with a red numeral insert designating the month in which the vehicle was inspected. The only valid inspection certificate for vehicles subject to the Parameter Vehicle Emission Inspection and Maintenance Program shall be an inspection certificate with the appropriate and currently effective red numeral insert.

(f) Provided that a vehicle which is registered in Dallas, El Paso, Harris, or Tarrant County and which is otherwise subject to the Parameter Vehicle Emission Inspection and Maintenance Program need not display an inspection certificate with a red numeral insert if:

(1) the vehicle is both owned and operated by a person (or persons) who does not reside within any of the territorial boundaries of Dallas, El Paso, Harris, or Tarrant County, and

(2) the vehicle is operated within the territorial boundaries of Dallas, El Paso, Harris, and Tarrant Counties on not more than 15 days per calendar year.

(g) If a person claiming to be covered by subsection (f) of this section is prosecuted for operating a vehicle on the highways in Dallas, El Paso, Harris, or Tarrant County without displaying a valid inspection certificate, the defendant must prove by a preponderance of the evidence that the circumstances, as provided in subsection (f)(1) and (2) of this section exist.

(h) All certified inspectors in Dallas, El Paso, Harris, and Tarrant Counties must complete the training for the Parameter Vehicle Emission Inspection and Maintenance Program and receive certification from the Texas Department of Public Safety for such training. Certified inspectors in any other county of the state may receive the training and certification to conduct the parameter vehicle emission inspection and maintenance inspections for vehicles required to be so inspected.

(i) Only those certified inspectors who have completed the training for the Parameter Vehicle Emission Inspection and Maintenance Program and who have received certification for such training may perform the parameter vehicle emission inspection and maintenance inspection.

(j) Certified inspectors in any county in the state who have been certified to perform the parameter vehicle emission inspection and maintenance inspections shall accurately complete forms provided by the department, including a notation of whether or not the inspected vehicle has had the emission inspection performed in Dallas, El Paso, Harris, or Tarrant County. The form will also contain a space to note whether the inspected vehicle was bearing a previously

issued inspection certificate with a colored numeral insert.

(k) For purposes of the Parameter Vehicle Emission Inspection and Maintenance Program, the term "passenger car" shall have the meaning ascribed to it by Texas Civil Statutes, Article 6701d, §2(j), except that motor vehicles powered by diesel fuel or any fuel other than gasoline or gasohol are not included in the meaning of the term "passenger car" if their design precludes the use of gasoline or gasohol without modification.

(l) For purposes of the Parameter Vehicle Emission Inspection and Maintenance program, the term "light-duty truck" means a motor vehicle with a gross weight of 8,500 pounds or less, which shall include but not be limited to, pickup trucks, panel delivery trucks, and carry-all trucks, except that motor vehicles powered by diesel fuel or any fuel other than gasoline or gasohol are not included in the meaning of the term "light-duty truck" if their design precludes the use of gasoline or gasohol without modification.

(m) Specific inspection requirements for passenger cars and light-duty trucks in the Parameter Vehicle Emission Inspection and Maintenance Program are as follows.

(1) 1968-1979 year models.

(A) Inspection parameters are thermostatic air intake system, exhaust gas recirculation system (EGR valve), PCV valves and hoses, air injection system, and evaporative emission control system (canister).

(B) No inspection fee increase.

(2) 1980-1983 year models.

(A) Inspection parameters, in addition to items in paragraph (1)(A) of this subsection, are choke system, heater, and rod. In addition, vehicles originally equipped with a catalytic converter at the time of manufacture shall be inspected by performing the lead detection test, by checking for the presence of the catalytic converter, and by checking for the presence and proper size opening of the fuel inlet restrictor.

(B) Vehicles with an altered or removed fuel inlet restrictor or a removed catalytic converter will be allowed, for the initial parameter vehicle emission inspection and maintenance inspection only, a period of time not to exceed one year in which to replace the catalytic converter and the fuel inlet restrictor if altered or removed. A vehicle failing the lead detection test, on its initial parameter vehicle emission inspection and maintenance inspection, will be allowed a period of time not to exceed one year in which to replace the contaminated tailpipe and catalytic converter. Proof of replacement shall be provided by the vehicle owner at the time the vehicle is reinspected and shall be in the form of a dated repair receipt or sales invoice bearing the vehicle owner's name and/or vehicle identifying numbers. Unless it is the initial parameter vehicle

emission inspection and maintenance inspection, the replacement of the catalytic converter is required if the fuel inlet restrictor has been altered, tampered, or removed.

(C) A vehicle which fails the inspection because of an altered or removed fuel inlet restrictor, a removed catalytic converter, or lead in the tailpipe, but which passes all other inspection requirements, will be issued an inspection certificate with a ¼-inch round hole punched in the lower-left corner of the inspection certificate. An inspection certificate punched in such manner shall be valid until the expiration date stated thereon or until the next required inspection.

(D) The certified inspector shall mark the back of the inspection certificate which is presently on a vehicle with a large "X," using a laundry marking pen, if a vehicle has failed the inspection because of an altered or removed fuel inlet restrictor, removed catalytic converter, or lead in the tailpipe, and the vehicle also failed any other item of inspection that would cause rejection of the vehicle. When the failed inspection items, other than the fuel inlet restrictor, catalytic converter, and tailpipe have been corrected and the vehicle inspected, a punched inspection certificate will be issued as provided in subparagraph (C) of this paragraph.

(3) 1984 and later year models.

(A) Inspection parameters, in addition to items in paragraphs (1)(A) and (2)(A) of this subsection, are misfire, oxygen sensor, emission-related recall, and emission-related maintenance. In addition, vehicles originally equipped with a catalytic converter at the time of manufacture shall be inspected by performing the lead detection test, by checking for the presence of the catalytic converter, and by checking for the presence and proper size opening of the fuel inlet restrictor.

(B) If a vehicle has an altered or removed fuel inlet restrictor, both the fuel inlet restrictor and catalytic converter must be replaced before an inspection certificate may be issued. A removed catalytic converter must be replaced before an inspection certificate may be issued. A vehicle failing the lead detection test must have the contaminated tailpipe and catalytic converter replaced before an inspection certificate will be issued. If a vehicle is rejected and is not immediately repaired, a rejection receipt shall be issued which lists items rejected and other required information.

(C) The certified inspector shall mark the back of the inspection certificate which is presently affixed to the vehicle's windshield with a large "X," using a laundry marking pen, if the vehicle failed the inspection because of a removed or altered fuel inlet restrictor, removed catalytic converter, or lead in the tailpipe, and the vehicle also failed any other item of inspection that would cause rejection of the vehicle.

(n) The parameter vehicle emission inspection and maintenance fee is established, for purposes of this section, as \$2.75, which is in addition to the statutory inspection fee. The additional fee shall be charged upon completion of the parameter vehicle emission inspection and maintenance inspection, whether or not the vehicle passed the inspection. For vehicles subject to an initial inspection that expires at the end of two years, as provided in subsection (a) of this section, the parameter vehicle emission inspection and maintenance fee is \$2.75, which is in addition to the statutory inspection fee.

(o) Pursuant to Texas Civil Statutes, Article 6701d, §141(f), wilful failure to comply with these rules may result in revocation or suspension of an inspection station's certificate of appointment or the certified inspector's certificate.

(p) Pursuant to Texas Civil Statutes, Article 6701d, §140(g), any person operating on the highways in Dallas, El Paso, Harris, or Tarrant counties, a passenger car or light-duty truck currently registered in any of those counties and required by this section to be inspected under the Parameter Vehicle Emission Inspection and Maintenance Program, without the valid inspection certificate as described in subsection (e) of this section, may be subject to prosecution and, if convicted, may be punished by a fine in an amount not to exceed that set out in Texas Civil Statutes, Article 6701d, §143.

(q) Inspection certificates issued prior to the effective date of these rules shall be valid and shall remain in effect until the expiration date thereof.

(r) The Public Safety Commission authorizes the director of the Texas Department of Public Safety to promulgate, publish, and distribute necessary manuals of instruction for the implementation of the Parameter Vehicle Emission Inspection and Maintenance Program in a manner not inconsistent with these rules. Such manuals shall be available for public inspection at reasonable times at offices of the department, as designated by the director, throughout the state.

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 December 9, 1985.

TRD-8511758 James B. Adams
Director
Texas Department
of Public Safety

Effective date: January 2, 1986
Proposal publication date: November 5, 1985
For further information, please call
(512) 465-2000.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 2. Medically Needy Program

Program Requirements

★40 TAC §§2.1004, 2.1006, 2.1010

The Texas Department of Human Services (DHS) adopts in its Medically Needy Program chapter amendments to §§2.1004, 2.1006, and 2.1010, without changes to the proposed text published in the October 22, 1985, issue of the *Texas Register* (10 TexReg 4117).

The justification for amending the sections is to comply with the federal regulations that govern eligibility for the Medically Needy Program. Compliance will result in cost savings by limiting program funds to people most in need of services.

The sections will function as DHS' program requirements rules identifying eligible groups, specifying requirements for application, and outlining determination of income eligibility. In §2.1004, DHS amends the definition of second parents to include spouses of the dependent child's natural or adoptive parent or the dependent child's stepparent. Section 2.1004 and §2.1006 specify that children must be under 18 years old to be eligible. Section 2.1010 changes the medically needy needs allowance standard to 133 1/3% of the highest AFDC payment standard.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511837 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: October 22, 1985
For further information, please call
(512) 450-3766.

★ ★ ★



Chapter 3. Income Assistance Services

Subchapter E. Household Determination

★40 TAC §3.501

The Texas Department of Human Services (DHS) adopts in its Income Assistance Services chapter amendments to §§3.501, 3.2404, 3.2603, and 3.2604, without changes to the proposed text published in the October 22, 1985, issue of the *Texas Register* (10 TexReg 4117).

The justification for amending the sections is to make the sections more consistent with federal regulations, allow a longer period of time before redetermining eligibility for certain AFDC certified households, and allow greater flexibility in monitoring the system for direct mail issuance of food stamps.

The sections will function in reducing food stamps lost by mail theft and fraudulent reports of nondelivered food stamps. There also will be anticipated reductions in errors made in calculating AFDC payments.

No comments were received regarding adoption of the amendments.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 31 and Chapter 33, which authorizes the department to administer public assistance programs.

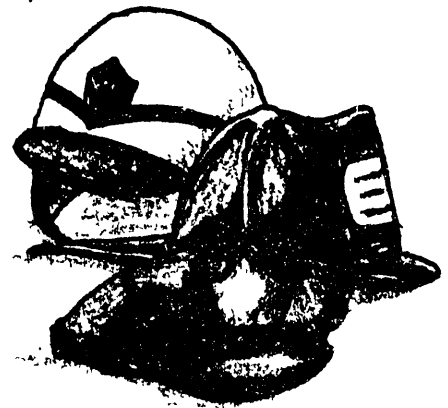
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on December 13, 1985.

TRD-8511838 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: October 22, 1985
For further information, please call
(512) 450-3766.

★ ★ ★



Subchapter X. Case Disposition

★40 TAC §3.2404

The amendment is adopted under the Human Resources Code, Title 2, Chapter 31 and Chapter 33, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511839 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: October 22, 1985
For further information, please call
(512) 450-3766.

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Subchapter Z. Direct Mail Issuance

★40 TAC §3.2603, §3.2604

The amendments are adopted under the Human Resources Code, Title 2, Chapter 31 and Chapter 33, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511840 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: October 22, 1985
For further information, please call
(512) 450-3766.

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Chapter 5. Quality Control Adoptions by Reference

★40 TAC §§5.1-5.3

The Texas Department of Human Services (DHS) adopts the repeal of §§5.1-5.3, 5.11-5.24, and 5.31, without changes to the proposed text published in the November 8, 1985, issue of the *Texas Register* (10 TexReg 4322).

The justification for the repeal is that the sections being repealed are covered in DHS' Chapter 3, Income Assistance Services, and program handbooks.

The repeal will function by deleting internal operating procedures from DHS' rules.

No comments were received regarding adoption of the repeal.

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511841 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: November 8, 1985
For further information, please call
(512) 450-3766.

★ ★ ★

Food Stamps

★40 TAC §§5.11-5.24

The repeal is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511842 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: November 8, 1985
For further information, please call
(512) 450-3766.

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General Policies and Procedures

★40 TAC §5.31

The repeal is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on December 13, 1985.

TRD-8511843 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: November 8, 1985
For further information, please call
(512) 450-3766.

Chapter 8. Home Energy Assistance Program

Program Requirements

★40 TAC §§8.1, 8.2, 8.4

The Texas Department of Human Services (DHS) adopts amendments to §8.1 and §8.2, without changes to the proposed text published in the October 25, 1985, issue of the *Texas Register* (10 TexReg 4175). Section 8.4 is adopted with a change to the proposed text.

These amendments are necessary because of changes in the Home Energy Assistance Program (HEAP). HEAP benefits are now available to qualified low-income households, in addition to public assistance recipients.

The amendments include time frames for qualifying for HEAP benefits, additional eligibility requirements, and a change in the basis for determining income limits for the program.

No comments were received regarding adoption of the amendments.

The department has deleted the last sentence in §8.4(a)(1). The sentence is redundant, as the time frame for returning applications is printed on the application form and the preceding sentence stipulates that applications must be returned by the date on the form.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§8.4. *Rights and Responsibilities of Households.*

(a) Households applying for and receiving HEAP assistance have the following rights and responsibilities:

(1) to complete an application/questionnaire and return it to DHS within the time limit specified on the application/questionnaire;

(2) to return any money DHS determines to be an overpayment. DHS must notify the household of its rights to contest the determination;

(3) (No change.)

(4) to provide the names of their energy suppliers, as appropriate. Failure to comply will result in denial.

(b) AFDC, SSI, and food stamp households that are potentially eligible for HEAP assistance may receive an application automatically from DHS. Households that do not receive an application may request one from DHS.

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 December 13, 1985.

TRD-8511844 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 6, 1986
Proposal publication date: October 25, 1985
For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 15. Medicaid Eligibility Subchapter GG. Resources for Individuals Related to the SSI Program

★ 40 TAC §15.3203

The Texas Department of Human Services adopts an amendment to §15.3203 in its Medicaid eligibility rules. The amendment is adopted to comply with the Deficit Reduction Act of 1984. This Act increases the limits of countable resources in the Supplemental Security Income (SSI) and SSI-related Medical Assistance Only (MAO) Programs. Effective January 1, 1986, an individual can have \$1700 in countable resources, and a couple can have \$2550 in countable resources.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs. The amendment is adopted effective January 1, 1986, to comply with federal requirements.

§15.3203. General Principles Concerning Resources.

(a) Resource limitations.

(1) An individual or couple meets SSI resource criteria if the value of all countable resources does not exceed the following limitations.

(A) January 1, 1974, to December 31, 1984: \$1500 for an individual and \$2250 for a couple.

(B) January 1, 1985, to December 31, 1985: \$1600 for an individual and \$2400 for a couple.

(C) January 1, 1986, to present: \$1700 for an individual and \$2550 for a couple.

(D) For an individual with an ineligible spouse living in the same household, the caseworker uses the couple limit (combined resources of the individual and spouse).

(E) For an individual with an ineligible spouse not living in the same household, the caseworker uses the individual limit.

(F) For a child, the caseworker uses the individual limit (child's own resources plus certain deemed resources of the parents with whom the child lives).

(2) (No change.)

(b)-(f) (No change.)

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

Issued in Austin, Texas, on December 16, 1985.

TRD-8511847 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: January 1, 1986
For further information, please call
(512) 450-3766.

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Part III. Texas Commission on Alcohol and Drug Abuse Chapter 151. Licensing Standards

Extended Services

★ 40 TAC §§151.51-151.56

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511888 Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986
Proposal publication date: September 20, 1985
For further information, please call
(512) 475-2577.

★ ★ ★

Medical Care Detoxification Services

★ 40 TAC §§151.71-151.76

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511887 Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986
Proposal publication date: September 20, 1985
For further information, please call
(512) 475-2577.

★ ★ ★

Nonmedical Care Detoxification Services

★ 40 TAC §§151.81-151.86

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511888 Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986
Proposal publication date: September 20, 1985
For further information, please call
(512) 475-2577.

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Intermediate Care Services- Class A

★ 40 TAC §§151.101-151.106

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511889 Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986
Proposal publication date: September 20, 1985
For further information, please call
(512) 475-2577.

★ ★ ★

★ 40 TAC §§151.121-151.126

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511690 Ross Newby Executive Director Texas Commission on Alcohol and Drug Abuse

Effective date: January 1, 1986 Proposal publication date: September 20, 1985 For further information, please call (512) 475-2577.

★ ★ ★

Outpatient Care Services

★ 40 TAC §§151.141-151.145

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511691 Ross Newby Executive Director Texas Commission on Alcohol and Drug Abuse

Effective date: January 1, 1986 Proposal publication date: September 20, 1985 For further information, please call (512) 475-2577.

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Outreach Care Services

★ 40 TAC §§151.151-151.155

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985

TRD-8511692 Ross Newby Executive Director Texas Commission on Alcohol and Drug Abuse

Effective date: January 1, 1986 Proposal publication date: September 20, 1985 For further information, please call (512) 475-2577.

Aftercare Services

★ 40 TAC §§151.161-151.165

The repeal is adopted under Texas Civil Statutes, Article 5561cc, which requires that licensure be mandatory.

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 December 9, 1985.

TRD-8511693 Ross Newby Executive Director Texas Commission on Alcohol and Drug Abuse

Effective date: January 1, 1986 Proposal publication date: September 20, 1985 For further information, please call (512) 475-2577.

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Chapter 151. Licensure General Provisions

★ 40 TAC §§151.11-151.17, 151.21

The Texas Commission on Alcohol and Drug Abuse adopts new §§151.14, 151.21, 151.31, 151.45, 151.49, 151.61-151.64, 151.66-151.69, 151.81-151.86, 151.101, 151.201-151.205, 151.208-151.211, 151.215, 151.301-151.303, 151.305-151.310, 151.312-151.316, 151.319-151.321, 151.325, and 151.401-151.413, with change to the proposed text published in the September 20, 1985, issue of the Texas Register (10 TexReg 3604). Sections 151.11-151.13, 151.15-151.17, 151.22, 151.32-151.38, 151.41-151.44, 151.46, 151.47, 151.49, 151.50, 151.65, 151.206, 151.207, 151.212-151.214, 151.304, 151.311, 151.317, 151.318, 151.322-151.324, 151.414, and 151.415 are adopted without changes and will not be republished.

Texas Civil Statutes, Article 5561cc, requires all alcohol treatment program to be licensed. These new sections, as changed after comment, set forth the requirements for licensure.

The new sections provide that all alcohol treatment programs in the state will meet certain life, health, and safety standards to ensure quality care and to safeguard the health and welfare of the clients.

On September 20, 1985, the Texas Commission on Alcohol and Drug Abuse published proposed new sections to implement Texas Civil Statutes, Article 5561cc, as amended. A total of 64 persons and agencies commented on the proposed new sections. The new sections were revised, based on the comments, and were circulated again for comment. Ten additional comments were received, which resulted in further revisions to the sections.

Comments were received on §151.14, and this section subsequently revised to clarify which agencies and individuals would not be licensed. Recommendations to grandfather in facilities which are currently funded by the commission or certified by the Texas Rehabilitation Commission were rejected, as this would be contrary to the intent of the law to raise the overall standards of treatment in the state. Likewise, recommendations to grandfather in programs which are accredited by the Joint Commission on the Accreditation of Hospitals were not accepted because the commission is in the process of entering into an interagency agreement to avoid duplication of efforts in inspections as required by Texas Civil Statutes, Article 4437h. That agreement will be the basis of a rule which will address the concerns expressed in those comments.

Comments on the definition of "AA orientation" and other comments resulted in a new definition, "peer support group." Comments were received on the definition of "alcohol treatment facility" The definition proposed is that specified by law; however, many of the concerns raised here were addressed in the revisions to §151.14. The definitions of "alcoholism and drug abuse counselor" received comments. All of these comments opposed requiring certification by the Texas Certification Board for Alcoholism and Drug Abuse Counselors. (TCBADAC) These comments were rejected, since the commission is supportive of credentialing. Comments about reciprocal certification are addressed in TCBADAC's recognition of other degreed professionals.

The definition of "client" was revised based on comments expressing concern that the commission was decreasing its emphasis on family treatment. This was not the intent. Rather, the commission wanted to clearly define who is a client for whom charts, treatment plans, medical examinations, and hours of service, etc., will be required. Counseling and referral services for family members are required in these standards, and the exclusion in the definition is merely to prevent overly burdensome documentation. The definition of "client abuse" was modified based on the comments. The definition of "client neglect" was revised based on comments.

The definition of "detoxification services" received several comments, and some were incorporated into the revision. It was recommended that drug detoxification be included, but this is outside the scope of Texas Civil Statutes, Article 5561cc, which speaks only of alcohol or a combination of alcohol and drugs. Comments were received about the need for social detoxification, but it is the commission's position that because of the life-threatening nature of detoxification, any facility which is licensed by the state to provide detoxification services should be medically supervised. In addition, the commission felt that the definition is flex-

ible enough to handle concern about the length of treatment. The definitions of "drug abuse" and "drug dependent person" were questioned; these are the definitions specified by the law.

Comments were received on the definition of "intermediate care", and the definition was subsequently modified. Comments were received on the term "inpatient," and the commission elected to delete the definition in the proposed standards and allow each facility to use its own definition. A definition was requested for "licensed health care professional" and that definition is added. The meaning of the term "supervised living environment" within the definition of "long term care" was questioned, and the term has been redefined.

The term "mood-altering drugs" was questioned, and it has now been defined. The term "outpatient care services" was questioned, and it has been revised. It was recommended that the term "patient" be defined, and it has been done. The term "rehabilitation" was questioned, this is the definition specified in the law.

Comments received expressed a need to define the term "treatment"; the definition specified in the law is adopted.

Concerning §151.22, comments stated that this standard gives the commission extremely broad powers, but the standard was adopted as proposed because it is within the purview of the commission.

Concerning §151.31, it was recommended that current TCADA contractors be grandfathered in until later. Because the law requires that programs be licensed on January 1, 1986, the commission felt it would be inappropriate to delay this process further than that which allows temporary permits to operate until August 31, 1988.

Comments on §151.37 concerned the high cost of licensure and the cost for programs which are reciprocally licensed. The commission is limited in its ability to lower the cost of the licensure fee, since Texas Civil Statutes, Article 5561cc, §10, specify that the commission set fees in the amounts necessary to cover at least 50% of the costs of the licensing program for the 1987 fiscal year.

Comments on §151.44 urged that an independent panel be involved with the executive director in reviewing nonrenewal or revocation decisions. This comment was rejected, as this process is specified in detail in the law.

A comment on §151.48 was incorporated.

Section 151.50 was the subject of a recommendation for an independent panel review in granting variances, and the comment was rejected as not being consistent with the law.

Comments on §151.62 stated that the standards should require compliance with the Rehabilitation Act of 1973 and the

Employment Practice Act. The commission considered these comments, but did not adopt them, since all facilities are already bound to abide by these laws and the purpose of these standards is to set forth additional standards which apply only to alcohol treatment facilities. A comment was received concerning maintaining minutes at the facility, but the commission did not accept this comment because it felt that having minutes at the facility would help program staff be aware of overall organization operations. Comments were received questioning the necessity for an annual audit. This suggestion was not accepted, since the commission feels an annual audit contributes to good program management and that this item is not that costly for programs whose books are in good order. Comments were received on the costs of training, and were incorporated.

Both comments concerning §151.63(a) were rejected, as an organization chart showing staff and consultants is considered by the commission to be necessary for good program management. Section 151.63(c) received a comment, and it was incorporated. Section 151.63(d) received comments concerning whether or not all professional staff must be TCBADAC certified. Based on the comments, a new subsection, (e) was created to require that at least one TCBADAC-certified counselor be on the clinical staff of each program. The commission rejected comments urging that all staff be certified, since the legislature, in Texas Civil Statutes, Article 5561-c2, mandated that prior to the next session, a task force consider several issues, including the accreditation or certification of staff, and report back to the legislature. The commission felt that it would be contrary to legislative intent to mandate certification prior to the next session.

Comments were received on §151.63(g) concerning the prohibition against hiring former clients within six months of discharge. It was recommended that a client be discharged a year prior to becoming an employee of the program. The commission considered the comments, and feels that while there are legal questions regarding discrimination which are still being researched, the intent of the standard is to prevent exploitation of former clients who are recently discharged. Until the full legal implications of the standard have been researched, the commission has chosen to withdraw it. Section 151.63(h) received a comment which was incorporated. Section 151.63(i) received comments which were incorporated through the definition of "mood-altering drugs."

Section 151.64 received comments. This standard was modified based on the comments. However, the commission chose to leave the definition of "current span of treatment" to the discretion of the

local physician so that unnecessarily duplicative medical examinations could be avoided.

Subsection (c) received comments which were included in the revised standard. Subsection (d) received a comment which was addressed by moving this standard to §151.66(a). Subsection (e) received comments which resulted in this proposed standard being withdrawn.

Concerning §151.66, a request was received to provide a simplified version of the rights to give to the patient and was considered, but since client populations vary from facility to facility, one version stating these rights would be inappropriate. This task rightfully belongs to each facility. Comments were received on subsection (c) and were incorporated. Subsection (e) received a comment recommending that records be in a locked area, and it was rejected, since in many hospitals records are in adequately supervised areas which are unlocked. Subsection (h) received a comment, and it was rejected since the portion which was commented on was not mandatory in nature.

Section 151.67(a) received a comment regarding having policies which comply with state and federal law. This is a suggestion for technical assistance, and will be followed up by the commission. Subsections (b) and (c) also were commented on, and the comments were incorporated. Subsection (d) received comments concerning the cost involved in buying new prescriptions for clients entering treatment. The commission recognizes that this standard will entail additional costs, but its purpose is to prevent clients from bringing in illicit or mood-altering drugs under the guise of a legitimate prescription. If the facility has a new prescription filled, then it knows exactly what is in the bottle.

Subsection (f) received a comment. The commission feels that a pharmacopoeia should be available to inform staff of possible side effects of drugs dispensed by the facility. A request that trained duty aides be authorized to dispense medications was received. The commission rejected this comment, since it believes that if a facility is licensed to provide detoxification services, it should have a nurse on duty to carry out physician orders.

Comments on §151.68 stated that the standards should require three meals a day, but the commission rejected this suggestion since many clients in intermediate care work outside the facility during the day. Instead, the standard was expanded to require approval of the menus by a registered dietician or qualified county agent's representative. In addition, comments were received on the need for more extensive standards regarding kitchen equipment, and these suggestions have been incorporated into §151.204.

Comments on §151.69 concerned the need to limit requirements for first aid

and CPR training to staff having direct client contact, and these suggestions were incorporated. It was recommended that subsection (d) be deleted, and modified. Both suggestions were rejected, since this standard is necessary for the commission to carry out its mandates regarding client abuse and neglect.

Comments on §151.81 concerned the service descriptions. The commission considered this comment, and responds that these are minimum required services, not maximum requirements.

Comments were received on §151.82, concerning the commission's mandating the only acceptable treatment methodologies regarding required hours of service, and were rejected, as the commission feels that these requirements are minimal and are necessary to differentiate an alcohol treatment program from treatment for most any other disease. Comments as to the vagueness of the standards were also considered, and the commission chose not to define them further, given the fact that comments of the opposite nature were also received. A request to delete the requirement for nursing coverage was also rejected, since the commission believes that any facility licensed by the state to provide detoxification treatment services must have nurses on duty to carry out orders of the physician

Comments on §§151.83-151.85 were the same as were received for §151.82, and the commission rejected all but one, for the same reasons as stated for §151.82. In addition, there were comments on the relationship between §151.84 and §151.85, and a request that the required hours be dropped to two. The commission appreciates these concerns, but chooses to reject this request as it would reduce the quantity of alcoholism treatment a client would receive.

Section 151.86 received comments concerning the need for proof of fiscal responsibility for outpatient programs prior to licensure. The commission considered these comments, but felt they were beyond the scope of these standards. The same comments were received for this section as were received for §151.82, and the commission rejected all but one, for the same reasons as stated for §151.82. Most of the other comments felt that the required hours of service were unrealistic. The commission has considered these comments, and incorporated them through a new outpatient service for those clients who do not need intensive services. The commission feels strongly that intensive and structured outpatient services should be delivered, and the commission will continue to consider revisions to the two types of outpatient services. Pending further research, however, the commission will license two types of outpatient services.

Concerning §151.101, comments requested that a time period be specified for completion of the evaluation and treatment plan. The commission considered these comments, but chose not to specify the exact time intervals, but instead, to leave it to the discretion of the individual program.

Comments on subsection (d) concerned having discharge summaries reflect the number of days that a client is free of mood-altering drugs and the problem when a client is on anti-psychotic medication. The commission considered this comment, and wishes to emphasize that this standard is geared not to anti-psychotic drugs, but to anti-anxiety drugs which can be substituted for addiction to alcohol. The commission feels very strongly that alcohol or combined alcohol and drug abuse treatment should have as its end result a client who is sober and free of mood-altering drugs, not a client who is sober and is now using drugs as a substitute to maintain his chemical dependency. Comments were received on subsection (e) concerning requirements in the discharge plan for clients who drop out. The commission intended this standard to apply only to clients successfully completing treatment.

Comments on §151.201 were incorporated into this revised section.

Comments on §151.202 are addressed in the revisions to §151.14. In addition, some of the concerns dealt with standards which are not mandatory, so the commission chose to reject them. Comments on subsection (e) were incorporated into the standard. Comments on subsection (f) are addressed in the revision to §151.14. A comment stated that the square footage requirement will cause it to cut its clientele in half or close, but the commission elected to continue with this standard, since it is that required for all Texas Rehabilitation Commission contracts. A comment against the requirement of a chair for each person in the bedroom was received, and the commission rejected this comment.

Comments on subsection (g) stated that this standard was not specific enough, but the commission chose not to make it any more specific at this time, since this standard will primarily apply to halfway houses and residential facilities which may be short of additional space. The commission rejected comments on subsection (j), since the purpose of this standard is to have the bottoms of trash cans off the floor so that a fire in the can will not ignite the floor. However, the same comment on subsection (k) was accepted.

Comments on subsection (m) recommended that facilities not be required to have a pest control service. The commission chose not to adopt this suggestion because do-it-yourself products are not available in the same chemical strength as that used by licensed pest control

companies. In the interest of health, the commission feels pest control services should be used at least on a periodic basis, but the facility can do its own spraying in between commercial services.

Comments on §151.203(a) are incorporated in the revisions to §151.14 and §151.201. Comments on the rigidity of the standards were considered, and the commission is planning to make additional funds available to meet the physical plant standards. Comments concerning subsection (b) were incorporated into this section.

Comments on subsection (c) concerned the lack of flexibility in the requirement for views of the outdoors and natural light in the sleeping quarters. The commission realizes that some older structures will be unable to meet this requirement, and a process for granting variances is included in §151.50. Comments on subsection (d) were incorporated into the revisions to §151.15 and §151.201, and other comments have been incorporated into this section.

Comments on §151.204(c) were incorporated with the reference to Texas Civil Statutes, Article 4476-10.

Comments were received on §151.205(a), and the standard was revised based on the comments. Comments were adopted for new facilities, but were rejected for existing structures.

Comments on §151.205(d) and (e) were incorporated in §151.201.

Comments on §§151.207, 151.208, and 151.209 were incorporated in §151.201.

Comments on §151.208(b) were incorporated.

Comments on §151.209(b) concerned the need for this standard to include locked wards and the concerns were incorporated. Subsection (c) was modified based on comments. Subsection (d) was modified, and other concerns are addressed in §151.209(r). Comments on subsection (e) were considered and adopted. Comments on subsection (f) are now covered in §151.215. Comments on subsection (i) concerning not having exits through bathrooms were adopted, and comments on not having exits through bedrooms were rejected, since a bedroom without an interior lock is an acceptable fire exit. Comments on subsection (j) urged that the width of exitways be increased to 44" and urged that it be decreased to less than the 36" proposed in the standard. The commission adopted the 32" width required by the Life Safety Code for Residential Board and Care Occupancies, small facilities, 5-2.1.3.1

The commission considered comments on subsection (l) and (m), but chose instead to use Life Safety Code, Chapter 19, 5.9.2.1. Comments on subsection (n) were incorporated. Comments on subsection (o) were rejected, since the purpose

of the signs is for the safety of the residents.

Some comments on subsection (p) were incorporated, and some were rejected. Comments on subsection (r) were incorporated.

Comments were received on §151.210(b), but the commission chose to adopt Class B stairs for occupant load of 50 in existing facilities. Comments to waive these standards were rejected because of fire-safety considerations.

Comments on §151.211(b) were considered, but the commission elected to adopt Class B ramps in existing structures. Some comments were adopted.

Comments received on §151.213(a) to prohibit fire escape stairs were considered, but the commission chose to adopt NFPA Chapter 21.2.2.3.3, which refers to Chapter 20-2.1, which allows fire escape stairs. Comments to lessen the requirements for fire escape stairs were not adopted, since these are the minimum NFPA requirements for fire escape stairs serving 10 or fewer occupants.

Comments on §151.214 were rejected, as the commission wants fire extinguishers which meet these standards.

Comments on §151.215(a) were incorporated. Comments on subsection (b) were considered, but the commission chose to adopt automatic smoke detection systems under NFPA 21-2.2.2.4 as the alternate to the manual alarm system. Comments that this system is not appropriate to small facilities was rejected.

Comments on §151.216 were included at §151.201. Comments also concerned the need for separated standards for adolescent facilities, particularly with regard to locked units. Comments were received on the need for funds to help bring facilities into compliance with physical plant standards, and the commission is planning to implement this suggestion, subject to the final outcome of the Gramm-Rudman amendments to the federal budget.

The following commented on the new sections:

Neomi Ruth Rios, South Texas Hospital; John Velky and Ed Paul, Commission's District 1 Office; Carol Frank, Salvation Army; J. R. Cadotte, Alcoholic Recovery Center; Julia Bryant, Texoma Regional Planning Commission; Ace Pickens, Brown, Maroney; Bill McCoy, South Bay Pioneers; Richard Lewis, City of Dallas; Frank Reynolds, Teen Challenge; Maria Chase, Brazos County Adult Probation Department; Dixon McKenzie, Brazos Family Institute; Ron Trull, Texas Rehabilitation Commission, Randall Schmidt, Brown, Herman, Geneva Heckard, Tarrant County MHMR; John Phipps, ARC, Bexar County; Austin Chapter of TAADAC; Allen Martin, Redoubt River Ranch; Howard and Joan Conkey; Anne Therese Starr, Motorola; Don Devens, Brookwood Lodge (Choco-

late Bayou); Phillip Lundberg, Clearview; Annabelle Lindner, Starlight Village; Nancy Harvey, The Haven; F. H. Garnett, Souls Harbor; Karen Grady, North Central Texas Council of Governments; Robert Brown, Serenity House; David Hitman, Texas Department of Health; Kay Sanders, West Oaks; American Chapter of TAADAC; Jane Bash, Austin Rehabilitation Center; Lupita Gonzales, and Elaine Hatch, Brownsville ISD; James Anderson, PARC; Clayton Shorkey, UT School of Social Work; Central East Texas Chapter of TAADAC; Dr. Larry Wharton, Faulkner Center; George Pate, University Park Hospital; Rio Grande Valley Chapter TAADAC; Earl Romerleau; Rosalie Cripps; Betty Morgan, Adolescent Foundation; Jeff Bormaster; Ben Boaz, Methodist Hospitals of Dallas; Rosmary Webb; Charles Flurry, Meadow Pines Hospital; Don Buie, Greater Austin Council on Alcoholism, Kitty Donoghue of HIP; Manuel Fernandez, CAPCO; Ron Irving, Gen-Tex ARC; Clyde McLean, Permian Basin MHMR; Sandy Shaw, Coastal Bend COG; Ron Cookston, Sabine Valley MHMR; Russ Evans, Abilene MHMR; Loyd Kilpatrick, Tarrant County MHMR; Sylvia Clemons, Hunt County Council; Maurice Rieger, Serenity Center; Edward Cervenka, Department of Labor and Standards; Arch Beasley, Biggers and Beasley; Judy Brew, Austin Family House; and Robert B. Hager, Driskell House. Comments were both for and against the rules, and suggested modifications.

These new sections are adopted under Texas Civil Statutes, Article 5561cc, which requires that all alcohol treatment facilities be licensed by the commission as of January 1, 1986.

§151.14. Scope of Rules, Regulations, and Standards. Effective January 1, 1986, a person who operates an alcohol treatment facility as defined in commission rules and in Texas Civil Statutes, Article 5561cc, must obtain a license issued by the commission unless:

- (1) it is a facility maintained or operated by the federal government or its agencies;
- (2) it is a hospital operated by the State of Texas;
- (3) it is an educational program for intoxicated drivers;
- (4) it is a shelter whose sole purpose is to provide room and board to otherwise homeless persons;
- (5) it is a peer support group;
- (6) it is an intervention, evaluation, or referral program;
- (7) it is the office of a private licensed health care practitioner or other individual in private practice who is providing services to an alcohol or alcohol and drug dependent persons;
- (8) it is an aftercare or follow-up program which is not part of another service licensed by these sections; or

(9) other rules of the commission permit limited operation without a license to avoid interruption of existing services pending completion of licensure requirements. The rules, regulations, and standards shall not be construed to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission.

(b) A person who operates an intensive outpatient care service or a supportive outpatient care service or a facility which is licensed by the Texas Department of Health or by the Texas Department of Mental Health and Mental Retardation need not comply with physical plant requirements as set forth in §151.201-151.215 of this title (relating to Physical Plant Requirements; Environment; General Structure; Kitchens; Utilities; Plumbing; Electrical; Ventilation; Fire and Safety; Stairs, Landings, and Balconies; Ramps; Fire Escape Ladders; Fire Escape Stairs; Portable Fire Extinguishers; and Smoke Detection Equipment).

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

Act—Texas Civil Statutes, Article 5561cc.

Alcohol treatment facility—A public or private hospital, clinic, detoxification facility, primary care facility, intermediate care facility, long-term care, intensive outpatient care, or supportive outpatient care facility, community mental health center, recovery center, halfway house, ambulatory care facility, or any other facility that purports to provide alcohol or combined alcohol and drug treatment services and rehabilitation services as one of its programs.

Alcoholic—An individual who suffers from alcoholism.

Alcoholism—The loss of self-control with respect to the use of alcohol, the pathological use of alcohol that chronically impairs social or occupational functioning, or physiological dependence on alcohol as evidenced by tolerance or withdrawal symptoms.

Alcoholism and drug abuse counselor—A person who is certified by the Texas Certification Board for Alcoholism and Drug Abuse Counselors (TCBADAC).

Assistant alcoholism and drug abuse counselor—A person who is pursuing certification by the Texas Certification Board for Alcoholism and Drug Abuse Counselors and who has at least 1/4 of the training hours required for TCBADAC certification and who has at least one year of supervised experience in alcohol abuse services.

Client—An individual who has been admitted to but not yet discharged from an alcohol treatment facility or who is currently receiving alcohol or combined alcohol and drug treatment and rehabilitation services from a facility licensed by the commission. It does not include a family member or significant other of a client. The term

client has the same meaning as the term patient.

Client abuse—Any intentional or reckless action or omission by a person authorized or employed by a facility to render treatment and rehabilitation services which causes injury to a client.

Client exploitation—An unjust or improper use of labor or other personal resources of a client by staff, volunteers, or board members of an alcohol treatment facility, where such use is for personal profit or gain by the facility, staff, volunteer, or board member(s) and is of no therapeutic or other benefit to the client.

Client neglect—Any act taken or omitted by any person authorized and/or employed by a facility to render treatment or services, which action or failure to act is not reasonable or prudent and which results in injury to a client.

Closed unit—A locked unit from which clients who are a danger to self or others may not leave without assistance from staff.

Commission—The Texas Commission on Alcohol and Drug Abuse.

Detoxification—A process of safe and medically supervised withdrawal from alcohol or a combination of alcohol and drugs.

Detoxification services—A planned program of treatment services (usually less than 10 days in length) for clients who are in need of medically supervised withdrawal from alcohol or a combination of alcohol and drugs in a safe manner.

Drug abuse—Misuse or abuse of any controlled substance for other than appropriate and duly prescribed medicinal purposes.

Drug dependent person—A person who is using a controlled substance and who is in a state of psychic or physical dependence or both arising from administration of a controlled substance. Drug dependence is characterized by behavioral and other responses that include a strong compulsion to take a controlled substance in order to experience its psychic effects or to avoid the discomfort of its absence.

Executive director—The executive director of the Texas Commission on Alcohol and Drug Abuse.

Governing authority—The individual or individuals designated by law, or by charter or other written document which creates or governs operations of the entity, as the policy-making body for the entity.

Governmental unit—The state, any political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision of the state. The term does not include any entity of the federal government.

Health care facility—The meaning prescribed by the Texas Health Planning and Development Act (Texas Civil Statutes, Article 4418h).

Intensive outpatient care services—A planned program of at least 10 hours of treatment services per week up to 30 days in length provided on a scheduled basis to clients who have not completed primary, intermediate, or long-term care, but whose physical and emotional status allows them to receive treatment in an outpatient setting.

Intermediate care services—A planned program of treatment services (usually less than 90 days in length) for clients who are not in need of detoxification, primary care, or outpatient services and who are in need of treatment in a 24-hour supervised living setting, such as in a halfway house, and are in transition to an independent living status.

Involuntary client—A client committed to a treatment program by court order under authority of Texas Civil Statutes, Article 5561c-2.

Licensed health care professional—An individual who is licensed under state law to provide a professional health care service, such as a licensed physician, professional counselor, psychologist, social psychotherapist, or registered nurse.

Licensed vocational nurse—A nurse licensed by the Texas State Board of Vocational Nurse Examiners.

Long-term care services—A planned program of treatment services (usually more than 90 days in length) for clients who are not in need of detoxification and are not appropriate for primary, intermediate, or outpatient services, and whose condition indicates a need for long term living environment supervised 24 hours a day.

Medically supervised—General supervision by a physician with direct or standing orders to personnel.

Mood-altering drugs—Alcohol or any controlled substance as defined in Texas Civil Statutes, Article 4476-15, or any dangerous drug as defined in Texas Civil Statutes, Article 4476-14, or any simulated controlled substance as defined in Texas Civil Statutes, Article 4476-15b, or any volatile chemical as defined in Texas Civil Statutes, Article 4476-13a.

Patient—An individual who has been admitted to but not yet discharged from an alcohol treatment facility or who is currently receiving alcohol or combined alcohol and drug treatment and rehabilitation services from a facility licensed by the commission. It does not include a family member or significant other of a patient. The term patient has the same meaning as the term client.

Peer support group—A independent fellowship of persons who have admitted their alcoholism and/or drug abuse and who derive a sense of common identity, insight, and purpose from recognition of their inability to cope singly with their alcoholism and/or drug abuse.

Physician—A person licensed to practice medicine in the State of Texas or a person employed by any agency of the United States who has a license to practice

medicine in any state of the United States.

Primary care services—A planned program (usually less than 30 days in length) of services for clients who are not in need of detoxification and who are appropriate for intensive treatment services in a 24-hour day supervised living environment.

Registered nurse—A nurse licensed by the Texas State Board of Nurse Examiners.

Rehabilitation—A planned and organized program of services designed to re-establish the social and vocational life of a substance-free person.

Supportive outpatient care services—A planned program of treatment services for clients provided on a scheduled basis to clients whose physical and emotional status allows them to function in their usual environment.

Treatment—A planned and organized program designed to initiate and maintain a person's substance-free status.

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 December 9, 1985.

TRD-8511694

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986

Proposal publication date: September 20, 1985

For further information, please call
(512) 475-2577

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Licensure Procedures

★ 40 TAC §§151.31-151.38

These new sections are adopted under Texas Civil Statutes, Article 5561cc, which requires that all alcohol treatment facilities be licensed by the commission as of January 1, 1986.

§151.31. License Application. An applicant for a license to operate an alcohol treatment facility must file a written application on a form prescribed by the commission and cooperate with all required inspections of the facility. All required documentation and materials, including audits and supporting records, shall be made available by the applicant. The applicant shall demonstrate compliance with all licensure standards. Prior to the issuance of a license. However, the commission may issue temporary permits for the delivery of treatment services subject to licensure for a reasonable time, so that pre-existing treatment facilities can comply with licensure standards and to avoid interruptions in existing services. Facilities operating under temporary permits will not be able to provide treatment services which can be reimbursed by third party insurers under the Insurance Code,

Article 3.51-9, §2, nor will they be able to be approved as a treatment facility under Texas Penal Code, §42.08(b).

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 December 9, 1985.

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Ross Newby
Executive Director
Texas Commission on
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Abuse

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For further information, please call

(512) 475-2577.

Denial, Nonrenewal, or Revocation of Licensure

★40. TAC §§151.41-151.50

These new sections are adopted under Texas Civil Statutes, Article 5561cc, which requires that all alcohol treatment facilities be licensed by the commission as of January 1, 1986.

§151.45. Appeal Hearing. In addition to the request for reconsideration, a person who is denied a license or whose license is revoked or not renewed may request a hearing before the commission or a hearing officer appointed by the commission on the question of the issuance of the license. The applicant must request an appeal hearing within the 30 days following the date on which the applicant or the holder of the license received notice that the license was denied or that it was to be revoked or refused renewal. The request must be timely and made in writing and signed by an authorized officer in order to be a valid request. The commission shall mail written notice of the date, time, and place of the hearing not later than 21 days before the date of the hearing.

§151.48. Setting of Judicial Hearing. The commission will refer all reported violations under Texas Civil Statutes, Article 5561cc, §14, to law enforcement authorities for investigation, and may petition a district court in Travis County to enter a restraining order and/or permanent injunction, if needed, to prevent violations of the licensing act or standards which cause immediate threat to the health and safety of individuals receiving treatment, pursuant to this 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 December 9, 1985.

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Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986

Proposal publication date: September 20, 1985

For further information, please call

(512) 475-2577.

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Licensure Standards

★40 TAC §§151.61-151.69, 151.81-151.86, 151.101, 151.201-151.215

These new sections are adopted under Texas Civil Statutes, Article 5561cc, which requires that all alcohol treatment facilities be licensed by the commission as of January 1, 1986.

§151.61. Categories of Service. The Texas Commission on Alcohol and Drug Abuse shall license the following categories of service as defined in these standards: detoxification; primary care; intermediate care; long-term care; intensive outpatient services; and supportive outpatient care services.

§151.62. Governing Authority.

(a) The organization shall operate under legal authority by virtue of incorporation or other authorizing state statutory authority. The organization shall maintain its good standing, current status, and reporting requirements with the State of Texas pursuant to state law as a continuing requirement for licensure.

(b) The governing authority shall exercise general direction over and establish policies concerning the operation of the organization or facility. The governing authority shall maintain full responsibility for the fiscal and managerial integrity of the facility and compliance with licensure standards.

(c) Minutes of all governing authority meetings shall be recorded and maintained in the registered office of the organization and also at the facility itself. These minutes shall verify that a quorum was present, and if a quorum is not present, the governing authority shall avoid taking action and votes. The governing authority shall be in compliance with the provisions of its bylaws on terms of office for board members and election or appointment of new members. The officers of a nonprofit organization shall consist of at least a president, vice president, and secretary/treasurer and those offices shall be elected at least every three years.

(d) A nonprofit organization shall at least annually provide for the education of its board members with respect to legal powers, rights, privileges, duties, and liabilities of board members. This education may be provided by legal counsel, local United Way, a professional consultant in board training, or a formalized board training program developed by the organization.

(e) The governing authority shall appoint an executive director whose qualifications meet the minimum standards set by

the board for the position. The governing authority shall delegate authority, responsibility, and duties in writing to the director for the management of the facility in accordance with established policy.

(f) The governing authority or the director shall develop a policy manual that describes the regulations, principles, guidelines, and personnel policies that determine the facility's operation. This shall be reviewed, updated, and approved at least annually by the governing authority, and this policy manual shall be available to all staff.

(g) The organization shall have an independent audit performed at least annually and the results of the audit shall be presented to the governing authority in a timely fashion for its review and appropriate action.

(h) The organization shall document an annual plan to provide training and education opportunities for staff and document staff participation in training and education activities.

§151.63. Organizational Structure.

(a) There shall be an organizational chart describing the facility's lines of supervision of staff and consultants.

(b) There shall be written job descriptions outlining the duties and responsibilities for all positions. Each job description shall state the qualifications, reporting supervisor, positions supervised, and duties.

(c) There shall be a contract or letter of agreement on file outlining the duties, responsibilities, lines of supervision, and compensation of any person serving in the capacity of a consultant.

(d) There shall be documentation verifying that all personnel meet local, state, or federal requirements for their positions, e.g., licensing, registration, or certification.

(e) There shall be at least one individual who is an alcoholism and drug abuse counselor and assistant counselors shall meet the requirements listed in the definitions section of these standards.

(f) There shall be written personnel procedures that shall include evaluation of personnel performance on at least an annual basis. This evaluation shall be in writing and shall be reviewed with the employee affected.

(g) Personnel policies shall include preemployment health screening requirements and a policy for exclusion from the work place of any employee whose health condition poses a potential risk to clients and other employees.

(h) The organization shall provide documentation that clinical supervision occurs on a consistent basis to ensure quality care. This shall include routine checks on treatment plans, case notes, counseling skill evaluations, and ongoing feedback and guidance for counselors.

(i) The organization shall adopt a personnel policy prohibiting all use of alcohol and other mood-altering drugs by the organization's staff during their duty hours of staff, unless medically prescribed. The

facility shall develop policies and procedures to address active alcoholism and drug abuse of staff in a manner which fosters recovery while at the same time safeguarding clients.

(j) The organization shall adopt a policy prohibiting sexual activity by a paid staff, volunteer, or board member with an active client.

§151.64. Admission of Clients.

(a) There shall be written admission eligibility requirements.

(b) There shall be documentation verifying that a medical examination has been completed during the current span of treatment as determined by the physician. If a client is admitted as a direct referral from another facility, the admitting facility shall have the option of either completing a medical examination or obtaining and using a copy of the medical examination completed by the referring facility. Assessment of the client's medical needs shall be made in consultation with a physician. The facility shall provide a referral for treatment of medical needs, if such service is not directly provided by the facility. The findings of the medical examination shall be documented in the client's record.

(c) Any person who seeks admission to a facility but is not admitted shall be referred to other appropriate treatment or services, and such referral shall be documented by the facility.

§151.66. Client Rights.

(a) The facility shall have a written policy that provides for client rights and which includes, at a minimum:

(1) the right to refuse treatment and medication and to be advised of the consequences of such refusal;

(2) the right to refuse to participate in a research program without compromising access to services to which the client is otherwise entitled;

(3) the right to actively participate in the development of an individualized treatment plan and to have the plan periodically reviewed. This includes the right to know and to meet with the professional staff members responsible for the client's care, to know their professional qualifications, and to know their staff positions;

(4) the right to a humane and safe environment affording reasonable protection from harm and appropriate privacy with regard to personal needs;

(5) the right to communicate with others and to have visitors on the premises unless restricted for good cause by the director of the facility;

(6) the right to be free from mistreatment, abuse, neglect, and exploitation;

(7) the right to know the cost of their care, how much of that cost is charged to them, what fees are paid by other resources in their behalf, what these payments cover, and any limitations placed on the duration of services; and

(8) the right, within 24 hours of admission, to be informed verbally and in writing, in simple, nontechnical terms in a language the client can understand, of the rights listed in paragraphs (1)-(7) of this subsection. The facility shall inform each client of the facility's participation requirements and other rules and expectations pertaining to the client.

(b) The facility shall establish rules and procedures pertaining to the client who refuses treatment or medication against medical advice.

(c) The facility shall have general rules and procedures regarding visitation and communications outside the facility. Any restriction made by the director of the facility on visitation or communication shall be justified in the client's file and shall be based on reasonable grounds pertaining to the welfare of the client or other clients. Such rules and procedures shall protect the confidentiality of client records and identifying information as required by state and federal law. There shall be no restriction on the ability of a client to initiate communications with his attorney or the Texas Commission on Alcohol and Drug Abuse.

(d) The facility shall have rules and procedures to protect client rights and privacy with respect to facility visitors. Such visitations and tours shall be conducted so as to avoid unnecessary interruption of clients' usual activities and therapeutic programs.

(e) Treatment records of the client shall be kept confidential and shall be disclosed only for the purposes and in the manner expressed and authorized in applicable federal and state laws and regulations. The facility shall establish procedures to keep and protect all records to ensure such compliance and shall orient staff to these procedures.

(f) The governing authority shall establish rules of staff conduct toward clients and procedures to investigate allegations of violations of these rules. If any investigation confirms an allegation, the facility shall take appropriate action against the staff member. In addition, if the rule violation is also a violation of the code of ethics of the organization by which the staff person is credentialed, the facility shall also report its findings to that credentialing body.

(g) The governing authority shall have a written statement of its policies and practices regarding client grievances and for investigating and remedying complaints and cases of abuse and neglect of its clients. The statement shall, at a minimum, encompass the elements of the client abuse, neglect, and exploitation of clients consistent with Texas Civil Statutes, Article 5561cc, and as defined in these licensure standards. The statement shall be prominently displayed in the facility and shall be given to all facility personnel and there shall be documentation verifying that this written statement is annually reviewed and approved by the gov-

erning body. Complaints or alleged violations and the results of any investigation shall be documented and appropriate action taken by the governing authority or its designee. This documentation shall be maintained at the facility and shall be available for inspection. Complaints which cannot be resolved by the governing authority shall be forwarded to the commission for resolution through its board of inquiry.

(h) Clients shall be encouraged to take responsibility for maintaining their own living quarters, but such responsibilities shall be clearly defined in writing and provided to the client at orientation. The facility shall demonstrate that these responsibilities do not constitute full-time, reimbursable work, but are an integral part of therapeutic treatment. In no case shall these responsibilities interfere with other treatment services to clients.

§151.67. Medications.

(a) The facility shall have written policies and procedures to govern the prescribing, dispersing, and administering of medication, including those products commonly known as nonprescription medications. Such policies and procedures shall comply with state and federal law.

(b) All medications administered to a client by the facility, whether prescribed or nonprescribed, shall be documented as to time, route, amount, purpose, and any adverse reaction in the client's clinical record as specified in §151.101(b) of this title (relating to Clinical Records). Any adverse reaction to the drug by the client must be reported to the prescribing physician.

(c) All medication, both prescribed and nonprescribed, shall be kept under lock and key in a secure area reserved for medication. On a 24-hour basis, a designated person on each shift shall be assigned as responsible for record keeping and access to the locked area.

(d) Medication brought into the facility by clients at admission shall not be administered. The prescribing physician will be contacted for a new prescription upon admission.

(e) The facility shall have a policy and procedure for the disposal of medication left at the facility by a discharged client and this policy shall consider the risks of illicit use by others.

(f) The facility shall maintain a current Physician's Desk Reference or other pharmacopoeia for the use of staff in ascertaining side effects, adverse effects, actions, and contraindications of any drug given a client.

(g) If a facility provides detoxification, it shall have a licensed physician on staff or under contract, and no medications shall be given during detoxification except as ordered by that physician. Physicians shall not issue standing orders for medication unless there is a licensed vocational or

registered nurse on duty to carry out those orders.

§151.68. Nutrition. An adequate diet meeting adult recommended dietary allowances as established by the United States Department of Agriculture shall be provided to all residents. A registered dietician or qualified county agent's representative shall approve the menus.

§151.69. Emergency Situations.

(a) There shall be procedures for handling emergency medical and behavioral situations. Physical restraints and seclusion shall not be used except in extreme cases to protect the client from injuring self or others when all other alternatives are exhausted.

(b) All personnel who have direct client contact shall have current first aid training, including training in cardiopulmonary resuscitation (CPR) conducted by a Red Cross instructor or person certified to provide CPR training.

(c) There shall be a written policy and procedure to report any incident or unusual event relating to a client, such as an injury, medication error, a death, a seizure, or any sexual abuse. The incident report shall address, at a minimum, the type of incident, place and setting of incident, condition of client before and after incident, staff present (if applicable), staff action taken, facility director review and comments. If the incident is related to client abuse, exploitation, neglect or death, an investigation shall be conducted by the governing body or its designee consistent with Texas Civil Statutes, Article 5561cc. All incident reports shall be maintained by the facility.

(d) The death of a client shall be reported in writing to the commission's department of licensure within 72 hours. Within 30 calendar days, the facility's board shall submit to the commission's department of licensure the results of its investigation regarding the death.

§151.81. Services. Service descriptions are divided into detoxification, primary care, intermediate care, long-term care, intensive outpatient care services, and supportive outpatient care services. Only the sections of this standard which cover the service(s) offered by the facility undergoing inspection will be applied. These standards cover the minimum amount of services required for each level of care.

151.82. Detoxification. The facility shall document the provision of at least the following elements of service: 24-hour supervised living environment, including room and board; medically supervised withdrawal from alcohol or other drugs; at least one registered or licensed vocational nurse on duty each shift; two hours of alcohol and drug abuse education per week; a total of eight hours of group and/or individual counseling and peer support group orientation per week; counseling or referral ser-

vices for client's family members and significant others; and referral services for unmet and ongoing needs of all clients at discharge.

§151.83. Primary Care. The facility shall document the provision of at least the following elements of service: eight hours of alcohol and drug education per week; a total of 12 hours of services per week which must include group counseling, individual counseling, peer support group orientation, recreation and physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.84. Intermediate Care. The facility shall document the provision of the following elements of service: at least two hours of alcohol and drug abuse education per week; a total of eight hours of service per week which must include group and/or individual counseling, peer support group orientation, recreation, and physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.85. Long-Term Care. The facility shall document the provision of at least the following elements of service: five hours service per week which must include group or individual counseling, peer support orientation, and recreation or physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.86. Outpatient Care Services.

(a) Intensive Outpatient Care Services. This standard shall not apply to facilities who serve clients who have successfully completed primary, intermediate, or long-term care and are now in aftercare or follow-up status, but it does apply to those facilities serving clients who have received no services or only detoxification services. At a minimum, the facility shall provide a structured program of services which shall include at least 10 hours of service per week during the first 30 days of treatment in the following elements of service; group and individual counseling; alcohol and drug abuse education; peer support group orientation; counseling or referral services for family members and significant others; referral ser-

vices for unmet and ongoing needs of all clients at discharge; and the follow-up contact approximately 60 days after discharge to assess client progress.

(b) Supportive Outpatient Care Services. This standard applies to facilities serving clients who, based on clinical evaluation, do not require primary outpatient services, or who are in the early stages of their illness, or who have received other services and are now in continuing care. The facility shall provide a schedule of services which shall include the following elements: group and individual counseling; alcohol and drug abuse education; peer support group orientation; counseling or referral services for family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.101. Clinical Records.

(a) An evaluation of the health, social, and emotional state of the client shall be completed prior to the development and implementation of a treatment plan. The evaluation shall include, but not be limited to, drinking and drug abuse history; family relationships; education background; social and economic status; legal history; a determination of current emotional state; cultural background; and vocational history. The results of this assessment shall be documented in the client's record. This assessment shall serve as the basis for the client's treatment plan.

(b) The treatment plan shall be individualized to the client and shall be developed in conjunction with the client. Program staff shall develop individual treatment goals and objectives for the treatment plan. These goals and objectives shall be developed in conjunction with the client and shall be recorded in the client record. Program staff shall monitor the progress of the client toward treatment goals and objectives and record such in client record. This record shall include the medication documentation required in these standards.

(c) All clinical staff delivering services shall document these services in the individual client records, and there shall be documentation that the treatment plan is periodically reviewed, evaluated, and updated, as necessary, based on changes in the client's condition as shown in the client's record.

(d) The facility shall provide a discharge summary for each client. This summary shall describe the identified problems, services provided during the course of treatment, an assessment of client progress while in treatment, and the reason for discharge. The discharge summary shall document the number of days that the client has been free of mood-altering chemicals.

(e) A discharge plan shall be developed for each client completing the regular course of treatment and shall include a plan of action and referral resources for continuation of care following discharge from the

facility. It shall be developed in conjunction with the client and shall be recorded in the client record. The facility shall obtain the signature of the client on the discharge plan as evidence of the client's approval as to content.

§151.201. Physical Plant Requirements. Facilities constructed after January 1, 1986, shall at a minimum meet the most recent NFPA and Uniform Codes for construction, equipment, equipment installation, and utility service applicable to a residential board and care occupancy as defined by the National Fire Protection Association Life Safety Code 101, Chapter 21.

§151.202. Environment.

(a) The facility shall establish an environment that enhances the positive self-image of the client and preserves human dignity. If clothing is provided by the facility, it shall be appropriate and shall not be dehumanizing. Clients shall be allowed to keep and display personal belongings and add personal touches to the decoration of their own rooms. Articles for grooming and personal hygiene shall be readily available for the individual clients in spaces reserved adjacent to their sleeping areas. A client's personal articles shall be confiscated and kept under lock and key only for safekeeping or if they may be a danger to the client or others.

(b) To promote awareness of the time and the season, clocks and calendars shall be provided, at least in major use areas.

(c) The facility shall be clean, structurally sound, and not in need of painting. The furnishings shall be in good repair.

(d) Buildings and grounds shall be maintained, repaired, and cleaned so they are not hazardous to health and safety.

(e) To prevent standing water or ponding of water runoff, outdoor areas shall be well drained.

(f) The number of square feet per occupant shall be at least 60 square feet per resident in multiple-occupant sleeping rooms and not less than 80 square feet in single-occupant sleeping rooms. Bedrooms shall be large enough to allow space for a bed, bedside table, and lamp. Each client shall have access to a dresser, closet, table, and chair without crowding the occupants. There shall be one or more living rooms or day rooms.

(g) There shall be space to allow clients to be counseled in privacy. Staff shall not office in a space designated for client activities.

(h) Storage items shall be neatly arranged and placed to minimize fire hazards. Gasoline, volatile materials, paint and similar products shall not be stored in a building housing residents. Nonvolatile hazardous items, such as janitor supplies and equipment, shall be in closets or spaces separate from resident use areas. Storage closets or spaces shall be maintained in a safe and sanitary condition and ventilated in a man-

ner appropriate to the use of the closet or space.

(i) There shall be no enclosed usable space under stairs in an exit enclosure nor shall the open space under the stairs be used for any purpose other than storage of non-flammable materials.

(j) Metal wastebaskets or trash containers with at least a half-inch air space between the floor and bottom of the container shall be provided for bedrooms, offices, lounges, handicraft rooms, and similar locations. These containers shall be made of either substantial gauge steel or plastic which meets Underwriter Laboratories, Inc. (U.L.) standards.

(k) Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, mechanical rooms, general storage, and similar places shall be made of either steel and have a close-fitting steel cover or plastic meeting Underwriter Laboratories, Inc. (U.L.) standards. Disposable plastic liners may be used in these containers for sanitation.

(l) Waste, trash, and garbage shall be removed from the premises at regular intervals to prevent excessive accumulations. The building and grounds shall be kept neat and free from refuse, litter, accumulations of extraneous materials, and other unsightly or injurious accumulations.

(m) A pest control program shall be in operation in the facility. There shall be no evidence of roaches or other pests. Care shall be taken to insure the use of the least toxic and least flammable effective insecticides and rodenticides. Such services shall be provided by contract with a licensed pest control company.

§151.203. General Structure.

(a) Every building or structure shall be so constructed, arranged, equipped, maintained, and operated so as to avoid undue danger to the lives and safety of its occupants.

(b) Each facility shall conform to all applicable state laws and local codes and ordinances. When such laws, codes and ordinances are more stringent than the standards of the commission, the more stringent requirements shall govern. Should state laws or local codes or ordinances be in conflict with the requirements of these standards, the commission shall be so informed.

(c) Illumination, either natural or artificial, shall be provided to supply the needs of the residents without eye strain or glare. Non-glare lighting fixtures and window glare-reduction devices shall be provided. Wall, floor, and ceiling surfaces shall generally provide reflectance factors that are compatible with good lighting practices as recommended by the Illuminating Engineering Society. Lighting shall be under the control of the occupants of the lighted area unless a therapeutic rationale for exclusive staff control is provided in the written facility procedure. The environment shall be designed to allow views of the outdoors and

occupants' sleeping areas shall have windows providing natural light.

(d) Mobile homes or trailers are prohibited for client sleeping areas. HUD-Code manufactured homes and modular homes built to the standards specified under Texas Civil Statutes, Article 5221f, are acceptable. Industrialized housing and buildings built to the standards specified under Texas Civil Statutes, Article 5221f-1, are acceptable.

(e) All fires shall be reported to the commission in writing within 72 hours.

§151.204. Kitchens.

(a) The facility shall obtain a kitchen health inspection which will document compliance with Texas Civil Statutes, Article 4476-10, regarding employment of infected persons; employment of or handling of food or drink, dishes, serving implements, etc., by infected persons; physical examinations; and personal cleanliness required of food or drink handlers.

(b) A sign reading "Wash Hands Before Returning to Work" shall be posted in the bathrooms used by kitchen personnel.

(c) Any opening to the outside shall be effectively screened against insects.

(d) Exhaust vents on hoods of kitchen ranges must terminate outside the building unless the appliance is designed to operate without a vent.

§151.205. Utilities.

(a) All gas pipes shall be pressure tested every three years by the local gas company or a licensed plumber. A report of the results of this inspection shall be kept on file.

(b) A health care facility using liquefied petroleum gas shall have an annual inspection by the Liquefied Petroleum-Gas Division of the Texas Railroad Commission. A report of the results of this inspection shall be kept on file.

(c) All gas appliances shall have metal tubing and metal connections.

(d) An adequate supply of hot water shall be available to clients at all times. Temperature of hot water shall be automatically regulated not to exceed 120 degrees Fahrenheit. All water heater relief valves shall be piped to the exterior. Gas-operated water heaters designed to be vented shall be properly vented to the exterior.

(e) Wastewater drainage and sewage shall be discharged into a state-approved municipal sewage system where such system is available; otherwise, the sewage and wastewater shall be collected, treated, and disposed of in a manner which is approved by the local health department having jurisdiction.

(f) The water supply shall be of safe and sanitary quality as approved by the Texas Department of Health. Quantity and pressure shall be as necessary to serve the needs of the facility.

§151.208. Ventilation.

(a) Ventilation must be sufficient to

admit fresh air and remove disagreeable odors. The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas not having outside windows and which are used by residents shall be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage.

(b) The facility must have the capability of maintaining building temperatures at a temperature level of 65 degrees Fahrenheit or above in occupied areas at all times. Mechanical equipment shall be properly designed to offset rapid changes in temperature.

(c) All open-face, gas-fired heating devices and space heaters are prohibited unless they are properly vented to the outside of the building. Working fireplaces are acceptable only if they have been inspected and approved by the local fire marshal having jurisdiction.

(d) All windows and doors used for ventilation shall be screened for protection against insects.

§151.209. *Fire and Safety.*

(a) Exits shall be arranged and maintained to provide free and unobstructed egress from all parts of the building or structure at all times when it is occupied.

(b) Locks, if provided, shall not require the use of a key for operation from the interior, unless it is a closed unit with provisions made for the rapid removal of occupants by reliable means such as the remote control of locks or by keying all locks to keys readily available to staff who are in constant attendance. Any such interior locking arrangement shall be approved by the commission and by the local authority having jurisdiction. No padlock, hasp, bar, chair, or other device, or combination thereof, shall be installed or maintained at any time on or in connection with any door, if such device prevents, or is intended to prevent, the free use of the door as an exitway.

(c) Every exit shall be clearly visible or the route to reach it shall be conspicuously marked. Each path of escape, in its entirety, shall be so arranged or marked that the way to a place of safety is unmistakable. Any doorway, passageway, or window that is not an egress, an exit or the way to reach an exit, but which might be mistaken for an egress, shall be so arranged or marked to minimize its possible confusion with an exit with the resulting danger of persons trying to escape from a fire finding themselves trapped in a dead-end space from which there is no way out.

(d) Every building or structure in which occupants may be endangered by the blocking of a single exit-way due to fire or smoke shall have at least two exit routes remote from each other, so arranged as to minimize the possibility that both may be blocked by any one fire or other emergency condition. Where occupants sleep above

the ground floor, it is preferred that both exit routes be enclosed interior stairs which are remote from each other and arranged to minimize the possibility that both could be blocked by any one fire or other emergency condition. An acceptable alternative would be one enclosed interior stairway and the other a permanent exterior stairway or fire escape. Portable ladders, rope fire escapes, and similar emergency escape devices are not acceptable as permanent escape routes.

(e) Exits shall be so arranged that the maximum distance to travel from any point in the building or structure to the nearest outside door or stair shall not be more than 150 feet.

(f) Each facility shall develop an emergency evacuation plan, including provisions for handicapped, approved by the fire marshal having jurisdiction. The evacuation diagram shall be conspicuously posted throughout the facility.

(g) There shall be at least one telephone in the facility available to staff and residents in case of an emergency. The telephone numbers of the fire department, the police department, and emergency ambulance service shall be posted conspicuously at or near the telephone.

(h) Smoking regulations shall be established and conspicuously posted throughout the facility. Smoking in bed shall be prohibited. Ashtrays of noncombustible material and safe design shall be provided.

(i) General meeting rooms occupied by more than 50 persons at any given time, shall have exit doors which are side-hinged, swinging-type, and shall swing with the direction of the exit travel.

(j) In no case shall access to an exit be through a bedroom, or other room subject to locking, except where the exit is designed to serve only that room. Hangings or draperies shall not be placed over exit doors or located to conceal or obscure an exit. Mirrors shall not be placed on exit doors. Exits through bathrooms are not acceptable.

(k) All exits shall be at least 32 inches wide and six feet eight inches in height to provide occupants with a safe access.

(l) Illumination of exits shall be provided for every building and structure and be continuous during the time of occupancy. Artificial lighting shall be used at such places and for such periods of time as required to maintain the illumination of not less than one foot-candle measured at the floor.

(m) Exit routes shall be lit to the minimum requirements at all points including angles and intersections of corridors and passageways, stairways, landings of stairs, and exit doors to values of not less than one foot-candle measured at the floor. Any required illumination shall be so arranged that the failure of any single lighting unit, such as the burning out of an electric bulb, will not leave any area in darkness.

(n) Illumination of the exit route shall be from a source of reasonably assured reliability, such as a public utility electric service. No battery-operated electric light nor any type of portable lamp or lantern shall be used for primary illumination of the exit, but may be used as a source of emergency lighting.

(o) In case of electrical failure, the following shall be available.

(1) On each floor or in each section of a structure with residents, there shall be an electric battery-operated emergency light obtained from a business certified by the state fire marshal as a fire equipment service company.

(2) In any area where more than 50 persons may meet, there shall be an electric battery-operated emergency light obtained from a business certified by the state fire marshal as a fire equipment service company.

(p) Every exit shall have an exit sign illuminated by a reliable light source giving a value of not less than five foot-candles on the illuminated surface and down light. The letters on the sign must be not less than six inches high with the principal strokes of letters not less than 3/4 inch wide.

(q) An illuminated exit, sign, with an arrow indicating the direction, shall be placed in every location where the way to the nearest exit is not visible.

(r) Every exit sign shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs.

§151.210. *Stairs, Landings, and Balconies.*

(a) All stairs intended to serve as an exit shall be of permanent fixed construction.

(b) Stairs shall be constructed in accordance with the following specifications:

(1) minimum width—36 inches;

(2) maximum height of risers—eight inches;

(3) minimum width of tread—nine inches;

(4) minimum head room—six feet, eight inches;

(5) minimum dimension of landings in direction of travel—44 inches.

(c) All stairs, platforms, landings, and balconies shall be designed to support a concentrated load of 300 pounds so located as to produce maximum stress conditions.

(d) Where the material of stair treads and landings is such as to involve a danger of slipping, a nonslip material shall be provided and installed on tread surface.

(e) All stairways and intermediate landings shall continue with no decrease in width along the direction of exit travel.

(f) Exits such as stairs, ramps, balconies, and stair landings higher than 30 inches shall have guards to prevent falls over the open sides. Required guards and handrails shall continue for the full length of each flight of stairs. Guards and handrails,

and the hardware for attaching same, shall be so designed and installed that there are no projections which could snag loose clothing or impede travel.

(g) The height for stair handrails shall be not less than 30 inches nor more than 34 inches above the upper surface of the tread, measured vertically to the top of the rail from a point on the tread one inch back from the leading edge. Handrails shall provide a clearance of at least 1½ inches between the handrail and the wall to which it is fastened.

(h) Where doors open onto landings, the landings shall be at least the width of the door.

§151.211. Ramps. If the facility has a ramp, it shall meet the following standards.

(1) A ramp shall not have a slope greater than one foot rise in 12 feet and the minimum width shall be 36 inches.

(2) A ramp shall have smooth handrails on at least one side, but preferably two sides, that are 36 inches in height, measured from the surface of the ramp to the top of the handrail, and that extend one foot beyond the top and bottom of the ramp.

(3) Ramps shall have a nonslip surface. A ramp shall have a level platform at the top which is at least five feet by five feet if a door swings out onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. A ramp shall have a level platform at least three feet deep and five feet wide if the door does not swing onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. Each ramp shall have at least six feet of straight clearance at the bottom. All ramps shall have level platforms wherever they turn.

(4) A ramp and its platforms and landings shall be designed for not less than 100 pounds per square foot live load.

§151.215. Smoke Detection Equipment.

(a) Fixed automatic smoke-detection alarm initiating devices powered by the house electrical service shall be installed in all structures housing residents. Single-story structures housing any number of residents and two-story structures housing 15 or fewer residents are permitted to install fixed smoke detectors with alarm devices, but without the control panel, the alarm-indicating device, and manual fire alarm devices. In this system, the detectors shall be interconnected so that any activated single alarm will activate all of the detector alarm devices or any other device audible throughout the facility.

(b) In structures of two stories housing 16 or more residents or structures of more than two stories housing any number of residents, the smoke detector installation shall include, but not be limited to, a control panel, smoke-detection with alarm devices, manual fire alarm boxes, and alarm-indication device. The location of smoke-

detection devices shall be based upon a survey of the area to be protected and then these devices shall be placed and adjusted as to operate reliably in case of smoke in any part of the protected area. The connection of smoke-detection devices shall not impair the effectiveness and dependability of indicating devices. Alarms shall be loud enough and so distributed as to be heard above the maximum noise level occurring under normal conditions of occupancy. Manual fire alarms and boxes shall be provided in a natural path of escape from fire, near each exit from an area and shall be readily accessible, unobstructed, and at visible points. Systems shall be installed by a person licensed by the state fire marshal for such installation. The systems shall be inspected and approved by the fire marshal having jurisdiction. Systems shall be tested periodically following recommendations of the manufacturer.

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 December 9, 1985.

TRD-8511898

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986

Proposal publication date: September 20, 1985

For further information, please call
(512) 475-2577.

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Additional Standards for Year Two Permit

★40. TAC §§151.401-151.415

These new sections are adopted under Texas Civil Statutes, Article 5561cc, which requires that all alcohol treatment facilities be licensed by the commission as of January 1, 1986.

§151.401. Governing Authority.

(a) A nonprofit organization shall at least annually provide for the education of its board members with respect to legal powers, rights, privileges, duties, and liabilities of board members. This education may be provided by legal counsel, local United Way, a professional consultant in board training, or a formalized board training program developed by the organization.

(b) The governing authority or the director shall develop a policy manual that describes the regulations, principles, guidelines, and personnel policies that determine the facility's operations. This shall be reviewed, updated, and approved at least annually by the governing authority, and this policy manual shall be available to all staff.

(c) The organization shall document an annual plan to provide training and education opportunities for staff and document staff participation in training and education activities

§151.402. Organization Structure.

(a) There shall be written job descriptions outlining the duties and responsibilities for all positions. Each job description shall state the qualifications, reporting supervisor, positions supervised, and duties.

(b) There shall be written personnel procedures that shall include evaluation of personnel performance at least an annual basis. This evaluation shall be in writing and shall be reviewed with the employee affected.

§151.403. Admission of Clients. Any person who seeks admission to a facility but is not admitted shall be referred to other appropriate treatment or services, and such referral shall be documented by the facility.

§151.404. Civil Rights. The facility shall establish rules and procedures pertaining to the client who refuses treatment or medication against medical advice.

§151.405. Medications.

(a) Medication brought into the facility by clients at admission shall not be administered. The prescribing physician will be contacted for a new prescription upon admission.

(b) The facility shall have a policy and procedure for the disposal of medication left at the facility by a discharged client and this policy shall consider the risks of illicit use by others.

(c) The facility shall maintain a current *Physician's Desk Reference* or other pharmacopoeia for the use of staff in ascertaining side effects, adverse effects, actions, and contraindications of any drug given to a client.

§151.406. Services. Service descriptions are divided into detoxification, primary care, intermediate care, long-term care, intensive outpatient care services, and supportive outpatient care services. Only the sections of this standard which cover the service(s) offered by the facility undergoing inspection will be applied. These standards cover the minimum amount of services required for each level of care.

§151.407. Detoxification. The facility shall document the provision of at least the following elements of service: 24-hour supervised living environment, including room and board; medically supervised withdrawal from alcohol or other drugs; at least one registered or licensed vocational nurse on duty each shift; two hours of alcohol and drug abuse education per week; a total of eight hours of group and/or individual counseling and peer support group orientation per week; counseling or referral services for client's family members and significant others; and referral services for

unmet and ongoing needs of all clients at discharge.

§151.408. Primary Care. The facility shall document the provision of at least the following elements of service: eight hours of alcohol and drug abuse education per week; a total of 12 hours of services per week which must include group counseling, individual counseling, peer support group orientation, recreation and physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.409. Intermediate Care. The facility shall document the provision of room and board and at least two hours of alcohol and drug abuse education per week; a total of eight hours of service per week which must include group and/or individual counseling, peer support group orientation, recreation, and physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.410. Long-Term Care. The facility shall document the provision of at least the following elements of service: five hours service per week which must include group or individual counseling, peer support group orientation, and recreation or physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.411. Outpatient Care Services.

(a) Intensive outpatient care services. This standard shall not apply to facilities who serve clients who have successfully completed primary, intermediate, or long-term care and are now in aftercare or follow-up status, but it does apply to those facilities serving clients who have received no services or only detoxification services. At a minimum, the facility shall provide a structured program of services which shall include at least 10 hours of service per week during the first 30 days of treatment in the following elements of service: group and individual counseling; alcohol and drug abuse education; peer support group orientation; counseling or referral services for family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

(b) Supportive outpatient care services. This standard applies to facilities serving clients who, based on clinical evaluation, do not require intensive outpatient services, or who are in the early stages of their illness, or who have received other services and are now in continuing care. The facility shall provide a schedule of services which shall include the following elements: group and individual counseling; alcohol and drug abuse education; peer support group orientation; counseling or referral services for family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.412. Clinical Records.

(a) All clinical staff delivering services shall document these services in the individual client records, and there shall be documentation that the treatment plan is periodically reviewed, evaluated, and updated, as necessary, based on changes in the client's condition as shown in the client's record.

(b) The facility shall provide a discharge summary for each client. This summary shall describe the identified problems, services provided during the course of treatment, an assessment of client progress made while in treatment, and the reason for discharge. The discharge summary shall document the number of days that the client has been free of mood-altering chemicals.

(c) A discharge plan shall be developed for each client completing the regular course of treatment and shall include a plan of action and referral resources for continuation of care following discharge from the facility. It shall be developed in conjunction with the client and shall be recorded in the client record. The facility shall obtain the signature of the client on the discharge plan as evidence of the client's approval as to content.

§151.413. Physical Plant Requirements.

Facilities constructed after January 1, 1986, shall at a minimum meet the most recent NFPA and Uniform Codes for construction, equipment, equipment installation, and utility service applicable to a residential board and care occupancy as defined by the National Fire Protection Association Life Safety Code 101, Chapter 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 December 9, 1985.

TRD-8511699

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: January 1, 1986
Proposal publication date: September 20, 1985
For further information, please call
(512) 475-2577.

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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 *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 agendas than what is published in the *Register*.

State Bar of Texas

Thursday, December 19, 1985, 9:30 a.m. The Executive Committee of the State Bar of Texas made an emergency addition to the agenda for a meeting held in the Texas Law Center, 1414 Colorado Street, Austin. According to the revised agenda, the committee considered a report on the Texas Bar Foundation. The emergency status was necessary because this matter only became apparent on December 13, 1985, and public necessity requires that the matter be dealt with at the December 19, 1985, meeting.

Contact: Evelyn Avent, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: December 16, 1985, 11:31 a.m.
TRD-8511855

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Texas Department of Community Affairs

Friday, January 3, 1986, 1:30 p.m. The Texas Weatherization Policy Advisory Council of the Texas Department of Community Affairs will meet at 8317 Cross Park Drive, Austin. Items on the agenda include status report and review on proposed 1986 weatherization state plan and application; the status report of the U.S. Department of Energy Monitoring of the Texas weatherization program; state weatherization priorities; weatherization program funding outlook; and other business.

Contact: Edmundo M. Zaragoza, State Weatherization Office, (512) 834-6215.

Filed: December 17, 1985, 9:44 a.m.
TRD-8511894

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Texas Commission for the Deaf

Saturday, December 14, 1985, 9 a.m. The Texas Commission for the Deaf made an emergency revision to the agenda for a meeting held at 510 South Congress, Austin. Items on the revised agenda in-

cluded approval of previous minutes; a report from the board for evaluation of interpreters; an update on Sunset Advisory Commission review; proposed rules; director and staff reports; public comment; and the chairman's report. The commission also met in executive session to discuss personnel matters. The emergency status was necessary because of a need for time allotted for public comment.

Contact: Larry D. Evans, 510 South Congress, Austin, Texas 78704, (512) 475-2492.

Filed: December 13, 1985, 4:36 p.m.
TRD-8511821

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Saturday, December 14, 1985, 10 a.m. The Governing Board of the Texas School for the Deaf made an emergency revision to the agenda for a meeting held in the Administration Building boardroom, 1102 South Congress Avenue, Austin. According to the revised agenda summary, the board considered public comments and reports; business requiring board action; business for information purposes; and reports from board members. The emergency status was necessary because contract services require immediate board action.

Contact: Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78704, (512) 440-5335.

Filed: December 13, 1985, 3:36 p.m.
TRD-8511819

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Texas Economic Development Commission

Friday, December 13, 1985, 10 a.m. The Texas Small Business Industrial Development Corporation (TSBIDC) of the Texas Economic Development Commission met in emergency session in Room 318, 410 An-

son Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation considered the proposed issuance of its revenue bonds (the bonds) in an amount not to exceed \$550,000 to finance the cost of the acquisition of approximately 39,400 square feet of land and the acquisition and rehabilitation of a masonry office warehouse building located thereon containing approximately 37,226 square feet to be used as a facility for the wholesale distribution of hardware, together with equipment and other facilities which are functionally related and subordinate to the foregoing (the project), to be owned by Earl J. O'Brien and leased to Riggsbee Hardware Company, Inc. The project will be located at 1120 Sampson in Houston, Texas 77003. All interested persons are invited to attend and express any comments regarding the proposed issuance of the bonds and the project to be financed thereby. The emergency status was necessary to insure compliance with federal and state tax laws.

Contact: John Kirkley, 410 East Fifth Street, Austin, Texas 78701, (512) 472-5059.

Filed: December 12, 1985, 12:05 p.m.
TRD-8511734

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State Department of Highways and Public Transportation

Wednesday, December 18, 1985, 10 a.m. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation made an emergency revision to the agenda for a meeting held in Room 101-A, first floor, Dewitt C. Greer Building, 11th and Brazos Streets, Austin. According to the revised agenda summary, the commission considered items 6.i.(9), 6.i.(10), and 6.l. which reads 6.i.(9) Bexar County-FM Road 1957-Agreement with Ellison Industries; 6.i.(10) Parker County-SH 199-Acquisition of Right of Way; 6.l. Hearing for Dealer

Rules. The emergency status was necessary for commission action this month.

Contact: Office of the Engineer, Director, Room 203, Dewitt C. Greer Building, 11th and Brazos streets, Austin, Texas 78701, (512) 463-8616.

Filed: December 13, 1985, 1:07 p.m.
TRD-8511782

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Texas Commission on Human Rights

Saturday, December 14, 1985, 9 a.m. The Texas Commission on Human Rights made an emergency revision to the agenda for a meeting held in the Sergeants Committee Room 215, Capitol Building, Austin. The revision concerned approval of minutes; administrative reports; approval of deferral status for the Wichita Falls Human Relations Commission; approval of cooperative agreement with the Wichita Falls Human Relations Commission; subcommittee reports, canvass of organizations concerning Texas Commission on Human Rights; and unfinished business. The emergency status was necessary in order to allow for executive session following the public business meeting to assure that decisions on complaints under investigation are made in a timely fashion in accordance with the Texas Commission on Human Rights, and timely discussion of potential areas of litigation.

Contact: William M. Hale

Filed: December 11, 1985, 4:13 p.m.
TRD-8511729

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State Board of Insurance

Tuesday, December 17, 1985, 10 a.m. The State Board of Insurance made an emergency revision to the agenda for a meeting held in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. The revision concerned emergency rule action to adopt 1985 premium tax forms and instructions. The emergency status was necessary because the board must adopt appropriate forms and instructions and forward them to insurers and other entities in sufficient time for them to file tax returns on or before the statutory due date.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: December 13, 1985, 9:07 a.m.
TRD-8511777

Tuesday, December 17, 1985, 10 a.m. The State Board of Insurance made an emergency revision to the agenda for a meeting held

in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the revised agenda, the board considered an adoption of the emergency rule to set rates for assessment and other charges to cover the expenses of examinations; the proposal to amend TAC §5.3003, and §5.3004 (Rules 059.05.26.103-104) concerning the practice of certain regulated insurers subject to the provisions of Article 5.26, Insurance Code, of entering into accommodative arrangements designed to circumvent the rate regulatory statutes of this state. The emergency status of the adoption was necessary so that assessments could be made early to properly defer the expenses of examining companies. The emergency status of the proposal was necessary because the trial date of January 6, 1986, is set for a challenge to the present rules, and the proposed amendments will need to be published and subject to comments prior to that time.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: December 16, 1985, 2:19 p.m.
TRD-8511863

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, State Insurance Building, 1110 San Jacinto Street, Austin. Days, times, and agendas follow.

Friday, December 27, 1985, 1:30 p.m. In Docket 9150—application of Ashcourt Holdings Limited, a Delaware corporation, to acquire control of National Allied Insurance Company of Texas, Houston.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: December 16, 1985, 2:19 p.m.
TRD-8511862

Monday, December 30, 1985, 9 a.m. In Docket 9149—application of Dana George Harper, also known as Mark Harper, Abilene, for a Group I, Legal Reserve Life Insurance agent's license.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: December 16, 1985, 2:19 p.m.
TRD-8511861

Monday, January 6, 1986, 9 a.m. The State Board of Insurance will consider the appeal of Clarence Roussett from action of the Texas Catastrophe Property Insurance Association.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: December 16, 1985, 3:38 p.m.
TRD-8511884

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Texas Department of Labor and Standards

Monday-Friday, January 6-10, and Tuesday, January 14, 1986, 9 a.m. daily. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, John H. Reagan Building, 100 West 15th Street, Austin. According to the agenda, the division will consider license and registration, suspensions and alleged violations of various rules and regulations of the department.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: December 13, 1985, 1:33 p.m.
TRD-8511784-8511787, 8511790, 8511793

Thursday and Friday, January 9-10, and Monday-Friday, January 13-17, 1986, 9 a.m. daily. The Manufactured Housing Division will meet in Room 105, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider license and registrations, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: December 13, 1985, 1:34 p.m.
TRD-8511788, 8511789, 8511791, 8511792, 8511794-8511796

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School Land Board

Tuesday, December 17, 1985, 10 a.m. The School Land Board made an emergency revision to the agenda for a meeting held in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The revision concerned the excess acreage application. The emergency status was necessary because closing was to be held prior to the next board meeting.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-0219.

Filed: December 12, 1985, 12:52 p.m.
TRD-8511735

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Texas Lay Midwifery Board

Friday, December 13, 1985, 10 a.m. The Texas Lay Midwifery Board met in emergency session in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. Items on the agenda summary included minutes of the last meeting; lay midwifery manual; rules of educational course; instructor manual; examination; reports on compliants including the Ad Hoc Committee and program report and disclos-

ure forms; rules for the lay midwifery board; and setting of the next meeting. The emergency status was necessary to meet the statutory mandate concerning the instructor manual, examinations, complaints, and rules.

Contact: Joceline Alexander, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: December 12, 1985, 4:04 p.m.
TRD-8511774

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Texas National Guard Armory Board

Saturday, January 4, 1986, 10 a.m. The Texas National Guard Armory Board will meet in the Conference Room, Building 64, Camp Mabry. According to the agenda summary, the board will consider administrative matters; fiscal matters; and facility construction, remodeling, and renovation.

Contact: Donald J. Kerr, P.O. Box 5218, Austin, Texas 78763-5218, (412) 451-6143.

Filed: December 17, 1985, 8:47 a.m.
TRD-8511893

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Texas Board of Pardons and Paroles

Wednesday, December 18, 1985, 9:30 a.m. The Texas Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board conducted full board interviews and met with interested parties in connection with cases subject to the board's jurisdiction, including Robert E. Atwood, TDC 375,177, and Terry E. Culley TDC 234,585. The emergency status was necessary because the board members could not adjust their schedule to meet at any other reasonable time.

Contact: Daniel R. Guerra, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 459-2700.

Filed: December 16, 1985, 10:31 a.m.
TRD-8511854

Monday, December 23, 1985, 1:30 p.m. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek

Boulevard, Austin, Texas, (512) 459-2713.

Filed: December 13, 1985, 10:09 a.m.
TRD-8511780

Friday, December 27, 1985, 11 a.m. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will receive, review, and consider information and reports concerning prisoners, inmates, and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: December 13, 1985, 10:09 a.m.
TRD-8511781

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Public Utility Commission of Texas

Wednesday, December 18, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition to the agenda for a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned Docket 6095—application of AT&T Communications for a rate increase-motion for the hearing on remand to be conducted before the commissioners. The emergency status was necessary because of the statutory deadline.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 12, 1985, 2:50 p.m.
TRD-8511754

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Thursday, January 2, 1986, 1:30 p.m. A prehearing conference in Docket 6628—complaint of E. D. Gage against Tri-County Utilities regarding termination of service.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 12, 1985, 2:49 p.m.
TRD-8511752

Friday, January 3, 1986, 10 a.m. A prehearing conference in Docket 6593—application of El Paso Electric Company for a certificate of convenience and necessity for proposed transmission lines and associated substation, Arizona Interconnection Project.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 13, 1985, 2:36 p.m.
TRD-8511811

Monday, February 3, 1986, 9 a.m. A hearing on the merits in Docket 6560—petition for review of certain ratemaking action of the City of Austin.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 12, 1985, 2:49 p.m.
TRD-8511753

Tuesday, February 25, 1986, 10 a.m. A hearing on the merits in Docket 6610—application of Southwestern Electric Service Company for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 12, 1985, 2:48 p.m.
TRD-8511755

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Railroad Commission of Texas

Monday, December 16, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency revision to the agenda for a meeting held in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the revised agenda, the division considered Docket 7B-86,833—application of Snow Oil Company to consider an emergency increase of allowable for production from the Foster 1 well in the HPC (conglomerate) and Adams (duffer, lower) fields, Eastland County. The emergency status was necessary because this item must be considered on less than seven days notice as a matter of urgent public necessity. This item was properly noticed for the meeting of December 11, 1985, and was passed.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: December 12, 1985, 3:36 p.m.
TRD-8511761

Monday, December 16, 1985, 9 a.m. The Transportation Division of the Railroad Commission of Texas made an emergency revision to the agenda for a meeting held in the first floor auditorium east, 1701 North Congress Avenue, Austin. According to the revised agenda, the division considered Docket 036787A1N—application of Community Wrecker Service, Inc., for new SMC authority. The emergency status was necessary because this matter was properly

posted for the conference on December 11, 1985 but was passed and is now being considered on less than seven days' notice as a matter of urgent public necessity.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: December 12, 1985, 3:36 p.m.
TRD-8511760

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Texas Real Estate Research Center

Saturday, January 11, 1986, 9 a.m. The Advisory Committee of the Texas Real Estate Research Center will meet at the Sheraton Crest, Austin. Items on the agenda include opening remarks; approval of minutes; progress reports; the current budget; the date of next meeting; and other business.

Contact: Richard L. Floyd, Texas A&M University, College Station, Texas, 77843 (409) 845-9691.

Filed: December 16, 1985, 9:15 a.m.
TRD-8511823

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Texas Savings and Loan Department

Monday, January 6, 1986, 10 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar, Austin. According to the agenda summary, the department will consider applications and if no protest is registered and existing when called, further hearing may be dispensed with. If protest is registered and existing when called, hearing on the application(s) will be continued on a later date.

Contact: Russell R. Oliver, Suite 201, 2601 North Lamar, Austin, Texas 78705, (512) 479-1250.

Filed: December 13, 1985, 1:23 p.m.
TRD-8511798

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Texas Water Commission

Tuesday, December 17, 1985, 2 p.m. The Texas Water Commission met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission considered the repeal of Emergency Rules 31 TAC §322.8 and §322.13, relating to renewal of certificates for operators and certification of companies and readoption of Rules 31 TAC §322.8 and §322.13 without the January 1, 1986 expiration date. The emergency status was necessary in order to avoid the possible lapse of certifications during the time necessary for the commis-

sion to adopt permanent rules for the regulation of operator and operating company certifications.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 16, 1985, 11:48 a.m.
TRD-8511856

Wednesday, January 8, 1986, 9:30 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. Agendas follow.

The commission will conduct a hearing on TA-5353 of Rio Grande Bridge Company for a permit to divert and use 55 acre-feet of water for a one year period from San Antonio River, San Antonio River Basin, for industrial purposes in Wilson County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:22 p.m.
TRD-8511797

The commission will conduct a hearing on TA-5348 of Tom Green County for a permit to divert and use a total of 15 acre-feet of water for a three year period from Big Rocky Creek, Spring Creek and Dove Creek, all tributaries of Middle Concho River and South Concho River, tributaries of Concho River, tributary of Colorado River, Colorado River Basin for industrial purposes in Tom Green and Irion counties.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:24 p.m.
TRD-8511808

The commission will conduct a hearing on TA-5349 of Tom Green County for a permit to divert and use a total of 12 acre-feet of water for a three year period from Concho River; Lipan Creek, tributary Concho River and Kickapoo Creek, tributary Concho River, tributary Colorado River, Colorado River Basin for industrial purposes in Tom Green and Irion Counties.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:24 p.m.
TRD-8511807

The commission will conduct a hearing on TA-5350 of Tom Green County for permit to divert and use 15 acre-feet of water for a three year period from North Concho River, tributary Concho River, tributary Colorado River, Colorado River Basin for industrial purposes in Tom Green County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:23 p.m.
TRD-8511806

The commission will conduct a hearing on TA-5352 of William F. Copeland for a permit to divert and use 30 acre-feet of water for a three year period from Salado Creek, tributary Lampasas River, tributary Little River, tributary Brazos River, Brazos River Basin for industrial purposes in Bell County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:23 p.m.
TRD-8511805

Wednesday, January 22, 1986, 9 a.m. The Texas Water Commission will meet in the Commissioner's Courtroom, Tarrant County Administration Building, fifth floor, 100 East Weatherford, Fort Worth. According to the agenda summary, the commission will consider an application by Jack Hudson, Arbuckle Corporation, West Bay Joint Venture, and City of Pelican Bay, Box 1221, Miami, Oklahoma 74345, who have filed an amended application with the Texas Water Commission for a Permit 13105-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 430,000 gallons per day from the proposed Pelican Bay Wastewater Treatment Plant which is to serve proposed single and multi-family residential and commercial developments.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 16, 1985, 11:47 a.m.
TRD-8511858

Tuesday, January 28, 1986, 9 a.m. The Texas Water Commission will meet in the Council Chambers, second floor, City Hall, 555 Walnut, Abilene. According to the agenda summary, the commission will consider an application by Leonard Coy Dillard, P.O. Box 427, Tuscola, Texas 79562, to the Texas Water Commission for Permit 02796 to authorize the disposal of cattle feedlot runoff by irrigation of approximately 86 acres of grassland. The applicant proposes to operate a confined cattle feeding operation with a maximum capacity of 500 cattle. The cattle holding pens and associated area are to cover approximately five acres. The wastewater and rainfall runoff from this area will be routed into a retention pond with a capacity of approximately 1.8 acre-feet. Manure generated at this site is to be disposed of on grassland, to be used as a fertilizer and soil amendment. No discharge of pollutants into the waters of the state is authorized by this permit.

Contact: Marcella Sellers, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 13, 1985, 2:20 p.m.
TRD-8511802

Tuesday, January 28, 1986, 9 a.m. The Texas Water Commission will meet in the Commissioners Courtroom, Wood Coun-

ty Courthouse, Quitman. According to the agenda summary, the commission will consider an application by Mike Nations, P.O. Box 453, Mineola, Texas 75773 to the Texas Water Commission for Permit 13201-01 to authorize the disposal of treated domestic wastewater effluent at a volume not to exceed an average flow of 13,500 gallons per day from the proposed Lakeview Mobile Home Park Sewage Treatment Plant which is to serve a mobile home park.

Contact: Duncan Norton, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 16, 1985, 11:47 a.m.
TRD-8511857

Wednesday, January 29, 1986, 9:30 a.m. The Texas Water Commission will meet in the MBank auditorium, 910 Travis, Houston. According to the agenda, the commission will consider an application by George E. Stourton, doing business as Spring Utilities, 414 Civil Drive, League City, Texas 77873 to the Texas Water Commission for Permit 13088-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 293,000 gallons per day from the proposed Spring Colony Wastewater Treatment Plant which is to serve a development consisting of multi-family housing, offices, restaurants, and a motel.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 16, 1985, 11:45 a.m.
TRD-8511859

Wednesday, January 29, 1986, 9:30 a.m. The Texas Water Commission will meet in the Administration Building, second floor, Trinity River Authority Central Regional Wastewater Systems Facilities, 6500 West Singleton Boulevard, Grand Prairie. According to the agenda, the commission will consider an application by Harold E. Lawson, Rex E. Lawson, and James E. McIntire, doing business as L. M. L. Properties, 430 South Beltline Road, Irving, Texas 75060, to the Texas Water Commission for Permit 13204-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 18,000 gallons per day from the proposed L. M. L. Properties Mobile Home Park Wastewater Treatment Plant.

Contact: Cynthia Hayes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 13, 1985, 2:20 p.m.
TRD-8511801

Wednesday, January 29, 1986, 9:30 a.m. The Texas Water Commission will meet in the MBank auditorium, 910 Travis, Houston. According to the agenda summary, the commission will consider an application by George E. Stourton, doing business as Northgate Utilities, 414 Civil Drive, League City, Texas 77573 to the Texas Water Commission for Permit 13177-

01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 600,000 gallons per day from the proposed Northgate Wastewater Treatment Plant which is to serve proposed multi-family residential developments and commercial developments.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 13, 1985, 2:19 p.m.
TRD-8511800

Wednesday, January 29, 1986, 9:30 a.m. The Texas Water Commission will meet in the MBank auditorium, 910 Travis, Houston. According to the agenda summary, the commission will consider an application by George E. Stourton, doing business as Pleasanton Utilities, 414 Civil Drive, League City, Texas 77573 to the Texas Water Commission for Permit 13150-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 95,000 gallons per day from the proposed Pleasanton Wastewater Treatment plant which is to serve a proposed residential subdivision.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 13, 1985, 2:18 p.m.
TRD-8511799

Wednesday, February 5, 1986, 9 a.m. The Texas Water Commission will meet in Room 501, Administration and Conference Tower, Texas Womens' University, Denton. According to the agenda summary, the commission will consider an application by Petroleum Carriers Company, P.O. Box 449, Roanoke, Texas to the Texas Water Commission for Permit HW-50085 to continue operation of its industrial solid waste storage, processing, and transfer facility, and to authorize the construction and operation of a proposed commercial facility. The existing facility is currently operating under §335.2 of the Texas Water Commission Emergency Rules and continue to do so until such time as the commission approves or denies the subject application. The facility processes waste oil and spent solvents for sale as fuel oil.

Contact: Duncan Norton, P.O. Box 13087, Austin, Texas 78711, (512) 465-7875.

Filed: December 13, 1985, 2:21 p.m.
TRD-8511803

Friday, February 7, 1986, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will consider application 1964F of Guadalupe-Blanco River Authority for an amendment to Permit 1886, as amended seeks to reduce water authorized for municipal purposes; increase the amount of industrial water to be used by customers other than Central Power and

Light Company and Vistron Corporation; increase the amount of industrial water authorized for transfer from the Guadalupe River Basin for use in the Lavaca-Guadalupe Coastal Basin and authorize the transfer of 900 acre-feet of municipal water from the Guadalupe River Basin for use in the San Antonio River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:25 p.m.
TRD-8511810

Friday, February 7, 1986, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will consider an application by the Texas Parks and Wildlife Department, CP-208, for consideration of whether to cancel, in whole or in part, this permit, San Jacinto River Basin, Harris County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 13, 1985, 2:25 p.m.
TRD-8511809

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Regional Agencies Meetings Filed December 12

The Capital Area Rural Transportation System (CARTS), Board of Directors, met in the Conference Room, Suite 100, 2520 IH 35 South, on December 19, 1985, at 9:30 a.m. Information may be obtained from Edna Burroughs, 5021 East First Street, Austin, Texas 78745, (512) 478-7433.

The Region V Education Service Center, Board of Directors, met at 2295 Delaware Street, Beaumont, on December 19, 1985, at 1:15 p.m. Information may be obtained from Fred J. Waddell, 2295 Delaware Street, Beaumont, Texas, (409) 835-5212.

The Lamb County Appraisal District, Board of Directors, met at 330 Phelps Avenue, Littlefield, on December 19, 1985, at 7:30 p.m. Information may be obtained from B. H. Penny, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474.

The Lee County Appraisal District, Board of Directors, met at 218 East Richmond Street, Giddings, on December 18, 1985, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Limestone County Appraisal District, Board of Directors, met at the Courthouse, Limestone, on December 18, 1985, at 5 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

The Lower Colorado River Authority, Audit and Budget Committee; Finance and Administration Committee; Committee on Planning and Public Policy; Energy Operating Committee; and Natural Resources Committee, met at 3700 Lake Austin Boulevard, Austin, on December 18, 1985, at 8 a.m.; 9 a.m.; 11 a.m.; 1 p.m.; and 2 p.m., respectively. The Board of Directors met at the same location, on December 19, 1985, at 9 a.m. Information may be obtained from R. L. Hancock, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Wood County Appraisal District, Board of Directors, met in the Conference Room, 217 North Main, Quitman, on December 19, 1985, at 1:30 p.m. Information may be obtained from W. Carson Wages, 217 North Main, Quitman, Texas 75783. TRD-8511738

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Meetings Filed December 13

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson, Jourdanton, on December 19, 1985, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas, (512) 769-2730.

The Dallas Area Rapid Transit, Briefing Board, met at 601 Pacific Avenue, Dallas, on December 17, 1985, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Guadalupe-Blanco River Authority Industrial Development Corporation, and Board of Directors, met at 933 East Court Street, Seguin, on December 19, 1985, at 9:30 a.m. and 10 a.m., respectively. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822.

The Heart of Texas, Board of Trustees, met at 110 South 12th Street, Waco, on December 18, 1985, at 11:30 a.m. Information may be obtained from Jan Baty, 110 South 12th Street, Waco, Texas.

The Jack County Appraisal District, Board of Directors, met at Los Creek Office Building, 216-D South Main, Jacksboro, on December 18, 1985, at 7 p.m. Information may be obtained from Doris G. Ray, 216-D South Main, Los Creek Office Building, Jacksboro, Texas 76056, (817) 567-6301.

The Leon County Central Appraisal District, Board of Directors, met at the Appraisal District Office, Centerville, on December 16, 1985, at 7:30 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The North Central Texas Council of Governments, Executive Board, met on the second floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on December 19, 1985, at 12:45 p.m. Information may be obtained from Edwina J. Hicks, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Panhandle Regional Planning Commission, Board of Directors, met in the Conference Room, first floor, 415 West Eighth, Amarillo, on December 19, 1985, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

The Rio Grande Valley Municipal Water Authority, Board of Directors, met in the Boardroom, Valley Chamber of Commerce, on December 19, 1985, at 4 p.m. Information may be obtained from Ersel Lantz.

The West Texas Council of Governments, Board of Directors, will meet at the Conference Room, eighth floor, Two Civic Center Plaza, El Paso, on December 20, 1985, at 9:30 a.m. Information may be obtained from Cecile C. Gomez, Two Civic Center Plaza, El Paso, Texas 79999, (512) 541-4681.

TRD-8511776

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Meetings Filed December 16

The Brazos Higher Education Authority, Inc., Board of Directors, met at City Club, MBank Building, Waco, on December 19, 1985, at 11 a.m., noon, and 1 p.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

The Region X Education Service Center, Board of Directors, will meet in the Boardroom, 400 East Spring Valley, Richardson, on December 20, 1985, at 9:30 a.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas, (214) 231-6301.

The Gray County Appraisal District, Board of Directors, met in Suite 196-A, Hughes Building, 400 West Kingsmill, Pampa, on December 19, 1985, at 5:30 p.m. Information may be obtained from Grace Gibson, Hughes Building, Suite 196-A, 400 West Kingsmill, Pampa, Texas 79065.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met at the Life Skills Center, 102 Charles Street, Granbury, on December 18, 1985, at 8 a.m. Information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-8511825

Meetings Filed December 17

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on December 20, 1985, at 9 a.m., and December 23, 26, 27, 30, and 31, 1985, at 8:30 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Region XVI Education Service Center, Board of Directors, will meet in the Boardroom, 1601 South Cleveland, Amarillo, on December 20, 1985, at 10:15 a.m. Information may be obtained from Kenneth M. Laycock, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521.

TRD-8511892

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In Addition

The *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.

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, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 12/23/85-12/29/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 12/01/85-12/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 01/01/86-03/31/86	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 01/01/86-03/31/86	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 01/01/86-03/31/86	14.46%	N/A
Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 01/01/86-03/31/86	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 01/01/86-03/31/86	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 01/01/86-01/31/86	18.00%	N/A
Judgment Rate— Article 1.05, §2 01/01/86-01/31/86	10.00%	10.00%

(1) For variable rate commercial transactions only.

(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f), V.T.C.S.

(3) Credit for personal, family, or household use

(4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on December 16, 1985.

TRD-8511822 Sam Kelley
Consumer Credit
Commissioner

Filed: December 16, 1985
For further information, please call (512) 479-1280.

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Notice of Hearing Cancellation

As no opposition has been noted in the application for the conversion application for First Bank of Borger, Borger, Texas, the hearing previously scheduled for Thursday, December 19, 1985, has been **Cancelled**.

Issued in Austin, Texas, on December 11, 1985.

TRD-8511758 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: December 12, 1985
For further information, please call (512) 475-4451.

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Public Utility Commission of Texas Consultant Proposal Request

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Public Utility Commission of Texas (PUCT) invites proposals from qualified firms, public agencies, and individuals to provide energy performance analyses of architectural, mechanical, and electrical designs for new school facilities. The primary objective of the program is the identification and economic analysis of strategies that would increase energy efficiency in the new school facilities.

This consulting service is a continuation of a service currently provided by the Energy Resource Center for Texas Schools. Unless a better offer is submitted, the PUCT intends to award the contract for this project to the firm that previously performed the service. Should other proposals be received, final selection will be based on the recommendations of a review committee. Selection criteria will include: the method(s) proposed for evaluating building performance; the firm's demonstrated experience in performing energy analyses for schools; the proposed approach for involving school staff, administrators, and board officials in the program; the depth of energy efficient design experience and training of the firm's staff; the firm's ability to provide analyses in a short timeframe; and the proposed method to evaluating the effectiveness of the program.

Additional information regarding the consultant proposal request may be obtained by contacting Judy Rogers, Energy Efficiency Division, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0312.

To be considered, written proposals must arrive at the PUCT office no later than 3 p.m. on January 17, 1986. Proposals arriving after 3 p.m. will not be accepted. Five copies of the proposal should be sent to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, Attention: Sandy Becker, Bid Identification UC-6-180300.

Issued in Austin, Texas, on December 10, 1985.

TRD-8511722 Rhonda Colbert Ryan
Public Utility Commission of Texas

Filed: December 11, 1985

For further information, please call (512) 458-0231.

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Public Notice

On Monday, December 2, 1985, at 10 a.m., the Public Utility Commission of Texas convened an open meeting at its offices for the purpose of setting interest rates for customer deposits for calendar year 1986, pursuant to Texas Civil Statutes, Article 1440a. The interest rate on deposits for installing service applies to every person, firm, company, corporation, receiver, or trustee engaged in the furnishing of water, light, gas, or telephone service which requires the payment on the part of the user of such service a deposit of money as a condition precedent to furnishing of any such service.

At that meeting, the commission established an interest rate of 7.29% for calendar year 1986.

Further, the commission determined that the annual interest rate should be set using the latest information available from Salomon Brothers' "Bond Market Roundup."

Issued in Austin, Texas, on December 13, 1985.

TRD-8511812 Rhonda Colbert Ryan
Public Utility Commission of Texas

Filed: December 13, 1985

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

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Texas Water Commission

Notice of Application for Provisionally-Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of December 2-13, 1985.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11.138, and commission rules 31 TAC §303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is

a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be cancelled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Allen Keller Company; from the reservoir in the vicinity of FM Road 2147, 23 miles southeast of Llano; Pecan Creek, tributary Colorado River; four acre-feet, one-year period; TP-5347; December 3, 1985.

Exxon Corporation; from a reservoir in the vicinity of FM Road 863, approximately 41 miles northeast of Laredo; Unnamed creek, tributary Doiores Creek, tributary Los Olmos Creek, tributary Nueces River; 10 acre-feet, one-year period; TP-5351; December 10, 1985.

Seidel, Inc.; from the stream crossing of FM Road 2288, approximately 15 miles northwest of San Angelo; North Concho River, tributary Concho River, tributary Colorado River; two acre-feet, three months; TP-5354; December 10, 1985.

Kidwell Construction Co., Inc.; from the stream crossing of US 183, approximately 1½ miles south of Gonzales; Guadalupe River; 10 acre-feet, one-year period; TP-5355; December 10, 1985.

Dean Word Company; from the stream crossing of FM Road 1174, approximately 10.2 miles northeast of Burnet; Russell Fork San Gabriel River, tributary of North Fork San Gabriel River, tributary San Gabriel River, tributary Little River, tributary Brazos River; two acre-feet, one-year period; TP-5356; December 10, 1985.

Blocker Drilling Company; from the stream crossing near County Road 81, approximately seven miles north of Karnes City, Cibolo Creek, tributary San Antonio River; 10 acre-feet, six-month period; TP-5345; December 2, 1985.

Jamo's Vacuum Service; from the stream crossing of FM Road 1117, approximately 6½ miles southeast of Seguin; Guadalupe River; 10 acre-feet, one-year period; TP-5343; December 2, 1985.

Marshall Pior; from the stream crossing near FM Road 2035, approximately 10 miles southeast of Sweetwater; Bitter Creek, tributary Sweetwater Creek, tributary Clear Fork Brazos River, tributary Brazos River; two acre-feet, six-month period; TP-5346; December 3, 1985.

Jamo's Vacuum Service; from the stream crossing of FM Road 1322, approximately 15 miles southeast of Lockhart; Salt Branch, tributary Plum Creek, tributary San Marcos River tributary Guadalupe River; 10 acre-feet, one-year period; TP-5343; December 2, 1985.

Issued in Austin, Texas, on December 13, 1985

TRD-8511804 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: December 13, 1985

For further information, please call (512) 463-7898.

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